

Studies in Normative Pragmatics

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Introduction

Jean Goodwin; Beth Innocenti; and Justin Eckstein

1. Core principle and characteristics of normative pragmatic approaches to argumentation

Needing a new shower curtain, spouses disagree about which one would be best (Jackson and Jacobs 1980).

At a secret meeting, a developer and city officials explore a proposal that, if made public, would be controversial (Aakhus and Vasilyeva 2008).

In a biology class, a group of secondary school students are assigned to discuss whether human gene therapy should be allowed (Nielsen 2012).

A woman blogger calls out those who interrupt discussions of patriarchy with incessant complaints that “not all men” are like that (Innocenti 2022).

A mediator attempts to guide divorcing spouses to come to an agreement about custody and visitation arrangements (Jacobs and Jackson 1992).

A climate scientist faces off against an audience of avowed skeptics on a television talk show (Goodwin 2015).

Abraham Lincoln rises to debate the opposing candidate, a man better known for guile than for veracity (Kauffeld 1994).

In these and many other familiar and more or less consequential situations, we expect the people involved to be making arguments. One central goal for any argumentation theorist is to account for how argumentative activity accomplishes important work in these situations—that is, to develop a *pragmatic* theory of argumentation. Another goal is to account for how the arguments made and all the other argumentative activity that accompanies them can be evaluated as good or bad—that is, to develop a *normative* theory of argumentation. The specific contribution of

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the normative pragmatic¹ approaches to argumentation theory is to hold that both the pragmatic force and normative rightness of argumentative activities should be accounted for as achievements of the arguers themselves. “Argumentation,” as Scott Jacobs has put it in this volume’s first essay, is “a self-regulating activity” (2000, 274).

It is perhaps helpful to contrast argumentation as self-regulating with an alternative approach. There appears to be a widespread intuition that argumentative activity plays out within some larger structure that specifies what can appropriately be done and what effects doing that will bring about. For some, that “larger structure” may be an activity where agreement on truth is pursued through a cooperative testing of reasons—a sort of ideal academic seminar. For others, the “larger structure” may be more like an ideal courtroom in the Anglo-American tradition, where sound judgment is pursued through constraining zealous advocates with rules of evidence, burdens of proof, and so on. In these and similar visions, argumentative activity is thought to be regulated by a structure of goals, rules, role expectations, acceptable moves, etc. that is prior to any given instance of the activity.

1. Van Eemeren and colleagues were the first to conceptualize the study of argumentation as “normative pragmatics,” using the term to emphasize the way that the pragma-dialectical program of research pursues a “convergence of normative idealization and empirical description” (van Eemeren 1990, 38; see also van Eemeren and Grootendorst 1989). Jacobs (1999) in his 1998 ISSA keynote argued for broadening normative pragmatics to “encompass[] many particular theories and research paradigms,” i.e., all those that hold themselves “accountable to the details of actual messages” and also to the normative dimensions of argumentation (398). In the decades since, many have responded to Jacobs’ call and the term “normative pragmatics” has begun to refer specifically to the loose movement of scholars sharing these broad commitments. While some of this group have used other terms to describe their approaches (including “conversational argument,” “design,” and “disagreement management”), all have been at least occasionally friendly to placing themselves under the umbrella of normative pragmatics (e.g., Aakhus 2015, 348–49; Goodwin 2001b, 4–5; Innocenti 2005, 141–42; Jacobs 2000, 262; Jackson 2024, 490–1; Lewiński 2019, 645–46; Kauffeld 2006, 159; Kauffeld 2009b, 2–3). This Introduction attempts to survey both the unity and diversity of these normative pragmatic approaches.

Clearly, arts of arguing are highly developed in seminars and courtrooms, and argumentation in those arenas deserves the careful study that it has sometimes received. But proponents of normative pragmatic approaches caution against taking these or any other specialized processes as paradigmatic for argumentative activities generally (Goodwin 2001b, 2007). Doing so occludes the complex infrastructures that make things like seminars and courtrooms possible. Participants in these settings must be specially prepared. Explicit rules and implicit conventions are inherited from deep histories of reflective practice. Institutions have established many constraints, including designating some participants to enforce rules by intervening to correct or punish bad behavior. Much ordinary argumentative activity, by contrast, occurs in the absence of these supports. The people involved have no special preparation beyond what life experience has given them. No one is excluded from participating in an argumentative interaction—but no one is included, either; there is an interaction only if arguers can earn and keep each other’s attention. And there are no penalties for bad behavior, beyond what arguers themselves can impose on each other.

Sally Jackson (2015) urges us to recognize that our intuitions about seminars and courtrooms have been built up through centuries of much less tightly ordered argumentative activities. The ideals and practices embodied in formal structures are not prior to ordinary argumentative activities but are in fact a product of them. And as argumentation theorists, our central responsibility is “to account for how argumentation works” in just such ordinary settings: “in a world of practical affairs not routinely subject to stipulation and regulation” (Kauffeld 2003, 140). Normative pragmatic approaches to argumentation undertake build such accounts.

Instead of taking argumentative activity as externally regulated, normative pragmatics adopts what Fred Kauffeld has called an “interactionist view” (2007, 2), seeing “argumentation as a self-regulating activity” (Jacobs 2000, 274) subject to “participant administration” (Jackson 2019, 638). What happens within the interaction is not determined by a preestablished script

of stages or moves or permissible acts but emerges as participants make choices about how to respond to each other (Jackson 2019). If the interaction turns out to be orderly and productive, it is because the arguers have made it so (Goodwin 2007); “argumentation is a joint achievement of the participants” (Aakhus 2013, 107). Whatever norms regulate the interaction are “situation-responsive,” that is, “responsive to the unique circumstances and materials of particular cases” (Kauffeld 2002a, 115)—and brought to bear within the interaction by the arguers themselves (Goodwin 2001b). And it is also up to the arguers to enforce the norms on each other. As Jacobs comments, “the problems of how to determine the substance of good reasons, the form of good reasoning, and the status of any conclusion are all, to large degree, left open to those deliberating the issue” (2000, 274).

Normative pragmatics draws this emphasis on participant self-regulation from a fundamental orientation within the field of Communication in the US—the field in which most of its original proponents have their departmental homes. Within the field, it is widely agreed that communication is not only a tool to be used in getting social business done but is also constitutive of social life. As a “practical discipline” (Craig 1989, 1996; Tracy 2005), the Communication field aims to develop theory extending the reflections of skilled practitioners and providing normative guidance for their communication practice. Some of us draw from the subfield of interpersonal communication, influenced by the symbolic interactionism of George Herbert Mead (1932, 1934), the linguistic pragmatics of H. P. Grice (1975) and John Searle (1969), and the conversation analysis of Harvey Sacks (1995). Social order in these traditions is marked by a concern for the achievement of intersubjective meanings and coordinated interaction through reciprocal perspective taking and strategic inference. Others of us draw from the subfield of rhetorical studies and its emphasis on speakers’ invention. In one sense, “invention” is the *discovery* of what is already there: speakers have the capacity to find resources available in a situation and develop them to re-form the situation (Bitzer 1968; Leff 2000). But “invention” also can mean *creation*:

developing new resources that actualize new norms for engagement (Olson and Goodnight 1994).

Postulating that arguers regulate their own transactions provides no answers. But it does open questions that argumentation theory must address. As Jean Goodwin put it in an essay included in this volume, each arguer is trying to accomplish something “within an environment whose most important features are other people” (2001b, 6). For the purpose of theory construction, we cannot assume that those other people are compliant. Among all human activities, argument-making paradigmatically occurs among people who do not agree about some matter they consider important—indeed, may disagree, and with legitimate passion. Moreover, there is no guarantee that arguers agree about the norms, procedures, roles or other bases for regulating their interaction; or if they agree in principle, there is no guarantee that they agree about what those norms (etc.) require in the immediate situation. Argumentation theory should begin in wonder, admitting that given these challenges, it is remarkable that argument-making occurs *at all*. A central task of argumentation theory must be to explain how its subject manages to happen: how arguers manage to muster available resources—paradigmatically discourse—to create the “normative environment within which their arguing [can] proceed” (Goodwin 2001b, 8) in something like a productive fashion; to explain, that is, how arguers manage to give force to reason in a world that may not be welcoming it.

The following sections of this Introduction attempt to pay off the promissory notes issued in the previous paragraphs by reporting on the leading results of research taking normative pragmatic approaches.² In Section 2, we review the several things arguers accomplish by making arguments, offering along the way our conception of “argument.” In Section 3, we consider the work performed by everything that is done along with the argument whenever an argument is communicated: the roles that modes,

2. In this Introduction, we do not emphasize normative pragmatics’ dialectical engagement with other approaches to argumentation theory. For that, interested readers are referred to the essays included in this volume, especially the first two.

media, style, appeals to emotion (etc.) play in argumentative interactions. And in Section 4, we justify the claim that normative pragmatics is a *normative* theory of argumentation, examining three ways in which arguers build for themselves an environment in which they can attain at least partially reciprocal expectations about what good arguments and good argumentative conduct are. Before we launch into this review, however, let us take stock of some of the overall characteristics common (although not universal) in research taking normative pragmatic approaches.

It should be apparent from even this brief overview that normative pragmatic approaches to the study of argumentation emphasize the *agency* of arguers—their capacity to get important work done. This agency is always exercised locally, in specific *situations* (contexts) that vary widely. Because of this contextual variation, normative pragmatic studies often adopt an *empirical* approach to theory-building, proceeding through case studies—for example, studies of the cases that appear in the epigraph to this introduction. Researchers “tend[] to work from the bottom up, starting from the analysis and explication of specific kinds of communicative performances and particular cases of argumentative exchange” (Kauffeld 2019, 258). Most fundamentally for normative pragmatics, “our theories and principles ought to be accountable to the actual practices and intuitions of natural language users” (Jacobs 1999, 398).

The commitment to the situatedness of argumentation means that normative pragmatics is a promising approach for *cross-cultural* studies that do not take cultural differences as just variations on a theme but instead are curious about the deep diversity of argumentative practices and norms. (This promise is not yet well fulfilled.) Normative pragmatics is also interested in the *evolution* of argumentative practices and norms to meet new exigencies (e.g., incorporating scientific knowledge into public deliberations) and to take advantage of new resources (e.g., new media). Finally, *hard cases* are of particular interest for normative pragmatic researchers. These are situations, often of hostility, inequality or oppression, in which the ordinary conditions supporting argument-making are not present. And yet arguers still

demonstrate their capacity to open new spaces and give reason the force it deserves. This merits attention.

Because of the focus on arguers' capacities, a key task of normative pragmatic theory is to render more articulate arguers' own intuitive, tacit, practical knowledge of what they are doing; to use a convenient technical term, normative pragmatics takes an *emic*, as opposed to an *etic*, approach to argumentation. As Goodwin has put it, "'professional' argumentation theory is continuous with arguers' 'lay' theorizing: slightly more explicit, somewhat better ordered, increasingly grounded in broader perspectives, sometimes mildly critical. Perhaps useful, but not different in kind" (2020b, 194). This continuity of academic and ordinary theorizing means that normative pragmatics promotes the *cultivation* of arguers' capacities not as if teaching a foreign language, but through supporting arguers to become more deeply enculturated into their native tongue. More broadly, normative pragmatics is friendly to the notion that the evolution of new resources and contexts for argumentation can be guided by reflective, purposeful intervention: that is, by *design*. So one goal for argumentation theory is "to support the search for procedures and practices that work well for participants," especially to manage "significant dilemmas in contemporary public discourse" (Jackson 2015, 259, 260).

2. The uses of making arguments

Any pragmatic theory of argumentation is going to rest on more or less explicit assumptions about how arguments are used before audiences, in contexts, to accomplish important work. Likely the most common view is that making an argument induces recipients to hold the conclusion—that is, that arguments *persuade* them of the conclusion. In the contemporary revival of argumentation studies, Chaïm Perelman and Lucie Olbrechts-Tyteca's (1969) *The New Rhetoric* was an early and influential statement of this position. According to this perspective, arguments increase audiences' adherence to propositions. Christopher Tindale (1999)

and Douglas Walton (1996) advance similar views, although they add situational constraints (cognitive environment and dialogue type, respectively) to rein in *The New Rhetoric*'s apparent relativism. Other theorists highlight the need to distinguish arguments from other means of persuasion; these include Stephen Toulmin's (1958) assertion that the primary function of arguments is justificatory, Ralph Johnson's (2000) conception of argumentation as rational persuasion, and David Zarefsky's (e.g., 2014) emphasis that arguments persuade by justifying claims to audiences. And despite the way their research program veers away from the above, the pragma-dialectical approach puts forward a similar conception. In their view, the speech act of argumentation has the perlocutionary effect of convincing, which, in line with the principle of externalization, consists in the opponent's open acceptance of the conclusion on the basis of the argumentation (van Eemeren and Grootendorst 1983).

These approaches do diverge: it does make a difference whether arguments made are thought paradigmatically to produce justified or reasonable or dialogically appropriate adherence or acceptance or acceptability or commitment or belief. But all these approaches have in common an emphasis on conceptualizing arguments as things that tighten the audience's cognitive and/or publicly stated hold on the argument's conclusion. This is not entirely wrongheaded; arguments *do* sometimes persuade audiences to tighten their hold on the argument's conclusion—although clear cases seem surprisingly hard to find. But as a conception of argument-making, persuasion towards adherence is at once too encompassing and too narrow.

It is too encompassing because making an argument does not in fact require any dramatic change in the audience. Researchers adopting normative pragmatic approaches generally follow O'Keefe's analysis of the ordinary meaning of the English phrase "making an argument" as "the communication of both (1) a linguistically explicable claim and (2) one or more overtly expressed reasons which are linguistically explicit" (1982, 14; please note that this is not the well-known "argument-1, 2" paper, but the later, less known but more developed version). What

making an argument does—the most basic use, primary effect (Pinto 2010), or function of making an argument—is to make a reason for a conclusion apparent (“explicit”), *as* a reason (see especially Pinto 2010; also Jackson and Jacobs 1980; Jacobs 2000, 264; Goodwin and Innocenti 2019). When an argument has been made, the world has been changed: there is now in it an item that is *manifestly* a reason for some conclusion. When argument-making is successful, the audience says not “I agree,” but “I see.”

In fact, it is the very thinness of argument-making’s primary effect (Pinto 2010) that makes it adaptable enough to be deployed for all sorts of uses. Normative pragmatics researchers presume that arguers are making reasons apparent as a strategy for changing the world in some further way (what Pinto [2010] calls “secondary effects”), specifically by changing people; in that sense, arguers are trying to persuade. But that persuasion need not be aimed at inducing audiences to adhere to (etc.) the conclusion of the argument (Pinto 2010). Instead, as Jackson has put it, “arguments as they occur naturally in the ordinary pursuit of ordinary human purposes show incredible heterogeneity of form, content, and consequence” (2019, 632). Confining argument-making to the goal of increasing adherence is thus much too narrow.

In the remainder of this section, we review normative pragmatic research on the range of things people do by making arguments. In each case, “we do not take it for granted that argumentative talk is consequential. Quite the contrary, we observe that it is difficult for speakers to achieve their goals, and we try to build accounts of how they overcome these difficulties” (Goodwin 2007, 85). As a rough heuristic, we distinguish four clusters of uses which have received significant attention in the literature. They focus on progressively larger spheres of influence: making arguments to change minds, to change immediate situations, to change broader social identities, and to change resources for the practice of argumentation.

2.1 Changing minds

Making arguments may sometimes induce audiences to change their minds or openly accept a conclusion. But arguments can impact audiences' states of mind in ways prior to, in addition to, or instead of moving from less to more adherence. As Pinto (2003, 2010) pointed out, there are broad ranges of cognitive, conative, and evaluative attitudes that an audience can take towards a conclusion. Some of these states vary on some quantitative scale (e.g., more or less strong adherence), but some represent qualitatively different stances towards a proposition. And the reasons made manifest when an argument is made can be relevant in "making it OK" to adopt any of them. For example, making an argument may induce the audience to wonder whether a conclusion is true, to suspect that it might be, to treat it as a live option, to desire to raise counter-considerations against it, to suspend judgment on it, or to be unwilling to speak against it, despite thinking it wrong. As a taste of this diversity, consider the following three case studies of changing minds by making arguments from the literature on normative pragmatics, focusing on **fallacies**, **burdens of proof** and the nature of **commitments** in argument.

Scott Jacobs' (2000) original paper on normative pragmatics (the first essay in this volume) includes an analysis of a case of inducing the audience to *reflect on the frame of mind* with which they are considering a conclusion. Jacobs focuses on an anti-abortion advertorial issued by Catholic bishops. At first glance the advertorial's gigantic headline—"Killing mostly-born infants with a pair of scissors. We're debating this?"—appears a textbook case of **fallacious** argumentation, including appeals to emotion, poisoning the well, and restricting free discussion. But Jacobs makes the case that the headline, together with the arguments that support it, can be considered reasonable in light of the situation. Opposing discourse from pro-choice advocates, with its technocratic arguments and euphemistic language, had served to "anaesthetize" the public to what the bishops considered an ongoing atrocity. "Where an audience does not take seriously the

urgency or moral gravity of the problems addressed by an advocate,” it is practically necessary to “open[] a space for reflection on what an appropriate resolution-minded attitude would be in this context” Jacobs (2000, 277, 279) points out. Inducing such consideration of how one is even to consider a conclusion is in this case the use of making arguments.

Making arguments is also an important part of a strategy to induce the audience to *tentatively consider* a conclusion. As Fred Kauffeld (1998b) observes in his seminal essay on proposing and accusing (chapter 3 in this volume), reasonable people do not routinely attend to every message that tries to make a claim on their attention:

A prudent person does not consider just any representation made to him about his interests. Considering a matter takes time and effort; prudence requires that one not waste those assets on representations which do not merit thought and attention. Since a good deal of both may be required to ascertain a representation’s actual merit, a prudent person often must rely on his preconceptions and on appearances to initially assay a representation’s apparent merit as an object for consideration. (250)

How can a speaker induce a reluctant audience to at least tentatively consider her proposal? She can undertake and fulfill a **burden of proof**—a responsibility to display the merits of a proposal by making arguments. Her arguments will show that she has carefully thought through the matter and considered the audience’s interests and possible doubts and objections. Her audience then has a reason to tentatively consider the proposal: they can presume the speaker would not risk resentment for wasting their time unless she had carefully thought through the matter and ensured it would be worth their attention. Earning attention to a conclusion is in this case the use of making arguments.

A later study by Fred Kauffeld and Beth Innocenti (2018) documents how making arguments in the course of exhorting may induce audiences to grant a *sympathetic hearing* to a conclusion—an intermediate step on the way to getting them to

act. Sometimes speakers and audiences share **commitments**, but the problem isn't getting an audience to *conclude* something from those commitments. Instead, speakers exhort in circumstances where the audience, although possessing high-minded principles, is reluctant to *act* on them. Further, they may be reluctant to listen to a speaker who, in attempting to inspire them, sounds like a self-righteous, pretentious fanatic. On its face, argument-making may not seem like an efficacious strategy for inspiring people. But Kauffeld and Innocenti show how 1860 U.S. Presidential candidate Abraham Lincoln used arguments to display his own resolute commitment to the antislavery cause. Lincoln's arguments made manifest the contrast between his own responsible rhetorical conduct and that of his political opponents, which included recklessly making untrue assertions and denouncing others as outlaws, reptiles, and spitters upon the policy of the founding fathers (etc.). These arguments, together with the stylistic choices used to express them, served as good grounds for his audience to join Lincoln in his resolute commitment to antislavery efforts, even in a highly volatile political situation where violence was a real risk. Securing such an appropriate affective/intentional orientation to a conclusion is in this case the use of making arguments.

In each of these cases, arguers are making arguments adapted to induce the audience to adopt an attitude towards the arguments' conclusion: to consider the appropriate frame of mind for considering it, to tentatively consider it, to resolutely commit themselves to following through on it. Arguers have no apparent intention in any of these cases to induce immediate acceptance (adherence, belief, commitment, etc.) to that conclusion; indeed, in some cases that acceptance is already present. At best we might say that making arguments has many uses in achieving moments of clarity in the longterm, nonlinear, interactive and iterative processes through which people work through their views (Kjeldsen 2020) and minds actually get made up.

2.2 Changing situations

In addition to altering the attitudes of individuals to propositions, making arguments can alter the interactions within which they get made. As discussed above, normative pragmatic approaches assume that arguers manage their own interactions. One of the ways arguers do this is through making arguments whose “effects include enhancing or diminishing the conditions of [their] own reception” (Jacobs 2000, 274). Such interactional effects were already evident in the case studies discussed in Section 2.1: both the bishops’ advertorial and Lincoln’s exhortations made appropriate a *shared* affective engagement with a topic, while a proposal earns *shared* attention. Goodwin (2007) has termed such effects on the interaction as the creation of a “local normative terrain” within which an argumentative interaction goes forward. In the following, we note two such interactional effects documented in normative pragmatic research, foreshadowing a more extended discussion of this topic in Section 4. One effect involves expanding a **disagreement space**, and another involves a third party in **disagreement management**.

Argumentative interactions depend on arguers recognizing the standpoints that their arguments are about. As the interaction proceeds, the range of standpoints the arguers could *potentially* follow up on expands; Sally Jackson calls this range, the interaction’s “**disagreement space**” (van Eemeren et al. 1993, chap. 5; see also Aakhus 2013, included in this volume). The intuition that arguers are exploring a space is not unique to normative pragmatics; part of the impetus behind the **argument diagramming** tradition in informal logic, for example, is to bring to awareness the network of asserted propositions that could be called out as false, irrelevant or insufficient. Jackson’s concept, however, points both to the extent of potential but as yet unarticulated standpoints and to the way that in making arguments, arguers actively manage these potentials, creating the space they are inhabiting together. As their interaction proceeds, arguers can call out not only the truth (relevance, sufficiency) of propositions explicitly asserted, but also the “associated beliefs,” e.g. that the

propositions are fair, appropriate, sincere, timely, rightfully advanced, worth considering, and so on. This means that the disagreement space will always be expanding and that arguers will need to take care to focus only on what is most *worth* arguing. As Jackson puts it, “the shape and direction of the disagreement space” is “the joint responsibility of the participants” (van Eemeren et al. 1993, 109) and requires prudent management. In an essay included in this volume, Jackson explores a case of such **disagreement management** in her study of one of the debates over politicized science in the US. Scientists challenged a Republican administration’s call for “abstinence-only” sex education, claiming that it distorted scientific results for political purposes. The predicament: “exposing what is wrong with politicized use of science is quite difficult without opening disagreement space around exactly who is doing the politicizing” (2008b, 225). In arguing that their opponents were politicizing, the scientists revealed their own value orientations against abstinence, laying themselves open to countercharges that *they* were the ones politicizing. But a debate about who is really politicizing is unlikely to lead to managing the disagreement in a way productive for either the arguers or the public at large. The arguments themselves may be sound, but *making* them is a bad choice. Instead, prudent arguers will shape the disagreement space around “questions that are truly worth answering” (228; see further Aakhus and Vasilyeva 2008; Aakhus 2013).

Argumentative interactions sometimes depend on arguers jointly recognizing where the interaction is supposed to be going: the purpose not of the arguers, but of the interaction itself. In their work on professional mediators, Scott Jacobs and Mark Aakhus (2002) reveal how the arguments made in an interaction can affect the overall “framework of activity” that participants understand themselves to be realizing in their interaction. The ex-spouses or consumers and merchants in the mediation sessions they examine make claims and defend them with evidence; the parties appear to be aiming to reach a rational resolution of their dispute through holding a **critical discussion**. But Jacobs and Aakhus (2002) find that mediators often intervene to **manage disagreement**.

Sometimes they make arguments or interpret (openly reconstruct) participants' arguments in ways that will lead the parties to a mutually advantageous outcome, thus imposing a bargaining framework. At other times, mediators treat and even elicit argumentative statements from the participants as expressions of feeling, imposing a therapeutic dialogue framework. As ordinarily understood (e.g., Walton 1998), frameworks like critical discussion, bargaining and therapy are supposed to be prior to the interaction and to guide the production of arguments. In these mediations, the reverse is true: one use of the arguments made is to guide the participants to a shared sense of "what we are about here."

Other work has documented additional interactional effects beyond constructing a disagreement space or setting a framework for interaction: how arguments can make premises more available—or less (Pinto 2010; Goodwin 2005) and render issues more determinate and more deserving of attention (Goodwin 2002; Asen 2005). Making arguments is not the only strategy arguers have for managing their interactions; we return to this topic in the next section to document additional means. But in some cases, making an argument is both a move *in* an argumentative interaction and a move *constituting* the interaction; both making a reason apparent and helping create the conditions required for that reason to have force.

2.3 Changing social identities and relationships

In addition to constituting the normative terrain of a specific interaction, making arguments can affect social reality more broadly. In particular, making arguments can be a public performance that manifests to others who the arguer is while also claiming from others appropriate respect. In other words, as Rob Asen has put it, making arguments can constitute social identities. As a "discursive practice," Asen points out, "to recognize the identity formation function of argument is to recognize that discourse situates people in social relations... [making arguments] creates for participants a sense of self and others" (2005,

131–132). It is commonly understood that the arguments people make often display their beliefs or ideologies, showing them to be (for example) loyal representatives of a trade union or of a nation (e.g., Hinton 2024). But of more significance, when she argues, each arguer enacts her fundamental dispositions for managing argument-making in certain ways—i.e., her argumentative virtues or vices (e.g., Aberdein and Cohen 2016). Further, since such enactments take place before others, argument-making creates the occasion for her dispositions to be recognized and validated (or scorned) by others. Here we review three normative pragmatic studies which center on the ways making arguments can thus constitute social identities and relations. The first features argument-making to enact **virtues**; the second features argument-making to address **social injustice**; the third features argument-making that reciprocally co-constructs socially recognized **ethos**.

At the most basic level, making an argument demonstrates that the speaker is a person who can make arguments. We hope that all readers live in societies that recognize that *all* persons are capable of making arguments; historically, however, this is a relatively recent achievement. Jean Goodwin and Beth Innocenti (2019) examine how early female advocates for women's right to vote in the U.S. leveraged argument-making to make evident their inclusion in the category of rational beings. Advocates could not realistically hope to change people's minds immediately in circumstances of entrenched beliefs that women did not have adequate ability to reason, interest in public affairs, or strength enough to stand up for their beliefs on controversial issues. By making arguments, suffrage advocates instead established that women possessed core argumentative **virtues**; they were in fact capable of reasoning well, interested in public affairs, and had courage to appear in public and defend their views. They used arguments to conspicuously enact key aspects of the citizenly identity that they were then being denied.

Innocenti (2022) extends this analysis by focusing on how making arguments can establish not only who the arguer is, but how others ought to relate to her in order to mitigate **social injustice**. Innocenti focuses on a recurring challenge faced by

Black women advocates: how to induce others to stop derailing and interrupting discussions of systemic sexism and racism by pointing out that “not all men” and “not all white people” act in sexist, racist ways. By making arguments, advocates display that they are fully capable of reasoning and, specifically, of generalizing; of course, they know that “not all” men or white people. They further display outrage at the insult and hypocrisy of ongoing interruptions by those who are ostensibly correcting generalizations made by people discussing experiences of sexism and racism. And they display they are exercising forbearance—not abandoning discussion but trying to get their interlocutors to stop interrupting. By doing so, they enact a relationship of equality, refusing the social dominance implicit in “not all” claims and requiring those who make such claims to engage with them with comparable integrity, consistency, and fairness. They use arguments to get others to interact with them not as newcomers to controversy who need a tutorial on generalizing, but as persons who have recognized and documented a need for system change and deserve an equally well-argued response.

Jacobs (van Eemeren et al. 1993, chap. 7) examines how arguers can take advantage of each other to perform identities and display **ethos**. Jacobs focuses on repetitive argumentative interactions between fundamentalist preachers and students on US college campuses, in which the preachers call on the students to repent and some students heckle back. From the preachers’ point of view, they are speaking out to bear witness to their faith; to become martyrs, they actually need the students to treat them badly. From some students’ point of view, they are dedicated comics; they too need the preachers to act “irrationally” in order to have something to make fun of. The conduct of each side is conspicuously not aimed at resolving the dispute about the way to salvation but is one moment in distinct but interdependent long-term identity-construction projects aimed largely at communities of the like-minded.

It is not by chance that all three of these cases involve outsider voices: suffrage advocates, Black women advocates, fundamentalists on university campuses. Making arguments is an

important “weapon of the weak,” a powerful resource for those who have less power to establish more equitable interactions (Asen 2005). In related work, Leff and Utley have demonstrated how Martin Luther King Jr.’s celebrated “Letter from a Birmingham Jail” “not only...serve[s] immediate political ends but also...constitute[s] a new conception” (2004, 38) of Black identity. In their analysis, King selects and presents arguments in a way that enacts an identity as a deeply committed moderate, which serves both to refute accusations from his white audience that he is a radical agitator and offers his Black audience an identity position that stands between despair and hatred. Similarly, Goodwin (2002) has documented how those out of power can make arguments to demonstrate their prudence in deliberations, setting up conditions for demonstrating in the long term the imprudence of those in power (see also Asen 2005; Jacobs et al. 2022). In all these cases, argument-making is a key strategy for realizing, and claiming respect for, a social identity.

2.4 Changing resources for making arguments

We turn now to a final cluster of uses of argument: making arguments to change—hopefully improve—our capacity to argue by creating new resources which will be at hand when we need them. As we contended in Section 1, argumentative practice is inventive. Arguers create the conditions for their immediate interaction; and sometimes, these inventions can propagate to improve other interactions as well. Every argumentative interaction, Jackson has pointed out, “depends, both for content and form, on centuries of innovation Argumentation ... depends not just on native human reasoning ability, but on many extensions built over that natural ability, some known since antiquity and others known for only a decade or two” (2015, 244). Here we review two normative pragmatic studies focused on one such resource: the emergence of new **argument schemes**.

In a series of essays, Sally Jackson and Jodi Schneider trace the recent and rapid evolution of cultural resources for arguing about causes, especially in medical research (Jackson 2008a, 2015;

Jackson and Schneider 2016, 2018; Schneider and Jackson 2018, 2020). As they note in the essay included in this volume, arguers “do not just devise novel arguments to meet specific needs but propose and advocate new *forms* [i.e., schemes] of argument, intentionally designed for reusability” (Schneider and Jackson 2018, 77). For example, an inference rule something like “randomized controlled trials (RCTs) dependably establish the effectiveness of a medical treatment” was only stabilized in the late 1950s, after an extended period of debate defended its practical superiority in generating correct beliefs (Jackson and Schneider 2016; Schneider and Jackson 2018). Now it is widely recognized and even institutionalized—it has become a “warranting device” arguers, including nonspecialists routinely have at hand (Jackson and Schneider 2018; Goodwin and Bogomoletc 2022). More recently, systematic reviews of multiple RCTs (e.g., Cochrane reviews) have emerged as a standardized argument form, made necessary by the disputes provoked by variance among RCTs (among other problems; Jackson 2015; Jackson and Schneider 2018). And systematic reviews are now faced by new contenders that aim to counterbalance the emphasis on *average* benefits with acknowledgement that clinicians and patients are trying to find out whether a treatment will work for an *individual* (Schneider and Jackson 2020). Each step in this evolutionary process is made possible by changes in technologies (e.g., academic databases and search affordances, statistical techniques) and institutions (the Cochrane organization and its procedures). But these innovations are roped in and in some cases inspired by the need to defend with arguments the emerging inference rule against objections from within and without the specialist community. “Rely on RCTs” and “Rely on Cochrane Reviews” are forms of argument that have emerged from making arguments.

Goodwin (2020b) traces a similar process in a less specialized community in her study of online climate debates, documenting the emergence of an argument scheme about scientists’ hypocrisy in continuing to fly to conferences despite the massive carbon emissions that entails. As Goodwin notes, “the hypocrisy

argument” crystalizes out from countless, often repetitive acts of argument-making in which skeptical arguers cultivate interlocking claims about scientists not believing their own predictions, being elitists holding others to double standards, perpetuating hoaxes and so on. Through repetition, the entire complex becomes an object of attention for its proponents, an object that eventually can be deployed just by mentioning it. It also becomes an object for its opponents, who can now hold it up for evaluation—to examine, for example, whether it is a “fallacy.” Thus one of the uses of argument-making is to make recognizable an argument type (scheme), one available for all sorts of uses by later arguers in the controversy.

These two case studies document the emergence of argument schemes as recurrent patterns are recognized, named, and critiqued/supported. The arguments made in a particular situation not only contribute to the management of disagreement in that situation; they contribute resources—guides for argument-making across a broader variety of situations. The resources potentially created through making arguments are not limited to argument types, however. We will return in Section 4.3 to discuss how all resources for argument-making, everything from routinized roles and procedures to cyberinfrastructures, can be usefully viewed as a product of design.

3. Communicating arguments

In the previous section, we advanced a thin conception of what it is to make an argument: an argument is made when an arguer makes a reason for a conclusion apparent, *qua* reason. This raises the question of what to do with all the other stuff that, whenever an argument is communicated, is not directly making the argument. And as Jacobs (2000) trenchantly pointed out in his inaugural essay on normative pragmatics that opens this volume, there always *is* such stuff. In addition to “*what* was said,” there is “the *way* it was said” (presentational devices, organization, material instantiation), “*when* it was said” (the full context, including all

other discourse produced), “*who* it was said *to*, *by whom*” (the personal and social identities of the participants, including all their previous history of interaction), “all in contrast to what *could* have been said but *was not*” (which renders whatever the speaker is doing, a *choice*, 263). Whenever an argument is made, the making includes the argument, plus...a lot else (Goodwin 2000). What is an argumentation theorist to do with the “plus”?

A first possibility is to reconstruct *everything* done in the making of an argument *as if* it were making arguments as well. Especially given a thin conception of argument-making, such reconstruction is always a live option: the theorist can make visible reasons she perceives to be implicit in the presentational devices, visual design, identity of the speaker, etc., essentially making a new argument on behalf of the original arguer. A second possibility is to simply ignore everything that isn’t the argument, setting aside (“standardizing”) any “information in messages that does not express assertive force, propositional content and canonical inferential structure” (Jacobs 2000, 264). But neither of these approaches is wise, as Jacobs points out. We should start with the presumption that the arguer had something to say, and that the way she “conveyed [it] was the most fitting manner of packaging the information given the demands and purposes of the situation” (265). “Arguments are *one* way of gaining assent” (263; emphasis added); thus if the arguer chose *not* to explicitly make an argument, it was because “something more or less (or something else) was being conveyed” (265). And whatever the arguer *did* choose to do along with making arguments, that too was an essential aspect of the overall “functional rationale” she was offering to secure her audience’s response. Jacobs concludes, “We need to comprehensively take into account everything discourse offers as materials for constructing message meaning; not only its ‘content’ but also its organizational arrangement and expressive form” (2000, 272). The “plus” that always is present in argument-making is “not ... a barrier to analysis, not ... a predicament” the theorist needs to avoid, but a puzzle they need to solve (Jacobs 1999, 397).

So what is an argumentation theorist working within the normative pragmatic framework to do with the “plus”? A working hypothesis for approaching any argumentative activity is that the “plus” is designed to create the conditions within which the arguments being made will be received. As Jacobs (2009) has contended, we can presume

that arguers, like actors in general, are to be held responsible for the foreseeable consequences of their actions. Charity demands that, where possible, we find how actors live up to that responsibility. We should be looking to see how their actions can be construed as undertaking to satisfy standards of good argument. And assuming not only morally responsible agents, but competent agents, we should assume that they could (or should) have taken into account the inventional possibilities and alternatives available to a competent agent and could (or should) have foreseen the plausible consequences that a competent arguer could see, given sufficiently diligent investigation of the situation. (68)

Jacobs terms this (likely with a little irony) “a maximally strategic interpretation” of argumentative activity: presume that arguers *meant* the effects their activity manifestly called for and *meant* these effects to meet—or evade—the “standards of good argument.” Consider three examples of such “maximally strategic interpretation” of the “plus” that always accompanies the making of an argument. The first two illustrate normative pragmatic approaches to **multimodal** aspects of argumentative activity and the third to **linguistic style**.

As Justin Eckstein notes in an essay included in this volume, all arguments are received within some sort of background of sounds—a soundscape. Even readers of this text are immersed in some soundscape, whether “the drone of televisions” or “the symphony of combustion engines on the street” (2018, 269). And these soundscapes affect the reception of arguments, rendering audiences more or less attentive, oriented, and open. This straightforward fact clears the way for arguers to strategically design soundscapes in order to further the reception of their arguments. Eckstein develops a case study of the 2012 pot-banging

protest in Quebec. A drastic tuition hike had led to increasingly violent student protests; the government had responded by imposing an emergency decree restricting public assembly. Opponents of the law of course developed and circulated arguments against it, but they also called on Quebecois to take to the street every evening with their *casseroles*. Hundreds of thousands responded to the call. The resulting hubbub converted the previous soundscape of rioting into one of public celebration, conveying a “sense of comfort, joy, and positive affect” that served to invite everyone to join in (282). Although protests had been restricted, “sound went where bodies were forbidden and turned the entire city into a public space” (284) for manifesting disagreement. And the ubiquitous noise made audible the depth and extent of the public’s commitment to oppose the law, so that not even the most resistant could fail to take notice. The **multimodal** “plus” in this case—the soundscape—“ensured that [the law] was a topic of deliberation” (284), opening the way for the arguments to receive consideration.



Figure 1

In his essay on normative pragmatics, Jacobs (2000) analyzes an advertorial from a tobacco company defending its record on preventing underage smoking (Figure 1). Several arguments get made in the small print, but the most conspicuous feature of the artifact is its visual frame. The text portion is presented as if pasted crookedly on yellow construction paper, with the headline scrawled in thick red crayon and ornamented with an inept drawing of a flower.

“These features are not something that should be erased or ignored in an argumentative reconstruction of the message,” Jacobs (2000, 266) explains.

While the arguments purport to address the public's concerns, which were focused on teenagers trying out smoking, the visual aspects of the message insinuate that the real "kids" of concern are of crayon-using age. Teens are implicitly positioned as "not kids," so the tobacco company should be off the hook if they become addicted. The **multimodal** "plus" in this case—the visual design—serves to redirect the argument along lines that the arguer finds more amenable—but does so without making an argument.

In both these cases, the "plus" that accompanies the arguments being made is largely non-discursive; it does not invite reconstruction as argument. But even strictly linguistic argument-making includes a "plus," as the arguer makes innumerable choices of words, syntax, and organization in the course of expressing arguments. Innocenti's study of fear appeals (2011; included in this volume) provides an excellent example. The debates in Virginia prior to ratification of the US Constitution are renowned both for the quality of their arguments and for the ferocity of their clash. Each side plunders the storehouse of rhetorical devices to make vivid the expected negative consequences of ratification or refusal. This intensity of **style** creates a situation in which audience members risk criticism for poor judgment if they fail to acknowledge the grounds for fear that the speaker has made so conspicuously and vividly apparent. At the same time, the arguer has made herself vulnerable to criticism as a fearmonger if the intensity of her style turns out to be baseless or disproportionate to what her arguments actually show. As with Eckstein's (2018) soundscapes, the stylistic "plus" of the fear appeal over and above the arguments made serves to amplify the reciprocal accountability necessary for deliberation to work.

In sum, normative pragmatic approaches are committed both to a "thin" conception of argument and at the same time to "thick" attention to "'the total speech act in the total speech situation ... [as] the only *actual* phenomenon which, in the last resort, we are engaged in elucidating'" (Jacobs 1999, 398, quoting J.L. Austin). In all three cases discussed above, the "plus" of features of communication over and above the arguments made plays a key role in creating conditions for the reception of those arguments.

Explaining how the “plus” works, pragmatically, opens the way to normative assessment of argumentation; it allows us to examine, for example, whether the arguments made, plus everything that goes with them, serve “to open up or to close down the free and fair exchange of information [or] to encourage or to discourage critical scrutiny of the justification for alternative positions” (Jacobs 1999, 400). The analysis of the “plus” thus forms the basis for normative pragmatic approaches to evaluating potential **fallacies** as well as **pathos, ethos**, and other non-(openly)-rational means of persuasion. In some cases, as with the purported anti-smoking advertorial above, the “total speech act” exploits the audience’s presumptions about communication, occludes the argument and undermines the audience’s critical evaluation (see especially Jacobs 2016). But in other cases, even communication that might appear irrelevant or even scandalous from the perspective of traditional argumentation theory can in fact open space for “mutual, voluntary, free, comprehensive, open, fair, impartial, considered, reasoned, informed, reflective, and involved engagement” (Jacobs 2000, 274). This includes the pot-banging discussed above, as well as other non-linguistic sounds (Eckstein 2024), appeals to fear and other emotions (Jacobs 2006; Innocenti 2005, 2006, 2007), *argumenta ad verecundiam* (Goodwin 2001, 2011), incivility (Jacobs 2002; Innocenti 2022) and humor (Innocenti and Miller 2016). In all these cases, normative pragmatic analysis suggests that arguers do not “wrap their messages up in durable and attractive packaging in order to make sure they slide through the [communication] conduit with ease;” instead, the “total speech act” is devised in order “to establish ethically sound relationships with audiences” (Goodwin 2018, 19).

4. Generating normative force for arguments

As laid out in the previous section, normative pragmatic approaches to the study of argumentation call for investigation of how the arguers, through everything they say and do, position their arguments to encourage, survive, or evade, each others’ normative

assessment. The next question is obvious: where do the norms³ for that normative assessment come from? Based on the principle that argumentation is a self-regulating activity, what constitutes “a good argument” and “good argumentative conduct” must be specified by the arguers themselves. In the terminology introduced in section 2, arguers must not only *position* their arguments on a normative terrain; they must *constitute* that terrain. A key task for argumentation theory is to account for how such normative self-constitution occurs. There are multiple approaches to giving such accounts; “normative pragmatics is a broad genre that encompasses many particular theories and research paradigms” (Jacobs 1999, 398). In the following subsections, we explore the diversity of scholarly approaches in normative pragmatics by sketching two major lines of research emerging from the two Communication subfields identified in Section 1 of this Introduction: interpersonal communication and rhetorical studies. We then add a brief account of the recent research program in argumentation design. Each of the three approaches offers a distinctive analysis of the ways arguers invent (both create and bring to bear) the normative materials needed to assess their arguments and argumentative conduct.

3. We use “norms” or “normative materials” here to refer promiscuously to all of the bases upon which people evaluate arguments and argumentative activities, including: rules (e.g., take turns), ideals (fairness) and virtues (prudence), but also responsibilities (burden of proof), paradigmatic exemplars (Lincoln-Douglas debates), duties (for a reporter, accuracy), rights (freedom of speech), goods (social harmony), principles (non-violence), cares (for a relationship), interests (achieving social change) and any other basis for assessing human conduct. It should be noted further that most or all of these norms are not specifically tied to argumentation. As Goodwin has put it, “the normative background for arguing is no different from that of our activities generally. For example... the norms that are ordinarily invoked to criticize flaws in the way someone is arguing—as (say) unfair, manipulative, overbearing, coercive, tricky, fraudulent—are not unique to arguing, but apply in judging conduct in a variety of other transactions as well” (2001b, 8).

4.1 The normative terrain of conversational argument

“Argumentation as it occurs in ordinary human communication,” going forward without any support from institutions, educational programs, explicit rules and so on, is a good focus for displaying the “natural normativity” of argumentation (Jackson 2019, 631). Sally Jackson and Scott Jacobs (1980) opened the study of conversational argument in their seminal essay, “Structure of Conversational Argument: Pragmatic Bases for the Enthymeme,” and have elaborated it since (Jackson and Jacobs 1981; Jacobs and Jackson 1981, 1982, and especially 1989; see the summary in Aakhus 2013, included in this volume). The approach is best introduced by seeing how it works in practice, so consider the following example of a conversation among college roommates (van Eemeren et al. 1993, chap. 5). A, C, and D have purchased a stash of marijuana for joint use; B is not participating in the arrangement. Left brackets indicate overlapping talk.

01 A: We have eight ounces left. That should last us for a couple of days at least.

[

02 B: Heh yeah, I guess so.

03 A: Twenty-four days I would estimate.

04 B: Eight *ounces*?!

05 A: Sure. We smoke a lid in two or three days. ((Intervening discussion deleted))

16 B: That’s like- that’s like drinking eight or nine kegs every week.

17 C: Or smoking two packs of cigarettes every day.

18 D: EHHH-heh-heh-heh-heh

19 B: Yeah(.) Only I don’t smoke two packs of cigarettes every-

[

20 C: Three? Four?

21 B: No. Not nearly that many.

While taking stock of the household’s shared stash, lead pot-user A is doing some calculations about how long it will last—calculations to which B, the group’s pot-abstainer, responds with incredulity. B compares A’s proposed rate of pot consumption

with excessive beer drinking—a behavior the roommates associate with the “frat boys” they all despise. To D’s delight, C counterattacks by shifting the comparison to excessive smoking, which is B’s own vice.

Although only a few of these statements can plausibly be interpreted as *making arguments* (likely turns 16, 17, 19–21), it’s equally plausible to characterize the rest of the interaction as *argumentative*. But what are these roommates arguing about? B actually assents to A’s explicit assertions about the amount of marijuana possessed and how long it will last, so those are not the claims that he is calling out. Instead, in 16, B is making an argument against a standpoint something like “three people smoking a lid every two or three days is appropriate behavior.” B derives that standpoint as an implication of what A has said in 01–05. In these turns, A is not making random true comments about the state of the world; he is engaging with C and D in long-term planning to ensure that their marijuana supply is adequate to their needs. One background assumption of planning is that the behavior being planned is reasonable. B begins to treat this unstated assumption as a standpoint through his expressions of irony in 02 and incredulity in 04, before implying it in 16—an implication that is implicitly endorsed by C when he fails to object to it.

A similar analysis clarifies what is happening in the later part of this conversation. What is the relevance of 17 to 16? B’s argument against the appropriateness of breakneck marijuana consumption is not just a contribution to an intellectual discussion of ethical principles; it is a criticism of his roommates’ conduct. One of the preconditions of criticism is having the right to criticize. It is this right that C calls out by pointing to an analogous rule that he implies B himself does not follow. Again, the implied standpoint is implicitly endorsed, this time by B’s somewhat weak defense of his own conduct.

To generalize: ordinary conversation is not commonly a trade of assertions linked together by relationships of support; “actual ... discourse does not generally make either the statements or their interrelationships explicit” (Jackson 2019, 631). Instead,

conversation partners are carrying forward ordinary interactional business: planning, bargaining, requesting, suggesting, warning, complaining, and so on. The appropriateness of whatever activity is going on is always subject to evaluation on a variety of grounds; grounds that formal speech act theory in the Searlian tradition models as “felicity conditions” but which are better thought of as what is practically necessary in order to get some interactional business done (Jacobs and Jackson 1989; see also Jacobs 1989; Kauffeld 1998b, 2006; Kauffeld and Goodwin 2022). Within the conversation, any of these felicity conditions/practical necessities can be called out, making apparent a potential disagreement between the conversation partners. As Jackson comments:

Any aspect of any speech act may become the “target” of a “callout”—that is, it can become arguable simply by virtue of the fact that someone chooses not to let it pass. In fact, the possibility that anything any person says will become the target of a callout hovers over all of human discourse. And of course the callout need not be directed at what is actually said but could be directed at anything presupposed, implicated, or implied. This includes beliefs, attitudes, feelings, and intentions that a speaker exposes without taking on anything resembling a commitment to a claim. (2019, 636–637)

But built into conversation is a normative preference for agreement. When disagreement becomes manifest or even threatens to become manifest, conversation partners are motivated to find ways of managing it. Making arguments is one such mechanism: conversation partners attempt to repair the local breakdown by offering “some substantive reason why the [conversation partner] won’t (as opposed to can’t) supply the preferred response” (Jackson and Jacobs 1980, 253). Such reasoning is required after some aspect of a speech act has been called out, but it also can be implied, invited, or offered by either conversation partner before or during a speech act, in an attempt to head off disagreement before it manifests.

Through the process of calling out and repair, something like explicit standpoints and reasons can begin to emerge, co-constructed by the arguers; as A’s standpoint in the example above

emerges from what A said, plus B's calling-out, and then C's declining to object. Of course, the argument/repair is itself another turn in the conversation and thus also subject to normative evaluation by the conversation partners. Contemporary arguers can draw from a large repertoire of evolved tools for such normative evaluation, for example those taught in a critical thinking class. But these explicit, "invented" standards do not reflect the full range of norms in play. "People actually engaged in argumentation evaluate one another's reasoning in much more complex (and often deeply intuitive) ways" Jackson (2019, 632) explains. These deep intuitions Jackson calls the "natural normativity" of argumentation: the "practical and pretheoretical sense people have of the value of any contribution to resolving or otherwise managing disagreement" (639). Indeed, it is this "natural normativity over which logical standards have been built" (631); to draw the example above, theoretical formulations of the *tu quoque* argument (or **fallacy**) are built over the intuitions that B, C, and D express in taking B's smoking to be relevant to his right to cast shade on his roommates' marijuana use. And even the most felicitous realization of a well-established argument scheme can still be challenged as non-responsive to what the conversation partner views as *really* what the disagreement is about (Jackson 2019).

Most basically, "what people engaged in argumentation demand of one another comes down to cooperation in the management of disagreement" (Jackson 2019, 639). At every moment, conversation partners are making rapid, intuitive evaluations of whether a contribution to the conversation is truly *responsive* to the immediate disagreement (speech act + call out), and more broadly to the entire set of "beliefs, attitudes, feelings, and intentions" that have been exposed in the conversation, and so which are *able* to be called out. The **disagreement space** that has emerged from the conversation, plus conversation's normative preference for agreement, plus conversation partners' intuitive senses of what will and will not help them manage the disagreement (including always the possibility of just leaving it

behind): these create the dynamic normative terrain of conversational argument.

4.2 Normative terrains for public address

There is another range of situations which are central for argumentation theory but less well suited to be modeled as conversations. We refer to public address, the traditional domain for rhetoric: discourse on matters of common concern, directed towards audiences that potentially include everyone affected. Public address proceeds not by dialogue, but by broad dissemination (Innocenti 2022), a fact that affects every aspect of the argumentative interaction. There are generally many more communicators and many more who might take notice. This requires communicators to earn their place in the competition for attention and audiences to be selective about who they listen to. Communicators and audiences are often not co-present; their interaction proceeds asynchronously. This means that the communicator herself must undertake up front and on her own much of the work of argument-making and disagreement management that in conversational settings is accomplished collaboratively and as the need arises. Finally, the broader the controversy, the more participants' interests and perspectives are likely to diverge, so conversation's preference for agreement will have less traction. As Innocenti has put it, "conventional politeness and civility may be brought to bear in face-to-face encounters where interactants have relational goals such as saving face. These normative materials may become more diffuse and change as face-to-face interpersonal dialogue scales up into a complex polylogue and public controversy" (2022, 351). In the public sphere, disagreement is the norm, and possibly even normatively appropriate.

In the cacophonous "barnyard" of the public sphere (Burke [1950] 1969), each arguer must try "to establish for herself and the other participants a normative environment within which their arguing can proceed" (Goodwin 2001b, 8). There are always already plenty of normative raw materials around which might

serve to regulate civic controversies; to borrow again the list from Jacobs, we generally expect from arguers “mutual, voluntary, free, comprehensive, open, fair, impartial, considered, reasoned, informed, reflective, and involved engagement” (2000, 274). Fred Kauffeld (2002b) offers some additional options:

Arguments may be assessed along a variety of dimensions: They may be valid, sound, acceptable, well supported, relevant; they may be assessed in terms of whether they merit consideration, whether they require a substantial response, whether they must be taken into account, whether they are well or poorly reasoned, fair or unfair, coherent or incoherent, whether they make up an apparently good case or seem not to amount to much. (25)

But what any of these or other normative materials require in a particular situation is often indeterminate. An arguer may be uncertain of how a particular norm bears on the situation at hand, with different arguers having different perspectives. Sometimes, applicable norms conflict. And almost always living up to any of them fully stands in tension with the practical necessity of making a timely decision and proceeding to get stuff done (Kauffeld 1997). So there is plenty of “wiggle room” for every arguer to characterize her own conduct as good, or at least the best she can do under the circumstances, while also putting blame on others for failing to give “comprehensive, open, fair, impartial” (etc.), consideration to her arguments. But such an idiosyncratic determination of norms is unlikely to serve as a terrain for coordinating an exchange of arguments with disagreeing others.

The central problematic for arguers in civic settings is thus to give argumentation-relevant norms traction between arguers by reducing wiggle room, achieving in public address something like the orderliness conversational argument gains through interactive actualization of natural normativity. It was Fred Kauffeld’s insight that a Gricean approach to speech acts, with its emphasis on speaker commitments creating reasons for audience response, offers an account of how such local orderliness can be achieved (2009b; see also 2001, 2009 and 2022). Innocenti has offered a generalized, schematic explanation of the practical rationale

speech acts offer to both speakers and audiences (e.g., Innocenti and Miller 2016; Innocenti and Kathol 2018; Innocenti 2019). By openly and deliberately invoking a norm, the arguer reduces her own wiggle room, committing herself to living up to the norm and putting herself in a position to be held accountable if she does not. Her audience can **presume** that she would not rashly risk such accountability; this gives them a reason for engaging with her arguments in a normatively appropriate way. Moreover, the arguer's open invocation of the norm reduces her audience's wiggle room as well; it creates a situation where any bad behavior on their part will be more apparent and less deniable, both to themselves and others. Open and deliberate invocation of a norm can thus serve to place both speaker and audience on a normative terrain where their reciprocal expectations are relatively determinate.

Researchers adopting normative pragmatic approaches have deployed this generalized schematic to explain various specific strategies of interest to argumentation theory. For example, why do arguers voluntarily load themselves down with **burdens of proof**? In this volume, Fred Kauffeld's (1998b) foundational analysis of *proposing* and *accusing* illustrates that arguers undertake probative burdens strategically, as a way of providing audiences practical rationales—sometimes compelling practical rationales—for responding in normatively appropriate ways. More broadly Kauffeld's work includes analyses of the related strategies of the diverse probative burdens undertaken in *advising* (1999), *exhorting* (Kauffeld and Innocenti 2018), *reporting* (Kauffeld 2012), and *testifying* (Kauffeld and Fields 2005), not to mention strategies not yet named in English (e.g., Lincoln's near-conspiracy-accusation, Kauffeld 1994; or Martin Luther King Jr.'s complaint-answering, Kauffeld 2009b). There is even an example of how speakers can create opportunities for open interactions by strategically taking on *reduced* commitments—in *gossiping* (Kauffeld and Fields 2003). In each case, the probative responsibilities the speaker undertakes are precisely tailored to address specific reasons the audience has for being reluctant to engage. In addition to securing a response, these speaker

undertakings create a broader set of normative materials that will regulate the interaction. They set up the **presumptions** that will be in play in the interaction going forward (Kauffeld 1995, 2003, 2019), define the **issues** that must be addressed (Kauffeld 2002a; Goodwin 2002), identify the **premises** available for arguments (Goodwin 2005), fix the qualities of the arguments needed (Kauffeld 1998b), and delimit the speaker's **dialectical obligations**, identifying the sorts of doubts, objections or counterarguments she need *not* respond to (Kauffeld 1998a, 1999) and the circumstances within which the burden of proof might shift to the other side (Kauffeld 1989, 2002b).

Overall, when appropriately implemented the generalized strategy of making norms apparent has the power to create or alter the normative terrain within which a productive exchange of arguments can proceed. As Kauffeld put it:

certain apparent qualities of a discourse, which are supposed to be ascertainable independent of whether the discourse actually persuades anybody, have the power to alter the social and moral order [that is,] ... the power to effect the moral basis for social relationships among parties to a dispute ... in practically significant ways (1989, 373, 375).

From the point of view of a reluctant audience, the exercise of this power can be experienced as a force, that is, an influence that pressures them to change their direction. The **appeal to authority** presents a particularly clear example. In her analysis of authority appeals, Goodwin (2001a, included in this volume) has characterized the general strategy outlined in this subsection as one of “blackmail and bond.” The authority offers a “bond,” undertaking a determinate and enforceable responsibility for what she is saying and risking loss of her standing as an authority if it turns out to be invalid. This also places her audience in a position such that if they fail to defer, they will be conspicuously disrespectful, imprudent, or disobedient—a constraint that they can feel to be “blackmail.” The force of authority is not coercive, however; instead, it is self-limiting. It reciprocally binds both the

speaker and the addressee, providing to both strong incentives to live up to norms they themselves endorse. As Goodwin puts it, the “blackmail and bond” strategy for creating a normative terrain in the tumult of the public sphere is “*effective* because it is *ethical*” (2018, 15).

Forceful strategies for giving norms traction in specific situations are particularly needed in public address, where the conditions sometimes thought to be ideal or even necessary for argumentation are routinely lacking. Indeed, argumentation in such “hard cases” is often aimed precisely to address structural inequalities, histories of animosity, incommensurable interests, and suppression of speech. Normative pragmatic approaches promise to provide insights into how argument-making can be productive even in such circumstances. In this volume, we include Beth Innocenti’s important case study of a feminist group’s direct action (Innocenti and Kathol 2018) as an example. In the early 1970s, a university had ignored, downplayed, or stalled women’s attempts to advocate for reform through accepted procedures. A group therefore occupied a campus building and issued demands ranging from pay equity to the establishment of a daycare center. As is typical of social protest strategies, this occupation was a vivid, conspicuous step well outside of the bounds of ordinary civil interaction. By openly and deliberately breaching norms of civility, the demanders incurred a **probative obligation** to provide arguments justifying their conduct’s procedural and substantive rightness. The openness of the women’s actions also licensed a **presumption** that the demanders would not risk resentment for disruption and even coercion unless they were confident they held the procedural and substantive high ground. This presumption created one reason for the university to accede to the demands—or at least to give the demanders’ arguments the fair hearing that had previously not been forthcoming. But the women’s demands also positioned the university to look unreasonable if they continued to ignore a position whose legitimacy had been made conspicuous, or to look tyrannical if they used coercive tactics to remove well-founded opposition. Uncivil action thus had the capacity to open a normative terrain where civil argumentative discourse could work.

4.3 Design of environments for argumentation

Both the research approaches just sketched—into the natural normativity of interpersonal conversational argument and the self-imposed normativity of rhetorical public address—examine how arguers create the conditions for their argument-making within the ongoing flow of an interaction or controversy. But this power to generate normative terrains is not exercised only on the fly. Recurrent problems in argument-making can and often do have relatively stable, cross-contextually available solutions that have been intentionally advanced—i.e., *designed*. For example: People establish institutions that arrange processes for overcoming reluctance to disagree or for keeping interactions orderly and on topic (e.g., seminar series). They shape and disseminate cultures that promote awareness of principles for assessing arguments and competence in doing so (e.g., critical thinking classes). They conceive and construct information sources that make it easier to discover good premises (e.g., Wikipedia). Any complete account of arguers’ self-regulation needs to attend to this “built-up environment of contemporary argumentative discourse” (Jackson and Jacobs 2026) that arguers themselves have instituted to support good argumentation at spatial, temporal and social scales larger than the single transaction. That is what the recently emergent design approach aims to do.

The design approach to argumentation (and beyond argumentation, to communication in general) has been described in detail by Sally Jackson and Mark Aakhus (e.g., Aakhus 2007, 2015; Jackson 1998, 2015; Jackson and Jacobs 2026). The approach starts from the insight that the typical objects of study for argumentation theory are neither immutable “structures” nor arbitrary “conventions” (Aakhus 2015, 341), but instead “the products of design—the creative production of something new that contributes in some specifiable fashion to human capacity for reasonableness” (Jackson 2015, 243). The patterns of reasoning we deem good (**schemes**) or bad (**fallacies**) have been thus invented (see especially Jackson 2015 and the discussion in section 2.4 above); so have aspects of argumentative interactions such as

roles, allocation of turns and permitted speech moves (see especially Aakhus 2015; Jackson 1998). Each of these inventions is an attempt to realize a balance between often conflicting ideals within the constraints of a complex, recurrent situation. Each is grounded in a design hypothesis: a “notion, theoretical or intuitive, about how argumentation works to achieve its purpose” (Jackson 2015, 250). One of the central tasks of argumentation theory is to render more fully explicit the often-implicit practical knowledge built into these argumentative practices (Aakhus 2015), in order to make the design process, and the designs themselves, better.

Design may be most conspicuous in argumentative activities intentionally devised, maintained or regulated by third parties not implicated in a dispute. Scott Jacobs (Jackson and Jacobs 2026; Jacobs 2020) analyzes competitive intercollegiate debate in the US as a paradigmatic example. Through a century-long and still-ongoing meta-conversation among faculty, the debate community has evolved a shared understanding of the goals and ideals for the activity. The community has sustained institutions like debate leagues that set topics and organize times and places for interactions and debate programs at universities that recruit and train students and get them to the competitions. It has promulgated explicit rules setting things like the responsibilities for different roles, the timing of speaking turns and the assessment standards for performances. The community has also been adept at technological innovation, such as an approach to recording the debate on a flowsheet that afforded tracking “extension” of multiple issues across speeches. While forensic debate provides a particularly clear example of intentional design, third party interventions into argumentative practices occur across a variety of other settings. Research has examined face-to-face deliberation exercises that bring together residents to consider issues of common concern (Eckstein and Weger 2025; Sprain et al. 2014), science courts to resolve disagreements among experts on policy-relevant topics (Aakhus 1999), professional codes of conduct for advocates (Goodwin 2020a), the practices of professional mediators (Aakhus 2003; Jacobs and Aakhus 2002) and meeting facilitators (Aakhus 2001).

Just as important although often less visible are the evolved cultures and infrastructures which enable and constrain argumentative interactions across a variety of settings; these, too, can be approached as designed. In the contemporary world, perhaps the most prominent of such infrastructures are the media platforms that are now the places where civic argumentation happens. As Aakhus explains in an essay included in this volume, information and communication technologies such as X/Twitter, Slack, threaded discussions attached to online news content or in-house corporate communication software are not providing neutral “conduit[s] of communication” (2013, 123). Instead, such platforms “take responsibility for aspects of interaction ... afford communicative possibilities and ... shape what argumentation becomes in practical activities” in ways that reflect more or less explicit “practical theories for designing argumentation” (Aakhus 2013, 123, 103). Aakhus and Lewiński (2011), for example, survey technologies that promote large-scale deliberations, finding a persistent tension between allowing openness of participation and promoting quality of argumentation. Different platform designs offer different affordances and constraints, resolving the openness/quality tradeoff differently. Many web-based forums, for instance, enable participants to fully exercise their unconditional right to be critical themselves, but also allow discussants to evade obligations to address criticisms against them. In contrast, group decision support systems better enforce burdens of proof, but with less room for criticism and scrutiny of positions as the participants are pressed towards consensus. In short, Aakhus and Lewiński show how different technological designs bring to bear different normative materials that tend to give different shapes to the resulting disagreement spaces.

As the example of software for deliberation makes clear, design inquiry is always simultaneously descriptive and normative. Every “design seeks realization of an ideal” (Jackson and Aakhus 2014, 126) within the world of practical affairs. Whether the object of inquiry is an argumentative activity, institution, culture, technology or infrastructure, accounting for its design requires us to understand the goals, ideals, values (etc.) that

the design aims to realize and to examine how they are realized. A design approach also encourages critique, questioning the legitimacy of the goals and the efficacy of the design in achieving them. Finally, a design approach positions the researcher to contribute to the ongoing refinement and extension of argumentative practice. Any design for argumentation is also “redesignable ... [it is] contingent and malleable, rather than ... a fixed set of constraints on practice” (Aakhus and Jackson 2005, 887). As new communication technologies, new social circumstances and new issues open new problems, new designs for both interacting and reasoning are needed. Argumentation theorists are well positioned to propose innovations to manage these problems and better align practice with ideals. As Jackson and Jacobs have put it:

Contemporary argumentation practice is already heavily built up with things that have been designed to try to support reasonableness. At a minimum, argumentation theory should attempt to describe and critique important new inventions. The design perspective we advocate also dares to suggest that argument theory can also itself be a source of inspiration for future inventions. (2026)

5. An agenda for ongoing research

We have now reviewed traditions of scholarship which build in various ways on the central principle of normative pragmatic approaches to argumentation theory: that both the normative rightness and pragmatic force of argumentative activities are achievements of the arguers themselves. The previous sections have reviewed varied uses arguers make of arguments, the impact of the choices they make as they embody their arguments in linguistic/material artifacts, and their efforts, at every scale from fleeting conversation through civic debate to institutionalized infrastructures, to construct an environment in which their arguments will get the reception they deserve. Normative pragmatic approaches are never going to produce grand theory, systematizing everything and providing a single vision of all

argumentative transactions. But they do provide a framework for capturing inventiveness and appreciating—and supporting—humans’ never-ending efforts to make arguments *better*.

There is plenty of room to advance on these research traditions along the lines sketched above. But we want to close this introductory essay by noting five areas where normative pragmatic approaches could prove particularly promising.

First and foremost, normative pragmatic researchers, like argumentation researchers generally, need to pay more attention to argumentation in the **Majority World**. Most of the studies discussed in this Introduction analyze practices in the U.S., with some attention to other Anglophone or European contexts. Argumentation studies as a whole is experiencing a much-needed globalization of research, with special issues and conference sessions devoted to practices across the world’s cultures, including co-cultures in the Minority World. Normative pragmatic approaches, with their insistence on the primacy of the arguers’ own activities, can support this movement by providing a productive framework for investigating culturally specific practices and for comparisons between cultures. Instead of starting from models of argument or of argumentative dialogues that may be grounded in culturally specific assumptions, normative pragmatic approaches invite the researcher to attend to participants’ own (emic) sense of what they are doing and to identify the locally available normative materials that they are bringing to bear. Normative pragmatic approaches also offer a set of typical problems arguers’ face—for example, how to get interlocutors to listen to reason: these can serve as crossroads for comparative work. Future research is needed to test normative pragmatics’ potential in providing a structured yet open framework for bringing into dialogue the world’s disparate cultures of argumentation.

Second, we need to continue investigating the “hard” cases where idealizing assumptions do not hold—which, in our view, means all cases! Increasingly, argumentation researchers are recognizing the limits of idealized theories and indeed the

injustices that arise when arguers attempt to live up to them. Instead of excluding cases where **second- and third-order conditions are unfavorable**—e.g., when arguers are biased or lazy, are ignoring good arguments, or are caught between a normative rock and a pragmatic hard place—we take them as situational variations that arguers need to manage. As the normative pragmatic research summarized throughout this Introduction has shown, argumentation does not require ideal circumstances; we can instead investigate how arguers are managing disagreement by giving some force to norms even in the flawed world we inhabit.

Third, we need to continue focusing on **multimodal argumentation**. Argumentation studies should continue to develop tools, methods, and approaches for analyzing images, sounds, embodiments and landscapes, as they appear in traditional media, new digital environments, on the streets, and more. Normative pragmatic approaches preserve the integrity of the arguments actually made, while also acknowledging the significance of all the “argument plus” in all modalities for creating the conditions within which those arguments will be received; this approach obviates the need to reconstruct everything into a premise/conclusion format. As shown in studies summarized in this Introduction, investigating arguments and communication strategies in diverse modalities illustrates the diversity of normative bases that arguers engage to cultivate, or degrade, conditions for the effective reception of arguments.

Fourth, we need to continue to develop research-based **argument pedagogies** cultivating students’ capacities for ethical, effective argument-making. The deep teaching traditions of argumentation studies have always both been informed by and informed argumentation theories. Normative pragmatic approaches direct attention to the need to teach practical strategies for constructing and reconstructing normative terrains to the students who will be doing it. Normative pragmatic approaches feature the effectiveness of ethical action, so teaching effective arguing would involve bringing awareness of injustice and speakers’ responsibilities in addressing it. Normative pragmatic

approaches would cultivate recognition and facility with a broad set of uses of argument in addition to or instead of something like reasoned persuasion and resolution of differences of opinion.

Fifth, we need to continue to develop normative pragmatic approaches to understand how **emerging communication technologies** are shaping argumentative practices. New technologies can afford novel forms of disagreement management and novel extensions of the human capacity for reasoning, but they can also destabilize the reciprocal expectations constituting the normative terrains that allow argument-making to proceed in a routine fashion. For example, at the time of this writing we are experiencing the first impacts of the broad availability of large language models which can pass a Turing test for ordinary argument-making. Can this technology be used to help arguers better imagine and then navigate the disagreement space around issues of interest to them? Or will an environment saturated with AI-generated discourse undermine the ordinary presumptions of sincerity, thoughtfulness and responsibility that makes engagement with arguments worthwhile at all? Are there ways to tip the technology towards more productive uses? Normative pragmatic approaches allow researchers to trace and assess how arguers themselves adapt, appropriate, and reconstruct the communication systems within which their own argumentative activities take place, and propose re-designs that open new possibilities for reasoning and persuasion.

These are our top five agenda items for normative pragmatic research; we invite interested readers to add their own!

6. The essays

For this volume, we have selected essays that introduce the main features and diverse facets of normative pragmatic approaches to argumentation. While arranged roughly in chronological order, the essays fall into four clusters: explorations of foundational assumptions and starting points, considerations of topics of traditional interest in argumentation theory, introductions to some

of the conceptual innovations of the approach, and contributions to cutting-edge issues.

We begin with two foundational essays. These explicate normative pragmatic approaches by putting them in dialogue with other widely-recognized research programs: rhetoric, dialectics/dialogue theories, and informal logic.

Jacobs' (2000) "Rhetoric and Dialectic from the Standpoint of Normative Pragmatics" situates normative pragmatics between rhetorical and dialectical approaches, arguing for the integration of the former's strategic effectiveness with the latter's procedures for reasonable deliberation. Through a series of case studies, Jacobs illustrates how contextualized analysis of the full design of a message—the arguments made and everything else—allows assessment for how it contributes (or not) to "mutual, fair, voluntary" (etc.) deliberation. In particular, he notes how strategies that at first glance may appear to be fallacies can in fact improve conditions for reasoned deliberation.

Goodwin's (2001b) "One Question, Two Answers" observes that the pragmatic turn in argumentation theory has forced attention to arguing as an *activity*, requiring the development of theories that go beyond informal logic's traditional focus on arguments as products. She contrasts the two responses to this challenge proposed by dialogue theories and design (i.e., what is now called normative pragmatic) approaches, identifying their divergent models of communication, sources of normativity, and modes of theory-building. She closes by arguing for the power of normative pragmatics in providing accounts of argumentative activity that explain argumentation's force, are deeply grounded in complex case studies, and make possible nuanced assessment.

The next three essays draw from work on what in Section 4.2 we called public address to exemplify how normative pragmatic approaches open new perspectives on issues of longstanding interest to argumentation theorists.

Kauffeld's (1998b) "Presumption and the Distribution of Argumentative Burdens in Acts of Proposing and Accusing" focuses on burdens of proof—the basic obligations to back statements with reasons. The burden of proof is sometimes thought

to be assigned by convention, e.g. to those proposing changes to the status quo or to those accusing somebody of wrongdoing. Kauffeld provides a deeper rationale, focusing on an analysis of *proposing* and *accusing*: both illocutionary speech acts which typically provide frames within which argumentation proceeds. He demonstrates how arguers find it practically necessary to undertake carefully tailored burdens in order to secure a response from reluctant audiences, thus creating the normative terrains within which their interaction will proceed.

In “Cicero’s Authority” (2001a), Goodwin provides an analysis of the appeal to authority based on a case study of a legal defense speech by the ancient Roman orator Cicero. Goodwin explains how Cicero engages a presumption—proffers a “bond”—that he would not risk his dignity by backing his client unless he was confident he was defending a good cause. By doing this he also “blackmails” the audience, putting them in a position such that failing to do as he asks will make them appear disrespectful. Based on the practical reasoning comprising the force of the appeal, Goodwin concludes that the appeal to authority is neither epistemically nor ethically unsound.

Fear appeals in public discourse are the center of attention for Innocenti (2011) in her essay, “A Normative Pragmatic Model of Making Fear Appeals.” As Innocenti explains, arguers themselves are well aware that fear appeals can be manipulative and irrational—i.e., fallacious; it is therefore practically necessary for the arguer making such an appeal to design it in a way that constrains the audience from simply dismissing it. By providing grounds at all, and presenting them with intensity, a speaker conspicuously undertakes and discharges obligations to have responsibly considered the likely existence and severity of potential harmful consequences; and makes it risky for audiences to perfunctorily dismiss her concerns because doing so would be a fallible sign that they are putting their heads in the sand, exercising poor judgment, and the like. To avoid those criticisms, they can deliberate.

The three essays that follow turn to work from the conversational argument perspective discussed in Section 4.1 and

demonstrate the ability of normative pragmatic approaches to broaden the scope of argumentation theory by formulating new concepts and initiating new lines of inquiry.

Jackson's (2008b) "Predicaments of Politicization in the Debate over Abstinence-Only Sex Education" illustrates the importance of an interaction's disagreement space: the ever-evolving range of standpoints that could be argued in any given situation. Through a case study of countercharges of "politicization of science" Jackson demonstrates how opening an issue—even a legitimate issue on which proponents had good arguments—can lead to an unproductive exchange that fails to advance policy on matters of greater concern. She concludes by urging the importance of prudent management of disagreement space for our understanding of competent argumentation.

In "Deliberation Digitized: Designing Disagreement Space Through Communication-Information Services," Aakhus (2013) explains how third-party interventions can shape a disagreement space by constructing possibilities for interaction or, put differently, regulating how argumentation can proceed. For example, a child custody dispute mediator can shape the disagreement space by focusing interactants on their future relationship instead of past grievances. Through a series of examples, he reminds us that the communication technologies through which much contemporary argumentation proceeds are just such third parties, and theorists need to pay attention to the ways in which they enable and constrain the argumentative activities that occur within them.

Schneider and Jackson (2018) open the question of where argument schemes actually come from in their essay, "Modeling the Invention of a New Inference Rule: The Case of 'Randomized Clinical Trial' as an Argument Scheme for Medical Science." Tracing the debates which established RCTs as the gold standard in medical decision-making, Schneider and Jackson show that the inference rule (something like "if an RCT shows a treatment is safe and effective, then it is safe and effective") is in fact an invention, i.e., a *design*, that emerged in the course of a debate over the relative value of RCTs and clinical experience. With the debate at

least temporarily calmed, all the considerations developed through it are now packed into the “black box” of the inference rule, which can be deployed without further discussion. Of course, the “black box” can always be re-opened as newly invented schemes vie for primacy in treatment decisions.

Our final two essays engage the emerging issues identified in the previous section.

In “The Persuasive Force of Demanding,” Innocenti and Kathol (2018) consider a strategy available to arguers whose voices are being excluded. Their case study centers on the takeover of a campus building by a group of women seeking health care, childcare, and other accommodations. The arguments women had been making in ordinary procedural venues were not getting heard or considered. Their forceful demands for change coupled with their occupation of public space required them to back their position with good arguments or else face criticism for overbearing and uncivil behavior. But when they indeed conspicuously demonstrated that they held the substantive and procedural high ground in the controversy, their efforts pressured the university to acknowledge their grievances and in the longer run comply with some of their demands.

In “Designing Soundscapes for Argumentation,” Eckstein (2018) examines a similar situation in which arguers were being barred from participation. In the face of a law restricting public assembly, residents of Quebec turned to using sounds to express their views, orchestrating a nightly banging of pots and pans. This non-linguistic mode served to hold the government accountable and open a space for deliberation, one in which linguistic arguments could gain their due force.

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1.

Rhetoric and Dialectic from the Standpoint of Normative Pragmatics

Scott Jacobs

ABSTRACT: Normative pragmatics can bridge the differences between dialectical and rhetorical theories in a way that saves the central insights of both. Normative pragmatics calls attention to how the manifest strategic design of a message produces interpretive effects and interactional consequences. Argumentative analysis of messages should begin with the manifest persuasive rationale they communicate. But not all persuasive inducements should be treated as arguments. Arguments express with a special pragmatic force *propositions* where those propositions stand in particular inferential relations to one another. Normative pragmatics provides a framework within which varieties of inference and pragmatic force may be kept straight. Normative pragmatics conceptualizes argumentative effectiveness in a way that integrates notions of rhetorical strategy and rhetorical situation with dialectical norms and procedures for reasonable deliberation. Strategic effectiveness should be seen in terms of maximizing the chances that claims and arguments will be reasonably evaluated, whether or not they are accepted. Procedural rationality should be seen in terms of adjustment to the demands of concrete circumstances. Two types of adjustment are illustrated: rhetorical strategies for framing the conditions for dialectical deliberation and rhetorical strategies for making do with limitations to dialectical deliberation.

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1. Rhetoric and Dialectic from the Standpoint of Normative Pragmatics

Rhetoric and dialectic have long been understood as two contrasting approaches to the use of reasoning through discourse. Rhetoric has been generally understood to be a unilateral process by which a speaker undertakes to persuade an audience. Its paradigm case involves monologue and text. Dialectic has been taken to represent a bilateral process by which two parties undertake to reach a consensus. Its paradigm case involves dialogue and debate.

Rhetoric adds motivational appeal and linguistic style in order to animate the inferential forms and propositional content of logic. Dialectic adds institutional commitments and deliberative format in order to test inferential forms and propositional content. Dialectic searches for truth; rhetoric makes truth effective.

Rhetoric is a structure of identification, dialectic a structure of opposition. The materials of rhetoric are symbolic inducements; the materials of dialectic are pragmatic acts. The tendency in rhetoric is to situate; the tendency in dialectic is to transcend.

Traditionally, the emphasis on audience adaptation in rhetorical theory has encouraged extrinsic standards for judging argument quality in terms of persuasive outcome. The emphasis on methodical practice in dialectical theory has encouraged intrinsic standards for judging argument quality in terms of procedural implementation. Rhetoric tends to be relativistic in epistemic orientation, dialectic to be critical.

Rhetoric is ordinarily thought of as a practical art, dialectic as a technical one. Critics tend to attack rhetoric as ornamentation, bombast, seduction; they fear cynical sophistry. Critics tend to ignore dialectic as arcane and esoteric technique; they dismiss it

as merely a peculiar curiosity. The dark side of rhetoric lies in its power over people; the dark side of dialectic lies in its lack of it.

Still, there is much that the two approaches share in common – beyond their persistent inability to escape the long shadow of formal logic. Both see argumentation as a social activity and emphasize its functional design in managing controversy and disagreement. Both conceptualize argumentation as actual language use. Both locate the rationality of argumentation in the process of overcoming doubt and answering objections. And both have shown a keen interest in the institutional structuring of the conduct of argument, whether one think of this in terms of spheres, fields, genres, dialogue types, or simply argumentation formats. Certainly there are enough differences within the traditions of rhetorical and dialectical study to think that it may be less important to emphasize the differences between these two approaches than it is to find a way to organize their common themes (cf. van Eemeren and Houtlosser 2000; Leff 1998).

Elsewhere (Jacobs 1998) I have suggested what I think is a useful way to organize those common themes: think of the study of argumentation as part of ‘normative pragmatics’ (van Eemeren 1990; van Eemeren and Grootendorst 1974). Such a perspective would be a profitable way to think of argumentation studies for two reasons. First, treating argumentation as normative pragmatics would focus attention on the communicative properties of actual argumentative messages. Second, it would focus attention on analysis and assessment of the functional properties of argumentation as an activity. In this essay I want to use those themes to show how normative pragmatics provides a kind of ‘third term’ that might synthesize the differences between dialectical and rhetorical theory in a way that saves the central insights of both.

2. Arguments and Messages

One of the basic assumptions of a normative pragmatic approach to argument is that arguments invite assent (or not) by virtue of

what gets communicated as a message. Messages have manifest strategic designs. They have effects on people, and those effects are mediated in important ways by how people interpret message meaning. Messages, then, can be thought of as projecting through their communicative meaning a kind of functional rationale for persuasion. You can look at a message and part of what you can see is an assembly of plausibly intended effects that work to achieve some persuasive outcome.¹ And analysts can look and figure out such things at least in part because persuasion works by putting such things out to be seen (Bach and Harnish 1979; Grice 1989; Schegloff and Sacks 1973, 290). Of course, what gets communicated as a message is a complex inferential construction based not just on what was said, but also on the way it was said, when it was said, who it was said to, by whom; all in contrast to what could have been said but was not. Suffice it to say that modern theories of discourse tell us that there is a lot more to the meaning of a message than what can be extracted from a collection of sentences by rules of syntax, semantics, and logic.

2a. Rhetoric and Dialectic

Neither rhetorical nor dialectical traditions of analysis have fully capitalized on their common insight that argumentation occurs as a discursive process. On the one hand, rhetorical theorists have quite properly focused on the manifest design for persuasion that is communicated in argumentative discourse. An emphasis on the strategic design of messages lies at the heart of rhetorical analysis. I think that is exactly where any argumentative analysis of discourse must begin. Argumentative discourse persuades or not

1. Of course, I am not saying that you can just look at text and see what is going on. Seeing what is manifest in a message requires seeing very subtle matters. At least part of this will involve situated knowledge mutually available to participants. And there may be much that is unapparent and even designed to be hidden. But such strategies will exploit or work around what is apparent and open. And that should be the starting point for any analysis. For a discussion of some of these considerations, see van Eemeren et al. 1993, ch. 3.

by virtue of the message communicated, and the meaning of the message implicates a complex of interpretive effects and interactional sequels that can be thought of as the manifest persuasive design.

But rhetorical theorists have also tended to think of *any* mode of communication as an argument if it functions to gain assent. And that just will not do. Maybe, following Burke (1950, 43) we can define *rhetoric* as “the use of language as a symbolic means of inducing cooperation,” but we shouldn’t follow Willard (1976, 317) and define an argument “as simply any act of conjoining symbolic structures (propositions or otherwise) to produce new structures.” Arguments are one way of gaining assent. They are one mode of symbolic inducement. But not all symbolic inducements are arguments, and arguments are not the only way of gaining assent. Recognizing the difference is what animates evaluation of particular cases: As argumentation critics we are interested in whether or not assent was induced by reasonable means. Exploring the difference allows us to confront our theories of reasonable discourse with empirical data: As argumentation theorists we must be interested in accounting for discursive acts that seem intuitively reasonable but are deemed unreasonable by theory and vice versa.²

I take it that the central concern of any theory of argumentation as reasonable discourse will be with a particular aspect of the informational content of a message. It’s what we think of as the arguments that get made (O’Keefe 1982). And arguments have some distinctive properties – properties that are crucial to their privileged status as modes of gaining *warranted* assent, *reasoned* adherence, *voluntary* and *informed* acceptance. Arguments are fundamentally linguistic entities that express with a special pragmatic force *propositions* where those propositions

2. This concern has largely motivated the emergence of informal logic as a reaction to standards of formal logic (van Eemeren et al. 1996; Hoaglund 1998; Johnson 1996a). It is certainly a central motive in the widespread attraction toward dialectical theories (see Blair and Johnson 1987; van Eemeren and Grootendorst 1983; Johnson 1996b; Snoeck Henkemans 1992; Walton 1996, 1998).

stand in particular inferential relations to one another.³ If you cannot explicate from a message such propositional assemblies and modes of expression, the message is not an argument.⁴ And part of the reason, I think, for this tendency in the rhetorical tradition to reduce arguments to symbolic inducements is a lack of any systematic attention to how messages might or might not function to express the kind of informational assemblies associated with argumentative content. Without systematic theoretical modelling, it looks like there is nothing systematic to model.

On the other hand, dialectical theorists have tended to see nothing but arguments in messages. They have tended to neglect information in messages that does not express assertive force, propositional content and canonical inferential structure. And when they have tried to extend their interests to ordinary language, they have tended to take all too readily (and literally) any utterance as (directly or indirectly) expressing an assertion in declarative sentence form if it can be at all taken that way. Now, the motive for this is simple enough: These are the kinds of functions, contents and structures that are prescribed for model forms of reasoning. And refining such models had been a central concern of argumentation theorists working out of traditions that have come to embrace dialectical analysis. So that is what dialectical analysts look for.

But first and foremost the argumentation analyst must describe the persuasive design of a message – the strategic rationale for arrival at a conclusion that is manifested in a text. The approach of the argumentation analyst must be to *first* ask,

3. The canonical form that I have in mind here is captured in the speech act of an assertion. Among other things, in making an argument one commits to defending the truth of a complex of propositions and to undertaking to get the hearer to accept the truth of one proposition (call it the standpoint) as being justified by the truth of other propositions (call those the arguments). See van Eemeren and Grootendorst 1983.
4. Of course, if you can do so that still doesn't mean it is a good argument. And the activity of argumentation involves more than just making arguments. Moreover, argumentation theorists must have a normative concern with all sorts of messages where arguments *should* be made but are not. But these qualifications don't mean anything goes.

if this message ‘works’ to persuade, how does it do it? On what basis does it invite assent to some proposition?⁵ And answering this question is something different from presumptively describing message content as the arguments that are manifested (implicitly or explicitly) in a text.⁶

Why must that question be first and foremost? Because (somewhat paradoxically) the *descriptive* interest of an argumentation analyst is *normatively* motivated by an interest in *evaluation*. We want to assess the degree to which a message invites *warranted* assent, *reasoned* adherence, *informed* and *voluntary* acceptance. And to make that assessment requires that evaluation be analytically independent of description. Standards for good argumentation cannot be evaluatively applied to their objects if those standards are presupposed in the very description of their objects (see van Eemeren et al. 1993, ch. 3).

And that is one of the real dangers in the dialectical tradition, especially as dialectical theory looks toward formal and informal logic for its conceptualization of message form and content: There is a strong impulse to ‘rationalize’ messages in ways that overlook strategic technique. There is a decided tendency to describe what *is* being said in terms of normative models of what *should* be said or else to ignore it altogether. Either way, non-argument and bad argument (the distinction is often fuzzy) tend to get ignored when messages are described in presumptive model form. What follows from this method of representation is not a charitable interpretation, but an ironic puzzle. The product is what could have been said, but wasn’t. The puzzle is, why wasn’t it said that way in the first place?

I think at least part of the answer to that question can be found by turning to neo-Gricean theories of linguistic pragmatics (Atlas

5. Or, more generally, the analyst must first ask, what are the manifest effects projected by this message on the beliefs and attitudes of a listener and what are the manifest consequences projected for the direction of discussion or debate?

6. What we get from such a presumptive reconstruction is not what is being done, but what *would* be done *if* an argument had been put forward.

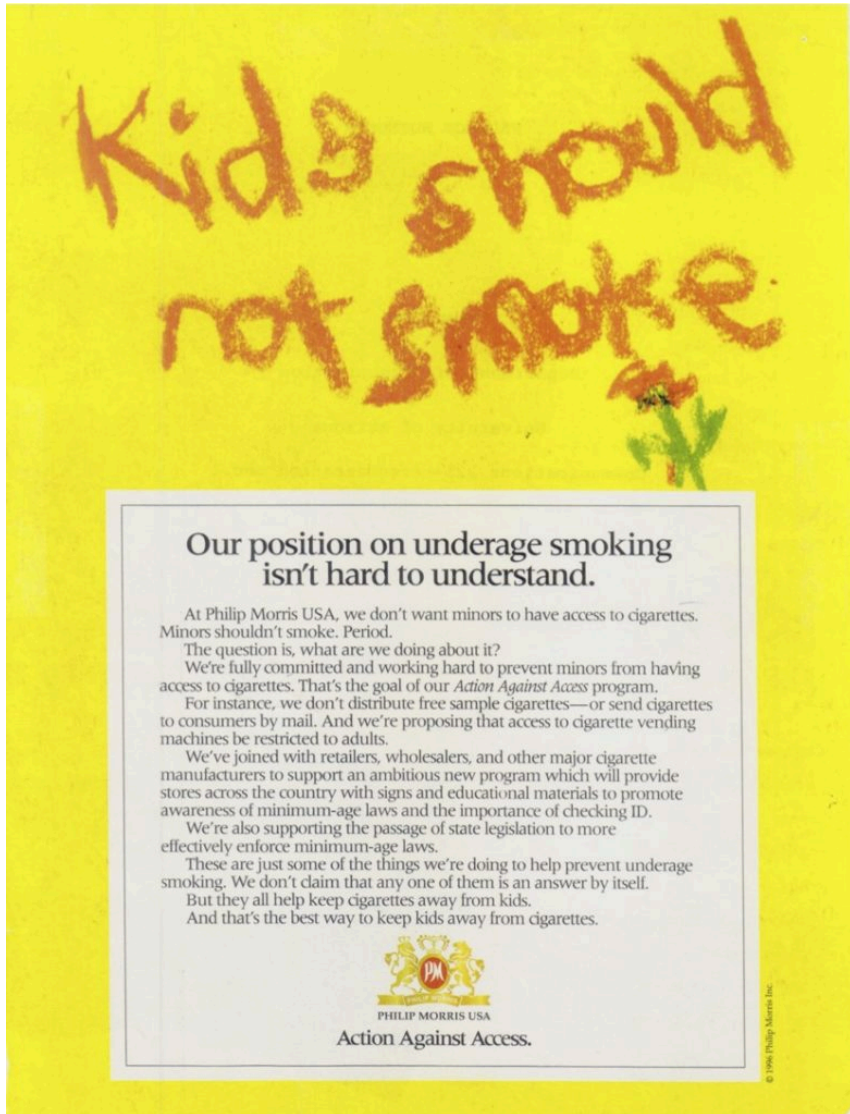
2000; Davis 1998; Green 1996; Horn 1984; Leech 1983; Levinson 1987, 2000; Sperber and Wilson 1986). The short answer given by these theories is that the reason what was reconstructed by the analyst was not said is that something more or less (or something else) was being conveyed. And the way it did get conveyed was the most fitting manner of packaging the information given the demands and purposes of the situation.⁷ Sometimes those demands and purposes are compatible with the purpose of achieving warranted acceptance, reasoned adherence, or voluntary and informed assent. But sometimes they are not.

And just as pragmatic theories provide a more balanced grounding for dialectical reconstruction of messages, I think that this kind of viewpoint better allows analysts to explore just how rhetorical message strategies might and might not fully and exclusively satisfy the normative demands of model arguments. Not all rhetorical strategies involve arguments, but all arguments involve rhetorical strategy and all rhetorical strategies involve language use. And all language use is organized by inferential and strategic principles – the domain of pragmatics. Pragmatics provide the common analytic framework within which what is communicated may be compared and contrasted to what should have been argued.

7. One could think of this as the perspicuity requirement behind Grice's (1989) manner maxim or as the efficiency assumption in Sperber and Wilson's (1986) principle of maximal relevance. Van Eemeren and Grootendorst (1983, 1992) have suggested that Grice's (1989) maxims of quantity (Be informative), quality (Be truthful), and relation (Be relevant) are involved in filling-in missing premises and, by implication, that this should be the framework for refashioning argument content in general. A more thorough-going Gricean framework would also include the manner maxim (Be perspicuous), where this would be interpreted for the purposes of argumentation as calling for presentation of arguments in model form. Of course, actual messages almost never do that. The puzzle is why not? The solution must be found in attributing non-argumentative or extra-argumentative purposes to the message. See Aldrich (1995) and Jacobs et al. (1991).

2b. Examples

To see all of this more clearly consider some examples. Consider first a magazine advertorial sponsored by the Philip Morris tobacco company.



Kids should not smoke.

Our position on underage smoking isn't hard to understand.

At Philip Morris USA, we don't want minors to have access to cigarettes. Minors shouldn't smoke. Period.

The question is, what are we doing about it?

We're fully committed and working hard to prevent minors from having access to cigarettes. That's the goal of our *Action Against Access* program.

For instance, we don't distribute free sample cigarettes—or send cigarettes to consumers by mail. And we're proposing that access to cigarette vending machines be restricted to adults.

We've joined with retailers, wholesalers, and other major cigarette manufacturers to support an ambitious new program which will provide stores across the country with signs and educational materials to promote awareness of minimum-age laws and the importance of checking ID.

We're also supporting the passage of state legislation to more effectively enforce minimum-age laws.

These are just some of the things we're doing to help prevent underage smoking. We don't claim that any one of them is an answer by itself. But they all help keep cigarettes away from kids.

And that's the best way to keep kids away from cigarettes.



PHILIP MORRIS USA

Action Against Access.

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Figure 1

Pretty clearly this is a complex argument designed to substantiate Philip Morris USA's avowed claim that they don't want minors to have access to cigarettes. According to the ad, the reason they don't want minors to have access to cigarettes is because 'Kids should not smoke.' The ad then goes on to back up the sincerity of their avowal with arguments that Philip Morris is working hard to prevent minors from having access to cigarettes.

One could reconstruct in much more detail the argumentative content of the text, but I want to call attention to something else: What, if anything, is the argumentative relevance of the fact that the editorial box is framed by a bright yellow border together with a header and flower that look like something drawn in red crayon by a very young child?

I would suggest that these features are not something that should be erased or ignored in an argumentative reconstruction of the message. They play an important part in its persuasive design. These features implicate a definition of terms used in this advertorial: What Philip Morris means by 'kids' and 'minors' are very young children – presumably those in the age range that would draw with crayons and have not yet learned that bright yellow colors are not cool. Otherwise, the advertisers would not have put into the ad these unusual features with their obvious associations. What is more, we should notice that this definition of terms is only insinuated. It is conveyed off-record (Brown and Levinson 1987) so that while a proposition is conveyed, it is not conveyed openly. Philip Morris has not committed themselves to having put forward any such 'usage declarative' (van Eemeren and Grootendorst 1992).

So there is a kind of (uncooperative) double message here. The content of the editorial would seem to apply to kids in the 12- to 15-year-old age group – those most vulnerable to long-term addiction and the age group which is the subject of the public controversy over tobacco company promotional practices. But the background framing would seem to cancel this interpretation. So, if you are a 12- to 15-year-old, and you read this ad, you don't have to take it as applying to you because you're not a little baby that draws with crayons. In fact, double messages seem to be a

common strategy in tobacco company editorials on the topic of under-age smoking (see the R. J. Reynolds advertorial analyzed in van Eemeren et al. 1997, and van Eemeren and Houtlosser 2000).

So, here we have an argumentative message. Its manifest persuasive design can be displayed within a pragmatic framework. That design includes a rhetorical tactic whose means are pretty clearly outside the scope of any ordinary concept of argument and probably wouldn't even be noticed by someone trying to reconstruct the argument. But that tactic has a real if subtle impact on the nature of the argument that gets made.

Consider also a second advertisement, this one for Oil-Free Oil of Olay Beauty Fluid that appeared in *Mademoiselle Magazine*.



Figure 2

This example contains verbal text that can be readily enough taken as making an argument to the effect that you should use Oil-Free Oil of Olay because it moisturizes skin to make it smooth, soft and glowing, and because it contains no oil. Again there is a juxtaposition of visual and verbal information. The verbal text runs down the left side of the page beside the face of a teen-age girl whose porcelain-perfect skin is presumably a result of or at least an illustration of the dermatological powers of this

beauty fluid.

The question I want to ask is why should the claim that the product is free of oil be a reason for the target audience (teen-age girls) to accept the claim that they should use this type of Oil of Olay? That this product claim is a reason for product use is presented clearly enough in the early passages: 'Pass the moisture.

Hold the oil. . . . Oil-Free Oil of Olay. No oil. No grease. No big words clogging your pores.'

Since we have a reason-for-claim here, we ought to be looking for a missing premise and its backing. Presumably we have some kind of argumentation scheme working with an assumption of (un)desirable consequences. But why should we assume that lack of oil has desirable consequences? A number of potentially implicit reasons come to mind: that oil leaves a slimy film on your skin which is uncomfortable, that oil on your skin is shiny and looks bad, that oil can irritate your eyes, that oil on your skin leaves stains on your clothing – so Oil-Free Oil of Olay won't do that.

But I don't think that is really the reasoning this ad invokes. Everybody knows that teen-age girls are concerned about oil because they assume oil causes pimples. And pimples are undesirable. This is a standing concern that teen-age readers bring to topics like skin care, and this ad uses a series of words and phrases that play directly to that concern. Reference to 'oil,' 'grease' and 'clogging your pores' would readily activate just this frame of reference. A teenage reader would naturally infer that Oil-Free Oil of Olay won't cause pimples.

But nothing in the ad comes out and actually claims this. Nothing else in the ad even strongly alludes to this. The clear, pimple-free complexion of the model and the statement that the product is 'Dermatologist tested' are *compatible* with such a product claim, but there is no positive indication that either the picture of the model or the statement bears this kind of relevance. And the reference to words and phrases like 'natural' and 'compatible with your young skin' are actually referring to quite different issues.

Attributing to the argument assertion of the unexpressed proposition 'Oil of Olay won't cause pimples' leaves us in an ironic position: What you get in the reconstruction is what could have been said, but wasn't. Well, why not? Why was the ad said in the way that it was? Why is there no explicit mention of pimples? Why is it 'big words' that clog pores, and not skin-care products?

I think the answer has to do with the pragmatics of message design: Saying these things in this way amounts to a way of achieving one interpretive effect on the audience (they infer Oil-Free Oil of Olay won't cause zits) without creating others (the kind of communicative commitments brought on by asserting the inferred proposition). The inference is all achieved through word associations and audience attributions that stop just short of establishing a framework of public communication. Now there are lots of *motives* for why a communicator might do that. But there is one consequence manifestly built into this kind of design: Nobody can hold Oil of Olay accountable for committing themselves to the proposition that their product won't cause zits. There is just enough wiggle room for plausible deniability.⁸

Finally, consider an advertorial by the R. J. Reynolds Tobacco Company that was published in various American magazines as part of a general public advocacy campaign from spring 1984 to spring 1985. This particular advertorial is the last in a series of five such ads all purporting to show that 'there is little evidence – and certainly nothing which proves scientifically – that cigarette smoking causes disease in non-smokers.'

8. Of course, one could take the position that this ad in fact warrants a quite different inference: Oil of Olay may cause zits. One could reason from the assumption that advertisers are motivated to make the strongest product claims possible, so that when they withhold making a claim it must be because they cannot defensibly come out and do so. But one would not want to say that the advertiser is *communicating* such a counterproductive proposition. What we get here is something in verbal mode akin to the distinction Goffman (1959) makes between information 'given' and information 'given-off.' Advertisers have many routine strategies that work along these lines, inviting inference of product relevant information in such a way as to violate principles of cooperative communication (see Jacobs 1995).

Smoking in public: Let's separate fact from friction.

There has always been some friction between smokers and non-smokers. But lately this friction has grown more heated.

The controversy has been fueled by questionable reports which claim that "second-hand smoke" is a cause of serious diseases among non-smokers.

But, in fact, there is little evidence—and certainly nothing which proves scientifically—that cigarette smoke causes disease in non-smokers.

Skeptics might call this the wishful thinking of a tobacco company. But consider the scientific judgment of some of the leading authorities in the field—including outspoken critics of smoking.

For example, in 1983 the organizer of an international conference on environmental tobacco smoke (ETS) summarized the evidence on lung cancer as follows: "An overall evaluation based upon available scientific data leads to the conclusion that an increased risk for non-smokers from ETS exposure has not been established."

Even the chief statistician of the American Cancer Society, Lawrence Garfinkel, has gone on record as saying, "passive smoking may be a political matter, but it is not a main issue in terms of health policy."

Which brings us back to our original point: cigarette smoke can be very annoying to non-smokers.

But how shall we as a society deal with this problem?

Confrontation? Segregation? Legislation?

No. We think annoyance is neither a governmental problem nor a medical problem. It's a people problem.

Smokers and non-smokers have to talk to one another. Not yell, preach, threaten, badger or bully. Talk.

Smokers can help by being more considerate and responsible. Non-smokers can help by being more tolerant. And both groups can help by showing more respect for each other's rights and feelings.

But eliminating rumor and rhetoric will help most of all.

Because when you stick to the facts, it's a lot easier to deal with the friction.

R.J. Reynolds Tobacco Company

Figure 3

I want to focus here on an excerpt that follows introduction of a new issue: ‘Which brings us back to our original point: cigarette smoke can be very annoying to non-smokers. But how shall we as a society deal with this problem?’ Specifically, consider what is being conveyed by offering in response to this question questions that Pomerantz (1992) would call candidate answers (‘Confrontation? Segregation? Legislation?’).

Of the three candidates offered, legislation is really the target issue for this ad – and for subsequent advertorials in the whole series. None of the three candidates are posed as serious answers to the issue of how we should deal with the problem of smoking in public. All three are clearly posed as rhetorical questions. The answer to each question (‘No’) is projected before we ever read the next line and its subsequent argumentation. So we ought to be able to see that this line *in itself* conveys the proposition ‘We should not deal with the problem of public smoking through legislation.’ Moreover, we ought to be able to see that this line conveys a sense of obviousness to the proposition. Dismissal by virtue of simple commonsense hangs in the air before we ever read any further ad copy. Adherence is invited before we ever get to the denial and argumentative reasoning in the next line. How is that done? What’s the design manifest in the message?

I think adherence is invited by virtue of message meanings intrinsic to the manner in which the candidates are posed in the first place. Part of this involves the content of the candidate possibilities. The terms ‘confrontation’ and ‘segregation’ are already infused with highly-charged negative connotations, so any reader will quickly hear the author to be constructing strawmen that no morally serious person would intend to be seriously suggested. The candidates also come in a list of three. A list of three is a standardized pattern of presentation that tends to create a holistic perception of internal coherence and a sequential movement toward climactic completion (Atkinson 1984). Moreover, all three terms have common syllabic structures as

well as common suffixes. They sound the same. Taken together, all these tactics converge to invite a reader to take the negative moral connotations associated with the first two terms and attribute them also to the third term in the set. And the sequential ordering insinuates that a proposal of legislation should be dismissed out of hand just as confrontation and segregation should be. In other words, by the end of this line of questions, the question of legislation already appears to be something that shouldn't even be open to serious consideration.

So, there is a proposition at stake here (we should not deal with the problem of public smoking through legislation), and acceptance of that proposition is being invited by inferences to message meaning, but adherence to that proposition is not being justified by any kind of real argument. It would be a mistake, for example, to reconstruct all this as some kind of implicit argument by analogy. Perhaps that is the kind of argument that should be made, but it is not being made here.

Moreover, just because there is an argumentatively relevant proposition being rather transparently expressed by a rhetorical question, it would be a mistake to think that the utterance 'Legislation?' can be reconstructed as just an indirect assertion of the proposition 'We should not deal with the problem of public smoking through legislation.' After all, then why not just make such an assertion directly? I think the answer is that such an assertion isn't all that is being done. In fact, it isn't really what you are doing at all when you ask this kind of rhetorical question. These rhetorical questions substitute for canonical assertions, and the difference in the work they do makes an important contribution to the persuasive design manifest in the text.

Specifically, within a dialectical framework a negative assertion commits the speaker to the pragmatic presuppositions that a listener, acting as a rational judge, might not accept the proposition at face value (it's contrary is potentially acceptable); and that the speaker believes the proposition is acceptable and believes it is justifiable. In other words, the acceptability of the propositional content of a negative assertion is not obvious, it

would be rational to doubt it, and it might need defense.⁹ But that is not what is conveyed by these rhetorical questions. We do hear a commitment to the presupposition that *someone* might not accept the proposition (and might propose the counterproposition). But we also hear conveyed a commitment to the effect that the acceptability of the proposition should be *obvious*. And, that anyone who would not accept the proposition *as obvious* is not rational. So, we get a rather perspicuous packaging of a complex message that is rather different from what gets packaged in the normatively presumed assertions that a dialectical model might read into the utterance.

I think those commitments are important elements in the rationale for persuasion manifest in these rhetorical questions (and are a good reason to view the cooperative character of such acts with suspicion). Specifically, these rhetorical questions have the effect of reframing the nature of the dispute itself. The author and reader are not cast as antagonist and protagonist here. They are presumed to share a common viewpoint in contrast to these morally defective agents who might actually put forward these possibilities as serious proposals. And the apparent argumentation that follows is not so much a dialectical engagement as it is an exercise in agonistic combat with those agents (Jacobs 1989).¹⁰

2c. Summary

The point to see in these three examples is twofold: First, a focus on argumentative content as propositional structures and assertive

9. Notice that the potential unacceptability of the proposition is further highlighted by literally asking a question.

10. The subsequent 'argumentation' is filled with truisms and commonplaces that suggest the reader already knows all this and doesn't really need to be convinced of it. In fact, there is a subtle poisoning of the well going on here in the sense that for a reader to adopt the role of antagonist and doubt the RJR proposition would be to assume what is posed as an irrational and morally perverse attitude. For different approaches to rhetorical questions in argument see van Eemeren (1987), Jacobs (1989), and Slot (1994).

acts should not blind us to the symbolic inducements manifest in a message. Argumentative analysis of messages cannot proceed without robust attention to all the sorts of things ordinarily thought of as rhetorical strategy and technique. That's what we've been looking at in these examples. Our descriptive procedures cannot be limited to using analytic categories prescribed by an ideal model of argumentative form and conduct. Departures from the model need to be noticed. We need to comprehensively take into account everything discourse offers as materials for constructing message meaning; not only its 'content' but also its organizational arrangement and expressive form (cf. van Eemeren et al. 1993, ch. 6).

But the second point is this: Just because there are symbolic inducements in a message does not mean that those inducements are arguments, or that models of reasoned argument are irrelevant to interpretation and assessment. Crayon drawing and yellow borders convey information, but they do not constitute argumentative acts. Activating cultural connotations of grease and clogged pores with pimples and dissociating those connotations from a skincare product is not the same as making the argument that the skincare product avoids grease and clogged pores and so will avoid pimples. Inviting perceptions of class coherence in a list of three terms with common suffixes is not the same as arguing that what is referred to by those terms all share common properties. But it is precisely recognizing this difference between inducement and argument that allows a basis for assessing the degree to which the rationale for persuasion manifest in a message lives up to standards of reasoned deliberation.¹¹

11. Of course, these distinctions are only telling against a background of similarities that motivate comparison in the first place. Most importantly, these rhetorical strategies produce interpretive effects that can be explicated in propositional forms and contents that parallel those found in the inferential structuring of reasoned argument.

3. Argumentation and Functions

Normative pragmatics also focusses attention on the analysis and assessment of the functional properties of argumentative messages. Modern pragmatic theories of language use all take as their starting point the idea that language use is contextually adjusted as a multifunctional design. All language use occurs against the backdrop of some concrete context in which it faces multiple, competing demands. Communication is an activity that gets things done; not just a thing done.

This idea is quite compatible, in principle, with both rhetorical and dialectical traditions of theorizing. Both rhetorical and dialectical theories see argumentative discourse as a means of achieving (mutual) assent in a context of controversy. And that function is widely understood to be properly assessed with some eye toward the way in which discourse satisfies the demand that this be done in a reasonable fashion. But again, I want to suggest that neither rhetorical nor dialectical traditions of assessment have adopted a completely satisfactory stance toward the functional design of argumentation.

3a. Rhetoric and Dialectic

On the one hand, the great strength of rhetorical analysis has been an emphasis on the practical demands of real situations. Adaptation to situation is an essential feature of the rationality of argumentation – and not merely some deviation from rational ideals. Reasonable argumentation is argumentation that makes the best of the situation. Ideal argumentation is not discourse that occurs in some ideal speech situation abstracted away from its conditions of use; ideal argumentation is realistic. Ideal argument *is* argument that is a fitting response to the circumstances of its occurrence. It is discourse that most fully realizes the possibilities in the particulars of an actual situation.

Still, as Schiappa (1995) has observed, despite the better impulses of rhetorical theorists, a distinctively rhetorical analysis

of argument usually reduces to an issue of *effectiveness*. This is the danger behind the old slogan that rhetoric makes truth effective. While few rhetorical analysts today accept in theory this understanding of the rhetorical function of argument, they tend to accept it in practice. The evidence and standards for assessing situational appropriateness or adaptation to a situated audience are too easily found simply in whether or not the advocated position is believable and appealing to the audience or whether or not it leads to concerted action. And this analytic reduction of the functional demands incumbent on argumentation is just too simple.

Of course, when argument quality is assessed in this way the issue of fallacies makes little sense. Fallacies, by definition, are argumentative moves that *seem* good, but in fact are not. People know that they can be tricked, deceived, sidetracked, or lulled into accepting or rejecting claims that they should not and would not in better circumstances. An argument may seem reasonable (or unreasonable); that does not mean that it is what it seems. Using a standard of audience judgment has to be qualified to acknowledge this uncertainty.

On the other hand, the real insight of dialectical theory has been to point to the importance of procedural formatting in providing for the rationality of argumentative decision-making. On this view, the rationality of argumentation is secured by procedures that maximize opportunities for critical examination of arguments; that provide for the fullest disclosure of the basis for competing standpoints; that encourage full and open exploration of alternative points of view; that channel argumentation into constructive clash and extension.

In a dialectical model, the security of knowledge claims comes from the security of the procedures by which the basis for claims have been tested. The most solid claims are those that stand up to the fullest assessment of the arguments made for and against them; the best arguments are those that withstand the most open critique; and the most secure procedures for deliberation are those that maximize the possibilities for self-correction.

In contrast to a rhetorical assessment of argument quality, a dialectical approach would suggest that what really counts in

determining good arguments is not just whether people decide there is good reason to be persuaded by an argument, but whether people have been persuaded (or not) under conditions that make their decision trustworthy. And in contrast to a logical approach, dialectics would suggest that what really counts is not just whether arguments are in fact sound, but whether people are in a position to be able to *tell* whether the arguments are in fact sound. As Johnson (1996a) has aptly put it, the rationality of argumentation should be *manifest*.

But, how these functional qualities might be embodied in actual institutions and concrete practices remains an open issue in dialectical theory (cf. Blair 1998; Walton 1998). As van Eemeren et al. (1993) note:

Hence, one challenge for the theory proposed here is to give an account of argumentation occurring under less-than-ideal conditions and conducted by less-than-ideal participants. ... One direction for such an extension might be toward elaboration of a concept of argumentative strategy. Strategy may seem irrelevant to the concerns of normative theory. Compared with the theoretical picture of ideal discussion conducted under ideal conditions, the concept of strategy evokes images of evasion, concealment, and artful dodging. Such things are and should be excluded from an ideal model of critical discussion, but strategy also encompasses means employed to enforce an ideal in the face of nonideal conditions. (173)

Particularly problematic is the prospect that the complexities and contingencies of multiple competing situational demands might demand altering the very norms of reasonableness that ideal dialectical models posit (cf. Walton 1998; Walton and Krabbe 1995). Where argumentative tactics adjust to less than ideal circumstances, the tendency is still to see the argumentation as somehow defective.¹²

12. For example, in discussing the fallacy of *argumentum ad verecundiam* through appeals to personal ethos and to the ethos of authorities van Eemeren and Grootendorst (1992, 136, 140) comment that such appeals are often unavoidable and so not unwise or irrational. But they are equally insistent that such moves preclude 'real resolution' of

One of the real insights of normative pragmatics is to see argumentation as a self-regulating activity. Its effects include enhancing or diminishing the conditions of its own reception. Argumentative discourse can function not merely to persuade, but also to encourage mutual, voluntary, free, comprehensive, open, fair, impartial, considered, reasoned, informed, reflective, and involved engagement. On this view, the problems of how to determine the substance of good reasons, the form of good reasoning, and the status of any conclusion are all, to large degree, left open to those deliberating the issue.¹³ As mentioned earlier, the focus of argument assessment shifts to a meta-problem: to what degree is argumentation conducted in a way that we can trust people to be acting as rational judges? So, for normative pragmatics, the *effectiveness* of argumentation is to be judged in terms of whether or not the discourse puts interlocutors in a position to decide if claims should be reasonably accepted or rejected; not whether or not interlocutors accept some claim, or even come to agree on its (un)acceptability. Such a standard makes a decisive break from identification of argument functions with the intentions and interests of individual arguers.

Moreover, this kind of assessment is a practical matter relative to concrete circumstance because argumentation must proceed relative to the contingencies, possibilities and limits of actual situations. Assessment must take into account available

a dispute. This is a decidedly equivocal and reluctant acknowledgement of what is a foundational argumentative tactic in virtually all arguments of any real interest. Taking this position means that 'real resolution' of a dispute will be impossible any time any arguer introduces into a critical discussion new information that cannot be inferred from prior, known information. That consequence follows because putting forward new information presupposes a minimal level of trust in the ethos of the person who reports the information. If truly dialectical engagement must be restricted in this way, it reduces down to a rather sterile exercise in checking the implications and the self-consistency of mutually known information.

13. Still, we need to recognize that the conventional (or intersubjective) validity and the problem-solving validity of argumentation schemes and procedures are conceptually interdependent (van Eemeren et al. 1993, 14). Neither can really be assessed without implicating the other.

strategy, and not just general norms. It must take into account institutional practices, and not just inferential schemes. And assessment must always be sensitive to the way in which argumentation must work within a context of limited information, imagination and time, questionable motive, vested interest, complex social arrangements, and so forth. And we must remember that strategies and practices are subject to invention and application. And invention and application will always be an open-ended and relative matter. Strategies and practices can never be listed exhaustively ahead of time and their suitability to circumstance will always be approximate.

3b. Examples

To see all this more clearly, consider some more examples. Specifically, these are examples of argumentative strategies that someone might easily take to be fallacies relative to some ideal context or norm. I want to defend them as reasonable moves under the circumstances.

The first example is a full-page newspaper editorial on the partial-birth abortion controversy. The lead-in headline is centered in an area of nothing but whitespace that occupies 80% of the entire news page. The 283-word editorial appears in three columns at the very bottom of the page. The ad was distributed nationwide the Friday before Mother's Day and appeared in the same section as several full-page ads, each showing a picture of a mother kissing and holding a baby in her arms.

I want to focus on the two-sentence headline. It takes little imagination to see that an argumentation critic might find here an objectionable use of an emotional appeal based on prejudicially loaded language that more or less 'poisons the well' for opponents, shuts down in an audience critical scrutiny of the issues, and rather actively discourages debate altogether.

Killing mostly-born infants with a pair of scissors. *We're debating this?*

This is not a bad dream. It's real. Every year, thousands of infants are forcibly dragged from their mother's wombs, then killed. Brutally. And our nation is actually debating whether or not this should be allowed to continue.

Congress calls this "procedure" partial-birth abortion. Doctors say it's never medically necessary, and is even dangerous for the mothers. As religious leaders, we say it's infanticide. And morally bankrupt.

This is a defining moment for America. We stand on the brink of a moral abyss. Others once stood on that brink--others who tolerated the killing of innocent

people, including children. It happened in Germany half a century ago. It has happened in Russia, China and Cambodia. It's happening in Rwanda today. What will historians say about us if we cannot summon the moral will to ban the killing of infants, moments before birth?

When we first hear of atrocities, our natural reaction is disbelief, then outrage. But so many lies get told and repeated, it becomes hard to know what's true. Eventually, we tune it out. Sadly, that's all it takes. Good people, confused, and with little time to sort things out, sit on the sidelines.

The truth is in your heart. Listen to that small voice within. For the sake of the littlest children, speak out. We must not turn a blind eye and a deaf ear toward those so helpless they cannot even ask for our help.

Next week, your Senator will be voting on whether or not to ban this "procedure." Tell him or her to put a stop to partial-birth abortion in the United States of America.

Please. Call the Senate switchboard today at (202) 224-3121.

**THE NATIONAL CONFERENCE OF
CATHOLIC BISHOPS SECRETARIAT
FOR PRO-LIFE ACTIVITIES**

Figure 4

Most lists of fallacies in argument textbooks reserve a prominent place for emotional appeals. They are usually seen as a kind of irrelevant contribution that distracts an audience from factual considerations. If they are not condemned outright, the reader is warned to view them with deep suspicion. While some authors concede that emotional appeals might not be too bad if they are not too severe (i.e., if they are not really much of an emotional appeal), they are still merely tolerated and are rarely granted any constructive role in the deliberative process (though see Walton 1992). Loaded language is another commonly listed fallacy. The main problem seems to arise when terms and phrases are used in a way that has a conclusionary quality built into their meaning, but

those conclusions are propositions that are contested. One gets a kind of question-begging that can easily go unnoticed. Rather than providing proof for the proposition, the arguer gains adherence to it by smuggling it in through semantic connotations and presuppositions. Finally, dialectical theories require free speech, and anything that restricts free discussion of ideas can be taken to be a fallacy (van Eemeren and Grootendorst 1992). Moves that treat attitudes and standpoints as beyond criticism or doubt, as sacrosanct, shut down at the start the possibility for deliberation and debate. That is a rather blatant form of dialectical misstep.

This headline looks to be guilty on all three counts. The presentation of this lead-in is obviously designed to grab your attention and smack you in the face. The language itself is blunt, jarring, and describes something that is patently morally repulsive. You'd have to be a pretty cold character not to have the intended emotional response to this headline. As the editorial itself suggests, these lines are meant to shock, to evoke disbelief and outrage. And if anything, this headline is even more problematic because it presents itself as a candid description that exposes the real nature of the facts under debate. Factual considerations are infused with an affective charge and a moral color that transforms the issue into a question of how the audience will respond.

Looked at in another way, the description itself is loaded and biased. It presupposes the nonproblematic applicability of terms whose connotations and presuppositions would probably be rejected by opponents if they were openly asserted. Talk about 'killing' and 'infants' presupposes the existence of life and personhood. Reference to 'a pair of scissors' invokes the image of a cavalier and coldly brutal act rather than a reluctant but medically necessary response to a tragic situation. And the rhetorical question assumes all 'this' is what is at issue in the debate – and not, for example, a woman's constitutional right to control her body.

Finally, the rhetorical question is posed with its italics virtually dripping with disdain and incredulity. The headline clearly expresses the idea that killing mostly-born infants with a pair of scissors is so appalling that the issue of whether or not to

continue this practice shouldn't even need to be debated; that there must be something wrong with a people who would take this issue seriously.

So, it's a bad move, right?

I don't think so, or at least I don't think argumentation critics should just take out their textbooks and presume such a judgment. Here and in many other controversies emotional appeals can play a constructive role in deliberation and may be positively required by the situation (see, e.g., the discussions by Osborn 1976, and Perelman 1982, on the functional design of rhetorical tropes and figures). Among other situations, there are those where an audience does not take seriously the urgency or moral gravity of the problems addressed by an advocate but they should. Under these circumstances effective emotional appeals may not degrade the deliberative capacities of an audience; they may enhance them.

Likewise, expressions of incredulity and moral outrage may be practical necessities just to be able to re-open what much of the public takes to be an already decided issue and just to lay claim to having a legitimate standpoint in the first place. Certainly a case can be made that in the partial-birth abortion debate that this is the situation we find. The American public has been for all practical purposes lulled into complacent acceptance of the practice (if they are aware of 'partial-birth abortion' at all), simply assuming that there are no important differences between what goes on here and what happens when zygotes are terminated in the first few weeks of a pregnancy. And in a society like America, jaded by violence and routine inhumanity, an arguer probably should take positive steps to awaken moral sensibilities and show their relevance to the judgment at hand. Whether or not this is the case is debatable, but it is certainly *reasonable* for an opponent of partial-birth abortion to construe the situation in this way.

Or again, in the context of the actual controversy, the language used in the ad could be defended as an appropriate counterpoint to the descriptive tactics used by public defenders of the procedure. Consider the following statements from a webpage by the National Organization for Women:

Myth: If late-term abortions are so rare, it doesn't really matter if we ban them.

Fact: Most late-term procedures involve wanted pregnancies that go tragically wrong when the woman's life or health is endangered or the fetus develops abnormalities incompatible with life.

These women deserve protection, even though their situations are rare.

Myth: The 'partial-birth' abortion procedure is unnecessary.

Fact: Medical experts state that the safest method of late pregnancy termination for some women is the intact dilation and extraction (D&X) procedure.

Bills that would ban the D&X procedure would place legislators in the unprecedented position of regulating medical decisions and would require doctors to use a less safe method in some cases.

It seems to me that if reference to 'killing... with a pair of scissors' is emotionally shocking, then reference to 'late-term procedures' or to a 'method of late pregnancy termination for women' or to 'the intact dilation and extraction (D&X) procedure' is positively anesthetizing. If a phrase like 'mostly-born infants' presupposes the existence of life and personhood, then reference to 'the fetus' or simply to 'pregnancies' presupposes its absence. Consistently talking about abortion from the woman's vantage point (and not from the 'mother's' or her 'child's') seems no less biased or loaded than the issue in focus in the editorial headline. So, taken in the context of the actual debate – and not just as an isolated text or as a move in a hypothetical ideal discussion – the headline can be seen as a way to call out and counterbalance the biases and defects in the argumentation of the other side.

In fact, the editorial text is making just these sorts of points (notice the ironic marking of 'procedure' in quotes and the counterterm, infanticide). The whole editorial is not just an argument in the sense I was analyzing in the previous section; it is a rather deliberate effort to juxtapose competing vocabularies and an open attempt to frame the debate in a way that 'corrects' for the perceived distortions of attitude, involvement, and frame of judgment in the public audience.

Now, my point here is not that the National Conference of Catholic Bishops is right and the National Organization for Women is wrong. My point is that these apparently fallacious rhetorical tactics can be defended as playing a constructive role in the debate that's actually going on. This headline functions to encourage full and open exploration of alternative standpoints. It creates clash and the opportunity for extension. It actually opens a space for reflection on what an appropriate resolution-minded attitude would be in this context. In other words, this is what a self-regulating procedure might look like as people adjust to the contingencies and complexities of actual situations.

Who if anyone is 'correct' in this situation and who if anyone has committed fallacies is not something that can be decided independently of the way the debate itself plays out. Conclusions and assessments of argumentation are things that get done in a dialectical activity. They are practical achievements of the parties and are always tentative, subject to further scrutiny. One cannot, for example, decide whether emotional appeals are a fitting means of placing an audience in an appropriate frame of mind completely independently of deciding whether the affectively charged argumentative content is awarded its proper weight and balance in a dispute. But this decision cannot be made outside of some frame of mind. And when that frame of mind leads to a particular judgment of what is the appropriate argument strength (weight, balance), such a judgment cannot be the deciding basis for dismissing or embracing an emotional appeal. Likewise, whether certain rhetorical figures clarify or oversimplify issues; obscure, distract, or place issues in proper focus will be a judgment based on a particular balancing of the arguments – where that assessment of balance is inextricably bound up in the frame of reference invoked by those very rhetorical figures. So, again judgments of the appropriate frame of reference and the proper deliberative balance of evidence and arguments cannot be made independently of the rhetorical tactics that invoke them. There is no escape from the dialectical circle. Not even for critics.

Let's consider another case, this one involving a common strategic move in commercial advertising: the guarantee. The

following text was placed above a magazine picture of a jar of Oil of Olay RENEWAL CREAM, VISIBLE RECOVERY SERIES with HYDROXY Complex.



Figure 5

Now, rhetorically speaking this guarantee is a plausibly effective strategy for obtaining the consent of a reader to use Oil of Olay in a situation where they might not otherwise trust the product claim. But the problem with a guarantee is that it is a *commissive* speech act, not an *assertive* one (Searle 1979). And from a dialectical standpoint, commissives have no substantive role to play in argumentation. They can be used to accept or reject standpoints, agree to

procedures, and so forth – but they can't be used to put forward argumentatively relevant propositional content (van Eemeren and Grootendorst 1983, ch. 5; 1992, ch. 4). The reason for this has to do with the different forces of the two acts with respect to propositional content. In an assertive, the speaker takes on a commitment to defend the truth of the propositional content; in a commissive, the speaker takes on a commitment to make the propositional content true.

Now, there are two lines that a dialectical approach might take here. First, one could try to reconstruct the guarantee as an assertion. Second, one could represent the act as a guarantee and treat it as a kind of fallacy on the same order as bribes, threats, or bargains. Neither approach is really satisfactory.

On the one hand, we ought not reconstruct the act as an indirect assertion. The tendency in reconstruction from a dialectical standpoint would be to do just that – probably along the lines outlined in van Eemeren and Grootendorst (1992, ch.

5). The line, ‘we can guarantee the visible reduction in the look of fine lines and wrinkles’ might be reconstructed as asserting, ‘Using *Oil of Olay Hydroxy Renewal Cream* will visibly reduce the look of fine lines and wrinkles.’ That assertion could then be taken in combination with assertion of the line, ‘If fine lines and wrinkles don’t appear reduced, we’ll refund your money,’ to get something like the following line of argument: You should use *Oil of Olay Hydroxy Renewal Cream* because it will reduce fine lines and wrinkles. And if it doesn’t, you risk nothing because you get your money back.

Or perhaps instead or in addition, the guarantee would be reconstructed as a kind of backing in the form of an expression of author certainty. So, we have a main claim: You should use *Oil of Olay Hydroxy Renewal Cream* for just 30 days. The immediately subordinate reason is that it will visibly reduce the look of fine lines and wrinkles. Subordinate to that is the reason that the company believes it will visibly reduce the look of fine lines and wrinkles. And the argumentative support for this reason is the *assertion* that they back their product claim with an unconditional guarantee.

Either way, this direction of reconstruction runs into the same kind of problems as we discussed in the previous section with speech acts like rhetorical questions (see also van Eemeren et al. 1993, ch. 6). It misses the basis for the reader accepting the proposition that this product will reduce fine lines and wrinkles. The acceptance is invited not because the ad has made an argument that gives evidence to think that the product claim is true; it is because the ad does something that makes giving such evidence irrelevant. The way of gaining acceptance of the product claim is not by further argument; it is by way of practically adjusting the presumption against the product claim. The product claim is backed not by further assertions that might be sincere or insincere, defensible or indefensible; it is backed by a kind of institutionally enforced commitment that reduces the cost of mistakenly accepting the truth of the product claim. If it’s not true, you get your money back. And while that *fact* is clearly put forward in response to a projected context of dialectical doubt and objection,

that fact is not *asserted* to be true. It is *made* to be true by virtue of the special kind of circumstances that underwrite a commercial guarantee.

On the other hand, there is nothing unreasonable about this kind of a move in this kind of a situation. Product claims in commercial advertisements are notoriously unreliable and everybody knows that. These days product claims are made in a context of suspicion and mistrust so severe that it is all but impossible for an advertiser to argue their way out of it. At each level of backing, a reader can doubt the veracity of the assertion – and rightly so. Advertisers can lie. Studies can be fixed. Testimonials can be bought. Evidence can be taken out of context. Anything an advertiser says seems destined to beg the question because it will always be subject to the same grounds for doubt: Is the sincerity condition of the speech act satisfied?

A commercial guarantee is a way out of endless skeptical challenge because it is a special kind of promise. When baldly stated, it can break out of the spiral of suspicion because, ultimately, its security does not depend on the advertiser's sincerity at all. This kind of guarantee is backed by an institutionally enforced obligation that makes the advertiser's sincere intentions irrelevant. It doesn't matter whether the advertiser believes their own product claim or not, can defend its truth or not, or intends or not to live up to their commitment to refund the money if it's not true. The government will make them live up to their commitment. A commercial guarantee invokes that mechanism of enforcement, and that is why it works to obtain acceptance of the claim: You should use *Oil of Olay Hydroxy Renewal Cream* for just 30 days. Given the rhetorical situation of the advertiser, putting yourself under this kind of obligation is a reasonable basis for removing doubt.¹⁴

14. This is not to say nothing sleazy is going on here. The wordplay in the ad is another mechanism of persuasion. And that wordplay would seem to invite a dubious inference by the reader. The headline, 'A guarantee *with* no wrinkles' could easily be misread as 'A guarantee *of* no wrinkles,' despite the immediately following disclaimer in (much) smaller print. To say that 'the look' of fine lines and wrinkles will 'appear' to be

3c. Summary

These two examples illustrate two general directions of reasonable adaptation to practical circumstance: Adjusting otherwise bad deliberators to be their best and making the best of an otherwise bad situation. Many of the rhetorical figures and tropes that have been traditionally viewed as dangerously volatile threats to reasoned deliberation can be seen as having constructive contributions to make in the right circumstances. They respond to the demand to find ways to place people in more open, critical, resolution-oriented frames of mind and to make the conditions for argumentation conducive to reasoned deliberation. Likewise many rhetorical strategies are designed to respond to the demand to develop decision-making procedures that enable the most reasonable deliberation given the limits of the situation. Rhetorical strategy can be a reasonable way of overcoming or working around the practical insufficiencies of the situation.

These examples show how rhetorical adaptation and dialectical starting points can be more than just a matter of finding common premises and common decision-rules for arguments. These two examples point to a different way of thinking about relations among the concepts of arguments, rhetorical strategies, rhetorical situations, and argumentative norms and functions. This way of thinking preserves the best of both the rhetorical and the dialectical traditions. Rhetorical strategies can be evaluated in terms of their functioning not so much to persuade as to create conditions under which interlocutors can properly deliberate on whether or not to *be* persuaded. And argumentative norms and functions can be seen as adjusted to the practical demands of rhetorical situations and to the practical possibilities afforded by rhetorical strategies that satisfy those demands. All this comes rather naturally, I think, once one thinks of argumentation as a kind of normative pragmatics.

'reduced' is just the sort of weaseling around that advertisers use to implicate more than they can legitimately defend (see Jacobs 1995).

4. Conclusion

Ultimately, the real focus of argumentation studies is on the messages people produce as they try to decide what to believe, how to feel, and what to do. Neither the problems of description and theoretical modelling nor the problems of epistemic and political assessment can be seriously addressed without confronting what we find in those messages. Arguably, finding theoretically productive way to come to grips with real messages in real controversies has been the most important theme of recent argumentation study.

One of the things that I find very attractive about normative pragmatics is that it is an approach that insists our theories be responsible to the puzzles we find in real messages and to the details we see in them. Ultimately, I think if argumentation theorists insist on that kind of discipline, the relation between rhetoric and dialectic will take care of itself.

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2.

One Question, Two Answers

Jean Goodwin

1. Introduction.

I take the assessment of arguments to be a primary responsibility of Informal Logic (Johnson and Blair 1994a); certainly, it is the task that those of us in the Communication field could most use your help with. In the following section of this paper, I suggest that to deal with many of the “live” questions in argument assessment we apparently need to make reference to the activity of arguing in which the arguments are deployed. The work on these diverse questions thus raises one central question. What account can we give for the activity of arguing? Needed is what has rightly been called a theory of its normative pragmatics. At present, the only widely recognized proposals for such an account are the various dialogue theories, especially those proposed by Douglas Walton and the pragma-dialecticians. There is, however, an alternative: what I will call the design theory of the activity of arguing. Design theory¹ takes arguing to be a self-regulating transaction in which at least some of the norms governing argument arise from the arguers’ own efforts. In the third section of the paper, I sketch the contours of design theory, in particular as it contrasts with the more familiar dialogue approach. In the fourth section, I provide

1. Editors’ note: This early essay proposed the name “design theory” for the approach to argumentation explored throughout the present volume, using “normative pragmatics” as an umbrella term covering a variety of related approaches. The community did not accept this proposal. So readers should mentally substitute “normative pragmatics” whenever “design” appears in this essay.

some details of its success: in building models responding to the problems of argument assessment; in elucidating actual practice; and in articulating basic values. I conclude that at a minimum design theory deserves attention within Informal Logic.

2. One Question.

2.1. Raising the Question.

We have long since become used to distinguishing between arguments as products and arguments as processes (Wenzel 1990)—which, at the cost of alliteration, I am going to silently correct to arguments as *activities*, or more simply *arguings*. An argument is made up of propositions; it has a form, a structure or at least a pattern (schema). Arguing is done by a person; she has a purpose, something she wants to achieve in the context she is in.

My contention here is this: Current work in Informal Logic indicates that to assess an argument as product requires reference to the activity of arguing in which it was deployed.

In some sense, the recent renaissance in the study of argument has been committed from its inception to examining the activity of arguing. Each of the men who can be adopted as ancestors to our current projects was interested in finding some alternative to the formal or structural approach, which examined arguments abstracted from their contexts. Chaim Perelman, for example, began with a contrast between “artificial,” functionless formal logic and argument in practice. In studying the activity of arguing, he commented, it is not possible “to neglect completely, as irrelevancies, the psychological and social conditions in the absence of which argumentation would be pointless and without result” (1969, 13, 14). Henry Johnstone likewise began his analysis of philosophical argument by reconstructing why philosophers would be driven to using such a thing (1959). Even Stephen Toulmin supported his well-known structural model of argument by showing it to be the outcome of a mini-dialogue in which one person asks another questions; a dialogue itself

embedded in a series of stages in a larger process of justifying a claim (1958).

The immediate forefather of Informal Logic must also be placed in this class. In Charles Hamblin's words,

We may or may not be concerned with 'pure' Logic in this book, but we are certainly concerned with the Logic of practice. Consequently it is important to move on to the additional or modified criteria of appraisal that are relevant when Logic is put to work. ([1970] 1993, 236)

Evaluating real arguments, Hamblin further argued, requires references to "the 'raw' facts of the dialectical situation" (242), the "features of [the] dialectical contexts within which arguments are put forward" (254).

Recent book titles would seem to indicate that these early commitments are finally being fulfilled. Walton's *A Pragmatic Theory of Fallacies* (1995) and *Argument Structure: A Pragmatic Theory* (1996), Tindale's *Acts of Arguing: A Rhetorical Model of Argument* and Johnson's *Manifest Rationality: A Pragmatic Theory of Argument* (2000)—not to mention the works of Govier and Freeman in Foris' series on Studies of Argumentation in Pragmatics and Discourse Analysis—all suggest a turn in argumentation studies to the examination of arguments in practice.

These rather general indications of the significance of the activity for the product can be reinforced by examining exactly what the references to context, practice, process, activity and so on are supposed to accomplish. In the following paragraphs I quickly go through what appear to be the main current debates within Informal Logic, showing how the activity of arguing has been invoked by at least some of those proposing answers within them. (I take comfort that the following discussion does not diverge too far from that of more official surveys, e.g. Johnson 2000, chap. 5).

In what from the outside seems to be a rather odd move, Informal Logic began developing its theory of argument assessment by developing a theory of bad arguments—that is, of *fallacies*. What makes an argument a fallacy? One conspicuous

answer has been that at least some arguments are fallacious because they impede the activities in which they are being deployed. This view has been put forward by Hamblin, by Frans van Eemeren and Rob Grootendorst (henceforth, the “pragma-dialecticians,” 1992) and by Douglas Walton (1998). Although their particular accounts vary, in general they agree that a move like an *ad hominem* attack only undermines our attempts to achieve rational consensus, and thus is fallacious when deployed in the course of that activity.

Turning next to the theory of not-so-bad arguments, there appears to be consensus as to the basic dimensions along which arguments must be judged: premise adequacy, relevance, and sufficiency. With regard to *premise adequacy*, theorists including Johnson and Blair (1994b) and Trudy Govier (2001) have followed Hamblin in proposing that to be adequate, it is necessary for a premise to be acceptable to those to whom it is addressed. Obviously, acceptability cannot be determined by examining the premise in isolation; to make this judgment the assessor will have to examine the mental contents or public commitments of the persons involved in the activity of arguing, including perhaps herself.

Relevance appears to me so complex a matter that I hesitate to comment upon it. I can only point to two recent works that propose that context plays an essential role in our judgments of relevance. In addition to propositional relevance of the premise to conclusion, an argument as a whole may need to be relevant to the audience (Tindale 1999) or the dialogue (Walton 1998) in which it occurs. Again, this means that a full theory of relevance for arguments will have to refer to the activities in which they are embedded.

As Ralph Johnson has recently confirmed for me, *sufficiency* has been the subject of much less attention than the other dimensions. Still, any theory of sufficiency is going to have to deal with its conspicuous variability. An argument that O.J. Simpson killed his ex-wife, for example, must be “beyond a reasonable doubt” to be sufficient in a criminal case; supported by “the preponderance of the evidence” in a civil case; not be made with a “reckless disregard for the truth” if published by a U.S. newspaper;

and probably just supported by at least some shred of evidence if put forward in gossip between myself and a colleague (see also Johnson 2000, 205). To be sufficient is to be sufficient *for* something, and it would seem to be necessary to look to the activity in which the argument is embedded in order to specify *for what*.

To these three dimensions, Ralph Johnson has recently proposed to add a fourth: that of *dialectical adequacy* (2000). Clearly, in some cases an extended argument can be judged as less than sound because, although it provides reasons for its claim, it does not defend its claim against the objections of others. Johnson has framed this dimension in terms of dialectical obligations, echoing a long tradition within the Communication discipline of talking about probative obligations or burdens of proof. But what are the limits and the scope of these dialectical obligations? The very framing of the question shows that it is necessary to look to the activity in which the argument is deployed for answers, for obligations are relationships between people, not propositions, and identifying objections requires attention to what those people did to impose or incur them.

Finally, consider the problems involved in putting arguments into such a form as they can be assessed at all. First, there must be proper *identification* of some stretch of discourse *as* an argument. Formal features such as the presence of the word “therefore” will not suffice, since explanations also possess them. Govier (1987b) has argued that the difference must be pragmatic; we must identify the utterer’s purpose in order to identify the discourse as an argument or not.

Secondly, once identified there must be proper *reconstruction* of “the” argument from the messy, incomplete and intermingled utterances in which it is found. It is widely recognized that some sort of “principle of charity” must be employed. But what are its contours? It is again Govier who has argued that the principle can be derived from the principles governing communicative activities more generally. Arguments are exchanged with the typical “function or purpose” (1987a, 150) of rational persuasion; we are therefore licensed to presume that some stretch of prose we find

in some argumentative activity is at least an attempt at a good argument, and are thus licensed also to reconstruct it to be one.

So much for a survey of the land of argument assessment: the fertile provinces of fallacies, adequacy, relevance, sufficiency, dialectical adequacy, identification and reconstruction. In each, I have pointed out, there are proposals which require the assessor to refer to the activity of arguing in order to assess the product. Now, it may—or undoubtedly, will—turn out that some of these proposals are wrongheaded and that some of the problems they address are empty. The very persistence of reference to contextual features, however, suggests that some ideas about arguing will be necessary to fill out our ideas about argument.

2.2. Framing the Question.

Once it is noticed that our assessment of an argument may depend in part on features of the arguing in which it occurs, it turns out not to be very difficult to give novice assessors some plausible advice about how to proceed:

Long chains of reasoning ought to be avoided (Aristotle, *Rhetoric* 1.2)

The standard objections must receive a reply (Johnson 2000)

The weakest argument should be in the middle, the strongest first and last (old rule of thumb).

As argumentation theorists, however, we probably should not rest on the meager laurels of having more know-how than our nineteen-year-old students. Further, there are at least some aspects of the context that are in fact irrelevant to the arguing. For example, no one would advise this:

When the moon is full, a conclusion requires twice as many reasons as usual to be sufficiently supported.

But how can we dismiss this suggestion as inessential, unless we can identify what is essential? Our goal as argumentation theorists must be, as Aristotle put it, to say *why*: to give an account of arguing that organizes, grounds and criticizes such heuristics.

Such a theory can reasonably be called a theory of the *normative pragmatics* of arguing. This term, coined by van Eemeren (1994) and recently re-asserted by Scott Jacobs (1999) tries to capture “a perspective on argumentative discourse . . . which overcomes both the limitations of the exclusively normative approach exemplified in modern logic and the limitations of the exclusively descriptive approach exemplified in contemporary linguistics” (van Eemeren 1994).

The “pragmatics” in “normative pragmatics” reflects an interest in the context-dependent features of language (see generally Levinson 1983, sect. 1.2). The primary object for a theory of pragmatics is the *utterance*: the use of a sentence by someone, to someone, at some place and time, in some medium, about some topic, in the course of some other talk (and so on). “Pragmatics” further bears the connotation of practical; like any other tool-use, we expect the use of language in arguing to help us achieve our goals, at least relatively routinely.

The “normative” in “normative pragmatics” reflects a commitment to building a theory which will serve goals like argument assessment, not just descriptive accuracy. I here follow the apparently common custom of using the word “normative” promiscuously to refer to rules, principles, ideals, goods, obligations, duties, responsibilities, rights, privileges, cares, concerns, interests, virtues and any other basis upon which we praise and criticize each other’s conduct. It is conspicuous that the arguer in practice frequently makes normative comments about what she and others are doing. Since we are arguers ourselves, our theories must take these comments seriously. If the world is divided into “anthropologists” and “natives,” theorists of the normative pragmatics of arguing all remain natives—the shamans of argument, perhaps.

The ultimate aim of any theory of the normative pragmatics of arguing is quite ambitious. It takes, as Austin famously said, the “total speech act in the total speech situation [as] the *only actual* phenomenon which, in the last resort, we are engaged in elucidating” (1975, 148). Since no one has yet been able to meet Austin’s benchmark even for speech activities much simpler than

arguing, however, it would seem best to be more modest in the short run. From the metatheoretical work of the Amsterdam school (the “five estates,” as presented e.g. in van Eemeren 1994) we can borrow three lines along which any theory of the normative pragmatics of arguing should proceed.

First and most obviously, the theory should propose and defend explicit models for the activity of arguing; what the pragma-dialecticians have called “theoretical” or “normative research.”

Second, the theory should have, “downwards,” some demonstrable relationship to arguing in practice; what the pragma-dialecticians have called “empirical research.” As Scott Jacobs has put it, “our theories [must] be responsible to the puzzles we find in real messages and to the details we see in them” (2000, 282). Calls for increased attention to practice have been common throughout the recent renaissance in argumentation studies (e.g., Johnson and Blair [1980] 1996), so this line of research too is hardly controversial. Any model of arguing should provide accurate accounts of, and improve our sensitivity to, the full range of features evident when people actually go about the task.

Third, the theory should have, “upwards,” some demonstrable relationship to broader normative concerns; what the pragma-dialecticians have called “philosophical research.” It would be remarkable if the goods we achieve in and by arguing were utterly unrelated to the goods we achieve in other aspects of our lives. Any theory of the normative pragmatics of arguing should therefore be able to demonstrate how its “normative” aspects are grounded in a more encompassing theory, as for example the pragma-dialecticians ground their approach in an ideal of reasonableness.

(I would also join the pragma-dialecticians in requiring a fourth line for any theory: it should have a practical component, leading to improvements in the teaching of skills or the “engineering” of practices (e.g., van Eemeren et al. 1993, 120 ff.). Since we as yet have no well-established modes for *publishing* the results of such “practical research,” however, it is unfair to judge theories on this point.)

At present, there is one conspicuous contender for the title of *the* theory of the normative pragmatics of arguing: what I will call the “dialogue theory” of arguing. (I prefer “dialogue” to the perhaps more common “dialectics” as being less likely to lead to misunderstanding or confusion.) Dialogue theorists include most notably the pragma-dialecticians (e.g., van Eemeren et al. 1996), Douglas Walton (e.g., 1998), and (within the Communication discipline) Douglas Ehninger (at least his early thinking, 1958, 1966). Between them, these scholars have put forward an impressive body of work on each of the three lines of research sketched above.

There is, however, an as yet overlooked alternative to the dialogue approach: what I will be calling the “design theory” of arguing. Design theorists include Fred Kauffeld, Scott Jacobs and this author. Design theory, I believe, has also put forward an impressive body of work. But what *is* a design theory?

3. Two Answers.

In this section I sketch the principles of the design-theoretical approach to the normative pragmatics of arguing, developing it by contrast to that of the more familiar dialogue theory.

3.1. What Model for the Activity of Arguing does Design Theory Propose?

Obviously, arguments are deployed in many situations, for many purposes, in the midst of many other activities. Indeed, there is no reason to suppose they could not occur in any situation, for any purpose, joined with any activity—including for example free-associating arguments out loud while wandering in the wilderness, to entertain oneself or scare off bears. Any theory of the normative pragmatics of arguing will have to cut down on this variety and define which among all the possible uses of argument are the most “central,” “basic” or “paradigmatic,” leaving the others to be accounted for as bearing some sort of “family resemblance” to the central cases.

Dialogue theorists, obviously enough, propose the *dialogue* as the paradigm for the activity of arguing. A dialogue is a form of verbal interaction, recognized by the participants, involving taking turns contributing to some common topic. As Walton defines it, the dialogue

is a conventionalized, purposive joint activity between two parties (in the simplest case), where the parties act as speech partners. It is meant by this that the two parties exchange verbal messages or so-called speech acts that take the form of moves in a game-like sequence of exchanges. (1998, 29)

Van Eemeren and Grootendorst have used similar language, noting that in arguing participants enter into different communicative roles as part of a single, “bilateral process.” Thus “a *dialogue* is initiated,” they conclude (1984, 9).

Design theory, by contrast, proposes the *transaction* as the paradigm for the activity of arguing. At least since Aristotle’s distinction between deliberative, forensic and epideictic speaking (*Rhetoric* 1.3), the rhetorical tradition of studying argument has tended to view arguments as deployed in multiple and diverse contexts. The early work of Sally Jackson and Scott Jacobs (e.g., 1980) cast the net wider still, including informal conversational settings generally. The design approach draws from these strands within the Communication discipline a very inclusive conception of the paradigmatic activity of arguing as a transaction. “Transaction” has a connotation of *practicality*; in a transaction a person is doing business, carrying out her projects. In specific, she is carrying out her projects within an environment whose most important features are other people. To use the vocabulary made popular by the economists, a transaction will require the participant to employ strategic rationality in planning her engagement. This is captured by *Webster’s Third International*, which defines “transaction” as “a communicative action or activity involving two parties or two things reciprocally affecting or influencing each other.”

3.2. How do the Norms Governing Arguing Arise?

The key task of any theory of the normative pragmatics of arguing is to tell some sort of story about where the norms governing our arguing come from—and, one hopes, not just a “just-so” story.

Dialogue theorists derive their norms from a two-fold assumption about the argumentative dialogue: first, that argumentative dialogue performs one or more social functions; second, that arguers are obligated to cooperate with each other to ensure that function is accomplished.

Probably the most commonly cited function for arguing is the rational resolution of disagreement. Arguing in this view promotes two related goods for society as a whole: first, it produces social concord by resolving disputes; second, it produces good conclusions (truths, decisions) by systematically subjecting claims to criticism. Douglas Ehninger may have been the first argumentation theorist to articulate this view clearly. In his 1958 article “Debating as Critical Deliberation,” he stressed debate as a method society adopts to “shape its collective beliefs and make its collective choices” (26). The pragma-dialecticians are similarly committed to the “functionalization” of arguing. “Argumentation,” they say, “has the general function of managing the resolution of disagreement” (van Eemeren et al. 1996, 277). And Douglas Walton, who believes that there are many different types of argumentative dialogue serving many different social functions, isolates one type—the “critical discussion”—as having the collective goal (i.e., function) of resolving conflicts of opinion (1998, 47).

If the argumentative dialogue has these (or other) important social functions, it seems not untoward to impose on arguers the obligation to help further them. Since a dialogue requires two or more persons to fulfill their interlocking roles, this means that the participants are specifically obligated to cooperate with each other. Again, dialogue theorists have committed themselves to this view explicitly. Ehninger originally proposed that “debaters are co-workers in the task of finding correct beliefs and decisions. They co-operate in the process of submitting a proposition to

rigorous tests” (1958, 28). The pragma-dialecticians turned to Grice’s Cooperative Principle for their earliest expression of this view, concluding that in arguing, participants share a “*common goal*” and a “*jointly agreed regimentation*” of the process for achieving it (1984, 1212). More recently they have again drawn heavily from Grice and explained the principle of the “socialization” of argument as producing a “collaborative structure” to the activity “that emerges from dialogic interaction” (1993, 12). Walton, finally, has similarly invoked Grice to back his notion that argumentative dialogues are “collaborative” enterprises (1998, 254).

It should be noted that several theorists who do not explicitly take arguing to be a dialogue have made remarks that suggest similar commitments to either or both of the claims that arguing performs a social function and that arguers are obliged to cooperate to achieve it. These scholars in the penumbra of dialogue theory include:

Ralph Johnson, who takes rational persuasion to be the function of argument, and who quotes with approval a remark by Alasdair MacIntyre requiring cooperation (2000, 149, 155).

Christopher Tindale, who draws on Grice in claiming that “as a conventional social practice, argumentation shares the mutual goals of cooperative communication, where each participant recognizes ‘a common purpose or set of purposes, or at least a mutually accepted direction’” (1999, 67).

Trudy Govier, who asserts that “*the practise [sic] or social institution of argument has [rational persuasion] as its typical function or purpose,*” and also draws on Grice to support the arguers’ obligations to achieve this function (1987, 150; emphasis in the original).

Design theorists, by contrast, do not *assume* that argumentative transactions are necessarily either functional or cooperative. For one thing, these transactions are so varied that it seems rash to assign them any one social function—unless perhaps the function of “giving some order to our interactions;” and even then, only if

we included war and anarchy as instances of “order.” There are also serious problems involved in determining the function of any activity; indeed, it’s my understanding that social scientists have long since abandoned “function” talk. Design theorists, further, view with suspicion the rather counterintuitive claim that arguing is ideally a cooperative activity; Fred Kauffeld’s paper at this conference should be providing more details on this.

Instead of deriving norms from the standards set by some social function external to arguing, design theories contend that the argumentative transaction is internally self-regulating. Each arguer, to achieve her goals, tries to establish for herself and the other participants a normative environment within which their arguing can proceed. Douglas Ehninger’s last work was the first to put forward this idea. Ehninger contended that someone engages another in arguing typically to correct the other’s knowledge. To obligate that other to engage *back*, Ehninger went on, the arguer will find it necessary to impose on himself a variety of obligations to argue soundly. As Ehninger put it:

In freely submitting his own view to criticism, the arguer not only earns the right to criticize the view of his opponent, but more importantly, imposes upon his opponent an obligation to observe in the presentation of his case the same standards of adequacy and fairness... Out of these mutual obligations and opportunities, the self-regulative character of argument is born. (1970, 109)

Whether or not Ehninger’s specific account of the obligations is correct, his general direction is that adopted by design theory: probative obligations do not inhere in the argumentative process itself; instead, they emerge from the arguers’ activities as they try to achieve their goals.

This point has been recently re-articulated by Scott Jacobs in a series of papers beginning with his 1998 ISSA keynote address. “Argumentation theory,” he has contended, “should be concerned with the way in which argumentative messages enhance or diminish the conditions for their own reception... The pragmatic problems and solutions of argumentative practice exist in the form

of discourse strategy—and not just discourse norms” (1999, 400). It is by such strategies that arguers create the conditions under which they may themselves assess “the substance of good reasons, the form of good reasoning, and the status of any conclusion” (2000, 274). Optimistically, the strategies may even serve to induce “otherwise bad deliberators to be their best,... and to make the conditions for argumentation conducive to reasoned deliberations” (2000, 281). In sum, he concludes, arguing is “self-regulating” (1999, 400; 2000, 275).

To say that arguing is self-regulating should not be taken as imagining that the activity exists off by itself, on some isolated island of norms—as if arguers could dispose of our ordinary prohibitions (say) against injuring others via some self-regulatory fiat. Rather, self-regulation supposes that the normative background for arguing is no different from that of our activities generally. For example, in undertaking and imposing obligations to produce arguments, arguers rely on the same understandings that underwrite the undertaking and imposition of obligations in other contexts. Similarly, the norms that are ordinarily invoked to criticize flaws in the way someone is arguing—as (say) unfair, manipulative, overbearing, coercive, tricky, fraudulent—are not unique to arguing, but apply in judging conduct in a variety of other transactions as well.

Design theory proposes, however, that it may take quite a bit of discursive work for arguers to bring anything from the general normative background to bear on their particular situation. The norms governing arguing in specific do not arise simply because people have entered into a dialogue; they must be created by the arguers in response to complex, vexed and always-varying local conditions.

3.3. What Form does the Theory Itself Take?

As Ralph Johnson has pointed out, theories of argumentation have often (and laudably) been pedagogy-driven: we start by teaching something, and then we try to figure out why or whether what we’re teaching is sound (2000, 115-116). And the textbook

tradition is indeed strong, stretching back more or less continuously at least to Aristotle's *Rhetoric* and *Topica*. But perhaps our very strength in teaching has provided little incentive to go further, and there is certainly no shared sense of what a normative pragmatic theory of arguing would even look like.

Dialogue theory tends to proceed by proposing rules. The theorist may advance constitutive rules, specifying exactly what the participants are permitted to do if their behavior is to count as a dialogue of a certain type. Pragma-dialectics, with its four stages for the dialogue, its listing of the speech acts allowed in each stage, and its statement of the rules for making each act (e.g., van Eemeren and Grootendorst 1984), is a particularly well-worked out example of a theory of constitutive rules. The theorist may also advance regulative rules, specifying how the arguer ought to act in the dialogue in order to cooperate to achieve the dialogue's asserted social function. The well-known "Ten Commandments" of the pragma-dialecticians are good examples of such regulative rules, prohibiting arguers from doing such things as preventing arguers from raising doubts and objections, using inappropriate argumentation schemes, or failing to retract a standpoint that can no longer be defended (e.g., van Eemeren et al. 1996).

Design theorists do not have the luxury of proposing rules. Clearly, some argumentative transactions are governed by rules. From a design-theoretical point of view, however, this only occurs when the participants in the transaction have seen fit jointly adopt them, as a group might adopt *Robert's Rules of Order*. But why did the arguers select just this set of rules?—the theorist must ask. And through what sort of transaction? If that transaction was itself constituted or regulated by rules, where did those second order rules come from? At some point, the threatened infinite regress of rule-governed transactions must stop in a transaction that is not itself rule-governed; instead, it is self-regulated.

The goal of the design theorist is to elucidate the strategies the participant in an argumentative transaction can use to regulate the transaction. Given the diversity and complexity of argumentative transactions, design theorists presume that arguers will turn out to possess a considerable repertoire of strategies. A design theory

must first provide analyses of the strategies, specifying what she must do to accomplish them. A design theory must further account for the strategies *as* strategies, that is, explain how an arguer's utterance of some words can be expected to accomplish things like the imposition of probative burdens. In a complete design theory of a strategy, these two aspects—analysis and explanation—will reinforce each other; what must be done to execute some strategy (analysis) will be just what is practically necessary to achieve some purpose (explanation).

It should come as no surprise that the strategies through which actual arguers prosecute their business are often sophisticated and subtle. Engaging in a self-regulating argumentative transaction requires planning, craftsmanship and careful execution—it requires, in short, *design*. Design theories of arguing will respect the complexities of the activity by retaining a certain modesty. As Scott Jacobs has commented, the inventive cunning of actual arguers means that “strategies and practices can never be listed exhaustively ahead of time” (2000, 275); the theorist must remain a sort of Owl of Minerva, flying out at dusk.

3.4. Summary.

The following summary, in place of a table, can be taken as a quick review of the contrast between dialogue and design theories of the normative pragmatics of arguing.

According to dialogue theory, arguing is paradigmatically a dialogue;
according to design theory, arguing is paradigmatically a transaction.

According to dialogue theory, norms arise because arguers are bound to cooperate to achieve a social function;
according to design theory, norms arise because arguers so act as to impose them on themselves and each other.

According to dialogue theory, a theory ought to define the constitutive and regulative rules for the dialogue;
according to design theory, a theory ought to analyze the arguers' strategies and explain how they work.

Or consider the following metaphor. Dialogue theories propose that arguing is like *waltzing*. To waltz successfully, two people must cooperate to realize a pre-set, patterned behavior. A theory of waltzing would lay out in perspicuous form exactly what is required of each waltzer, for their movements together to count as a waltz at all, and a good one.

Design theories propose that arguing is like *walking*; in particular, walking through some crowded event, like a state fair. Everyone walking is trying to achieve his or her own projects in an environment filled with other people. For anyone to succeed, some degree of coordination is required; otherwise everyone will always be bumping into each other. There are some strategies for getting through the crowd—things like conspicuously turning one's body to indicate the direction one is planning to go, or warning someone who's not looking where he's going to watch out. A theory of walking would collect such strategies, dissect them, and explain how they work.

To say that arguing is (paradigmatically) a dialogue is to make a strong claim. To say that arguing is (paradigmatically) a transaction, is clearly to say something much weaker. After all, what activity involving other people *wouldn't* count as a transaction?—what we do entirely on our own, I suppose, and what we do among others without attempting to influence them (as when I push someone out of my way), but perhaps not much else. Further, the assumptions of functionality and cooperation have given dialogue theory a big head start in developing a normative pragmatics of arguing, allowing theorists to justify many and detailed rules in relatively short order. (One might consider this one of the *disadvantages* of dialogue theory.) The idea of self-regulation described above is by contrast only an overall directive for future research; it opens, but does not answer, the question of how arguers actually achieve self-regulation in practice. If a design theory is to be worthy of attention, it has to go on to show results on the “one question” with which this paper started. I therefore turn in the next section to a summary of some current work, organizing the discussion around to the three lines of research any theory must pursue.

4. Design Theory: Some Results.

4.1. Line 1: Modeling the Argumentative Transaction.

It should be obvious that design theory will never offer a general answer to all the problems of argument assessment in all situations. I believe, however, that design theory in the near future will be in a position to offer at least some advice on each of the problems in some contexts. Scott Jacobs, for example, has been promising some remarks on fallacies from a design-theoretical perspective. My forthcoming work on issues attempts to sketch some ways in which arguers establish for each other the proposition towards which their arguing ought to be directed; this should give an account of some aspects of dialectical relevancy. And Fred Kauffeld's underlying ideas about assumptions and presumptions could be turned to a theory of how arguers go about generating adequate premises for their arguing. For the purposes of this paper, however, I will focus on design theory's achievements in accounting for two common strategies for creating a normative environment in which arguments can be assessed: the strategy of proposing, and the strategy of accusing.

4.1.1. The Strategy of Proposing.

Fred Kauffeld has given an analysis of the strategy of proposing (1995, 1998); skipping over his argument, the necessary and sufficient conditions are as follows. To propose, a speaker must:

- a. state the action being proposed, and act as if she was resolved to undertake it;
- b. openly commit herself to defend it by answering any doubts and objections that might be brought against it; and
- c. openly act as if her statement and her commitment to advocacy provide her addressee with reason to raise doubts and objections about it.

If we are to take this skeleton as practical strategy, what does it achieve? Kauffeld has sketched the following explanation. As autonomous individuals, we ordinarily make up our own minds regarding what is in our interest, relying on our own thinking and our own experience. Our standard response to attempts to influence us to serve others' interests—e.g., by billboards, or beggars—is to ignore them; they waste our time. This creates a practical problem, however, in those instances where one person, the proposer, is convinced that it would be a good idea for other(s) to undertake something *new*. As a first step towards eventual adoption of her proposal, the proposer must begin by inducing her fellows to give it at least tentative consideration. To do this, she must give them reason to believe that such consideration will not waste their time. She can try claiming that *she* thinks it is worthy of adoption, but she can hardly expect that to influence anyone else, to whom the proposal does not appear to be of interest. So she in a sense sweetens the deal, offering to her addressees her personal guarantee that the proposal is worth their time and attention, because it will on closer examination hold up against all the reasonable doubts and objections they may raise. Her guarantee has the potential to get her into a lot of trouble—if she can't pay what she promised, she has left herself open to being blamed for wasting others' time. Her commitment to advocacy therefore gives her addressees good reason to presume that the proposal is indeed worthy of at least tentative consideration, and to lend the proposer their ears.

Consider the payout of this analysis and explanation of proposing for the problems of argument assessment. By her guarantee, an arguer undertakes a specific dialectical obligation that defines which objections she must meet. As Kauffeld concluded in his last OSSA paper, in the normative environment created by a proposal "objections and alternative positions should be answered with satisfactory secondary argumentation (a) if they have been raised or put forward by other participants in the dialogue and (b) if they are worth considering, given the circumstances" (1999a). Indeed, since the proposer guarantees to answer doubts as well as objections, the obligations she undertakes

in proposing define the same limits for the standard of sufficiency to which her arguments will be held. A design theory of proposing thus contributes to specifying standards of assessment for arguments in one context.

4.1.2. the strategy of accusing.

The accusation is another speech act arguers commonly employ to create a normative environment for arguing. Kauffeld has provided an analysis of this act as well (1994, 1998); again skipping the derivation, the essentials are as follows. To accuse, a speaker must:

- a. say that the accused did something, implying that it was wrong;
- b. demand that the accuse answer the charge; and
- c. openly act as if her charge and her demand provide her addressee with reason to answer.

What can a person expect to accomplish by doing just this? Accusations typically arise when the accuser strongly suspects that the accused has wronged her, but wants to give him the opportunity to explain his version of events—perhaps in order to test her suspicions, or to give the accused the opportunity to make amends before she takes direct action. It is quite likely, however, that the accused will be unwilling to give her more than a quick denial; even if he's innocent, responding to the accusation may be deeply offensive, and certainly a waste of his time. The accusation itself is designed to provide the accused an incentive to answer. As Kauffeld notes, a person is ordinarily obliged to explain his behavior when it has caused a disturbance and when the person disturbed is forbearing retaliation, relying on him to provide an explanation. The accuser can bring about just such an obligation by designing discourse that makes manifest that she is disturbed on account of the accused's conduct and makes manifest that she is forbearing retaliation, relying on the accused to answer. Such discourse lands the accuser in a difficulty, however. In addition to

creating the conditions under which the accused has an obligation to give her an answer, the accuser has actually done the accused the injury of impugning his good name. Under many circumstances, therefore, the accused will be able to make manifest that he himself is upset by the charge and wants the accuser to answer for it. “Thus,” Kauffeld concludes, “by challenging the accusation, the accuse[d] can impose on the accuse[r] an obligation to substantiate the charge” (1998, 259).

This analysis and explanation of the strategy of accusing again provides an interesting view on dialectical obligations—in this case, the dialectical obligations of *both* parties to the transaction. In the normative environment created by an accusation, the accuser is obliged to produce reasons which justify her apparent affront to the accused. The accused, in turn, is responsible to produce reasons which answer (deny, justify, excuse) his apparent affront to the accuser.

The account also suggests some interesting consequences for the theory of the reconstruction of arguments, as I have argued in a forthcoming paper. An accusation arises in response to an apparent wrong by the accused to the accuser, and in accusing the accuser commits an apparent wrong back. In the normative environment thus created, each party is responsible for offering a justification of his or her own apparently wrongful conduct. It seems unlikely in this environment that either participant in the exchange will presume that the reasons the other offers have been designed to help her (the addressee) out. It seems unlikely, in other words, that either participant will adopt a principle of charity in reconstructing the other’s argument. Instead, each will presume that the other is acting in his own interest, and interpret the arguments accordingly. If the other participant’s argument omits some evidence, for example, the addressee will not presume that it was unnecessary to include it, and supply the best evidence herself, thus making his case *stronger* than it seems. She will rather presume that it was in the arguer’s interest to omit it, that it was probably unfavorable to him, and thus conclude that his case is *weaker* than it seems. In the place of a principle of charity for the reconstruction of arguments (or a presumption of cooperation), arguers in the normative

environment created by the strategy of accusing by rights employ a principle of reasonable skepticism.

4.2. Line 2: Grounding in the Facts.

I will spend less time discussing the progress on this line of research, largely because it is the point on which design theorists have had the greatest success. Where dialogue theorists tend to see the messiness of arguing in practice as a necessary but unfortunate compromise of the ideal with the real, design theorists take that messiness as the outcome of arguers' quite admirable strategic craft. Design theory has thus come close to what Ralph Johnson termed "dustbin empiricism" (2000, 190)—a epithet which is quite accurate if we imagine the empiricist proceeding like an archaeologist, digging through the pile of discarded argumentative discourse with a toothbrush. Each of the analyses described above was developed in conjunction with a very close engagement with actual arguing: for Kauffeld, the debate over the adoption of the U.S. Constitution (e.g., 1999a) and the Lincoln/Douglas debates (1994); for Jacobs, his corpus of editorials, advertisements and advertorials (1999, 2000); for myself, the U.S. Congressional debate on entry into the Gulf War (1999) and the O.J Simpson trial closing arguments. In each case, design theory has enabled a more sophisticated reading of the texts, showing the significance of even minor details. The details of practice have in turn tended to refine and confirm the analyses. Indeed, it is perhaps because of its empirical sophistication that design theory has thus far remained relatively unnoticed by the argumentation theory community; readers may lose track of the theory construction when it appears embedded in the middle of a close reading of a text.

4.3. Line 3: Articulating Deeper Values.

I must admit that design theory has failed to clearly articulate a vision of the attractiveness of arguing as a self-regulating, strategic transaction (although some remarks do occur, e.g. in Kauffeld, 1986, esp. chap. 5; 1999b). I attempt here only a skimpy plug for

this gap, again using a contrast with dialogue theory, and adding the strong caveat that on this more than on other topics design theorists may find they disagree with each other.

There are clearly all sorts of good reasons to value arguing. Collegiate debaters in the U.S., for example, pursue the activity with extraordinary intensity because it is fun, elegant and can lead to success in life. Over the years, U.S. argumentation textbooks have advertised an even greater range of benefits to the students who have been forced to buy them (Goodwin, 1999). Can one of these reasons be picked out as *the* one for which we value arguing?

The answer proposed by the dialogue theorists may be that it is only through arguing that we will be able to make the best choices. Absent any “foundationalist” method that would allow us to simply check or calculate the truth of assertions or the expediency or morality of plans, the only way we have to test their worth is to subject them to thorough criticism and see how they stand up. We therefore need a procedure that will encourage such sustained, critical scrutiny from as many different points of view as possible. That procedure is arguing, specifically in the form of the critical discussion. Arguing thus plays the same role in collective decision-making that the scientific method does in collective theory-building.

In an era in which a bad decision might lead not only to insecurity, poverty and injustice for the decision-makers, but possibly wipe out life on earth, this picture is certainly attractive. But its conflation of good decision-making in practical affairs with good theory construction in science seems at least a bit troubling. Rather than pursuing this sort of criticism, however, I turn to articulating an alternative view.

I would start from the intuition, shared with the dialogue theorists, that arguing is important in the way we make decisions on matters of common concern. Instead of looking to decision-making’s outcome in the best choices, however, I would look to the conditions in which the process originates. For us (moderns, inheritors of Western culture), collective decisions must, paradoxically, be made by autonomous individuals. An autonomous individual makes decisions for herself; she relies on

her own thought and experience and determines her own course of action. She does this by right. Now, if all autonomous individuals happened always to make the same decisions, collective decision-making would be no problem. Even ideally, however, such total agreement is impossible; an autonomous individual relies on her own experience, and her own experience will be *individual*. Each individual therefore needs some practical strategies for influencing the decisions of other individuals, while at the same time respecting their autonomy.

Design theory undertakes to study just these strategies. Proposing, for example, is a strategy by which one person can earn the attention of those whose individual thought and experience makes some plan appear not even worth considering. It is not by chance, furthermore, that many of these strategies involve the exchange of arguments, as opposed (say) to the exchange of monetary payoffs. Autonomous individuals can demand the respect of others in part because of the role reason plays in their lives. This idea was expressed in the Renaissance conception of the dignity of man as a rational being. It is implicit also in the vocabulary with which we criticize failures of autonomy, some of which picks out flaws in reasoning: not just charges of irrationality—which I think are rather uncommon—but also of being imprudent, rash, reckless, thoughtless, injudicious, prejudiced, heedless, inconsiderate, careless, indiscreet, stupid, mad, and so on. Our reliance on arguments to influence each others' decisions is thus an expression of our basic confidence that each autonomous individual, to deserve the respect of others, will eventually have to *see reason*. So we value arguing because it makes reason manifest in the practical affairs of autonomous individuals; or so design theory might say.

5. Conclusion.

In closing, let me disavow any hint of normative-pragmatic imperialism that the reader may have detected in the above discussion. Attention to the activity of arguing will help resolve

some, but far from all, the problems that arise when we assess arguments. As Scott Jacobs has commented:

I do not see pragmatics as a substitute for traditional logical analyses—formal, informal, or otherwise. . . . I see normative pragmatics as a corrective to traditional analyses and as a complement to those studies, not as a replacement of them. (1999, 403)

Indeed, I suspect that many of the problems that arise in accounting for the activity of arguing will not be able to be resolved without a strong theory of argument assessment; arguments and arguings, in other words, will turn out to be interdependent. Many probative obligations, for example, require the arguer to produce apparently good reasons for her claim. But this will not be possible unless a project like that of Informal Logic is around to say what an apparently good reason might be.

I do also not want to overstate the contrast between the design and dialogue approaches to the normative pragmatics of arguing. Anyone would admit that there are instances in which arguers are obliged by rules to engage cooperatively in a process leading to a rational resolution of their dispute. Society often forces people to achieve this important social function, as for example when U.S. judges force child custody disputes into mediation. Design theory, however, takes this, and other clear cases of argumentative dialogues, to be only special cases of self-regulating transactions generally.

Still, I hope this paper has shown that the divergences between design and dialogue theories of the normative pragmatics of arguing are not inconsiderable. Consider this paper as a final example. I would deny that I am trying to rationally resolve any of the current disputes about how we ought to assess arguments; any one of them is far too weighty for an outsider to attempt in a conference paper. Nor am I (as is commonly thought of rhetoricians) trying to persuade anyone to convert the design-theoretical camp. Instead, I have designed this work in an attempt to alter the environment within which we are considering the

questions of assessment. I observe that at the moment, work such as Scott Jacobs' and Fred Kauffeld's is not being taken into account. That is bad. This essay is aimed to help create conditions in which anyone taking up issues of assessment would be thought to be negligent if they did not at least take design theory into account. Specifically, I have attempted here to eliminate the common excuse that they did not realize design theory even existed. Now, I'll admit that I have a further purpose as well. To take design theory into account, these hypothetical scholars will have to think it through. While respecting their right, and indeed duty, to make their own decisions on the merits of the case, I remain confident that with attention, thought and care, they will eventually come to the most sound view—mine! In that sense, I believe I have articulated one question, distinguished two answers, and proposed that one of them is right.

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3.

Presumptions and the Distribution of Argumentative Burdens in Acts of Proposing and Accusing

Fred J. Kauffeld

ABSTRACT: This paper joins the voices warning against hasty transference of legal concepts of presumption to other kinds of argumentation, especially to deliberation about future acts and policies. Comparison of the pragmatics which respectively constitute the illocutionary acts of accusing and proposing reveals important differences in the ways presumptions prompt accusers and proposers to undertake probative responsibilities and, also, points to corresponding differences in their probative duties. This comparison has theoretically important implications regarding the norms governing persuasive argumentation. The paper is based on a broadly Gricean account of speech acts.

1. Introduction

Richard Whately's *Elements of Rhetoric* ([1846] 1963)¹ adopted the legal concept of presumption as the definitional basis for its author's discussion of the probative duties in other fields of argumentation. This well-known appropriation of legal concepts established the idea that courtroom argumentation exhibits the essentials of how probative responsibilities are to be distributed in deliberative discourse, i.e., arguments regarding what policy or course of action should be adopted. Thus, the traditions of study

1. For discussions of Whately's influence, see: Parish (1929), Pence (1953), Sproule (1976).

which follow Whately faithfully repeat the following precept: just as in law a person is presumed innocent until proven otherwise, so too, in deliberation there is presumption favouring established institutions, generally accepted beliefs, prevailing plans and policies, and the burden of proof falls to advocates of change and innovation. This dictum takes the presumption of innocence in law, and its relationship to the burden of proof, as the model distributing probative duties in deliberative argumentation.

That legal model for probative duties illuminates certain very broad aspects of deliberation, but it leaves critically important details deep in the shadows. Following Whately, scholars have come to understand (i) that in ordinary deliberative discourse advocates do commonly incur probative duties and (ii) that those burdens are distributed relative to presumptions. But reliance on the judicial model has not brought this relationship into sharp focus. Only marginal success has been achieved by efforts to identify a deliberative principle corresponding to the judicial maxim that the accused is to be presumed innocent until proven guilty. The presumption thought by Whately and his students to favour the status quo seems to have only limited application in deliberative contexts; just where and when it properly applies is far from clear (Goodnight 1980; Marsh 1964). On a related front, argumentation theorists have not been able to adequately identify standards of reason and evidence which deliberative advocates ought satisfy to discharge their burdens of proof (Kauffeld 1995b; Scott 1960). And it has been persuasively argued that reliance on judicial models of probative responsibility imports into deliberation the common judicial abuse of trying to saddle opposing advocates with an unreasonably stringent burden of proof (Gaskins 1992). In sum, Whately's legal model for the burden of proof has not enabled argumentation theorists to formulate empirically and critically adequate accounts of how probative burdens arise in deliberation, nor has that model supported satisfactory identification of argumentative standards which deliberating agents must satisfy in order to discharge their probative responsibilities.

It has been suggested that the procedural formality of courtroom argumentation is responsible for this lack of progress. In judicial settings, procedures for allocating probative burdens are codified by legal rules with supporting bodies of precedent. 'Unlike a trial, social-controversy has no fixed beginning or completely standard relation between contending parties' (Goodnight 1980), so, it has been argued, concepts analogous to the procedural rules of evidence in the courts cannot find clear purchase in the messy world of ordinary deliberation (Goodnight 1980; Scott 1960).

This explanation does not seem to be entirely adequate. It focuses on an important, but relatively superficial, difference between deliberative discourse and judicial argumentation in the courts; whereas, deeper difference may well be involved. The codification of probative responsibilities in law is a procedural expression of underlying principles of fairness (Morton and Hutchison 1987). Whately ([1846] 1963) assumed that requirements of fairness, or closely analogous principles, also govern the distribution of probative responsibilities in deliberation. This unattractive assumption has not been widely embraced by his students,² a fact which ought to suggest that the application of legal models of probative responsibility to deliberation is limited by deep differences in the considerations which govern argumentation in these spheres of discourse.

The central question for this paper, then, asks whether the distribution of probative responsibilities in deliberative argumentation responds to considerations which differ fundamentally from those which govern judicial argumentation. The strategy for addressing this question draws on an insight from

2. Contemporary students of argumentation influenced by Whately recognize three prominent interpretations of presumption: '(1) a contextual rule derived from Anglo-American jurisprudence; (2) a psychological or sociological predisposition on behalf of the audience; and (3) a logical constant in a theory of decision making' (Cronkhite 1966; Goodnight 1980; Sproule 1976). As Goodnight notes, some theorists hold that something like considerations of justice require a presumption in favor of the status quo, but there has been little sustained argument for this view.

more formal studies of argumentation, viz., that probative burdens in argumentation are apportioned by key speech acts which occur at the outset of argumentative interactions and at critical moments during the interaction.³ Two kinds of speech acts immediately suggest themselves for study: *accusing* and *proposing*. It is the case that many judicial arguments, both in the courts and outside in ordinary discourse, are initiated by accusations; while many deliberative arguments unfold from an initial proposal. By examining the genesis of discursive responsibilities in these two kinds of communicative acts, it may be possible to gain a preliminary view of relevant differences between probative burdens in some judicial argumentation as contrasted with some deliberative argumentation. This approach to our question is also recommended on methodological grounds. *Accusing* and *proposing* belong to the broad class of speech acts which J. L. Austin identified as illocutionary acts. The work of Austin (1961, 1962), Grice (1957, 1969), Strawson (1964), Stampe (1967, 1970, 1975), Warnock (1973) and others in the philosophy of language provides a relatively clear guide to explicating the genesis of discursive responsibilities in members of this broad class of speech acts.⁴

2. Speech Acts and the Burden of Proof

The illocutionary acts of *accusing* and *proposing* are of special interest to students of argumentation, in part, because in connection with these speech acts, speakers commonly undertake a burden of proof. This is shown by the fact that in response to each of these kinds of speech act, proof can properly be demanded

3. Notice the role of speech acts in the confrontation and opening stages of the pragmatic-dialectical model for critical discussion (van Eemeren and Grootendorst 1990, 1991, 1992; van Eemeren et al. 1993).
4. The methodological platform for this paper also draws heavily on the account of intentional concepts developed by Anscombe (1957).

of the speaker.⁵ In all (serious) illocutionary acts, speakers incur responsibilities or burdens; often the speaker incurs responsibility for the veracity of her utterances. However, the discursive responsibilities undertaken in performing many kinds of illocutionary acts do not specifically obligate the speaker to provide reason and evidence in response to demands for proof.⁶ If Mary makes a suggestion and encounters a host of objections with demands that she substantiate the view she has expressed, she can readily withdraw her proposition with a remark to the effect that what she had put forward was merely a suggestion. In many cases where a speaker has advised, warned, issued a command, reproached someone or apologized, she can quite responsibly reject the demand for proof by saying such things as ‘Look you have my advice, I did not come here to argue about this’ or ‘I said that what you did is wrong and you should realize that it is; so far as I am concerned that is all there is to say about this matter’ or ‘I said I was sorry; what more could you want’. It is only in some kinds of illocutionary acts that speakers necessarily or typically incur probative burdens.⁷ These include *proposing* and *accusing*. Here a speaker cannot, other things being equal, responsibly dismiss an addressee’s demands for proof. Suppose that instead of presenting her proposition as a suggestion, Mary puts it forward as a proposal. In that event, were she to respond to doubts and objections by withdrawing her proposition as ‘merely a proposal’, her response would seem to be a face-saving joke, and she would be vulnerable to criticism for lack of due regard for other persons’ time and attention. Similarly the accuser could not easily get away with a disclaimer that she does not want to argue

5. Whately’s ([1846] 1963) commonsense guide to where a speaker has a burden of proof is whether proof can fairly be demanded of the advocate.
6. For a somewhat different view of speech acts and argumentative responsibilities, see: van Eemeren et al. (1993), pp. 91–96.
7. One can easily fail to notice that speakers do not incur a burden of proof in all serious illocutionary acts because speakers often find it practically useful to substantiate their position even though they may be under no particular obligation to do so.

about the matter; she would then be subject to the complaint that the accused is suffering injury from having his good name called into question and, in fairness, deserves to know the grounds for the charges brought against him so that he can clear his reputation. The point here might be expressed as follows: in all illocutionary acts which require a speaker to seriously say that *p*, the speaker will incur responsibility for having made a reasonable effort to ascertain that truth of *p*; in *proposing* and *accusing* and some other illocutionary acts, the speaker characteristically incurs the further burden of providing, on demand, reason and evidence in support of the proposition put forward for the addressee's consideration, acceptance, belief or other response.

How and why do proposers and accusers take on probative responsibilities? What is it that speakers do in the course of performing these illocutionary acts which brings it about that they have burdens of proof, and why in practical terms do they take on such obligations? Consider first *proposing* and then *accusing*.

3. Proposing

The act of making a proposal has these essential components: a statement of resolve, a commitment to advocacy, and an overt indication of the rationale for response from the addressee. That is, to propose that *p*, a speaker must at least:

- i. say that *p*, e.g., that we should invest in Northern Securities, and act as if *p* expresses a determination or conclusion the speaker has reached;
- ii. openly give it to be believed that she is speaking with the intention of answering doubts and objections regarding *p*; and
- iii. overtly intend that her statement and commitment to advocacy provide her addressee with reason to raise questions, doubts and objections regarding *p*.

It would be semantically odd for a person to say, speaking seriously and literally, *‘I propose that we invest in Northern Securities; mind you, I’m not saying that we should do that’.⁸ Similarly it would be odd to say *‘I have been thinking over what we should do with our savings; I’m not yet ready to venture any conclusion about that, but I propose that we invest those savings in Northern Securities’.⁹ A commitment to advocacy is also essential to *proposing*. Consider the anomalous nature of the following case. Were a speaker to imperiously say *‘I propose that we invest in Northern Securities; that’s that; now, don’t bother me with questions and objections’, her utterance would seem odd. Nor do the proposer’s statement of resolve and her commitment to advocacy stand as independent components of her illocutionary act; rather they are linked by the proposer’s manifest intention that the statement and corresponding commitment to speak on its behalf are to provide the addressee with reason to raise questions, doubts, and objections. This manifest intention distinguishes proposals from attempts to provoke argument.¹⁰

8. I use single quotes to identify specimen utterances, e.g., ‘You broke Aunt Maude’s lamp’. Unless otherwise indicated, these specimens are to be read as instances of serious and literal speech, i.e., speaking seriously and meaning just what these words conventionally mean in English, the speaker says ‘You broke Aunt Maude’s lamp’.
9. In making a proposal the speaker at least acts as if she is presenting a conclusion or resolution she has reached through some consideration on her part. Sometime the proposer’s statements explicitly identify her proposal as a conclusion, e.g., ‘I’ve thought through what we should do with our savings, and I’ve concluded that we should invest in Northern Securities’. But the proposer need not say that she is expressing a conclusion she has reached. Were Smith told that Jones had not even acted as though she had reached a conclusion about their savings, Jones would, I submit, have reason to doubt the truth of the report that Smith had proposed investing in Northern Securities.
10. Consider what might be described as an evidently provocative resolution. Gloria, an outspoken feminist, knows that her co-worker, Bill, is easily angered by aggressive feminist statements. Experience has taught her that as a result he is easy to manipulate. To start an argument with him, Gloria says that they should get rid of segregation by sex in the cafeteria. She intends that Bill recognize her intention to provoke

Analysis, then, shows that the proposer must openly commit herself to speak in defense of her resolution. But from a practical point of view this at first seems to be a curious result. Apparently the proposer expects her statements to be effective. She makes one and commits herself to making others, and statements are often reliable means of securing belief, cooperation, consideration, etc. So, one wonders, why does the proposer openly commit herself to defending her resolution? Why not just state it and get on with its defense? This question directs attention to the rationale which underlies *proposing* and constitutes speech acts of this kind. It leads one to ask, what practical calculation could coherently combine the means which analysis shows are necessary to making a proposal, uniting them in a coherent ends-means design? And beyond that, why would *both* a statement of resolve and a commitment to its defense be necessary to making a proposal?

Answers to these questions are suggested by the fact that the proposer must act as if she is trying to provide her addressee with reason to raise questions and objections regarding her resolution. It is reasonable to suppose that this part of the proposer's performance typically is not a pretence, and this very plausible supposition suggests that the proposer characteristically aims at securing a response intermediate to consideration of her resolution. Thus one is led to conjecture that the act of making a proposal is at base calculated to induce tentative consideration of conclusions which otherwise would not appear to merit serious thought and attention. In this view, a commitment to defend one's proposal is characteristically designed to provide a presumably self-reliant addressee with reason to listen to, and raise questions concerning, statements which he is initially inclined to disregard. This conjecture can be seen to provide both a plausible view of the nature of *proposing* and the basis for a satisfactory explanation of

an argument and, thereupon, to angrily raise objections which she can turn to her advantage. In this case Gloria both intends that Bill raise objections for her to answer and that he recognize her deliberate effort to get him to do that. But no proposal has been made. Were Bill to say 'Now Gloria, just what are you proposing we do?' she might respond, 'Look, I'm not proposing anything; I'm telling you what should be done, and you know I'm right'.

why both a statement of resolve and a commitment to its defense are necessary to making a proposal.

There are, of course, a broad array of common strategies in which persons offer others inducements to try something, hoping that this tentative effort will lead to full engagement with the object sampled. Children, for example, are promised sweets in order to induce them to try a new and to them initially unappealing dish. 'Try it', we say hopefully, 'you'll like it'. The central strategy underlying *proposing* is a variant on this familiar strategy. The proposer commits herself to speaking on behalf of her proposal; she presents what she has to say as a basis for tentative consideration by her addressee; and her manifest willingness to answer doubts and objection is an inducement to test her arguments.

This conjecture has the merit of positing a coherent practical calculation which can plausibly be attributed to proposers. Various circumstances may make it necessary for a speaker to provide her addressee with reasons for attending to and considering what the speaker has to say, but the case of constitutional importance to *proposing* is that in which the speaker wants her addressee to consider and, ultimately, adopt some conclusion which bears on the addressee's interests but which strikes the addressee as contrary to the latter's preconceptions. In these circumstances, a prudent addressee can be expected to be reluctant to attend to a speaker's views, because he has good reason to rely upon preconceptions which indicate that the speaker's conclusions are not worth serious consideration. The resulting need to induce tentative consideration quite naturally prompts proposals.

This need to induce tentative consideration emerges in connection with the presumption that our associates will rely primarily on their own thought and experience in determining what beliefs to accept and which courses of action to adopt in matters related to their interests. That *presumption of self-reliance*, as it may be called, is a standing presumption; it is engaged by

suppositions we make about mature and prudent persons.¹¹ As a deep-seated conversational practice, we do presume a certain minimum of self-reliance on the part of prudent associates in matters related to their interests.¹² This standing presumption

11. *Presumption* is used here in the plain sense of the word. Ordinarily a presumption is an inference taken, or available for the taking, by reason of the risk of resentment. That is, a presumption is an inference taken on the ground that someone has or will have made that supposition to be the case rather than risk resentment, criticism, reprobation, loss of esteem, or even punishment for failing to do so. The expression 'He/she would not dare (do anything so outrageous as) . . .' is commonly used to frame presumptive inferences. Thus a teacher might hold the expectation that students in her classes will turn their papers in on time, and when ask for the grounds on which her apparent optimism rests she might reply 'They wouldn't dare turn them in late; I dock tardy papers a full letter grade and accept no excuses'. Her utterance reflects the familiar structure of a presumption, i.e., an inference taken by reason of the risk of resentment. It is useful distinguish between *standing presumptions*, which are simply available given the circumstances at hand and the rules, norms, etc. of a culture or forum, and *special presumptions*, which are deliberately generated by a person's conspicuously making themselves vulnerable to criticism should they fail to act as presumed (Kauffeld 1995a and Kauffeld 2003).
12. There is standing reason to presume that mature and prudent addresses will rely *primarily* on their own thought and experience in matters related to their interests, for they would otherwise risk loss of that benevolence which proceeds from respect for the recipient's determination of his needs. To be sure, we commonly help, and on occasion have an obligation to aid, overly dependent persons, but the assistance we then provide inevitably has a condescending character because it does not, and realistically could not, proceed from the recipient's sense of his needs and desires. And we commonly bear ill-concealed resentment toward the provision of such assistance, which we tend to believe ought not be needed. It stands to reason that a prudent person would not risk loss of self-respecting benevolence, so we presume that he will exercise a minimum of self-reliance and thus will depend primarily on his own experience and thought in determinations related to his interests. For an analysis of our ordinary concept of interests, see: A. R. White (1964, 101–9), and for a penetrating discussion of the relationship between benevolence and self-reliance, see the Joseph Butler's remarks on prudence reprinted in *British Moralists* (1897, 249–51). Professor James Freeman, in his response to the version of this paper presented at OSSA's 1997 Conference of Argumentation and Rhetoric, expressed doubt as to whether my claim that we commonly presume self-reliance on the part of our fellows squares with the empirical fact that persons are often very dependent on others in the formation of their

profoundly affects what a speaker can reasonably expect to accomplish by means of statements about matters related to her addressee's interests. If the matter to be discussed is complex, and if the speaker's conclusions do not appear to square with a presumably self-reliant addressee's preconceptions, the latter can be expected to accept and act on what he is told only after he has considered the matter and reconciled the speaker's conclusions with his own experience. However, in these circumstances, an addressee is often unwilling or at best reluctant to give much thought to the representations a speaker wants to make. Such reluctance may be prudent and reasonable. A prudent person does not consider just any representation made to him about his interests. Considering a matter takes time and effort; prudence requires that one not waste those assets on representations which do not merit thought and attention. Since a good deal of both may be required to ascertain a representation's actual merit, a prudent person often must rely on his preconceptions and on appearances to initially assay a representation's apparent merit as an object for consideration.¹³ While these are very fallible bases for any determination, in regard to matters which affect a person's interests, he may reasonably be inclined to rely upon them and, so, may be strongly disinclined to consider the speaker's proposition. Faced with a predicament of this kind, a speaker might try to get her addressee to take what the speaker has to say as a basis for tentative consideration in the hope that this trial effort might

beliefs and decisions. But self-reliance does not preclude use of the testimony, advice, assistance of others; a self-reliant person tests such assistance against the base of his or her own experience. There is considerable evidence from studies of the processes by which persons come to adopt innovations showing that persons are generally very reluctant to adopt a novel policy, course of action, etc. until they have some experience with the innovation at least on a probationary basis, see: Rogers and Shoemaker, (1971, 112).

13. For an interesting discussion of the role prudence plays in allocating scarce cognitive resources, see: Petty and Cacioppo (1981). Daniel J. O'Keefe (1995) casts light on the kind of practical problem *proposing* is calculated to resolve in his keynote address to the Third ISSA Conference on Argumentation.

bring recognition that the speaker's conclusion merits fuller consideration.

At least in favourable circumstances, a speaker can reasonably expect to provide the inducement needed to overcome a skeptical addressee's preconceptions by making a proposal. In the performance of her illocutionary act, the proposer openly commits herself to answering her addressee's questions and objections. This commitment to defend her resolution can generate a presumption regarding the merit of what she has to say, and that presumption will often have enough weight to induce the tentative consideration which the proposer seeks. How can this presumption of merit be engaged by proposers? When the proposer makes known her willingness to answer questions and objections regarding her proposal, she openly takes responsibility for her projected conversational effort and its foreseeable consequences. Those consequences prominently include the prospect that she will have made imprudent use of her addressee's time and attention if, given the opportunity to speak, she does not have satisfactory answers. In view of this commitment, the addressee can be expected to reason that the speaker would have carefully prepared answers to his questions and objections rather than subject herself to inevitable criticism and resentment for wasting his time. In order to prepare satisfactory answers, the proposer would need to think through the reasons for her resolution and make reasonably certain that she could defend it as the truth about matters of interest to her addressee. Presuming this meritorious state of readiness to speak, the addressee may conclude, and can reasonably be expected to conclude that, though other appearances are to the contrary, the proposer's resolution and what she has to say on its behalf may prove to be of interest. The conjecture that *proposing* is at base designed to induce tentative considerations has been seen to posit a potentially efficacious strategy for solving a problem speakers recurrently encounter.

It can now be seen in practical terms why the proposer needs to supplement her statement of resolve with an overt commitment to advocacy. In some circumstances, a statement expressing the conclusion a speaker has reached would suffice to engage an

addressee in tentative consideration of what the speaker has to say. If a speaker says that *p*, then presumably as matter of veracity the speaker has made a reasonable effort to ascertain the truth of what she says (Grice 1989; Stampe 1967, 1975), and if the speaker further indicates that *p* is a conclusion that she has reached in her thinking, her addressee might suppose that the speaker has learned something which is similar to what the addressee could learn were he to investigate the matter himself; thus, the addressee may be inclined to take what further the speaker has to say as a basis for tentative consideration. But a statement of resolve cannot be expected to be this efficacious in the circumstances which characteristically call forth proposals. In those circumstances the presumption of veracity engaged by the speaker's statement would be too nebulous to provide the assurance needed to overcome the addressee's initial skepticism. A presumption of veracity implicates that the speaker has made a reasonable effort to ascertain the truth of the proposition she expresses, but this presumption is vague as regards just what the speaker's preparation has taken into account. Thus the presumption of veracity does not provide a skeptical addressee with reason to suppose that the speaker has avoided mistakes and/or that the speaker has taken the addressee's interests into account. To provide such reason, the proposer needs to supplement her statement with a commitment to advocacy. As we have seen such a commitment can generate an enlarged presumption regarding the merit of what the speaker has to say, and (in favourable circumstances) that presumption may suffice to provide the addressee with reason to suppose that the speaker has carefully considered the matter and taken the addressee's interests into account.

4. Accusing

Attention now turns to *accusing* and the genesis of the accuser's burden of proof. To make an accusation a speaker must at least (i) state her charges by saying that some party (*accused*) did *x*, implying that the speaker believes it may be wrong of *accused* to *x*;

and (ii) demand that *accused* or *accused's* representatives answer the charge by way of a denial, admission of guilt, justification, excuse, etc.; and (iii) act as if she intends that the charge and her demands provide her addressee with reason to answer to her charges. A speaker will have made an accusation then, if she says, e.g., that this party (*accused*) broke Aunt Maude's lamp, implying that she believes it may be wrong of the accused to have done that, if she further gives it be known that she wants the accused to answer the charge, and if she acts as if she wants her charge, together with her demand for an answer, to provide her addressee with reason to supply or secure the desired answer.

That these conditions are essential to *accusing* is shown by the following considerations. First, the analytical necessity that the speaker state her charge is shown by the anomalous nature of such utterances as *'I accuse Smith of breaking Aunt Maude's lamp; mind you, I am not saying that he broke it'. And the implication that the accuser believes that what the accused did may be wrongful blameworthy, or reprehensible in some sense cannot be cancelled and accusation still have been made. It would be odd to say *'I accuse you of ruining my reputation with your jokes, though I see nothing wrong with your telling them'. Second, the accuser must openly speak with an intention which resembles the purpose speakers have in asking questions, *viz.* the intention of securing an answering response from the accused. Of course, it is not necessary that an answer be sought as a direct and immediate conversational sequel to the accusation. The intention with which an accuser speaks may involve a complicated calculation about how the mediation of third parties will bring the accused to answer. But as in the case where it is literally true that a person has seriously asked a question, it would be semantically odd for a speaker to both purport to make an accusation and to deny that she is trying to get the accused to answer her charge, e.g., *'I accuse you of breaking Aunt Maude's lamp, and I just don't care what you have to say about it'. Finally, accusations are necessarily made with the overt intention that the speaker's charges and demand for an answer are to serve as reason for providing the desired reply. This intention serves to distinguish *accusing* from cases in which

one person uses demands for an answer as a means of castigating another.¹⁴

Accusing, as ordinarily conceived, is an intentional act which can be successfully executed in appropriate circumstances. The preceding analysis has identified conditions which are conceptually necessary and sufficient to the truth of reports that an accusation has been made.¹⁵ But since it can be true that someone has been accused of something when just those conditions are satisfied by what a speaker says and does, it seems reasonable to suppose that our analysis has also identified the elementary means which are *practically* necessary and sufficient to making an accusation, at least, in relatively simple cases and under appropriate circumstances. Of course, there is enormous variation across acts of accusing, and in more difficult circumstances one must do more than the bare minimum, if one is to mount a successful accusation. Still, it seems methodologically safe to

14. Consider the following case which resembles, but is not, a case of *accusing*. A wife confronts her late-returning husband, telling him that she knows he has been out on the town again, intending that he confess, but wanting his confession only as part of her general attempt to punish him by what she says. Here the wife can sensibly deny that she is accusing her husband of anything; she just want him to suffer as she has.
15. The logical sufficiency of my analysis of accusing is strongly suggested by the unequivocally accusatory character which certain tag-like expressions give to an utterance of the form 'He did thus and such'. Where a person seriously and literally says, e.g., 'You broke the lamp', she may be making an accusation, but the illocutionary identity of her utterance is not apparent from what she says. Nor does her utterance necessarily become more clearly accusatory, if she also makes known her adverse judgment of the lamp's destruction. However, if a person says 'You broke the lamp, surely you don't deny doing that?' and implies an adverse judgment of what she says was done, her utterance quite explicitly makes an accusation. A speaker, it seems, could not say and imply all that and still deny having accused somebody of breaking the lamp. Various appended questions can make explicit the accusatory character of an utterance: 'surely you don't deny doing that?', 'you will admit to that, won't you?', 'whatever could justify his having done that?', 'is there any excuse for that?', etc. In common, these appendages serve to make known a speaker's desire to have some party, addressed by the primary utterance, respond conversationally in a way indicated by the adjunct. The accusatory cast these tags give to utterances provides evidence that the conditions I have adduced as necessary to making an accusation are also sufficient.

suppose that underlying the ordinary concept of *accusing* is a practical paradigm in which the conceptual essentials of this illocutionary act are the rudimentary constituents of potentially successful performances. Attention now turns to that practical paradigm and the ends-means calculation which constitutes it.

Two questions present themselves in regard to the practical rationale underlying rudimentary cases of *accusing*. The paradigm cases of this illocutionary act are instances in which the accusation is directly addressed to the accused. There are, of course, many cases in which accusations are addressed to third party judges, but these are best understood as more complex variants on the basic paradigm.¹⁶ With respect to accusations addressed directly to the accused, one wonders, first, why is the accused supposed to respond to the charges levelled against him? Confronted, that is, by a person who apparently believes the accused has acted wrongly and who is manifestly disturbed by this belief, what reason is the accused expected to have for answering his accuser? And second, why is it necessary for the accuser to state that the accused did whatever he is accused of doing? This latter is particularly puzzling, for in stating her charges the accuser is telling the accused something which she must suppose he already knows. What could be the point to that? A satisfactory account of the practical constitution of *accusing* should support defensible answers to these two questions.

Consider the following conjecture about the practical calculation underlying our ordinary concept of *accusing*. Accusations, I submit, are typically made in circumstances where the speaker is certain that the accused did something which the speaker believes to be in the nature of an offense and where the speaker wants to give the accused a chance to respond to the charge but where the speaker supposes the accused will be

16. It might seem odd to take the case of accusation directly addressed as the practical paradigm for this illocutionary act. But that choice is strongly suggested by analysis. It can be true that an accusation was made even though no third party judge was addressed, but it cannot be true that an accusation has been made in the absence of an overt intention to secure an answering response from the accused.

reluctant or unwilling to discuss the matter. Such situations are common enough. Ms. Jones is certain that Mr. Smith broke the treasured lamp she inherited from her Aunt Maude; she strongly suspects that his actions were negligent at best; she is manifestly upset by her beliefs about Smith's actions; nevertheless, she wants to afford him the opportunity to explain or justify or excuse or voluntarily make amends for what she believes he did; and she reasonably expects that Smith will be reluctant to talk to her about his conduct. In these circumstances, the speaker may well believe that the offending party owes her an answer, and she may anticipate and/or encounter attempts to evade that obligation by the offender. Accusations, I maintain, typically are designed to impose an obligation to answer on potentially evasive offenders.

This conjecture offers a plausible answer to our first question, what reason is the accused to have for answering his accuser? Per hypothesis, the accused is to answer because he owes his accuser an explanation, apology, excuse, etc. This is an initially plausible view; were accusers asked why the persons they charge with wrong-doing are supposed to respond, commonly the accusers' answers would be on the order of 'Because he owes me an answer, if he has anything to say for himself'. More fundamentally, the plausibility of my hypothesis about the practical calculation underlying *accusing* can be seen in the fact that it attributes to accusers a coherent strategy, which can be implemented in favourable circumstances by the rudimentary means essential to making an accusation.

To understand the practical calculations underlying *accusing*, it is important first to notice that persons do quite commonly fall under an obligation to explain their behaviour. This often happens without any accusation having been made. A person *naturally incurs* an obligation to explain his behaviour where (a) his conduct causes another to be angry, upset, disturbed, etc., (b) the party taking offense is forbearing retribution, revenge, and so forth, while relying on the offender for an explanation of his conduct, and (c) responsive to the requirements of veracity it can be said

that the offender committed the offense.¹⁷ If Tommy breaks Bernard's window or if George spills his drink on Martha or if what Bill says about Henry turns out to be false and damaging, one is inclined to believe that the agent responsible for the harm has an obligation to rectify the situation – to replace the window, to mop up his mess, or to retract his statements as the case may require. It should also be noticed that the redressable damage resulting from a person's behaviour includes harmful beliefs, attitudes, doubts, etc., which may foreseeably arise in parties aggrieved by his conduct. If Smith breaks Aunt Maude's lamp, Jones may be angered, outraged, upset, disturbed, etc. by the fact that Smith destroyed her treasured possession. These states of disequilibrium are themselves harmful. If the offender has something to say in the way of an explanation or an apology which would redress that harm, then he will, under certain circumstances, have an obligation to provide his explanation, apology, or excuse. Very commonly when persons recognize that they have this obligation, they respond by providing an appropriate account of their actions. But it does happen that parties who are believed to have committed offenses sometimes (predictably) are strongly inclined to evade the burden of explaining their behaviour. Accusations are characteristically designed to ensure that the conditions under which the accused has an obligation to answer are satisfied, even if the accused tries to nullify them.

Various means are available for avoiding an obligation to explain one's behaviour, and the ramifications of accusing a person vary depending on the evasive tactics the accused might adopt. Perhaps the simplest way to dodge an obligation to explain one's behaviour is deny that one did whatever gives offense. Denials are a potentially efficacious means for evasion because they enable an offender to create a deficiency in the conditions under which

17. Professor Warnock (1971) argues, convincingly I think, that at least some kinds of obligation are incurred where: (i) it is foreseeable that others will suffer or will continue to suffer harm in the event the obligee does not act; (ii) others are counting on his acting in order to avert, prevent, ameliorate, or rectify that harm; and (iii) he must so act in order to avoid speaking or having spoken or even having acted falsely.

he would naturally incur an obligation to explain his behaviour. Suppose Jones asks Smith why the latter broke Aunt Maude's lamp, purporting thereby to have an explanation coming from Smith. If Smith is disinclined to explain the matter, he may respond, e.g., 'I don't owe you an explanation for that, I did not break your lamp'. By saying that he did not break the lamp, Smith generates a presumption of veracity on behalf of his denial. As long as that presumption stands unchecked, it is also to be presumed that Jones's beliefs about Smith's conduct are not the truth; the obligation to explain why Smith broke the lamp, which Jones believes Smith has, would then be void.

Rudimentary accusations are designed to counter the accused's (potential) denial by impugning his conduct. The accuser acts as though she has an answer coming from the accused. She is manifestly upset by the accused's conduct and is apparently relying upon him to relieve her distress by an explanation, excuse, apology, etc. To offset the accused's denial, she states her charge and would, thereby, have it presumed that she has made a reasonable effort to ascertain the truth about his conduct. In principle this presumption of veracity counter-balances the presumed veracity of accused's (anticipated) denial and, so, raises a question about his conduct. These accusatory actions are potentially efficacious means for imposing an obligation to answer on the accused. A person may fall under an obligation to explain his conduct even though he did not do what he is believed to have done, providing that a responsible effort to determine the truth could be expected to find that he committed the offending act. If Jones secures the presumption that she has made a responsible effort to determine that Smith broke Aunt Maude's lamp, then Smith's denial would merely avert the burden of explaining why he broke it and would leave him the burden of explaining the facts which cause Jones to be upset.

However, such efforts to impose an obligation to explain behaviour by impugning a person's conduct contain a potential and crucially important source of embarrassment to the accuser. Calling someone's behaviour into question causes him harm; there is something odd about the very notion of harmlessly impugning

a person's conduct. This harm is a potential source of difficulty for the accuser. The obligation she is trying to impose will hold only if she is refraining from retribution or revenge, but it can seem that she is causing the accused retributive harm by the very act of casting doubt upon his conduct. Accordingly, Smith could evade the obligation to explain his behaviour by protesting that Jones's allegations damage his good name. To avoid this potential embarrassment accusers temper their charges by engaging an auxiliary presumption of fairness. Accusations, that is, are typically designed to impose an obligation on the accused by impugning his conduct, while having it presumed that the accuser, nevertheless, is exercising forbearance in an effort to treat the accused fairly.

These conjectures about the practical rationale underlying *accusing* posit a strategy which, in favourable circumstances, a speaker could reasonably expect to implement using the means which analysis shows to be essential to speech acts of this kind. Clearly, by saying that the accused, e.g., broke Aunt Maude's lamp, the accuser can impugn the accused's conduct. In making that statement the accuser engages a presumption of veracity on behalf of her charge; that presumption would suffice to offset the presumed veracity generated by denials the accused might make and, so, would make it the case that a question had been raised about the accused's conduct. The essentials of *accusing* also afford means for engaging an auxiliary presumption of fairness. Recall that in addition to stating her charge, the accuser must openly give it to be believed that she wants an answering response from the accused. Here, as is rightly the case when a person openly gives it to be known that she is trying to secure a certain response, the speaker overtly incurs responsibility for her effort and for its foreseeable consequences. By incurring this responsibility, she makes herself vulnerable to criticism for unfairly causing harm to the accused should she receive an apparently adequate answer and, nevertheless, persist in her resentment of the accused's behaviour. It may be inferred (presumed) that, rather than inescapably subject herself to such criticism, the accuser is following a course of

forbearance and fairness.¹⁸ As long as this presumption of fairness remains intact, the accused will have an obligation to explain his behaviour even though the accuser has impugned the accused's conduct. In many (elementary cases) the prospect that this obligation cannot be displaced by mere denial is practically sufficient to deter a (false) denial and, so, leads to a confession, apology, justification, excuse, etc.

Turning to our second question about the practical constitution of *accusing*, it is now possible to see why the accuser must state that the accused did whatever she charges him with doing, even though she must suppose that he already knows what she is telling him. The conceptual necessity for an accusation-making statement is explained by the accuser's practical need to have it presumed that she has made a reasonable effort to determine the truth of her beliefs about the accused's conduct. Per conjecture, an alleged offender will have an obligation to explain his behaviour only if the accuser has good grounds for believing that the culprit did something which is in the nature of an offense. In order to impose that burden in the face of the accused's denial, the accuser needs to articulate her beliefs about what the accused did such that she openly takes responsibility for having made a reasonable effort to determine their truth. Wherever a person utters *p*, gives it to be believed that she believes that *p* and thereby openly takes responsibility for the truth of *p*, it will be true that she has said that *p*.¹⁹ Thus, in conjunction with a broadly Gricean analysis of statements, our hypothesis explains the logical necessity for an accusation-making statement in terms of the fact that to impose

18. The fact that *accusing* enables a speaker to engage a presumption of fairness seems to explain much of the usefulness of this illocutionary act as a means for approaching third party judges. Often the accused must depend on the intervention of neutral third parties to secure the answers she believes are her due. But others may be unwilling to become implicated in an offended party's demands for answers from the suspected offender. The presumption of fairness engaged in making an accusation enables the accuser to provide neutral third parties with reason to believe that she is committed to a course of forbearance and fairness.

19. For this Gricean analysis of saying something, see: Stampe (1967, 1975).

on an offender the obligation to explain his conduct one must do those things which make it true that one has said he committed the offense.

How, then, does the accuser ordinarily incur a burden of proof? This question carries us beyond the rudimentary case to more complex forms of evasion and more highly elaborated accusations. In rudimentary cases the accuser does not overtly commit herself to substantiating her complaint, and she may well secure a satisfactory answer without being called upon to prove her charges. So, how does the burden of proof enter this picture? To answer this question it is necessary to consider certain foreseeable complications which often beset the accuser's illocutionary efforts. Ordinarily, the accuser's probative obligations arise as a practical consequence of the commitments to veracity and fairness initially undertaken in making her accusations, and typically her burden of proof is generated by challenges and protests from the accused or his partisans which, given the accuser's initial responsibilities, obligate her to substantiate her charge. Recall that accusations do commonly occasion challenges, i.e., warranted demands that the accuser vindicate the fairness, truthfulness, and/or reasonableness of her charge. Challenges to an accusation can be raised in a variety of ways. Where Jones accuses Smith of breaking Aunt Maude's lamp, Smith might respond by saying, e.g., that he does not see how Jones could believe that he broke the thing. And he might add that he does not see why Jones is so upset about the loss. Here Smith would speak in an injured or outraged tone of voice which indicates that he expects Jones to withdraw the charge or substantiate it with reason and evidence. His first complaint addresses the truthfulness and/or fairness of the allegation; his second reaches beyond the allegation to challenge the reasonableness and fairness of Jones's beliefs about the harmfulness or wrongfulness of the conduct alleged. Often the tone of such challenges – the attitude manifest in raising them – is more strident: 'How dare you accuse me of that', 'You haven't a shred of evidence for that', 'That's the most unfair thing I have heard in a long time' and so on. Such challenges implicate a demand on the order of 'Prove it, if you can'. Often the accused

can easily provide a foundation for such potentially efficacious challenges to an accusation. To do so he need only secure a *presumption* of innocence, i.e., the presumption that he cannot discern responsible basis for the charge. The accused can generate this presumption simply by making some appropriate statement, e.g., ‘I don’t see how you could believe I broke the lamp’, ‘I don’t understand why you are so upset about the loss of that thing’, ‘Look, all I know is that I did not destroy your precious lamp’. If the accused makes some such statement, then as a matter of his presumed veracity it is to be supposed that he cannot see adequate basis for the accusation. This ordinary presumption of innocence is functionally similar to the standing presumption recognized in English and American criminal courts. A legal presumption of innocence, however, is far less widely available than its ordinary counterpart. The latter is not restricted to contexts in which it is directly mandated by rule or custom. The ordinary presumption of innocence is just a specific form of the presumption of veracity; in principle, it can be engaged wherever an appropriate statement can be made.

An accuser is not likely to credit the accused’s protestation of innocence; nevertheless, she often must expect that it will provide a basis for at least temporarily fending off her demand for an explanation from the accused. An ordinary presumption of innocence immediately casts reasonable doubt on the legitimacy of the accuser’s demands. If it is to be presumed that Jones cannot discern responsible basis in reason and truth for Smith’s accusation, then there is reason to doubt whether Smith is prepared to treat Jones fairly and truthfully in accord with the responsibilities Smith openly assumed in making his accusation. Given the nature of accusing, this doubt raises a question about whether Jones has any obligation to answer, and that question ramifies into reasonable doubt about whether Smith has any right to accuse Jones. Moreover, the presumption of innocence does not just ground doubts about the legitimacy of an accusation, it also provides a foundation for challenges which place the burden for resolving those doubts on the accuser.

Working from the responsibilities the accuser openly incurs in making her accusation, together with reasonable doubt about the legitimacy of the charge, *the accused can readily impose on the accuser an obligation to substantiate her accusation*. Confronted with a doubtfully legitimate attempt to impugn his conduct, which has been initiated by a party openly committed to treating him fairly, the accused need only give a few indications of his state of mind in order to warrant the demand that his accuser ought to substantiate or withdraw the charge. Given the circumstances, the accused may quite reasonably be disturbed by his doubts about the legitimacy of the charge and, without seeming to be unreasonable, can indicate that he is suffering this agitation. Moreover, since the accuser has openly taken responsibility for the fairness and truthfulness of her charge, the accused can, without appearing unreasonable, give it to be believed that he expects the accuser to relieve his distress by withdrawing the accusation or vindicating it. And finally, since the accuser openly led the accused to expect that he would be treated fairly and truthfully, the accuser will have acted falsely, if she does not make a reasonable effort to comply with the accused's demands. Thus, by challenging the accusation, the accuser can impose on the accused an obligation to substantiate the charge. If the accuser is then unwilling to meet this challenge, it can reasonably be asked, e.g., 'Who does she think she is putting herself above criticism like that?'

5. The Burden of Proof in Proposing Compared with Probative Burdens in Accusing

Reverting now to the central question raised at the outset of this essay: does the distribution of probative responsibilities in deliberative argumentation respond to considerations which differ fundamentally from those which govern judicial argumentation? Where deliberative argumentation arises from a proposal and where judicial discourse is initiated by an accusation, it is apparent that there are basic similarities between the genesis of proof burdens in these two spheres. In both *proposing* and *accusing*,

argumentative responsibilities are characteristically undertaken, in part, because circumstances of doubt, disagreement, distrust, or opposition stand to impair the efficacy of statements. In more favourable circumstances, the aims which typically lead a speaker to perform these illocutionary acts could be secured simply by making the requisite statements. *The problems which typically animate proposing and accusing arise because the presumption of veracity, upon which statements fundamentally depend for their efficacy, does not carry enough practical weight to fulfil the speaker's purpose in the face of doubt, disagreement, evasion, and opposition.* Moreover, there is a corresponding similarity in the design of these strategies. *Each is fundamentally calculated to augment a presumption of veracity by engaging a larger special presumption, and in each the speaker's argumentative responsibilities are incurred in connection with that larger presumption.* Again the details differ. The proposer generates a presumption regarding the merit of what she has to say; the accuser engages a special presumption of fairness; but in each case the larger presumption is characteristically designed to complement and lend needed weight to a presumption of veracity, and jointly these presumptions fix the speaker's argumentative responsibilities.

But beyond these basic similarities, there are deep differences in the genesis of probative responsibilities in *proposing* as contrasted with *accusing*. First, as noted above, there is an essential difference in how probative responsibilities are incurred in these illocutionary acts. The proposer openly takes on a burden of proof as part of what is essential to the performance of her illocutionary act; the accuser typically incurs probative responsibilities as a consequence of what she must at a minimum do to make an accusation. Second, a contrast should be noted in the nature of the actions typically performed by speakers in these two types of communicative exchange. The proposer characteristically tries to induce tentative consideration from her addressee; the accuser characteristically tries to impose an obligation on the party to whom she speaks. Thus, the inception of probative responsibilities in these two kinds of illocutionary act differ both

with respect to how the burdens of proof are incurred and with respect the nature of the considerations which generate probative burdens.

These contrasts ramify into important differences in the content of the probative responsibilities undertaken in these two kinds of illocutionary act – differences, that is, in the argumentative duties which the speaker incurs. In the course of generating her inducement to tentative consideration, the proposer establishes relatively clear criteria for assessing the apparent quality of her argumentation: it is to be well thought out and ought to take her addressee's interests into account. The test here is whether she can make it apparent that her proposal takes into account all those doubts and objections which merit consideration. The accuser's argumentation, on the other hand, must make it apparent that the accused (now) knows what the accused did which reasonably gives cause for offense. Were the accuser unable to show this, she would forfeit her right to make demands on the accused.

6. Some Matters for Further Thought and Investigation

The preceding comparison suggests the undesirability of using judicial conceptions of probative responsibility as models for deliberative argumentation. The following remarks are on the order of considerations which may merit further thought and investigation.

In the first place, it is no longer necessary to rely on judicial models to elucidate the distribution of proof burdens in deliberative discourse. It may be that Whately had little choice but to adopt the jurist's conception of presumption and the burden of proof as the basis for his discussion of probative burdens in argumentation at large. Today, at a time of greater analytical sophistication, it should be possible to identify the way probative burdens are undertaken across a variety of speech acts and, thereby, to reduce the tendency to reduce distinct spheres of argumentation to some preferred model.

Second, reliance on judicial conceptions of probative responsibility confounds issues regarding the considerations which underlie allocation of probative burdens with issues related to the procedural requirements of various forums. The judicial rule that persons are to be presumed innocent until proven guilty seems to be a procedural requirement designed to ensure fairness in courtroom argumentation which grows out of accusations. By its very nature, *accusing* leaves ample opportunity for errors which could impair the fairness of an accusatory exchange. A fair distribution of probative responsibilities in any particular ordinary case of accusation depends upon whether the contending parties foresee certain consequences and on whether appropriate protests and complaints are lodged. In criminal trials, where fairness is a paramount concern and very difficult cases abound, there is every reason to formalize accusatory proceedings with rules and precedents so as to minimize the possibility of error. However, given that proposers openly incur probative responsibilities as part of what is essential to their illocutionary efforts, it is not at all clear that a corresponding formalization has similar practical or procedural importance in deliberative contexts. Moreover, it does seem that maxims or rules which might be established to formalize probative allocation in deliberative settings ought to be formulated with a view to the peculiar requirements of deliberative forums and their need to distinguish between matters which merit consideration and those which do not.

Thirdly, the judicial model of presumption and the burden of proof seems to be misleading as regards the basic considerations which generate probative responsibilities in deliberation. Accusations give rise to probative burdens as a matter of sustaining a presumption of fairness in regard to the treatment of persons suspected of wrong-doing. Here a presumption of innocence is rightly understood as an advantage or protection afforded the accused in the interest of fairness. While important, fairness does not similarly predominate in the proposer's assumption of probative responsibilities. Here the generative considerations are respect for the prerogatives of self-reliant persons and presumptions concerning what matters merit serious

thought and attention. Typically, probative burdens are not a liability imposed upon the proposer to protect other persons; rather, the proposer characteristically undertakes probative obligations in order to create an opportunity for her proposition to receive consideration from persons whose prudence she respects. It would seem to be systematically misleading to construe factors which serve to create an opportunity as matters which make for a liability or an advantage for others.

Differences in the inception of probative responsibilities as between *proposing* and *accusing* also have wider theoretical implications for studies of argumentation. Since Whately, students of argumentation have been inclined to attribute greater homogeneity and unity to the norms governing argumentation than seems to be warranted. This tendency can be seen in the comprehensive program for studies of argumentation articulated by Frans H. van Eemeren, Rob Grootendorst, Sally Jackson, and Scott Jacobs (1993). Applying Grice's cooperative principle, these theorists hold that argumentation is ideally a collaborative activity in which the arguers' speech acts ought to be designed to secure a mutually satisfactory resolution of their disagreement based on the merits of the case. In the view of these scholars, the norms which properly govern argumentation ought be deduced from this idealized objective together with an understanding of what must be done to approximate this ideal in the actual circumstances of day-to-day arguments.

It is not easy to square this pragma-dialectical view of argumentation with the pragmatics of *proposing* and *accusing*. These speech acts generate normatively significant obligations which govern arguments and which fix standards for argumentative adequacy, but those standards do not seem to issue from a collaborative or otherwise cooperative effort to arrive at a mutually satisfactory resolution of disagreements based on the merits of the case. The proposer makes what she has to say available to her addressee as the basis for tentative consideration of her proposition, and one might be inclined to say that the addressee 'cooperates' by taking the addressee's utterances as a basis for tentative consideration. But the standard of argumentative

adequacy established by the act of *proposing* does not issue from this ‘collaboration’ regarding the merit of the proposer’s argumentation; rather that standard is set by her effort to induce tentative consideration. The proposer’s effort to induce tentative consideration is undertaken in the face of a presumption which implicates that the addressee is unwilling, or strongly reluctant, to cooperate in considering the proposer’s proposition. So, it is far from clear that the argumentative norms generated by *proposing* characteristically arise in the context of a cooperative exchange. Much the same point can be made about *accusing*. It might be suggested that the accuser and the accused cooperate to this extent: when discharging his probative burden the accuser is putting the accused in a position to answer the charge and, correspondingly, the accused is moving into position to make such a response. But this is not only an overly pretty picture, it also misses the point that the norm which governs the adequacy of the accuser’s argumentation is established in a communicative exchange which can hardly be described as cooperative or collaborative but is rather in the nature of a somewhat coercive effort to impose a duty on persons unwilling to cooperate.

7. Concluding Summary

This essay has compared the complex interactions between presumption and probative burdens in two kinds of illocutionary acts – *proposing* and *accusing*. In making a proposal the speaker characteristically undertakes a burden of proof in order to induce tentative consideration of propositions her addressee might otherwise be inclined to disregard. Typically, the proposer presumes self-reliance on the part of her addressee, she offers what she has to say on behalf of her proposal as the basis for testing whether her proposition is worth considering, and she openly undertakes a burden of proof in order to generate the presumption that what she has to say merits tentative consideration. The accuser typically tries to impose on the accused an obligation to answer her charges. To this end, she impugns the accused’s conduct, and

she tries to have it presumed that she is, nevertheless, prepared to treat the accused fairly. Given these commitments, the accused can impose a burden of proof on the accuser by challenging the accusation and protesting his innocence. Comparison of the strategies which respectively constitute *proposing* and *accusing* reveals significant differences in the content of probative obligations incurred in performing these illocutionary acts; moreover, the comparison argues against theoretical approaches which model probative responsibility in deliberation on legal concepts of the burden of proof. Fundamentally, the contrasts between *proposing* and *accusing* show two distinct uses of reason and argument; to reduce the one to the other unjustifiably trammels practical and theoretical understanding of the utility of argumentation.

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4.

Cicero's Authority

Jean Goodwin

On a stray planet in an out-of-the-way corner of the universe live odd beings with patterns of behavior odder still. It can be frequently observed that one of them stands before another, moving its limbs or producing some sounds, and the other responds—apparently quite as the first expected. But why? Why should these feeble motions have such force?

This puzzle or wonder is presented to us conspicuously in the phenomenon we know as authority. Authority is exercised most starkly in transactions similar to the following:

The speaker says: “Do [or, believe] this.”

Her auditor replies: “Why?”

And the speaker replies in turn: “Because I say so, that’s why!”

—and that seems enough said. Police officers might thus address traffic violators; parents, children; expert paleobotanists, the ignorant; and senior colleagues, junior. In each case, the speaker’s simply being who she is, and her saying something, is enough to justify or, indeed, compel the auditor’s response. This transaction seems doubly odd. We find here mere sounds exerting significant social force. Moreover, we find the participants themselves wondering about this force: They question authority. Political philosophers, after all, have doubted the legitimacy of political authority, and logicians have declared the appeal to authority a fallacy. Police, parents, experts, seniors—and those subject to them—all may deny that the words exert, or ought to exert, force.

So authority raises even more pointedly the basic question: Why, if at all, should one person's say-so force another to follow?

To answer this and similar questions must be a central task for rhetoric—at least when the mysterious arm waving or noise making occurs in a civic setting. Social scientific investigations of authority have, of course, offered invaluable perspectives on the psychological, cultural, and social contexts that support or inhibit dialogues like the one above. To pursue a rhetorical inquiry into the subject means to begin within the transaction itself (Black 1978, 134). In this essay, I propose to develop a specifically rhetorical model of how one person brings her authority to bear on another. I will attempt to account for why her being who she is, and the fact that she says something, leads so expectably to her auditor's doing what she wants. To put this another way, I will attempt here to lay out the practical reasoning that accounts for this dyadic behavior: the reasons why the auditor of the appeal considers himself forced to follow and (correlatively) the reasons why the speaker of the appeal can expect just this response.

The general subject of the persuasive force of persons was originally opened in classical rhetorical theory under the heading of *ethos*. This very inclusive concept Aristotle proposed to cover all the sorts of proof arising from the character or identity of the speaker (Rhet. 1.2.4). But the philosopher did not carry his insight much further, and the textbooks of rhetoric after his pioneering work were even less clear on this important topic (Wisse 1989, chap. 2.5). It was, instead, in the actual practice of civic oratory that an understanding developed about the diverse strategies available for deploying the force of character—including the strategy we call authority. It is, therefore, to the record of this practice that I turn.

In particular, I draw the transactions that form the basis for this study from the authorities on authority: the ancient Romans. Indeed, it was, as Hannah Arendt has noted, among the Romans "that the word and concept of authority originally appeared" (1993, 121). In his magisterial survey of classical rhetoric, George Kennedy placed the appeal to authority among the defining features of all Roman oratory (1972, 100–101). Richard Leo Enos

has gone on to demonstrate the intimate association of the Roman concept with all the other god-terms of Roman politics (Enos and Schnakenberg 1994, 203–4). And the work of James May (1988) has traced the appeal throughout the extensive corpus of forensic speeches surviving from the late republican orator, Marcus Tullius Cicero. In Cicero's discourse, we have rich evidence of Roman authority in action: his attempts as a "new man" in politics to avoid the authority of established leaders, as well as his attempts as a senior statesman to assert his own authority. So, to rephrase again the question driving this study: Why did Cicero and his citizen-auditors reasonably think bare words, when spoken by him, could compel judgment?

In the first two sections of this paper, I take up one particular Ciceronian transaction to reconstruct the practical reasoning that constitutes what I will call the authority of dignity. We may observe in this transaction the specific verbal moves through which authority is deployed and deflected; perhaps even more importantly, we can listen to the metadiscursive commentary as the participants in the transaction justify to each other why just these moves should or should not have force. From these two sources of evidence, and relying on our own sense of what, pragmatically, makes sense, we can unravel the complex reasoning that is occurring on both sides of the transaction. In the third section, I rearrange or represent this intricate practical reasoning, trying to capture what could loosely be called its shape and functionality in a general model of the authority transaction. In the fourth, I briefly consider whether authority thus modeled should count as a fallacy. And, finally, I close by considering extensions of the analysis developed here to political environments beyond that of Cicero's Rome.¹

1. When discussing Cicero and ancient Roman practice, I will employ, accurately, the masculine pronoun; in developing a more general model, I will use the feminine to refer to the speaker, the masculine to the auditor.

1. Asserting and avoiding authority in ancient Rome: The core of the appeal

Thanks undoubtedly to his own propaganda efforts, we see 63 B.C.E. as the climax of Cicero's career. Serving as consul, the highest office in Rome, Cicero expeditiously and nonviolently (except for five executions of questionable legality) suppressed the "conspiracy of Catiline," which had threatened the overthrow of the republic. It seems surprising, therefore, that, less than a year later, Cicero defended one Publius Cornelius Sulla against charges arising out of the man's alleged participation in the plot. The allegations were not improbable: A rich profiteer and nephew of Rome's most recent revolutionary general, Sulla had previously been convicted of electoral bribery and stripped of his own consulship. He could thus be counted among the abandoned men with little to lose who Cicero generally thought were drawn to conspiracy. But even more surprising than Cicero's advocacy is the substance of Cicero's appeal.² He makes a gesture at defending Sulla, walking through the evidence against him, idealizing his character, and arousing his auditors' pity. The weight of the speech, however—the first and last appeal, constituting over a third of the address—is on what Cicero himself repeatedly calls his *auctoritas*, his own authority (2, 10, 33, 35, 80). Indeed, in what May has called a "too blatant" manner (1988, 78), Cicero claims right at the beginning of the speech that his authority is sufficient to support an acquittal. If he proves, he says, something of himself, he will prove as well the case for Sulla (2).

What exactly is involved when Cicero appeals to his authority? The orator twice explicitly tells his auditors what he is going to do before actually going ahead and doing it. Early in the speech, he says what he is not yet saying in defense of Sulla:

2. I rely throughout on Berry's fine edition and commentary (1996) of the *Pro P. Sulla Oratio*. References to the speech identify the standard section numbers. Translations are my own; I have attempted to preserve Cicero's word choice and sentence structure at the cost of English elegance. The reader may also consult the complete translation by MacDonald (1989) in the Loeb series.

Many were the things I heard while consul, about the crisis threatening the Republic; many I searched into, many I followed up. But no mention of Sulla ever came to me, no suggestion of his involvement, no incriminating letters, no suspicions. Such an utterance should (perhaps) have great force—the utterance of a man who while consul investigated judiciously, published candidly and suppressed courageously the threats against the Republic, when he says that he heard nothing of Publius Sulla, never suspected him. (14)

Later, in the course of defending the appeal he will be making, he again informs his auditors what that appeal is:

It seems to be offensive that he who investigated the conspiracy, who brought it to light, who suppressed it, whom the Senate recognized with unprecedented expressions, for whom alone as a civilian a [military] thanksgiving was decreed, that he should say in court: “I would not defend him, if he had conspired.” I do not mean to say anything offensive, I only mean to say what in these conspiracy cases I can take on myself not on my authority but only from my sense of self-respect: I, the very man who was the investigator of the conspiracy and its punisher, certainly I would not defend Sulla, if I thought he had conspired. (85)

And at last, immediately afterward, he turns to say what he had said he would. Calling the gods themselves to witness, he avows: “Nothing did I while consul discover about this man, nothing did I suspect of him, nothing did I even hear about him” (86).

Let us examine these key passages to see what Cicero thinks are the essential facts from which the force of his appeal arises. Note first the references to what I will call Cicero’s anti-Catilinarian project. Cicero in each passage takes care to characterize himself and picks out the same details to do so. He defines or presents himself as a consul—the consul, moreover, who took responsibility for (in roughly chronological order) discovering that there was a conspiracy, investigating it, revealing it publicly, and taking action to suppress it. By the time of the trial, Roman public opinion had already begun to turn against Cicero’s handling of the affair and, in particular, against the executions of several conspirators (Cicero, *Pro P. Sulla Oratio* 27). Lest there

be any suspicion that he is now trying to disassociate himself from his former actions, Cicero elsewhere in the speech expressly reaffirms his responsibility for them (carefully avoiding, however, the question of to whom the executions should be ascribed). “At the top of my voice, so that all can hear, I say and will keep on saying” (33), Cicero proclaims, that he had risked his life to suppress the Catilinarians.

Cicero’s efforts against the conspiracy had met with remarkable success; his project, in other words, represents a significant achievement (*res gestae*, 27) by him for the public good. Although he does not express this thought in the three key passages, he does elsewhere in the speech prompt his auditors to recollect the dire consequences avoided by his efforts: “burning of the city, slaughter of citizens, devastation of Italy and destruction of the Republic” (33); loss of empire, liberty, lives, homes, and temples (86). And because of his achievement, Cicero deserves appropriate acknowledgment from his fellow citizens generally. Indeed, as he notes in the second passage, two unique public honors had already been granted him as tokens of recognition for his services. Certainly, therefore, his immediate auditors owe him comparable respect.

And how does Cicero’s desert relate to the present case? His defense of Sulla, Cicero stresses in each of the key passages, is part of the same anti-conspiratorial project. The same investigation that uncovered and thwarted the conspiracy revealed nothing about Sulla. So, Cicero’s judgment about Sulla deserves from his fellow citizens the same respect due to all his efforts. As he asks elsewhere, “If for the great services I rendered to the Republic I sought no other reward for myself from the Senate and People of Rome than an honorable retirement, who would not grant it? Others could keep their honors, their military commands, their provinces, their triumphs, all their other tokens of recognition; for my own part, I would be allowed to enjoy in peace and quiet the sight of this city I had saved.” What if he does not ask even for this?—Cicero continues—but instead stands willing to continue labors in service of the Republic (26)? What reward does he deserve then? Cicero does not answer this rhetorical question, for

the answer is clear: If he continues his project by defending Sulla, that defense continues to deserve respect.

To question Cicero's judgment openly would, therefore, be to show him conspicuous and unwarranted disrespect—indeed, it would be to insult him. Cicero nowhere even hints that his auditors might treat him thus, but it is clear that that is what he thinks the prosecutor in the case has done. The young man had raised a series of challenges to Cicero's defense of Sulla. The specifics of these challenges I take up in the next section; for now, look only to Cicero's general response. Cicero treats the prosecution as an affront and replies indignantly. "No one has ever touched me with the slightest suspicion, which I did not utterly put down, utterly explode" (46), he exclaims. But, he continues with "patronizing condescension" (May 1988, 74); given the prosecutor's youth and ill temper and their long-standing friendship, he is enduring the injury done him and will keep—for now—his oratorical weapons sheathed (47). Cicero will respect the young man's judgment, for, he says, "I think that you have established for yourself what you consider must be done" (50), suggesting that the prosecutor owes Cicero the same consideration.

Cicero's auditors, in sum, can reason with themselves thus: Cicero's judgment regarding Sulla, as part of his ongoing anti-conspiratorial project, deserves their respect. They may care to show this decision the respect it deserves, or they may at least want to avoid the consequences of showing disrespect, such as the indignation Cicero has shown the prosecutor or the disapproval the public in general might feel toward such impudent conduct. To show him respect, they must do nothing openly to go against Cicero's judgment in a matter connected with his project. But that is precisely what convicting Sulla would do. So this is the core of the appeal to authority: to show proper respect for Cicero, they must acquit the accused.

The force of the appeal arises from Cicero's desert—from the fact that he deserved a certain respect for his civic achievements. Latin had a term for this quality: *dignitas*, or "dignity" (from the large literature on this concept, see especially Hellegouarc'h 1963, 388–424; Pöschl 1989, 7–23). One of a rich vocabulary of

recognition terms (including also *honos*, *gloria*, *fama*, and *laus*, or “praise”), dignity meant for the Romans, as for us, a person’s worthiness to be recognized in the most basic sense. Aurel Kolnai comments:

It looks as if our response to Dignity is the purest “value response” (*Wertantwort*) as such: in particular, less stirring and less impregnated with delight than our aesthetic, less organically connected with approval and with any practical or deontic accent than our moral responses. If Dignity means “being worthy of . . . ,” the completion that most aptly suggests itself would seem to be “worthy of being appreciatively acknowledged as worthy to be thus acknowledged and appreciated, *sans plus*.” (1976, 253)

Gaining and maintaining such civic recognition was the life goal of every Roman leader. The republican system of offices allowed these ambitious men scope to achieve great things for the republic, thus earning the respect of their fellow citizens. The republic also rewarded them with tokens of respect—further offices, triumphs, honorary decrees, statues, their names on everything from the year to the laws. Even the Roman family system was formed so as to allow dignity to accumulate, as memorabilia of past achievements were passed down from father to son. And as was recognized by the Romans themselves (Cicero, *Inv.* 2.166), and confirmed by contemporary scholarship (Enos and Schnakenberg 1994; Hellegouarc’h 1963, 404; Pöschl 1989, 15), in the appeal to authority this most characteristically Roman resource was put to persuasive use.

We ourselves are not unfamiliar with the force of dignity. We hesitate openly to go against those worthy of respect; instead, we defer to their judgment—perhaps feeling rather old fashioned in doing so. For example, when a senior scholar speaks, someone whose achievements have formed the current state of a field, those present will avoid contradicting her. Even her mistakes will likely go uncorrected (to her face). It would be impudent to challenge such a person, although, of course, it is possible to launch a career on impudence.

We also may be familiar with the authority of dignity as original appeal *ad verecundiam*—"to shame" or "modesty"—isolated by John Locke (Goodwin 1998, 274–75). According to Locke, this *argumentum*

is to allege the Opinions of Men, whose Parts, Learning, Eminency, Power, or some other cause has gained a name, and settled their Reputation in the common esteem with some kind of Authority. When Men are established in any kind of Dignity, 'tis thought a breach of Modesty for others to derogate any way from it, and question the Authority of Men, who are in possession of it... Whoever backs his Tenets with such Authorities, thinks he ought thereby to carry the Cause, and is ready to style it Impudence in any one, who shall stand out against them. (1975, 4.17)

Locke, of course, thought this form of appeal flawed—a topic to which I will return in the central section of this paper. Of interest here are the details of the appeal Locke discusses: a form of authority based on public recognition, that is, "Dignity," which it would be "Impudence" to disrespect.

When we humor our seniors, though, we seem to be doing something less than following their authority. So, this discussion has captured part, but not the full force of, the appeal to what we may now with justification call the authority of dignity. In the next section, I turn to tracing how Cicero develops his core appeal into one that has the compulsive force we associate with authority.

2. Asserting and avoiding authority in ancient Rome: Designing the appeal

If we sense that authority should not have force, we share that intuition with the Romans themselves. To help refine our own understanding of the potential weakness of the appeal, we can look for the specific objections to Cicero's authority that are preserved in Cicero's speech itself. We can presume that the prosecutor, a reasonably competent speaker with much invested in his speech, will have discovered and pressed the key difficulties in what

Cicero was trying to do. Moreover, we can presume that Cicero would choose to answer the most damaging of the prosecutor's attacks. Look, then, to the salient weaknesses of authority as revealed by the speech itself.

The prosecutor's first move is to charge Cicero with inconstancy. Cicero had suppressed the Catilinarian conspiracy and had helped with the mopping-up by testifying against the surviving participants. Why, then, is he appearing now to defend another accessory to the crime? "You shouldn't be defending anyone charged with conspiracy" (48), Cicero represents the prosecutor as claiming. Cicero's conduct thus shows him to be a man inconstant and changeable (*inconstans et levis*, 10). Now, inconstancy, like any negative character trait, would serve to lessen Cicero's dignity or worthiness-of-respect and thus lessen his authority; in that sense, the accusation of inconstancy here might be interchangeable with any of the other insults commonplace at Rome (sexual impropriety, public drunkenness, interest in philosophy, dancing). The force of this particular vice, however, would seem to be a bit more pointed. Cicero's appeal depends on his judgment for Sulla being taken as part of the same project that made him worthy of respect. To say that Cicero is being inconstant is to say that his defense of Sulla is not part of that project, has likely not received the same care as that project, and does not therefore deserve any special deference from his auditors.

The initial charge of inconstancy opens a second line of attack. If Cicero's judgment about Sulla is not arising out of his project, then what is he doing demanding respect for it? He must be putting the worthiness he rightfully earned to use for an unworthy, merely personal, goal; he must be *abusing* his authority. The Romans had a special vocabulary for such abuse. As Cicero reports the prosecutor saying, "it is *regnum* ['kingly rule,' 'tyranny'] to speak against whoever you want and to defend whoever you want" (48; also 21, 22, 25, 27)—expecting, one supposes, others to defer to your arbitrary choice. As D. H. Berry notes, making the opponent's authority out to be tyranny seems to have been a commonplace technique in Rome (Cicero, *Pro P. Sulla Oratio* 177–78); Cicero himself used the ploy when as a

young advocate he confronted authority against him, and he faced the same charge repeatedly when as a senior orator he tried to deploy his own. The bite of the allegation harked back (at least in legend) to the pre-republican times during which Rome was subject to the unconstrained power of hated kings. To be a tyrant is not just to exercise power; it is to exercise an illegitimate and unconstrained power. If Cicero's judgment about Sulla is just his arbitrary—perhaps even purchased—choice, and is not based in his ongoing anticonspiratorial project, then his demand for respect would be just this sort of tyrannical abuse of power.

The seriousness of the twin charges of inconstancy and abuse of power is suggested by the restrained and careful way in which Cicero deploys his authority in defending Sulla. When he announces his opinion, he acknowledges that what he says may be offensive (80, 85). When he defends his dignity, he excuses his numerous self-references by claiming that the prosecutor has forced him thus to defend himself (2, 10, 35, 80). And when he says he will rely on his authority, he admits he will do it only hesitantly and with restraint (10, 80). All this suggests that Cicero was conscious of the difficulties and, as Berry put it, that “he knew exactly how far to go” (Cicero, *Pro P. Sulla Oratio* 294). But it does not yet show how he resolved the problems. If his appeal to authority was successful in this case (and we do know that Sulla was acquitted), and if, moreover, the appeal was routinely successful enough to justify being given a name in ordinary Latin, then we can presume that there were means available to speakers to meet the objections. In the following paragraphs, I tell a story that, although it may not represent the process by which this or any other speech was actually designed, provides an account of how the design features of the complete appeal to authority work to assure auditors that the speaker is neither inconstant nor abusing his power.

Let us start with a baseline case: a rhetorical transaction that proceeds with no design features, no speech at all. It is, in fact, possible for authority to be effective even in silence. If it is common knowledge what a man of great dignity wants in a particular case, his auditors will have reason to show him respect

by deferring to his judgment. (After all, this is how the *exempla* of the honored dead could be thought to exercise *auctoritas* [Hellegouarc'h 1963, 303].) In this situation, does the authority give the auditors any security that his opinion deserves that respect? The answer is clearly no. The silent man of dignity is under no pressure to use his dignity with care, for if it later turns out that he was wrong, he can simply deny that he ever even tried to exercise, much less abuse, his authority. In an early speech, we find Cicero crafting just such a denial for a senior statesman. Cicero was defending a man most of his auditors thought already convicted in the judgment of (by chance) his later client's uncle, Lucius Sulla Felix, the just-retired but still leading man in Rome. But the senior Sulla, Cicero carefully explains, was far too busy with his general project of running public affairs to concern himself with this minor matter (*Rosc. Am.* 21, 130–31); moreover, the facts were being concealed from him by a wicked henchman (25–26). Cicero's account of the senior Sulla's position may or may not have been accurate. Given the man's silence, however, the claim is at least colorable. So, the authority can be reasonably assured of evading blame for inconstancy—with a sloppy, or ill-informed, or even corrupt judgment on the case—because he never gave an undeniable sign of his involvement.

The deniability of such silent authority should be enough to raise the auditors' suspicions that authority is being abused and thus give them reason to resist deference. Note, however, that the same denial that is available to the speaker in such a transaction is also available to the auditors. Should they openly go against the authority and find themselves blamed (by him or by the onlookers generally), they will be able to claim that they were not showing him disrespect, for they did not know that he was involved at all. The auditors can be reasonably assured of avoiding any appearance of insulting a silent authority; thus, what I have called the core force of the appeal is here substantially diluted.

There is, of course, an easy solution to limit these mutual denials: the authority must design an action to indicate his involvement conspicuously. The Roman court system allowed a convenient way to do this. By convention, those supporting one

side at a trial would join the advocates on the benches arrayed before the jury. (Other signals could suffice in other contexts, as, for example, those going first in a deliberative assembly could exercise *auctoritas* by their votes [Hellegouarc'h 1963, 303].) Throughout his speech for the younger Sulla, Cicero points out to his auditors the eminent men who had thrown in their lot with his client: "these leading men and most illustrious citizens, whose commitment and dignity make the court crowded, the case notable and the innocence of this man protected. For laying things out in an oration is not the only mode for a defense; all who are present, who trouble themselves, who wish him safe come to his defense by their conspicuous adherence and authority" (4). Does an authority's mere presence or other conspicuous sign suffice to assure his auditors that he is not being inconstant? The authority cannot, in this case, deny that he is involved. But he still has an excuse and will thus be able to avoid blame. There are many reasons for joining the accused on the bench; one might be present in pursuit of a civic project or, with equal legitimacy, one might be present for friendship or for pity. Cicero is forced to suggest just such an excuse on behalf of those who joined his client on the bench, for they had, alas, also appeared with the arch-conspirator, Catiline (81). Indeed, Cicero jibes, the prosecutor's own father has to excuse himself for once appearing on that villain's behalf:

He as consul represented Catiline in a bribery case—Catiline, a scoundrel, but a suppliant; perhaps abandoned, but once a friend. When he was lending him a hand, after that first conspiracy was reported to him, he indicated that he had heard something of the matter, but had not believed it. But if your father even when he had an inkling of his own peril was led by his kindness to honor the defense of this most wicked man with the pomp and circumstance of his person and office, why should the former consuls [sitting here] who were also involved be criticized? (81)

If presence (or other sign) is thus open to interpretation, the speaker signaling his involvement will later be able to avoid blame if it turns out he was trying to act abusively. His auditors still have been given no reason for trusting his constancy.

And again, the excuses are mutual, not only raising the auditors' suspicions, but also weakening the authority's force. The auditors, for their part, will be able to avoid blame for the potential insult of going against the authority by claiming that they themselves were mistaken—they thought the man of dignity was just present as a friend, ignorant of the defendant's crimes. But if they can thus go against the man of dignity without insulting him, the force of his authority will have been diluted.

To limit, finally, this symmetrical weakness in the appeal, the authority must design what he does in a way limiting the possible interpretations of his conduct—not only signaling that he is involved, but also making evident *why* he is doing so. And this is what the authority's say-so accomplishes. In defending Sulla, Cicero puts great weight on the three expressions of opinion quoted at the beginning of this analysis; they are highly figured passages (Berry finds in the first a “tricolon, tetracolon, anaphora, homoeoteleuton and polyptoton” [Cicero, *Pro P. Sulla Oratio* 160]) that Cicero expressly marks off as his “utterances” (*vox*, 14) or signals with an illocutionary force indicating device, that is, saying that he is saying (*dico*, 85; *testor*, 86). In all three, he both states his judgment of Sulla's innocence and explicitly claims this judgment as part of his ongoing project. And by this explicit say-so, he at last gives his auditors some assurance of his constancy. If it is later discovered that Cicero did not take care in making this judgment, he has now put himself in a position to be held accountable for abusing his authority. As Berry says, Cicero's defense of Sulla put him “at great personal risk,” for his “reputation is here in jeopardy as in no other speech” (Cicero, *Pro P. Sulla Oratio* 42, 62). Knowing this, Cicero has strong reasons not to abuse his authority, but instead to exercise the same care in judging Sulla that had been so successful in the rest of his anticonspiratorial project. The orator himself explains this to the jury: “When my highest honor is at stake, the unique glory of my achievements—when the memory of the salvation won through me is renewed each time someone is convicted of conspiracy—would I be so mad, would I allow it to appear that everything that I achieved for the safety of all I accomplished more by accident and

chance than by virtue and good judgment?" (83; see also 10). No, his auditors can believe, he would not thus risk his dignity except for a good cause. So, from his say-so they have reason to trust that he is using the same judgment now as before, and thus that he is not abusing his authority.

And we find a final mutuality here as well. The same say-so that eliminates Cicero's excuses also eliminates his auditors'.³ If they now go against his judgment, they will not be able to claim ignorance or mistake; they will unavoidably be showing him disrespect. By expressly speaking his judgment and claiming it for his project, therefore, Cicero imposes on his auditors the full force of his dignity.

There may remain further weaknesses in the appeal to authority. For example, Cicero's auditors may think that he still could offer excuses should new evidence later show his opinion to have been wrong. These excuses, too, he might want to disavow in advance, perhaps by further crafting his appeal to assert that he left no relevant source unconsulted. But the complex story I have told suggests that, with his explicit say-so, Cicero has said enough to resolve at least the most salient general objections against his appeal to authority. I step back now from reconstructing this particular rhetorical transaction to consider a more general model.

3. Toward a more general theory

At the core of Cicero's appeal to authority we found a basic transaction: to avoid insulting a man of great dignity, his auditors must not openly oppose him. In order to secure this basic transaction, Cicero must design what he says both to put his

3. Berry suggests that Cicero's argument is circular: that he tries to prove his client's innocence by his authority, his authority by his integrity, and his integrity by his client's innocence (Cicero, *Pro P. Sulla Oratio* 293). The analysis here suggests that it would be better to say that, as finally designed, Cicero's say-so accomplishes two things simultaneously. As Cicero himself puts it, he employs his express utterance both to defend his constancy and to bring his authority to bear (*utor hac voce*, 14).

auditors in a situation such that the insult will be inevitable and simultaneously to give them assurances that his judgment is trustworthy. To rephrase this more generally—that is, to sketch a general model of authority—the speaker exercising authority proceeds by “blackmail” and by offering a “bond.” I will take up these two aspects in turn.

Cicero, in defending Sulla, gives the jury some reasons for thinking his client uninvolved in the conspiracy and spends some time refuting the reasons offered by the prosecutor. However, as has been noted by theorists as otherwise diverse as Arendt (1993, 93) and Robert Paul Wolff (1970, 6), authority must be distinguished from such persuasive argumentation. When exercising authority, the speaker does not *give* reasons so much as *create* them. That is, she directly modifies the world in such a way that she changes the courses available to her auditor. After she speaks, if her auditor does not follow her judgment, he will be showing conspicuous and inexcusable disrespect for her dignity. In a society that values respect for dignity, the speaker can presume that her auditor will not so insult her; the speaker relies on the auditor’s sense of shame to prompt him to give a worthy person her due, or at least on his fear of the consequences of open disrespect—most notably, the consequence that he will appear conspicuously impudent. Thus, the speaker’s say-so serves as a way to back her auditor into a corner where he will have only one reasonable choice—hers. The appeal to authority can be analogized to pulling a gun, or, somewhat more civilly, to blackmail. The blackmailer threatens to do something to make life unpleasant for her victim if he does not do as she wishes, often by revealing publicly something disreputable about him. She changes the futures her victim faces, thus forcing his decision in the direction she desires. In appealing to authority, the speaker creates a situation that is similarly portentous.

This seemingly sordid transaction actually is of some significance for theory—meaning here the theory of argumentation now being pursued by several disciplines. As Ralph Johnson (2000) has recently noted, argumentation theorists have tended to identify the mental process of inferring with the social process of

arguing: the reasoning within a person with that between persons. According to this assumption, the reasons we give others will look more or less the same as the reasons they would use if we left them to themselves (and if they were thinking straight, of course). The force of such reasons is independent of their being spoken. But the appeal to authority seems to work quite otherwise. In this case, arguing (loosely) and thinking are deeply asymmetrical. Unless the speaker says something—indeed, something rather particular—her auditor will find it easy to avoid her authority. So the appeal to authority is what we could call a specifically *rhetorical* form of argument: one whose full force depends upon its being uttered.

Even as she corners her auditor, the authority also gives him reason to trust her judgment, and this, as Arendt (1993, 93) and Wolff (1970, 4) point out, distinguishes authority from violence or power. By the same say-so that makes her auditor's noncompliance a conspicuous insult, the speaker stakes her dignity on the correctness of what she says. To the same extent that she eliminates her auditor's wiggle room, she eliminates her own. If things turn out badly, the speaker has put herself in a position to be held responsible for that outcome. Indeed, her punishment will be swift and sure. For even as dignity is granted by the recognition of her fellow citizens—that is, the very people she is addressing—it can be taken away by them; each has in his hands the power both to judge the ultimate correctness of her judgment and to penalize her with open disrespect if she is wrong. In a society that values maintaining dignity, the auditor can presume that the speaker will want to avoid this result, either because she cares about her dignity for itself or, at least, because she values what she can do with it. In sum, in appealing to authority, the speaker offers her dignity as a hostage for her judgment, wagers it on her judgment, or, to use another analogy, posts it as a bond guaranteeing the correctness of her judgment ("guarantor" is one technical meaning for *auctor* [Heinze 1925, 351; compare Kauffeld 1998, 33; Hellegouarc'h 1963, 296]).

Again, this aspect of transaction is of some interest for theory. It is a very general problem for every speaker that her talk is cheap. She knows her auditor will recognize that her appeals are directed

to induce him to respond in some way beneficial to *her*. But why should she expect him to think that responding in that way will benefit *him*? Quite the contrary: a prudent auditor can be expected to waste no time even considering another's attempt to influence him.⁴ Because of this, the speaker needs strategies to earn attention (or other responses)—strategies to make talk *costly* for her. In his "Presumption, Speaker Responsibilities, and the Efficacy of Communicative Acts" (1998) Frederick J. Kauffeld has followed Dennis Stampe (1967) and H. P. Grice in arguing that precisely such a strategy is what constitutes the basic speech act of saying something. In saying something seriously, the speaker openly takes responsibility for the truth of what she says; she puts herself in a position to be held accountable if it turns out it is false. This licenses her auditor to presume that she is speaking veraciously and thus to take what she says as true, since he can reason that she would not leave herself open to criticism unless she had reasonably investigated the matter, was speaking truthfully, and so on. The appeal to authority would seem to be a development from this basic strategy. When she deploys her authority, the speaker openly puts her dignity at risk; in a society that values dignity, this will generate a correspondingly strong presumption that what she says is true.

In the appeal to authority, blackmail is linked with bond: the speaker stands to lose the very resource—dignity—that gave her the power to corner her auditor. This means that the speaker's say-so prompts both parties to the transaction to make interlocking calculations about each other's calculations about dignity. The authority can safely risk her dignity, because she can expect her auditor to follow, because she knows that he will want to avoid risking insult to her dignity and that he will be able to trust her judgment, because he (the auditor) can expect her (the authority) to take the trouble to get the judgment right, because he knows that she will want to avoid serious risk to her dignity. Where dignity

4. As, in fact, we do ignore much advertising. I oversimplify; for recent and relatively plain language reviews of the capacities and incapacities of "cheap talk," see the articles by Farrell and Rabin (1996) and Austen-Smith (1992).

is great, the penalties both sides face are substantial and each will find the other's behavior highly predictable. There is only one happy way out: for the speaker to judge well, for the auditor to follow.

The theoretically interesting point here would be to see how much of the persuasive force of civic hand waving and sound making can be accounted for by such interlocking calculations about others' calculations—by what the game theorists have termed *strategic rationality*. I leave that large topic to other occasions.

If this general model is accurate, then any transaction with the blackmail-and-bond shape should be recognizable as form of authority. Consider, for example, what could be called the "authority of manifest strength" (or, "of fear"). In his maiden deliberative address, Cicero argues that the Roman general Pompey should be given command of a particularly troubling police action on the Roman frontier. One reason Cicero offers for the appointment is Pompey's great *auctoritas* (*Leg. Man.* 43–46; see Heinze 1925, 355). Given the man's reputation for success and the impressive army with which he will be equipped, he will not find it necessary to fight; the enemy will simply give in after he is appointed. Why can these capacities be called *authority*? A man (or country, or alliance) of manifest strength can reasonably expect a small country to roll over once he has committed himself to a certain course. For the threatened country should legitimately fear being crushed, knowing that after trying to throw his weight around, the man (or country, or alliance) of manifest strength will be forced to exert that strength—and possibly to reveal its weakness—in order to preserve the appearance of strength—a transaction with which we ourselves are familiar.⁵

5. In the debate—taking place as this paper was written—surrounding NATO's bombing of Serbia for "ethnic cleansing" of Kosovo, it is most commonly being argued that continued military action is (or is not) required to secure NATO's "credibility"—a perspective that tends to emphasize the (respectable) "bond" over the (unappealing) "blackmail" aspect of the transaction. Yet, it is still possible to say, for example: "The Serbs' bloodlust appears to have increased in direct proportion to the air strikes. But

There are, of course, yet further forms of authority; in particular, the authorities exercised by experts and by those with a power to command (Goodwin 1998, 272–73). It would be an interesting test of the blackmail-and-bond model to see if it could provide an account of the transactions through which these familiar authorities are exercised—interesting, but not one that I will attempt here. Instead, I want to raise the unavoidable question: Is the authority of dignity, as the best authorities have long held it, a fallacy?

4. Is the authority of dignity a fallacy?

As Joseph Raz notes, philosophers and social theorists have typically claimed that following authority is unreasoning—that it involves some sort of surrender of judgment (1985, 6–8). The model developed here should put that idea to rest. Everyone in an authority transaction is reasoning, reasoning quite complexly. We can still ask, nevertheless, whether their reasoning is in some way flawed. After listing the authority of dignity as the first of his *argumenta ad*, Locke goes on to conclude that “it argues not another man’s opinion to be right, because I, out of respect, or any other consideration but that of conviction, will not contradict him” (1975, 4.17). To apply this to the transaction we have been considering, we might say that the fact that Cicero is a man of great dignity, and the fact that he says Sulla was not a conspirator, do not support the conclusion that Sulla was indeed not a conspirator.

But this seems an overstatement. As we have seen, the authority has indeed given her auditor good reason to presume that what she says is the case. In appealing to authority, the speaker stakes her dignity on her opinion. This licenses her auditor to infer that, to avoid losing dignity, she has exercised care to secure her beliefs. Unless we are to exclude presumptions from our inventory

the answer, as problematic as it might appear, is not to halt the air strikes. That would make a hero out of Slobodan Milosevic, at least in the eyes of his minions. More importantly, it would vastly undermine NATO’s integrity, authority and power” (“Now Justice” 1999; emphasis added).

of allowable inferences—which would be unhappy (Kauffeld 1998, 1–3)—this sort of bond does “argue,” to some extent, the speaker’s “opinion to be right.”

Furthermore, we need to read Locke carefully. By appealing to authority, the speaker is not trying to persuade her auditor that her “opinion [is] right.” Instead, she is trying to persuade him to a certain action: the action of *following* her authority, which in this case means, as Locke puts it, “not contradict[ing]” her. The auditor of the appeal can still believe whatever he thinks justified; the appeal only forces him to act in a certain way—and that, only in public. Deferring to the authority’s face is not incompatible with laughing at her behind her back, or worse. Erving Goffman, always a fine observer of transactions, notes just this shadow side of authority in contemporary life:

The central example in Anglo-American society, practiced primarily by children, consists of sticking out the tongue or putting thumb to nose after someone whose authority has had to be accepted turns from the encounter in which the authority was expressed. I believe these two conventionalized acts give children not merely a device by which to vent their feelings against authorities, but also, and perhaps mainly, an opportunity to practice what will be a life-long circumstance of social activity—an ecological division between what can be seen about oneself and must therefore embody certain standards of propriety, respect, etc., and what is shielded and therefore relatively free. (1971, 153)

Now, as Richard Whately once pointed out, an authority might still face criticism if she attempted to deceive her auditor—tried to make it appear that her dignity justified not deference to her, but acceptance of her proposition (1975, 193). Or, as Whately argued elsewhere, she might be acting wrongly if she tried to take advantage of the penumbra of her dignity, say by drawing on her auditor’s deferential feelings or habits without fully committing her dignity to the outcome (1963, 118–24). But as long as she proceeds “plainly, and *avowedly*” (1975, 193), her say-so does seem to provide sound practical reasons for her auditor to defer.

Our doubts about the appeal to authority do not seem to arise from the reasons that constitute it. Questions about the epistemic soundness of the reasoning resolve instead into questions about the normative or ethical soundness of the authority transaction (see similarly Walton 1998; van Eemeren and Grootendorst 1992).

There does seem to be something awry about deploying authority. We might feel the appeal to be coercive, constraining, a form of duress. We might feel the authority herself intrusive, interfering, overbearing. The ancient Roman teacher of rhetoric, Quintilian, captures this sentiment: “Another form of arrogance is displayed by those who declare that they have judged the case for themselves, which they would not otherwise have undertaken. For the jurors give but a reluctant hearing to such as presume to take over their function, and the orator cannot hope that his opponents will regard his *ipse dixit* with the veneration accorded by the Pythagoreans to that of their master” (*Inst.* 11.1.27; trans. modified). Something like this uneasiness is what made the charge of tyranny plausible at Rome and makes the analogy to blackmail attractive now. But as we have seen, the appeal to authority contains an answer to the tyranny objection, and the analogy to blackmail turns out inadequate on precisely this ground. Blackmail involves threatening something *wrongful*—something perhaps legal, but still criticizable on some moral grounds (Katz 1996, 157–63). In appealing to authority, however, the person of dignity has done nothing wrong. She has done only what she has a right to do, that is, to state her opinion on a matter of concern to her (“within her project”). It is not her fault if her auditor feels forced to respect her. Indeed, respect is what she *deserves*. Thus, when the prosecutor charged, “it is tyranny to speak against whoever you want and to defend whoever you want,” Cicero replied, “[o]n the contrary: it is slavery not to speak for or against as you choose” (48; see also 21, 25).

I am conscious that I have done no more than survey some of the issues here. But I hope it is enough to suggest that the appeal to the authority of dignity is, at least, not conspicuously unsound, epistemically or ethically, that it is not a fallacy.

5. Extensions

If there are no ethical problems—at least in general⁶—with the authority transaction, our concern, instead, might be with distribution of the resource, dignity, which grants to some more than others the opportunity to demand respect. (As, for example, even if such exploitation is not strictly speaking coercive, we might still criticize the overall distribution of wealth that allows sweatshop owners to do what is their right and offer sweatshop wages to desperate workers; see Wertheimer (1987, esp. chap. 13) for this sort of argument.) To take up this challenge requires a shift from the relatively “universal” and specifically rhetorical perspective from which I began, considering instead the sort of local psychological, cultural, and social conditions within which the authority of dignity may flourish or decay. At the risk of showing myself “badly brought up, overbearing, or suffering from some other human failing” (Aristotle, *Rhet.* 1.2.7), I close by speculating about the political environments for this rhetorical transaction.

The institutions we maintain to provide contexts for our transactions indeed suggest that we are concerned to restrict the authority of dignity. Our use of the secret ballot, for example, can be viewed as an attempt to limit the power of dignity (and other influences, such as bribery) in civic decision making; as Cicero complained, it allows deciders to keep their “faces open, thoughts hidden” before their betters (*Planc.* 16; see also *Leg.* 3.33–9). Modern courts have also tried to limit the persuasive force of

6. There are special situations in which the ethical problems still need to be sorted out. For example, even if the appeal is not criticizably coercive in the basic two-person case, it may become suspect when a third party's rights are involved. Cicero deserves respect from his immediate auditors, but they as jurors have further obligations (perhaps to the public in general, to the prosecutor, or to the accused). In that case, it may be that Cicero, by appealing to his authority, is indirectly treating these third parties unfairly, or it may just be that the jurors have conflicting reasons for action that they will need to deal with somehow.

persons by adopting a rule prohibiting advocates from personally endorsing the guilt or innocence of the accused.⁷

These and other institutional arrangements may indicate that we share something like Locke's doubts, writ large. Allowing to the dignified a greater role in civic life than to the undignified seems both unfair and unlikely to produce good decisions. On the contrary, we now try to maintain what Michael Walzer has called "the society of misters" (1983, 258) or what Charles Taylor has described as the regime of "citizen dignity" (1992, 27), in which everyone has an equal, but only an equal, claim to respect. Within such a system, no one is able to accumulate sufficient civic standing to demand extra deference. Let us take the persons out of politics, we seem to be telling ourselves; let our decisions be based on substance, not social context; let us distinguish between who a person is and what she says; let her enter the public sphere simply as one, equal citizen.

So, is the authority of dignity of only archeological interest? No. Dignity and the transactions informed by dignity continued after Cicero to find a home within the loose cluster of political commitments known as the civic republican tradition. Carrying forward specifically Roman conceptions of politics (Skinner 1990, 126–33; Pettit 1997, 19–20), this tradition long held a system of unequal dignity not entirely unattractive. Republican thinkers endorsed the first invisible hand theory, claiming to harness the desire for recognition in service to the public good (Pocock 1976, 517–19; Hirschman 1977, 9–12; Pettit 1997, 223–29). As Douglass Adair put it, "[T]he love of fame is a noble passion because it can transform ambition and self-interest into dedicated effort for the community, because it can spur individuals to spend

7. "A lawyer shall not... in trial, allude to any matter that the lawyer does not reasonably believe is relevant or that will not be supported by admissible evidence, assert personal knowledge of facts in issue except when testifying as a witness, or state a personal opinion as to the justness of a cause, the credibility of a witness, the culpability of a civil litigant or the guilt or innocence of an accused" (American Bar Association 3.4[e]). Also see Frier's paper (1997) on the relationship of classical ethos to this contemporary "rule against vouching."

themselves to provide for the common defense, or to promote the general welfare, or even on occasion to establish justice in a world where justice is extremely rare" (1974, 12). Now, a system that encourages the pursuit of glory must occasionally pay off, granting the ardent few an extra measure of public regard—and, we must think, the extra authority that goes with it. But again, this is not entirely unattractive. Such a system entrusts the instruments of persuasive force to those who have proven conspicuously successful at civic affairs, constraining them meanwhile to act with care and putting them in a position to be held responsible should things go wrong—just the sort of political force that Philip Pettit has recently argued is appropriate within a republican regime (1997, esp. chap. 7).

There may, further, be room for something like Cicero's authority even under conditions of equal dignity. An insistence on *equal* dignity both constrains and enables: While no one may have more, everyone must have the due measure. In what Taylor (1992) has called the contemporary "politics of recognition," individuals and groups lay claim to receive this due. A demand for respect of equal dignity may be experienced as just as forceful as Cicero's demand for respect of preeminence, and the design of the demand may require as much cunning and elegance as the old orator brought to bear. In the lunch counter sit-ins or voter registration attempts typical of the struggle for civil rights in the United States, for example, the protesters presented themselves bodily in an ordinary social situation. They put the onlookers in a position such that, if they failed to accord the protesters basic respect, they would be acting conspicuously badly. At the same time, they put their own dignity on the line: If they lost self-discipline, they would lose their claim for respect—thus the protesters' commitment to what they called nonviolence.

In pointing to a contemporary transaction with recognizably the same shape as the authority of dignity, I have no interest in diagnosing our politics as "civic republican" as opposed to "Lockean/liberal." Instead, it is my hope only that further and close attention to our rhetorical transactions—especially those

dependent on dignity—may help us to continue to articulate concerns our political theories have rendered mute.⁸

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5.

A Normative Pragmatic Model of Making Fear Appeals

Beth Innocenti

Broadly speaking, it seems plausible to say that fear appeals are designed to induce action—to generate persuasive force for addressees to act in order to avoid a fearful outcome (Walton 2000, 1–2, 20, 22, 143; Witte 1994, 113; 1992, 329). Because a fear appeal is a kind of argument about harmful consequences, and because arguments about harmful consequences are commonplace in deliberations, fear appeals are practically inevitable in civic discourse. And, as some scholars have recently confirmed, making fear appeals may be appropriate in civic discourse (Walton 2000, 139; Pfau 2007, 228). The challenge is to explain how they generate persuasive force—how they reasonably pressure addressees to act as the speaker advocates.¹ The stakes are high; playing on citizens’ fears may result in poor decisions with dire results.

Leading models of fear appeals have involved two kinds of approaches, social scientific models that explain why individuals may or may not be persuaded by a message and humanistic models that explain what kinds of messages speakers ought to design in order to meet normative criteria. The problem is that these models do not capture the dynamic nature of rhetorical transactions—the interaction—and, consequently, they provide limited accounts of the persuasive force of fear appeals in civic deliberations. They

1. On this sense of “persuasive force,” see for example Goodwin 2001; 2002, 91–94; Manolescu 2005, 140–42; and especially Kauffeld 1995, 1998.

locate persuasive force primarily in internal states, such as addressees' cognitions or emotions. In doing so, they omit key parts of rhetorical transactions such as the speaker, message design, and bilateral communication vectors. The normative pragmatic model proposed here offers a more complete account by describing persuasive force in terms of strategies speakers use to design fear appeals. Put simply, fear appeals are designed to make manifest that the speaker has made a responsible assessment of potential fearful outcomes and how to address them and forestall criticism for poor judgment or fearmongering. Persuasive force is generated by message design features such as the claim that harmful consequences will occur unless addressees act as the speaker advocates, the presenting of grounds, and the use of intense language and is located in risks and commitments that these design features make manifest.

To support these claims, I briefly overview how a normative pragmatic model describes rhetorical transactions. I then detail three leading models of fear appeals and point to characteristics of rhetorical transactions that they account for in a limited way or not at all. Finally I make a case for a normative pragmatic model of fear appeals. In the course of discussing other models as well as illustrating and supporting a case for the plausibility of a normative pragmatic one, I also analyze how speakers design fear appeals, turning to the 1787 debates in Virginia about whether to ratify the proposed United States Constitution. Since many of the issues the participants debate center on the topic of harmful consequences—the potential harms of ratifying the Constitution or not—fear appeals are at times rampant. The three-week span of the debates, the almost equal support for and against ratification, and the high stakes contribute to the frequency and intensity of fear appeals and of comments about making fear appeals. Because the debates take place within a well-circumscribed amount of time and in a well-circumscribed location, it is possible to track both the fear appeals themselves and the commentary on them. Moreover, since the debates take place in a republican political institution and the subject matter concerns features of a republican political

institution, they provide insight into appropriate places for fear appeals in republican forms of government.

A normative pragmatic model of communication takes into account all elements of a basic communication scenario: speaker, speech, audience, and context. It also takes into account bilateral communication vectors: speaker-to-speech and speech-to-speaker on the one side and speech-to-audience and audience-to-speech on the other.² As a result, it describes context less in terms of external elements such as time limits than in terms of rhetorical elements such as presenting evidence. In other words, it describes the context generated just by saying something. As Jean Goodwin (2007, 85) has put it: “We do not assume that context comes already organized into social forms like ‘dialogues’ or ‘critical discussions.’ Instead, we take the talk through which, and within which, arguments are deployed as the primary means by which people organize a context for their interaction.”

Saying something enables and constrains what both speaker and audience may say, which, in turn, changes the context. A normative pragmatic model explains why message design features may be expected to reasonably pressure addressees to act as the speaker advocates, which means it explains the persuasive force of message design features in a way that transcends wholly normative and wholly descriptive explanations (Manolescu 2005, 142; cf. Jacobs 2000, 264–65; van Eemeren and Grootendorst 1992, 6; van Eemeren et al. 1993, 1–2; Walton 2000, 22). In short, a normative pragmatic model is oriented toward describing public commitments made manifest by speaking.

In what follows I detail three leading models of fear appeals: the extended parallel process model (EPPM), a classical model, and a logical model. These models omit characteristics of rhetorical transactions such as the speaker or message source, bilateral communication vectors, and characteristic message

2. Two foundational cases for the desirability and benefits of including all of these elements in rhetorical theories are Burke 1969 and Black 1978. This essay makes a case for the superior explanatory power of a model of civic fear appeals that encompasses these elements compared to models of fear appeals that do not.

design features; and are oriented toward internal cognitions and states of mind. I illustrate explanatory problems by considering how each model addresses a significant, serious charge against a fear appeal, namely, that it is manipulative.

1. Extended Parallel Process Model

The EPPM is a representative social scientific model of fear appeals that continues to be an important starting point for fear appeals research (Witte 1992, 1994; Nabi et al. 2008, 191, 192; Timmers and van der Wijst 2007, 22–23; Cho and Salmon 2006, 92). The EPPM analyzes fear appeals based on the following message components: self-efficacy, response efficacy, susceptibility, and severity. It models addressees' reasoning in response to the message components as follows. Addressees first reason about the threat (susceptibility and severity) and then about the efficacy of the recommended response and their ability to perform it (self-efficacy and response efficacy). If perceived threat is low, then motivation to continue processing the message—and, specifically, to evaluate efficacy—will be low. If perceived threat is high and if perceived efficacy is higher than perceived threat, then individuals are more likely to engage in danger control processes to protect themselves and to accept the message. But if perceived threat is high and if perceived efficacy is low, then individuals are more likely to engage in fear control processes—attempts to control their own fear rather than respond to dangerous circumstances—and to reject the message, perhaps with the rationale that the message is manipulative (Witte 1994, 115–16; 1992, 337–45).

This model is not designed to account for the degree to which a fear appeal meets normative criteria—to assess whether, for example, an addressee's perceptions of threat and efficacy are reasonable. A normative pragmatic model of fear appeals, in contrast, explains message design features and the kinds of public responses by addressees that they enable and constrain. For example, the message design features speakers use to present

claims about threat and efficacy may warrant a charge by addressees that the speaker is attempting to manipulate them. Perhaps the addressee believes the language used is too intense or the evidence presented for the proximity of the threat is weak. Message design features such as these may better explain an addressee's charge of manipulation than the individual addressee's cognitions about his low perceived efficacy in the face of high perceived threat.

The Virginia ratifying convention debates illustrate this point. In these debates delegates charge opponents with using fear appeals to manipulate. "Are we to be terrified into a belief of its necessity?" they ask. Or they say, "It is a groundless objection, to work on gentlemen's apprehensions" (Elliot 1891, 285, 427; see also 54, 62, 638). But this kind of remark is not best explained as an attempt by delegates to control the fear they feel in response to a fear appeal made by an opponent—as an outcome of delegates' perceptions of low perceived efficacy in the face of high perceived threat. First, it seems as if perceived efficacy by any individual delegate would have been high; since the vote was close—the results hinged on about six votes (Briceland 1988, 212–13; Einhorn 1990, 148–49)—an individual delegate could have reasonably asserted that his vote would determine the outcome of the debate. Second, delegates would have been vulnerable to criticism were they to have seemingly based their decision on feelings of fear instead of an assessment of grounds for fear. This vulnerability is made manifest in the delegates' call for reasoned deliberation. One notes, for example, that like religion, politics "is too often nourished by passion, at the expense of the understanding," and another asks, "Was it proper to appeal to the fears of this house? The question before us belongs to the judgment of this house" (Elliot 1891, 23, 42; see also 86–87, 177, 237). Rather than viewing accusations of manipulation as signs of cognitions about perceived threat and perceived efficacy, a normative pragmatic approach views such accusations as acts by an addressee that a designer of a fear appeal would want to forestall. A speaker who wants to design a fear appeal with persuasive force—that is, an appeal that exerts reasonable pressure

on the addressees to act as the speaker advocates—needs to do so in a way that constrains addressees’ ability to openly dismiss the appeal as manipulative.

This brief discussion points to interrelated features of rhetorical transactions not covered by the EPPM. First, the EPPM does not include a speaker or message source; it covers how message components affect addressees’ cognitions. Second, the EPPM describes the message in relatively static terms—as comprising message components, and these, in turn, are described in terms of objects of addressees’ cognitions, namely threat (susceptibility and severity) and efficacy (self and response)—rather than as a dynamic transaction that features strategies such as presenting evidence. Third, the EPPM does not account for communication vectors other than message-to-addressee.

2. Classical Model

Two other leading models of fear appeals are designed to be normative. One may be described as classical since it is warranted by Aristotle’s writings and illustrated by Demosthenes’ practice. Michael Pfau posits this model to address the question of “what particular kinds of fear appeals are most and least civically responsible” (2007, 218). He proposes “an Aristotelian approach in which the structure of the fear appeal is . . . designed to open up political debate and deliberations” (2007, 220). The model is intended to define an ideal; Demosthenes’ rhetorical practice is “an almost textbook illustration” (2007, 225; see also 228) rather than a source of or grounds for the model. Aristotle’s writings on rhetoric, politics, and ethics are the source (2007, 225), so Aristotelian folk psychology grounds it.

Pfau argues that “more traditional ‘dichotmous’ fear appeals” (2007, 231) can be distinguished from civic fear appeals in two ways. First, civic fear appeals “tend to focus on objects of fear that are unrecognized or underappreciated,” and so “fear appeals exploiting already much dreaded objects of fear are not appropriate

objects of ‘civic fear’” (2007, 231). Pfau speculates “that rhetorical intensification of already dreaded fears is almost always a sure sign of the very kinds of logical distortion and audience manipulation traditionally associated with fear appeals in political discourse” (2007, 231). Significantly, Pfau does not ascribe logical distortion and audience manipulation to intensification; in this model there is nothing to suggest that using intense language cannot be reasonable. At issue is how to decide whether intensity is manipulative or reasonable. One measure suggested here is located in the minds of addressees: if they recognize or appreciate the object of fear—if they already dread it—then it is likely that the fear appeal is manipulative.

The second way civic fear appeals are different from traditional “dichotomous” ones relates to the “character of the actions proposed in response to the object of fear” (2007, 231). In contrast to a fear appeal designed “simply to gain compliance with the message source’s recommended response,” with a civic fear appeal “the rhetor seeks to encourage collective foresight by way of opening up political deliberations regarding the object of fear” (2007, 231–32). This measure is also internal, located in a speaker’s ethical intent. This classical model, then, does not explain how speakers may design a fear appeal to avoid the charge of manipulation. Instead it stipulates what knowledge internal to addressees or what intent internal to speakers makes it more likely that the fear appeal meets the normative standard of “opening up deliberation.” Moreover, in this classical model “opening up deliberation” refers to inducing an internal state of mind; civic fear is “a deliberative emotion” (2007, 225). The model does not account for how a fear appeal may be designed to pressure addressees to make manifest that they are deliberating—to in fact speak.

This stipulation of a speaker’s intent excludes additional or alternative purposes for which speakers may design fear appeals at all. For example, this classical model defines away an ordinary understanding of why speakers make fear appeals: to gain compliance with a recommended response. In addition, consider reasons delegates give for making fear appeals in the Virginia

ratifying convention debates. One delegate claims that he appeals to fear so that it will be “known that my opposition arose from a full persuasion and conviction of its being dangerous to the liberties of my country” (Elliot 1891, 643). Other things being equal, making manifest a responsible assessment of the grounds for fear enables the delegate to avoid criticism on the grounds that, say, his vote is based on local interests or outside influence (e.g., Elliot 1891, 7, 177, 182, 237, 356, 364). Delegates also make fear appeals to make manifest that they are fulfilling their duties as representatives. Delegates say, for example, that they are representing the interests of some portion of the public: “I represent their feelings when I say that they are exceedingly uneasy at being brought from that state of full security, which they enjoyed, to the present delusive appearance of things” (Elliot 1891, 21; see also 63). Or they refer to a broader audience; one says that posterity “will see that I have done my utmost to preserve their liberty,” and another points out that because he seeks “to hand down to posterity my opposition to this system,” he sees it as his “duty to declare the principles on which I disapprove it, and the cause of my opposition” (Elliot 1891, 56, 637; see also 642, 652). By making manifest a responsible assessment of the circumstances, they attempt to avoid criticism for shirking their duties; they make manifest an attempt to “discharge their duty with fidelity and zeal” (Elliot 1891, 14). In fact, this helps to explain why delegates make fear appeals at all—why they do not simply cast a vote—when doing so may make them vulnerable to criticism for fearmongering or poor judgment. If they remain silent, they risk criticism for failing to warn about potential harmful consequences.

This discussion points to features of rhetorical transactions not covered by the classical model. First, it does not cover the range of purposes fear appeals can be put to, including the basic purpose of gaining compliance. Second, the model describes the message in relatively static terms of individuals’ cognitions about message components: recognizing or appreciating an object of fear; perceiving it as painful, destructive, close at hand, contingent; feeling courage. Even the ideal outcome of the fear appeal—

opening deliberations regarding an object of fear—involves inducing a state of mind or emotional disposition (Pfau 2007, 233). Third, the model covers unilateral communication vectors only: speaker-to-message and message-to-addressee. A model that incorporates the message-to-speaker vector can account for “rhetorical intensification” as relatively manipulative or not based not on whether the speaker believes addressees recognize or appreciate the object of fear but on openly undertaken, public commitments that using intense language makes manifest to addressees. In addition, an audience-to-message vector incorporates a judgment about whether the message is designed in a way that constrains addressees from openly dismissing the appeal as manipulative; such a judgment does not depend on an audience’s state of mind but on message design features.

3. Logical Model

A second normative model of fear appeals may be described as logical. I focus on Douglas Walton’s model because it is representative of a logical approach and is the most comprehensive treatment of fear appeals in argumentation theory research (see also Pinto 2004, 261, 269). Walton’s model comprises an underlying practical inference structure that critics use to evaluate the logical cogency of fear appeal arguments.

1. If you (the respondent) bring about *A*, then *B* will occur.
2. *B* is a very bad outcome, from your (the respondent’s) point of view (or interests).
3. *B* is such a bad outcome that it is likely to evoke fear in you (the respondent).
4. Therefore, you (the respondent) should not bring about *A*. (2000, 200)

Critics evaluate this inference structure by considering the acceptability of the premises and by asking critical questions such

as whether there is a better way of avoiding the bad outcome (2000, 130; see also 138). They assess relevance by considering the type of dialogue in which the fear appeal is made (2000, 145; see also 177, 180, 203). Evaluation is based on whether the argument facilitates or impedes the goal of the dialogue. This may not be a simple task, since actual rhetorical practices may not fit squarely into any single dialogue type. For example, Walton notes that a political debate “can involve persuasion dialogue, negotiation dialogue, deliberation, and eristic dialogue, all in the same case” (2000, 182; see also 198–99) and advises critics to not “condemn all *ad baculum* arguments on the grounds that they are irrelevant in a critical discussion or informed deliberation of political issues” (2000, 199).

Although the logical model is designed to represent “the cognitive component in how [fear appeal arguments] work to persuade” (2000, 23), Walton describes the model in dynamic terms: “The structure is of such a kind that there has to be a sender and a receiver of the argument” (2000, 131). For example, he observes that “if the respondents get any sense that the probability of the threatening outcome is being exaggerated, they will use that as an avenue to escape from the pressure of the argument” (2000, 193; see also 1996, 312). Walton amplifies:

By putting the argument in the form of a practical inference, the speaker tightens a kind of logical net around the hearer. . . . The question then posed is how the hearer can wriggle out of this net by challenging the premises, or finding some weakness in the linkage whereby the premises force the conclusion drawn in the argument. The hearer needs to respond to this logical argument by examining, or critically questioning its strong or weak points as a practical inference. The speaker and hearer can be seen as engaging in a kind of logical dialogue with each other. This theory represents a logical model of how the two parties are reasoning with each other in an orderly and structured way that represents a kind of practical rationality. (2000, 131)

The model prescribes “how each agent should reason . . . [and] react” (2000, 132). It also treats the emotion of fear as a source of

the force of the appeal; “the key mechanism is that the situation cited is supposed to be so fearful that it overcomes the inertia of the respondent in taking an action that requires a certain effort or cost on his part” (2000, 144).

This model is designed to help critics assess logical cogency and does just that and more as it begins to capture the interactive nature of rhetorical transactions. But in focusing on logical cogency only, it elides other message design features. As a result, it omits features that may comprise fear appeals, such as using intense language, and it explains the persuasive force of fear appeals—why addressees may be reasonably pressured to act as the speaker advocates—in terms of logical cogency only. Logical cogency ought to generate persuasive force, and it is possible for a speaker to design a fear appeal in just the form of the underlying practical inference structure. But, based on the Virginia ratifying convention debates and civic deliberations generally, that presentational design is atypical. A normative pragmatic model of fear appeals accounts for the actual presentational design—which includes but is not limited to manifestations of logical cogency—and in doing so explains why a message design feature like using intense language can be reasonably expected to generate persuasive force (Manolescu 2005, 144-45; Jacobs 2000, 263).

4. Normative Pragmatic Model of Fear Appeals

The characteristic design features of fear appeals—the claim that harmful consequences will occur unless addressees act as the speaker advocates, the presenting of grounds, and the use of intense language—make manifest public commitments, commitments that, in turn, alter the context such that speakers and addressees are enabled and constrained in what they may subsequently say. I explain how each message design feature may reasonably pressure addressees to act as the speaker advocates. The explanation comprises practical reasoning on both sides of the transaction—speaker and addressee—and bilateral communication vectors that account for why speakers may reasonably expect

strategies to pressure addressees to act. Underlying normative pragmatic models is a philosophy of language that involves describing theoretical models in terms of practical reasoning. These models do not purport that speakers in fact are reasoning in just the way described by the model (e.g., Kauffeld 2001). Likewise, the normative pragmatic model of fear appeals proposed here aims to account for message design features rather than make claims about what thoughts are consciously in a speaker's or addressee's mind (see also Goodwin 2001, 38–39; Kauffeld 2009, 240n2). The normative pragmatic model of fear appeals is based on what rhetors say about their own and others' fear appeals.

At the core of a fear appeal is claiming that harmful consequences will occur unless addressees act as the speaker advocates. For example, opponents of ratification make statements such as “If a wrong step be now made, the republic may be lost forever” and “If you attempt to force it [the proposed Constitution] down men's throats, and call it union, dreadful consequences must follow” (Elliot 1891, 22, 159; see also 44, 46, 50–51, 57, 149, 151, 378, 452, 527, 591). Proponents make statements such as “Our state vessel has sprung a leak; we must embark in a new bottom, or sink into perdition” and “If, in this situation, we reject the Constitution, the Union will be dissolved, the dogs of war will break loose, and anarchy and discord will complete the ruin of this country” (Elliot 1891, 106, 603; see also 37, 66, 70, 74, 90, 116, 132, 189, 329).

Why would a delegate claim that harmful consequences will occur unless addressees act as he advocates? Why not simply cast a vote? By remaining silent, a delegate risks criticism for failing to warn about potential harms and, in doing so, failing to fulfill his duties as an elected representative. As we have seen, delegates provide just these kinds of reasons for why they make fear appeals. To avoid these kinds of criticism, a delegate may state potential harmful consequences of not acting as he advocates.

But claiming that harmful consequences will occur unless addressees act as he advocates risks criticism on the grounds of poor judgment or fearmongering. The following disclaimers point to delegates' awareness of these risks: “I do not wish to frighten

the members into a concession of this power, but to bring to their minds those considerations which demonstrate its necessity” and “This is not calculated to rouse the fears of the people. It is founded in truth” (Elliot 1891, 249, 313). It is just these kinds of risks openly undertaken by a speaker that generate persuasive force for addressees to act as the speaker advocates. Disclaimers of this kind make manifest that the speaker knowingly undertakes risks and considers how addressees may publicly reason about his own reasoning, or, put differently, they make manifest what the message design enables addressees to say. Other things being equal, addressees may reason—may say—that the speaker would not risk criticism unless he had made a responsible effort to assess the circumstances; they see him risk criticism and see that he sees the risks, so the speaker’s act of claiming that harmful consequences will occur unless addressees act as he advocates creates a practical reason for addressees to do just that. This practical reason is a component of persuasive force—reasonable pressure to act.

Another component of persuasive force is the risks for addressees created by this same strategy of claiming that harmful consequences will occur unless addressees act as the speaker advocates. Claiming that harmful consequences will occur constrains addressees’ ability to say they did not think potential harms would result from not acting as the speaker advocates, because, other things being equal, saying so would put them at risk of criticism; it would be a fallible sign that they were not listening to the deliberations and, consequently, not making a well-informed decision. To avoid such a risk, they can act as he advocates. Of course it is also possible for them to avoid such a risk by making a case that harms are unlikely, for example, or that the speaker’s recommended action is not the best way of avoiding them. The circumstances of the Virginia ratifying convention guaranteed that addressees would easily be able to avoid risks created just by claiming that harmful consequences would occur unless addressees act as the speaker advocates; delegates had time and the institution had procedures to challenge opposing arguments. For these reasons, as a speaker claims that harmful consequences will

occur unless addressees act as he advocates in order to forestall criticism for failing to warn, so he continues to design the fear appeal in such a way as to forestall criticism with respect to other issues, such as whether grounds for fear exist at all and, if so, to what extent. Thus, one delegate emphatically states that until “they tell us the grounds of their fears, I will consider them as imaginary,” and another states, “I shall not rest content with asserting—I shall endeavor to prove” (Elliot 1891, 48, 71).

Given this analysis, it is predictable that another characteristic feature of making fear appeals with persuasive force is presenting grounds. In the Virginia ratifying convention debates, for example, delegates make statements such as “When we take a more accurate view of the principles of the Senate, we shall have grounds to fear that the interest of our state may be totally neglected,” “I have every reason for determining within myself that our rejection must dissolve the Union; and that that dissolution will destroy our political happiness,” “Contemplate our situation deliberately, and consult history; it will inform you that people in our circumstances have ever been attacked, and successfully: open any page, and you will there find our danger truly depicted,” “This altercation terminated in the dissolution of their union. From this brief account of a system perfectly resembling our present one, we may easily divine the inevitable consequences of a longer adherence to the latter,” and “If this Constitution were safer, I should not be afraid. But its defects warrant my suspicions and fears” (Elliot 1891, 221, 68, 74 [see also 7]; 133, 641).

How does presenting grounds for fear generate persuasive force? Why may speakers expect this strategy to reasonably pressure addressees to act as they advocate? As is the case in stating potential harmful consequences, presenting grounds leaves a speaker open to the charge of poor judgment or fearmongering. Speakers make manifest that they knowingly undertake these risks when they say, for example, “that I may not be charged with urging suppositions, let us see what ground this stands upon, and whether there be any real danger to be apprehended,” that “perhaps the same horrors may hang over my mind again. I shall be told I am continually afraid: but, sir, I have strong cause of apprehension,”

that “my fears are not the force of imagination; they are but too well founded,” that “I hope that my fears are groundless,” and that “many horrors present themselves to my mind. They may be imaginary, but it appears to my mind to be the most abominable system that could be imagined” (Elliot 1891, 12, 47, 141, 282, 327). Again, it is just the risk of these kinds of criticism manifestly undertaken by a speaker when he presents grounds that generates persuasive force for addressees to act as the speaker advocates. Making manifest that he knowingly accepts risks of criticism for poor judgment and fearmongering when he presents grounds again shows that he considers how addressees may publicly reason about his own reasoning, that he considers what they may say about his appeal. The appeal is designed in a way that enables addressees to say that the speaker would not risk the criticism that the act of presenting grounds makes him vulnerable to unless he had made a responsible effort to collect and assess grounds for fear. Thus presenting grounds creates a practical reason—in addition to the grounds themselves—for addressees to act as the speaker advocates. This practical reason is a component of the persuasive force generated by the strategy of presenting grounds.

Another component of the persuasive force generated by this strategy is the risks created for addressees, which can be seen in the case of the Virginia ratifying debates. Presenting grounds constrains delegates’ ability to say they do not see grounds for fear. This ability is further constrained as delegates make manifest what they “see” and have “examined,” and as they say that opponents cannot fail to see grounds they have presented (e.g., Elliot 1891, 187, 191, 243, 303, 354, 396, 436, 470, 473–74). Other things being equal, delegates saying they do not see grounds for fear would be a fallible sign that they have not been paying attention to the deliberations or that they do not recognize good grounds—both of which could make them vulnerable to criticism for shirking or failing in their duties as representatives. To evade this risk, they can act as the speaker advocates or they can engage in argument, making a case, for example, that the grounds do not exist or are not as dangerous as the speaker suggests. Since the circumstances of the Virginia ratifying convention debates made these kinds

of evasive maneuvers likely, a speaker would want to constrain addressees' ability to make them. The stronger the presentation of grounds, the more difficult it is for addressees to say that grounds for fears are weak without risking criticism and therefore the more persuasive force the fear appeal has—that is, the more the fear appeal constrains addressees to either act as the speaker advocates or manifest the comparable rationality of their position or, put differently, to deliberate well.

A third characteristic feature of fear appeals is intensity. Speakers may design fear appeals of varying intensity by attending to word choice, syntax, and broader units of composition. In the Virginia ratifying convention debates, Patrick Henry makes the most intense fear appeals in terms of quantity and quality. He claims, for example, that proponents of the proposed U.S. Constitution are trying to force the document “down men’s throats,” that there is nothing in the constitution to prevent the federal sheriff “from sucking your blood,” that the state sheriffs are “unfeeling bloodsuckers” who have “committed the most horrid and barbarous ravages on our people,” that “we shall have a king; the army will salute him monarch; your militia will leave you, and assist in making him king, and fight against you; want what have you to oppose this force? What will then become of you and your rights? Will not absolute despotism ensue?” and “I see the awful immensity of the dangers with which it is pregnant. I see it. I feel it. I see beings of a higher order anxious concerning our decision” (Elliot 1891, 159, 57–58, 59–60, 625; see also 448–49).

Levels of intensity may range from low to high. At issue is what level of intensity is appropriate. Certainly speakers are vulnerable to criticism for designing fear appeals that are short or long on intensity, and these assessments are based on all elements in rhetorical transactions, including the point in a speech or broader public controversy at which the fear appeal is made, the audience, the subject matter, and the occasion (Manolescu 2006, 337; Jacobs 2000, 263). In the Virginia ratifying convention debates, delegates target Henry’s intense fear appeals on the grounds that he has “entertained,” “frightened,” and “exclaimed, with uncommon vehemence” but that his argument appears

“inconclusive and inaccurate.” They admire “his declamatory talents,” but they “trust that neither declamation nor elegance of periods will mislead the judgment of any member here, and that nothing but the force of reasoning will operate conviction.” He has “discarded, in a great measure, solid argument and strong reasoning, and has established a new system of throwing those bolts which he has so peculiar a dexterity at discharging,” and his “rhetoric” has “highly colored the dangers of giving the general government an indefinite power of providing for the general welfare” (Elliot 1891, 98, 101, 104, 177 [see also 383], 466). Certainly using intense language makes speakers vulnerable to criticism that they are manipulating rather than arguing. Even Henry charges opponents with presenting “dangers of a very uncommon nature. I am not acquainted with the arts of painting. Some gentlemen have a peculiar talent for them. They are practised with great ingenuity on this occasion” and asserts that “it is the fortune of a free people not to be intimidated by imaginary dangers. Fear is the passion of slaves” (Elliot 1891, 153–54, 140).

Perhaps intensity more than other design features carries risks of criticism for fearmongering. This might explain why, with occasional exceptions, intensity is not a message design feature speakers at the Virginia ratifying convention typically employ in making fear appeals. But why Henry chooses to make highly intense fear appeals may be gleaned from the following disclaimer: “My sentiments may appear extravagant, but I can tell you that a number of my fellow-citizens have kindred sentiments, and I am anxious, if my country should come into the hands of tyranny, to exculpate myself from being in any degree the cause, and to exert my faculties to the utmost to extricate her” (Elliot 1891, 176; see also 56). He even goes so far as to assert that “conscious rectitude” both compels him to state his fears of the proposed Constitution even though these appeals have led opponents to charge him with being a demagogue and, in these circumstances, consoles him (Elliot 1891, 45, 54). He makes manifest that he knowingly accepts the risk of criticism and in doing so creates a practical reason for addressees to act as he advocates. Intensity changes the rhetorical context such that addressees may publicly reason that he would

not risk criticism unless he had made a responsible effort to assess grounds for fear and to act in accordance with that judgment and with his duty as a representative. Thus intensity lends persuasive force to the fear appeal. But the risks incurred by using this strategy also help to explain why Henry interjects his own character into his rhetoric more than other delegates do.³ The greater the intensity of the fear appeal, the more vulnerable he is to the charge of manipulation, and so the more reason to make manifest that he accepts accountability for the veracity and proportion of his fear appeals.

At the same time, intensity creates some risk for addressees. Other things being equal, intensity makes it more difficult for them to say, for example, that they did not see potential harms or the severity of the threat. To avoid this risk, they can act as the speaker advocates or argue. But since intensity creates a context in which addressees may charge a speaker with manipulating rather than reasoning—especially in cases such as the Virginia ratifying debates in which the norm of deliberating reasonably is made manifest—this design feature pressures addressees to manifest rationality; it pushes them to both display it themselves and to demand it of the speaker. And thus an apparently manipulative appeal may create conditions for better deliberation even if its persuasive force is weak.

5. Conclusions

The normative pragmatic model of fear appeals proposed here begins with characteristic design features of fear appeals and comprises complex, interlocking practical reasoning that explains why these message design features reasonably pressure addressees to act as the speaker advocates or, in other words, why they

3. See, for example, Elliot 1891, 23, 44, 45, 47, 50, 54, 56, 137, 151, 546, 592. Randolph is the proponent of the proposed Constitution who makes the most intense fear appeals, and he too frequently interjects his character into his rhetoric; but he also needed to defend his record since he previously publicly opposed the Constitution (e.g., Elliot 1891, 24–27, 65–68, 85–86, 189).

generate persuasive force. It incorporates basic elements of rhetorical transactions—speaker, speech, audience, and context—and bilateral communication vectors. It transcends the normative-descriptive divide as it accounts for why what is normative has persuasive force. It provides an account of how to generate good deliberation that does not depend on the good will of either speaker or addressees; it explains how even reluctant or adversarial addressees acting only in self-interest may be reasonably pressured to deliberate well.

The analysis explains how speakers who make fear appeals deploy and maintain rhetorical norms. External factors such as the education of citizens in critical thinking and the existence of a free press that serves as a watchdog may help to cultivate rhetorical norms. The analysis further explains how rhetorical practices may also be self-regulating; it suggests that when the practitioners hold themselves and each other accountable for the veracity and proportion of their claims, they design fear appeals with more persuasive force. So fear appeals that feature accountability have an important place in republican forms of government.

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6.

Predicaments of Politicization in the Debate Over Abstinence-Only Sex Education

Sally Jackson

1. Theoretical Background

Since the late 1970s, Scott Jacobs and I have been developing a perspective on argumentation whose central assertion is that argumentation occurs as a particular kind of expansion of projected speech act sequences. From the mid-1980s on, we have tried to align our general theoretical directions with those of pragma-dialectics (which we first encountered in van Eemeren & Grootendorst 1984). We have recently reflected on the major points of convergence and distinction between our position and pragma-dialectics (Jacobs & Jackson 2006). I want to begin this study by reviewing four main claims Jacobs and I have advanced.

First, naturally occurring arguments are subsumed by and subsume other contexts of action and belief. The normal initiation of an argument is as “repair” undertaken when one party notices that something said by the other exposes a disagreement in views (Jackson & Jacobs 1980; Jacobs & Jackson 1982, 1989). All the background knowledge that is implicated by an assertion could be thought to belong to its grounds or premises. Classical argumentation theory (i.e., Aristotle’s rhetoric and the centuries and centuries of work built on his insights) says argumentation is (or should be) built on established premises—so that even though knowledge itself is uncertain, resolution of specific disagreements may be grounded in prior agreements. Modern argumentation theory, especially *The New Rhetoric* (Perelman & Olbrechts-

Tyteca 1971) and related strands of work such as ours, say that on the contrary, what argument does is to uncover the taken-for-granted beliefs of participants and to disentangle the web of assumptions and presumptions that make the emergence of disagreement an interactional problem.

Second, argument is about externalizing disagreements for which it is possible that procedures can be found to reach agreements. What happens in argument is that an identifiable disagreement gets routed into a process of comparing source beliefs and trying to find a resolution. In pragma-dialectics, this routing of the disagreement to a resolution process is described as the opening stage of a critical discussion (van Eemeren & Grootendorst 2004; van Eemeren, Grootendorst, Jackson & Jacobs 1993). The process may be simply further exchange of assertions and counter-assertions, or it may be some complicated search for additional data capable of supporting one side more definitively. Ideally, the disagreement gets routed to the resolution process and the result is returned to the main business of the exchange, allowing whatever else was going on to proceed.

Third, sometimes there is no resolution. Resolution, when it occurs at all, is rarely if ever absolute. Indefinite expansion of an argument is a theoretical possibility: it can occur because each assertion made in support of a prior assertion opens a new disagreement space that can be expanded. Theorizing the possibility of indefinite expansion is a contemporary improvement over older views that sought means (both practical and theoretical) to avoid infinite regress. In the strands of argumentation theory that follow from *The New Rhetoric*, where no assumption is made that we are headed toward a truth that cannot be overturned, the open-endedness of argumentation is reframed as an opportunity for progress rather than as a vulnerability to regress. Just as indefinite expansion is a theoretical possibility, so is *impasse* a practical fact: it occurs when parties isolate as their particular disagreement a pair of opposing beliefs that could, theoretically, be expanded further, but that in fact neither will treat as arguable (Woods 1992). Sometimes, in other words, parties enter into argument expecting to make progress toward agreement but reach a point where it

is basically certain that they can progress no further toward a common point of view.

Fourth, there are practical ways of closing an argumentative discussion that do not depend on mutual acceptance of one of the competing standpoints; these practical routes to dispute resolution are also theoretical objects that can be given theoretical critique. When all has failed, and the participants in an argumentative discussion reach a point at which they must acknowledge the disagreement to be irresolvable, life must nevertheless go on. The context in which the disagreement arose still exists, and often there is a practical decision to make. The methods people devise for addressing unresolved disagreement are theoretically important because, over time, these methods can either reinforce or erode the normative foundations of critical discussion. In other words, not only is argumentative discourse of theoretical interest, but so are the design resources that can be brought to bear on shaping the conduct of argumentation. Among the objects of interest for their design features are special methods for attempting to reach resolution, special methods for moving on when all acknowledge that resolution cannot be reached, and special patterns for construction of moves and countermoves within a dispute.

A very important point, not one that follows directly from these four claims but that remains to be defended in this study, is that resolution is not the only outcome that can be usefully returned from argumentative discussion. A good strategist within a debate understands this and plans accordingly.

2. Case Study: The “Politicization of Science” Debate

In real controversies, many disagreements remain unresolved. This seems rather to be the rule than the exception in political argument. Ultimately, argument ends and people (both ordinary citizens and their elected representatives) vote. Executive and Legislative branches of government are elected and govern according to what they take to be their mandate from the people, voting within their

own ranks as a routine part of their business. Consider two recent episodes in American politics:

1. Early in 2004, a group of scientists from many fields issued a two-part report entitled “Scientific Integrity in Policymaking: An Investigation into the Bush Administration’s Misuse of Science” (Union of Concerned Scientists 2004a, 2004b). Challenging assertions by the Bush Administration of a policy of using the best available science in formulating policy, two forms of “misuse” were alleged: first, suppression and distortion of scientific findings to serve political ends, and second, letting politics trump qualifications in selection of members for scientific advisory groups. According to the Union of Concerned Scientists (henceforth UCS), the Bush Administration had basically predetermined the science advice it would get by stacking advisory boards and pressuring agencies to misrepresent the state of knowledge in a field. A number of prominent scientists, including Nobel laureates, signed the report. The report did not just try to set the record straight on science, but built a case for deliberately improper behavior by the Bush Administration. “Restoring scientific integrity” is now an ongoing program of the Union of Concerned Scientists.
2. In summer of 2005, U. S. Congressman Joe Barton, Republican chair of the House Energy and Commerce Committee, launched an investigation of his own into the soundness of research done by three academic climate scientists, expressing his concern about the research in letters to each of the three scientists (also posted on his website). Each individual was asked to send Rep. Barton a copy of his curriculum vitae and to produce all of the data forming the basis for the questioned research, and all of his other published work

as well. The scientific community and supporters in the media interpreted this investigation not as an exercise in accountability but as an open effort to intimidate, and discredit if possible, scientists closely identified with evidence of global warming (e.g., Ignatius 2005). Many leaders in the scientific community wrote letters of protest against the Committee action, including the President of the American Association for the Advancement of Science (Leshner 2005), the Presidents of American Geophysical Union and the American Meteorological Society (Orcutt & Lyons 2005), and the President of the National Academy of Sciences (Cicerone 2005). Editorials in the *New York Times* and the *Washington Post* presented forceful criticism. Even the chairman of the House Science Committee, Rep. Sherwood Boehlert, sent a letter to Rep. Barton calling the investigation “misguided and illegitimate” and saying the inquiry “raises the specter of politicians opening investigations against any scientist who reaches a conclusion that makes the political elite uncomfortable” (Revkin 2005).

These two episodes represent, in quite different ways, a frequent theme in recent political debate, commonly labeled the “politicization of science.” Science has become more politicized in two respects: first, in the literal mobilization of the scientific community around political protest, and second, in the growing tendency of politicians of all kinds to treat scientific conclusions as mere instruments of political expression (rather than as a neutral fact base from which all advocates can draw equally in support of their views). The more scientists actively debate the political significance of their work, the more justified politicians feel in treating scientific work products as political expression and as “belonging” to one side or another.

The politicization of science, I argue, creates a special kind of rhetorical challenge, especially for scientists whose interest is not primarily political in the usual sense, but who feel compelled

to speak for the science itself. Following Goodnight (2003) and others (Barnes & Edge 1982), I will label this special kind of challenge an argumentative predicament.

2.1 Predicaments of Politicization

An argumentative predicament is a situation in which all moves available to a participant seem to lead away from resolution of a disagreement (Jackson 2005). Argumentative predicaments are not simply rhetorical problems for individual advocates—problems of how to devise winning strategies. They are also dialectical problems affecting the value of the discourse itself for coming to any mutually acceptable resolution. Predicaments occur in all kinds of discourse, not just in political discourse. Jacobs and I have noticed them in contexts such as third party mediation, for example, where mediators must constantly struggle to enact a posture of neutrality while working to control abusive moves by individual participants (Jacobs 2002). No one participating in good faith can achieve a fully satisfactory outcome if the debate itself spirals out of control.

In other recent papers (Jackson 2005; Jackson & Jacobs 2006), I have identified several specific ways in which scientists are lured into predicaments of politicization. A scientist may see these situations as ones in which someone else has introduced scientific evidence fallaciously—for example, deliberately distorting what scientists have said to create an appearance of objective support for a political position. But even if it is entirely true that the science has been distorted and the motive for the distortion is political, these are lures into danger. For example, when fringe viewpoints within a scientific field are presented as authoritative on a subject, the scientific community risks amplifying these fringe viewpoints by attacking them politically. Similarly, when a policy position depends on findings chosen selectively from a large literature, scientific criticism of the cherry-picked findings can raise doubts among the public about what is truly authoritative within a scientific literature. Finally, when political partisans exaggerate scientific uncertainty to justify

inaction, rebuttal choices open to scientists are all dangerous in different ways, but most dangerous when framed by accusations of deliberate distortion.

While each of these types of predicaments have distinct features, they all share an important commonality: The risk to the arguer is in each case associated with opening a “disagreement space” (Jackson 1992) that the opponent can exploit with devastating effect. Disagreement space is the structured opportunity for argumentative expansion presented by any move within a discussion. Every type of speech act offers different avenues for expansion, along with expansions specific to the propositional content. In other words, the disagreement space shape-shifts in response to each successive speech act, opening slots for expansion around whatever issues are associated with that type of argumentative move.

Falling prey to an argumentative predicament is like falling into a trap in chess. Consider the speech act of criticizing. To criticize another participant in a discussion is to take on the full burden of commitments associated with the speech act, captured in the act’s felicity conditions. These include the assertion that the other participant has done something and the assessment that this something merits disapproval or other social sanction, and up to this point, making the criticism can be considered to have scored points in a contest with an opponent. But the burden of commitment also includes other conditions that must be satisfied for a properly performed criticism, including a condition on the right of the speaker to notice and evaluate the opponent’s action—sometimes provoking responses like the *tu quoque* form of argumentum ad hominem. While such responses do not usually contain any relevant evidence against the truth of an arguer’s claims, they do contain evidence relevant to other conditions on criticism. Pointing out that a *tu quoque* argument is fallacious does not normally deny it the power to weaken the target’s position within the contest. The critic often gains an advantage so fleeting as to be completely illusory.

2.2 The Controversy over the “Science of Abstinence”

A large body of written material has accumulated in the popular press and other published sources in response to an ongoing controversy within public health, over the justifiability of building sex education for young people on promotion of abstinence from sex prior to marriage. Such sex education programs are known as “abstinence-only sex education,” distinguished from “comprehensive” programs that urge abstinence but also incorporate instruction about safe sex and birth control. The corpus of relevant material ranges from major addresses by President Bush to posters proclaiming that “Abstinence only is ignorance only.”

Argumentation produced within any broad controversy will present considerable difficulties for analysis, and especially for analysis of the flow of move and countermove. It is often quite difficult to know what responds to what. I will not try to survey the entire corpus, but will develop my theoretical point with reference to a sequence of three texts, with the second responding directly to the first and the third responding directly to the second. This sequence will be sufficient to show how predicaments unfold through move and countermove.

The three texts are public documents, readily available for analysis: (1) a report published by the Union of Concerned Scientists (UCS 2004a) summarizing results of an investigation of the “misuse of science” by the Bush Administration; (2) a rebuttal delivered to Congress by Dr. John H. Marburger III, chief science advisor for the Bush Administration (Marburger 2004); and (3) a rejoinder to Marburger’s response issued by the Union of Concerned Scientists (UCS 2004c). Each of these texts deals with a large number of specific scientific topics.

The portions dealing with abstinence-only sex education are outlined in Figures 1-3, in the form of a flowsheet that represents not only the structure of each side’s own argument but also the points of contradiction between sides. The first column in each panel is a summary of sections of the UCS report that deal with sex education, arguing that Bush policy on sex education purposely

ignores the relevant science. The second column summarizes portions of Marburger's response, selecting those passages that respond directly to the UCS plus other passages that build a coherent framework for the Administration position. The third column summarizes UCS rebuttals to Marburger's responses. It could also have substantively extended the UCS position, but in this particular text the UCS confined itself to refutation.

The three panels represent related sections of the three texts, so they are segmented to mimic the segmentations in the first of the three texts. By virtue of how the UCS constructed its case, each panel represents one independent line of argument in support of the main UCS claim that "Bush policy on sex education purposely ignores the relevant science," along with the moves that follow in the other two texts. The UCS structured their own argumentation to first develop the point that the Bush Administration has actively pushed an approach for which there is no evidence of effectiveness, then to present the evidence for actual suppression of evidence, and finally to charge that the Administration selects scientific advisors in such a way as to avoid getting objective advice. (Parallel cases are developed on a number of other policy topics to provide multiple argumentation in support of a still more general claim that the Bush Administration systematically interferes with and distorts science for ideological reasons.)

2.3 Section by Section Commentary

The first section, shown in Figure 1, deals with the claim that the Bush Administration has actively pushed an approach for which there is no evidence of effectiveness. There are two coordinate supporting points, of which Marburger needs to rebut only one in order to "win" that section. He does not deny that the Bush Administration is pushing abstinence-only education, but concedes this point quite readily, basing his rebuttal on weakness in the UCS claim that abstinence-only education has been shown to be ineffective. He does not try to claim that it has been proven effective; rather, he points out that its effectiveness has not yet been seriously tested. This is very important, as we shall see

shortly. The UCS attempts to counter by pointing out that Marburger has not addressed their central claim, but what actually appears to have happened is that the UCS fails to engage with Marburger’s own point.

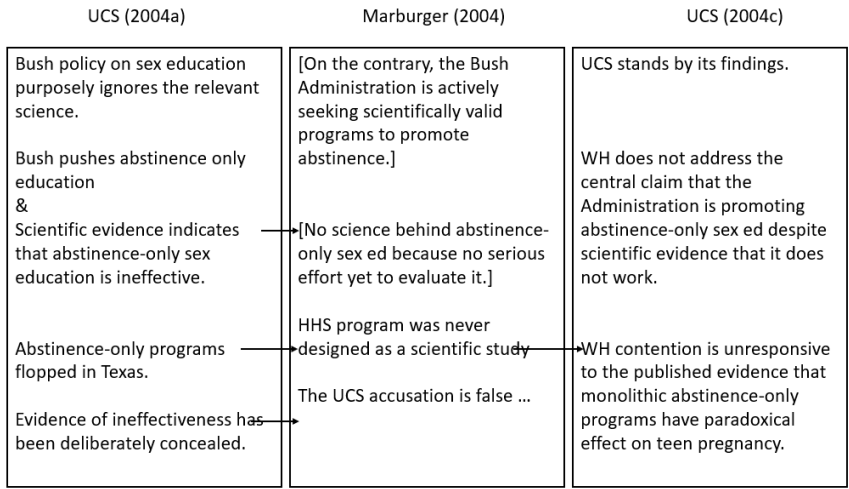


Figure 1: Flowsheet Panel 1

The second section (shown in Figure 2) presents a form of argumentation in which each supporting point is independent of the others, but none is individually sufficient to prove the conclusion. In this form of argumentation, each subpoint that survives rebuttal adds weight to the conclusion, and each subpoint that falls victim to rebuttal reduces the plausibility of the conclusion. Commonly, it is assumed that rebuttals of one subpoint have little effect on the status of the others (for they are logically independent), but this case shows that the common assumption is too simplistic. Several distinct examples are presented to establish the conclusion that the Bush Administration has been suppressing findings unfavorable to its own views. What is needed to defeat argumentation structured this way is always somewhat unclear, but effective rebuttal of any particular piece within the structure in this case not only chips away at the support for the claim but also contributes support to a potential counterclaim of opportunism in interpretation of evidence. Although none of the UCS examples

are very persuasive taken singly, Marburger responds to each one individually, fitting the response to each example into a general suggestion that these are merely selective views of routine government business. In responding, the UCS is able to introduce reasons for doubting whether these actions were mere routine, but doubting whether actions are routine is far from proving that they make up a pattern of deliberate suppression of information. The UCS's own point, that these individual examples demonstrate a systematic pattern, is not extended effectively.

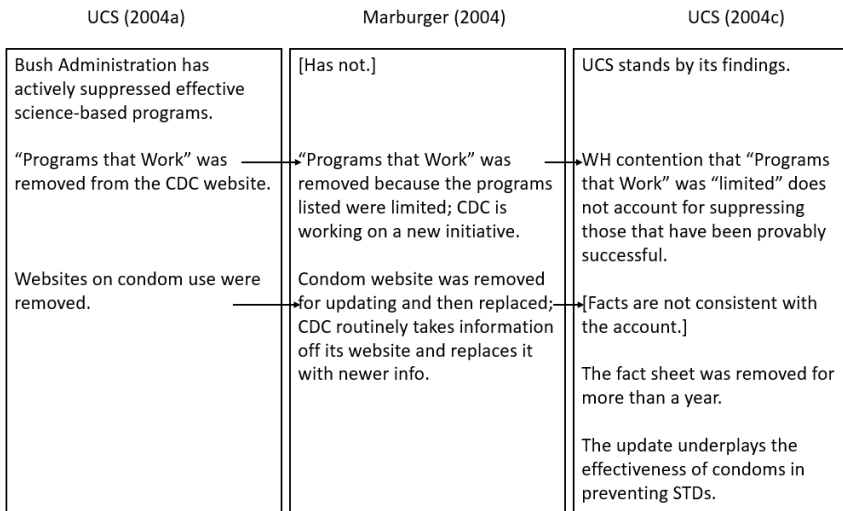


Figure 2: Flowsheet Panel 2

The third section (shown in Figure 3) also presents multiple-example argumentation on the UCS claim that the Bush Administration chooses scientific advisors for ideological conformity. This UCS argument looks weaker in the flow-sheet than it really is, because only examples related to abstinence-only education are shown in the flowsheet, whereas the report gave examples from many areas of science. Nevertheless, viewed in terms of the strategic management of disagreement space, this section is the most interesting of the three. Here Marburger gives only the briefest substantive rebuttal of UCS claims, simply asserting that both individuals are qualified and referring the

audience to their widely available CVs. But he also deliberately frames the UCS argument as an “accusation” and expands into the disagreement space associated with the speech act of accusing. The UCS made the strategic mistake of ridiculing the credentials of the two appointees, justifying Marburger in treating the argument as an accusation and in describing it not only as wrong but as offensive. Short of presenting and dissecting the CVs, there is little for the UCS to do but abandon this line of argument.

The response to Marburger contains no further mention of the appointees’ credentials.

UCS (2004a)	Marburger (2004)	UCS (2004c)
Bush Administration has appointed underqualified advisors in this area in order to validate a pro-abstinence research agenda. Dr. W. David Hager [is underqualified and politically biased]. Scant credentials Best known for prescribing Bible verses for PMS. Dr. Joseph McIlhaney [is underqualified and politically biased]. Dearth of publications Known for his disdain for use of condoms to prevent HIV.	This accusation is offensive and wrong. Both the individuals cited by the USC are in fact well qualified. → Hager’s CV is widely available and it is not necessary to repeat it here. → McIlhaney’s CV is widely available and it is not necessary to repeat it here.	

Figure 3: Flowsheet Panel 3

2.4 Marburger’s Case

Unfavorable as the section-by-section scorecard is for the UCS, the full force of the politicization predicament is not in the weakness of the UCS extensions but in the failure of the UCS to see that Marburger has completely turned the tables on them. He makes a constructive claim of his own, and chooses where and how to rebut particulars so as to present a very cohesive case in support of this claim. Marburger’s claim (shown in brackets in the flowsheet to indicate that it is not present in the text even though it

is clearly reconstructible from text) is that the Bush Administration is actively seeking scientifically designed programs to promote abstinence. His point is that, far from ignoring science and simply insisting that schools teach abstinence, the Bush Administration is investing dollars and political will in finding ways to do this *effectively*. In effect Marburger counters the claim that Bush policy on sex education is contrary to the relevant science with a counterclaim that the relevant scientific community has simply not accepted the challenge of finding a way to promote abstinence—choosing instead to find ways of promoting safe sex. What he implies is made explicit by many other supporters of the Bush Administration: that the scientific community is taking sides politically, and that the scientific research reflects prior, non-scientific moral preferences. An effective abstinence-only program would prevent pregnancy and disease as a direct benefit of re-establishing chastity as a virtue—whereas typical programs aimed at promoting safe sex are limited to prevention of consequences, and not to protecting the values of mainstream American society.

For many academics and other intellectuals, it will be tempting to dismiss Marburger's case and deny that it has any serious substance. Not everyone believes that chastity is a virtue. But if one entertains the possibility that abstinence might be desirable (whether for moral reasons or for public health reasons), it is neither more nor less scientific to search for effective ways to promote abstinence for its own sake than to search for effective ways to prevent pregnancy and disease. Setting social goals is not usually regarded as the business of science but as the business of politics, and there is nothing improper in any legitimate government deciding to fund science that offers prospects for achieving its significant social goals. The UCS arguments make entirely too clear that the scientific research community simply does not consider abstinence to be a worthwhile goal—and this is a moral position, not a scientific one.

This is what allows Marburger to turn the tables. The scientific position is not morally neutral. It reflects a presumption that young people will be sexually active from an early age and an acceptance of the normalcy of having multiple partners. Some

advocates make completely explicit that making sex safe is more important than trying to prevent it in the first place. In the ideological divisions of American society, both sides are assuming the rightness of their own morality and behaving as though blind to the way moral presuppositions affect choice among scientific questions.

By failing to comprehend the critique of science inherent in the Bush Administration positions, scientists expose the political (or at least moral) presuppositions of their own choices. This is another way of describing the politicization predicament: Exposing what is wrong with politicized use of science is quite difficult without opening disagreement space around exactly who is doing the politicizing. The more important politically neutral findings are to political decisions, the more urgently scientists feel a need to enter into the discourse as political actors. But the more scientists act politically, the less neutrality they can claim.

3. Managing the Disagreement Space

A skillful response to an argumentative predicament of this kind depends on strategically managing the disagreement space. Recall that a predicament is a situation in which all moves appear to lead away from resolution of the controversy. Avoiding predicaments in the first place is far easier than getting out of them once trapped. But recall too that predicaments do not merely make it harder for one participant to win the argument, but do their worst damage to the integrity of the discourse itself, corroding its ability to uncover deeper commonalities of belief and interest.

3.1 The Disagreement Space Around Abstinence-Only Sex Education

How can the disagreement space around a topic like abstinence-only education be better managed to produce both better rhetorical outcomes and better dialectical outcomes? One obvious and highly generalizable rule of thumb is to refrain from opening any disagreement space at all around other people's motives for acting

as they do. What is wrong with such a move is not that it is irrelevant to the truth of a proposition the opponent is trying to prove, but that it creates a separate and unproductive debate space whose resolution, if it were even possible, would not return a usable result to the main dispute.

Refraining from negative characterizations of another's motives is in fact very helpful to the process of rhetorical invention, because it stimulates the search for what makes sense about an opponent's position. What makes sense in the Bush Administration position on abstinence-only sex education is the belief that scientists have given up too readily on the search for effective ways to present chastity as a virtue in a culture that presents promiscuity as a norm. It may well be that there are no effective ways to do this, but a minimally attentive response by the scientific community as a whole would signal recognition of the goal, and a better elaborated response would indicate that the scientific community not only recognizes the goal but has exhausted all promising avenues for meeting it. (Clearly, not all promising avenues have been exhausted, since new abstinence-only approaches are being devised and tested in response to federal funding priorities.)

Gutmann and Thompson (1996, p. 83) point out the "corrosiveness" of claiming that a position is politically motivated, rather than respecting the moral status of the position and giving moral reasons for opposing it. Whether the Bush Administration is acting properly or improperly with respect to science and scientific communities, all participants seeking good dialectical outcomes should focus on exposing what is wrong with actual reasoning and should avoid the meta-debate about who has acted wrongly. The disagreement space associated with this meta-debate cannot return any resolution that will move the policy debate forward. By failing to comprehend this, ironically, scientists expose the politically-tinged underpinnings of their own choices concerning what is worthy of research effort: the refusal to see that a culture may promote chastity as a virtue without yoking that to any particular religion, and the corresponding demotion of abstinence from an

intrinsically worthwhile goal to a mere means of avoiding pregnancy and disease.

3.2 The Disagreement Space Around Politicization of Science

Many individual controversies like the debate over abstinence-only sex education feed the broader meta-debate over the role of science in political decision-making. This broader debate is clearly political and not scientific: Whether government officials are trying to intimidate individual scientists is not a scientific question, as is whether abstinence-only education is effective in promoting a certain kind of outcome. The point of UCS participation is to win voters away from the current government, not to resolve a disagreement with George W. Bush or John H. Marburger, III.

It is this broader debate that most urgently needs more thoughtful management of the disagreement space if anything productive is to result. In this broader debate, it seems inevitable that attributions of political motives must be central. As currently framed, the debate over the politicization of science has no other plausible direction for expansion. Here there is real danger of permanent damage to American democracy.

But productive moves and countermoves can be designed even within this framework. There are authentic issues to discuss: Who, ultimately, sets the priorities for science and technology investment, and who, ultimately, sets a discipline's research agenda? Can expert communities such as scientific disciplines always be trusted to recognize when their own (nonscientific) values have shaped their scientific choices? How accountable should scientific disciplines be to the rest of society?

A good outcome for debate over the politicization of science would be the uncovering of disagreement in views on these questions and the search for common understandings—for example, a renegotiation of the division of responsibility for the national research agenda and associated investments. Part of this search for common understandings must be greater responsiveness on the part of science to the social agenda, including social goals

that may have little appeal among intellectuals, and greater willingness to treat public perspectives as more than political interference.

4. Conclusion

Let us end by considering effects on the audience before whom debate unfolds. From the perspective of nontechnical participants, expert testimony and other appeals to authority are package deals consisting of the substantive claims made (e.g., the testimony content), the credibility of the source (e.g., the expert witness), and the prestige of the expert field (see Walton 1989, 1997). So long as the field's membership is easy to recognize and the members all agree among themselves on a conclusion, the package may be very strong, but when experts disagree or when it is not clear who is and who is not an expert the package presented by each purported expert is degraded by loss of confidence in the field as a source of reliable judgment. The fragility of expert authority within nonexpert discourse is the source of the predicaments of politicization.

In the politicization debate, the scientific community has sensible goals that are imperiled rather than advanced by the impulse to protest against distortion. How would a good strategist behave within the politicization debate? Keeping in mind that every move reshapes the disagreement space, the wise strategist will concentrate not on scoring points at every turn but on pushing toward questions that are truly worth answering.

Skirmishing over who is and is not an authority is well known to diminish the credibility of entire disciplines (Ezrahi 1971), so scientists should not open this space by attacking government experts. Taking sides undercuts any claims to neutrality and objectivity, so scientists individually and collectively should avoid going after individual politicians. Scientists have legitimate perspectives on what is likely to be possible given the current state of knowledge, so they may convincingly argue about which scientific topics are best targets for public investment, but they

should avoid attacking the topics themselves or the values behind them. In the case of abstinence-only sex education, arguing that investing in the search for an effective way to promote abstinence is unlikely to succeed creates a better and more productive debate space than rejecting the search itself as unscientific.

The meta-debate over the politicization of science does not, after all, really help to settle any of the individual controversies in which it emerges. If it were admitted freely that one goal of the Bush presidency is to get scientists to exert themselves in developing science around the conservative agenda, it is unclear what would have been gained. Accusing the Bush Administration of impropriety might help persuade voters to replace the Administration with some other, but it will not make America's deep ideological divides disappear.

The politicization debate stands in for a very different debate over values and goals. It may be an important path to exposing the deepest level of disagreement, but it is not a main path toward resolution.

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7.

Deliberation Digitized: Designing Disagreement Space Through Communication-Information Services

Mark Aakhus

ABSTRACT: A specific issue for argumentation theory is whether information and communication technologies (ICTs) play any role in governing argument — that is, as parties engage in practical activities across space and time via ICTs, does technology matter for the interplay of argumentative content and process in managing disagreement? The case made here is that technologies do matter because they are not merely conduits of communication but have a role in the pragmatics of communication and argumentation. In particular, ICTs should be recognized as communication-information services that are delegated degrees of responsibility for managing disagreements arising from practical activities. These services are organized around practical theories for designing disagreement space. However, recognizing this relationship between argument and technology requires accounting for procedures, techniques, or rules (i.e., such as found in technology) and speech acts that are not argumentative propositions in any strict sense but that are consequential for what becomes argumentation in any setting. An account about designing disagreement space, grounded in Jackson and Jacobs’s theory of Disagreement Management, is put forward to address these issues while more generally contributing to understanding argument in context.

1. Introduction

From the earliest to the most recent manifestations of information and communication technology (ICT), deliberation has been an important object of interest for the development and use of ICT. The evolution of ICT, and its seeming insinuation into all walks of life, is no doubt intimately tied to its various capacities to support humans in determining prudent courses of action. The digitization of deliberation through ICTs has found its way into all types of human decision-making but nowhere is this more apparent than in political communication. While the opportunities for political argument and the innovation of technological support for political deliberation abound (e.g., Davies and Gangadharan 2009; Hilbert 2009), deliberation digitized poses a particularly poignant opportunity for advancing the understanding of argumentation in context (Aakhus and Lewiński 2011).

In any deliberation the practical matter of argument governance arises. Central to deliberation is the interplay between argumentative content and process — that is, in the course of making arguments participants also manage how they are having an argument. Thus, the parties are responsible for the unfolding argumentation and how it contributes to the development of the content, direction, and outcomes of the practical activity in which they are engaged. A specific issue for argumentation theory is whether ICTs play any role in governing argument — that is, as parties engage in practical activities across space and time via ICTs, how does that technological context matter for argumentation? One direction for answering the question is to say that technology is a neutral conduit or platform through which communication passes that is essentially inconsequential for argumentation. Another direction is to say that technology is part of the context of argumentation that is consequential for argument and those consequences need to be understood. This latter direction is taken up here because research on ICTs makes the first position untenable (e.g., Hutchby 2001) and because it is an avenue to address the important social phenomenon of deliberation

digitized while contributing to theoretical interest in argumentation theory about taking context into account in the analysis of argumentation.

So, if technology is part of the context of argument, how then can it be accounted for in analyzing argument? Logical analysis has principally concerned itself with the reconstruction of the inferential connections between propositions expressed by a speaker. Context is not pertinent to the analysis, especially the interactional, pragmatic aspects of context. Dialectical analysis principally concerns itself with the reconstruction of the exchange of propositions between speakers. While much can be said about the advances for argumentation theory developed by the pragmatic dialectical approaches (see van Eemeren and Grootendorst 2004, van Eemeren 2010; Walton, 1998), a key insight is how these approaches incorporate the interactional and pragmatic aspects of communication in argument reconstruction. These theories take aspects of context into account but principally to get a more precise analysis of propositions evident in argumentation. What requires further development is an understanding of the interplay of argumentative content and process as this relates to the elaboration, and construction, of the practical activity in which argumentation occurs. For instance, how to account for speech acts, and aspects of speech acts, that shape argumentative process but do not translate, at least directly, into argumentatively relevant propositions (e.g., premises, conclusions, critical questions, qualifications)? How to account for procedures, techniques, or rules (i.e., such as found in technology) that are not propositions in any strict sense but that are consequential for what becomes argumentation in any setting?

Drawing together the practical concerns with deliberation digitized and the theoretical concerns with argument in context, a case is made here that the relationship between argument and technology should be defined in terms of the pragmatic role technology plays in the management of disagreement and not as a mere conduit of communication. Central to this case is the claim that the development and use of ICTs to support deliberation should be understood, from an argumentative point of view, as

communication-information services that take responsibility for aspects of interaction that afford communicative possibilities and that shape what argumentation becomes in practical activities. Moreover, these services are types of third-party interventions built around forms of disagreement management practice that reflect practical theories for designing argumentation. Such a claim emphasizes that design is not only about classic concerns with the way messages convey arguments and convince others but about how interactivity affords and constrains argumentation and the knowledge and action that flow from it. From such a standpoint, for instance, institutions for argumentation ought to be seen as designs for disagreement management that can bear a rational relationship to the management of disagreement not just a conventional relationship. Moreover, argument analysis can, and should, go further than attending to propositions and the exchange of propositions. This can be achieved by attending to the design of interactivity and its role in shaping what argumentation becomes.

The paper develops around two main sections. First, some theoretical considerations about the design of argumentative interaction and its relation to practical activities are undertaken to develop a direction for explaining argument in context. Second, the relationship between argument and technology is explained in terms of designing disagreement space.

2. Argument and disagreement management

2.1 Reconsidering argument activities

As argument happens in practical activities, participants make connections between premises and conclusions and find ways to use information to justify and refute what has been said or implied in connecting premises and conclusions. Argumentation theory has developed various ways to analyze and evaluate both. The relation between premise and conclusion is one classic concern of argumentation theory, especially as seen in logic and informal logic. The other has been with the uses of information to justify

and refute claims, especially as seen in dialectical theories. As the interplay between argumentative content and process is further considered, it becomes apparent that the way parties interact shapes the relationship between argument and the practical activity context. Taking this interplay into account provides the grounds for understanding the relationship between argument and context, more generally, and technology, more specifically.

Consider the case of a meeting among community leaders, described by Aakhus and Vasilyeva (2008), where a very contentious issue about land development for a community was taken up. The meeting involved members of the community who served in various representative capacities (e.g., mayor, council members, planning commission) and representatives of a development company (e.g., managers, executives, and legal counsel). The meeting was organized around a company's proposal for land development. It was also a secret meeting. It was not a council meeting, a sanctioned committee meeting, or a formal negotiation. The entire meeting, which lasted one-hour twenty minutes, was organized around a proposal seeking acceptance while avoiding rejection. These are the classic action elements central to deliberation.

One of the many interesting matters about this meeting had to do with how the parties worked out what it was they were jointly doing in their meeting. Indeed, what was achieved in this case was political deliberation but not the celebrated sense of political deliberation. The participant contributions to the meeting were overwhelmingly relevant to the proposal at hand. This was evident in the raising and handling of doubts and objections to various aspects of the proposal and what the proposal assumed and projected. Each thread of discussion in the meeting took up some aspect of the proposals assumptions through devil's advocacy and hypothetical arguments in addition to some direct assertion and refutation. The discussion went in many directions but its overall coherence was kept intact as different points of actual and potential disagreement were opened and closed. While the proposal ultimately failed to receive the assent of those gathered, the parties narrowed the gap between the proposal and its grounds for

acceptance. Yet, the pursuit of disagreement in the discussion actually left a range of opposing positions out of the deliberation. Indeed, the nature of the discussion itself framed the entire development issue in the community as a matter of settling a very particular range of issues regarding barriers to the proposal.

The problem illustrated in the development case is not just about the rationality of premise-conclusion relationships or the reasonableness of the way a particular contribution justifies or refutes something that has been said. The case highlights the consequences of how the actors interacting together over time shape the content, direction, and outcomes of argumentation and the practical activity from which argumentation arises. It is this aspect of context — the design of argumentative interaction and its relation to practical activities — that requires further attention in argumentation theory. Such attention can deepen understanding of argument governance and the role of practice and procedures (e.g., technology, organizations, etc.) in argumentation.

Key advances for argumentation theory found in Pragma-Dialectics (van Eemeren and Grootendorst 2004; van Eemeren 2010) and the New Dialectics (Walton 1998) are sensitive to how interactivity can matter for argument quality and offer insights into how to take interactivity into account in argument analysis. There are differences between these two theories about how to take interactivity into account (e.g., van Eemeren 2010: 129–162; Lewiński 2010: 11–31, 47–61). However, whether interactivity is construed as ideal *dialogue types* in the New Dialectics or conventional *argumentative activity types* in Pragma-Dialectics, these abstract characterizations of interactivity are used to define the context so that assessments of a contribution's reasonableness incorporates the relevance of that contribution to the supposed form of interactivity (e.g., planning, negotiating) occurring within some setting. Their point is to analytically stabilize context for the purposes of reconstructing the propositional content and the moves made for evaluation relative to particular standards about premise-conclusion relationships and the appropriateness of argumentative moves.

The importance of Pragma-Dialectics and the New Dialectics is by now generally understood. Their theoretical moves provide insight into the interplay of argumentative content and process because each, in its own way, recognizes that the way contributions are made enhances or degrades the argumentative quality of interactivity. Yet, there is the prospect that reasonable argument performed in a manner relevant to the dialogue type or the conventional activity type presumed by the analyst can generate argumentation that is slightly, if not wholly, irrelevant to the practical activity in which it arose. This is the problem highlighted by the land development case. It would appear that there is theoretical and practical value in understanding how argumentation is constructed from practical activities and the role of argumentation in constructing practical activities. The use of dialogue types and conventionalized argumentative activity types are not so well suited to this task. It is like using the concept of a game to understand language-use without seeing how language-use helps explain the concept of game itself.

2.2 Disagreement management

In a series of articles starting in the 1980s, Sally Jackson and Scott Jacobs established a distinct perspective on argument by developing a theory of argument as *disagreement management* that provides the grounds for addressing the interplay of argumentative content and process. Rather than creating a normative model of good argument, they instead sought to explain how argument naturally happens in everyday settings and to account for a range of argumentative phenomena found in ordinary conversation previously resistant to a systematic explanation. They saw that argument is not distinct from communication because its very possibility is due to the principles and conditions of language and interaction that make communication itself possible. In particular, argument functions as a type of repair that is particularly attuned to managing disagreement that can arise at potentially any point in conversation (Jackson and Jacobs 1980). The basic idea led to deeper insights about the nature of argument: that arguments are

made through a variety of speech acts other than assertions, that argument happens because a prior action is made arguable, that the grounds for argument are found in conventions about the valid performance of speech actions and principles of relevance, and that argument practices are adaptations to activity contexts. Three key insights from Disagreement Management provide the grounds for understanding the design of argumentative interaction and its relation to practical activities.

First, argument happens relative to the potential for disagreement in contexts of practical activity. Disagreement can arise at almost any point in practical activities and interaction can become organized around the gap between what is agreeable and disagreeable. *Disagreement space* is the “structured set of opportunities for argument” defined by the “indefinitely large and complex set of beliefs, wants, and intentions” that interactants can reconstruct from what has been said or projected in saying something (van Eemeren, Grootendorst, Jackson, and Jacobs, 1993: 95). Disagreement happens when an action performed in practical activity is called-out and made arguable in terms of what the action claims or assumes to be true about some state of affairs — a prior action’s *information relevance* — or in terms of the appropriateness of the action in the context of activity — a prior action’s *pragmatic relevance* (Jacobs and Jackson 1992). Information relevance is the relationship between premise and conclusion, which is the classic concern in argumentation theory, while pragmatic relevance is the “use of information to justify or refute a contested standpoint” (Jacobs and Jackson 1992: 162).

The pursuit of disagreement, and thus the shape and content of any disagreement space, will vary with the practical activity context in which disagreement is generated (Jackson 1992: 268). The management of disagreement orients toward the grounds needed to generate agreement — that is, the type and amount of support and justification required to resolve a disagreement. From a disagreement management perspective, argument can aim at resolving disagreement but it is not limited to resolving disagreement, as argument can also open-up, amplify, and avoid disagreement — hence, the emphasis on managing disagreement.

Argumentation is a communication phenomenon subject to the properties of language and interaction that give rise to communication, such as the basic negotiation of the content and process common to all interaction (e.g., Clark 1992). Argumentation is a joint achievement of the participants as they negotiate the grounds for overcoming (or not) objections to claims about states of affairs or the appropriateness of an action. Proof in argumentation is dynamic and emergent because what is said is always subject to further calling-out and contestation grounded in practical activities. Forms of everyday reasoning about proof — establishing the truth of a matter and the appropriateness of an action — may develop and become conventional but that knowledge is subordinate to the ways that parties pursue the management of disagreement.

Second, argument happens through moves and counter-moves the conduct of which constructs the nature of a disagreement space from the ongoing context of practical activity. It is through moves and counter-moves that the content, direction, and outcome of activity is generated. Whether disagreement becomes functional to advancing a practical activity or ends up consuming a practical activity is contingent on how parties respond to each other. This is most clearly seen in the analysis of digressions. Jacobs and Jackson (1992) explain that digressions happen not just because moves fail to bear on the matters at hand but also, and importantly, because some moves “refocus attention away from the argumentative potential” of prior moves and toward some other potential. Digressions are the product of pragmatic irrelevance such as when relevant information is used in unproductive ways or when argumentation is used to support an uncontested standpoint (Jacobs and Jackson 1992: 173).

Parties to a disagreement are jointly responsible for how their contributions construct the context of what is disagreeable and the pursuit of disagreement. At each turning point in an exchange, the next move can reconstruct a potentially relevant argument from what has been said or presumed. Digressions involve irrelevance and are collaborative failures of the parties (e.g., Jackson, 2005).

The practices for managing disagreement can vary in how argumentative potential is realized (or not) through the construction of a disagreement space.

Third, argument happens through practices generated from basic principles of language and social interaction adapted to pursuing the management of disagreement in practical contexts of activity. Early on Jackson and Jacobs (1980) pointed out that the structural expansions of disagreement would differ depending on whether the argumentative move repairs disagreement or anticipates such repair. Thus, they were able to recognize how the everyday conversational practices for having arguments, implying or making arguments, or for avoiding or backing-down from arguments were adaptations to features of everyday talk in interaction. The natural adaptation reveals itself in other ways. For instance, Jacobs (1989) shows that recognizable argumentative forms, such as devil's advocacy or hypothetical argument, are adaptations to practical contexts of activity that emphasize cooperative, joint problem-solving discussion. Argument forms suited to the presumptive form of debate are not as well suited to the practical demands of more cooperative activity. So, moves such as devil's advocacy and hypothetical argument are not indirect or even defective versions of idealized canonical forms of argument but instead such moves are purposeful in serving an argumentative function that may not be otherwise achievable in a particular context with presumably more ideal forms of argument. Argumentative moves are not merely conventionalized ways of doing things but should be understood as adaptations to the multiple demands of communication and practical activities.

The characteristics of the act of arguing will be "as open as the variations in context of activity and forms of expression" (Jacobs 1989: 361). Clearly there will be conventional forms and features of argument but argument is not limited to those conventional forms and the conventions are not definitive of what argument can be like. This is a crucial point that calls attention to (1) how argument is embedded in activities and language use and (2) how

disagreement is a source for the invention of communication practice for managing disagreement.

Disagreement Management is a shift from explaining argument by the conventions of language use to an explanation that recognized conventional patterns of interaction and forms of expression as products of deeper principles of interaction (Jacobs and Jackson 1989). The focal concept of disagreement space helps explain the ongoing organization of disagreement around informational and pragmatic relevance, the role of moves and countermoves in shaping the disagreement space and the development of argumentative potential through interaction, and the emergence of practices for shaping disagreement space. Disagreement Management provides a foundation for recognizing how practices and procedures play a pragmatic role in shaping disagreement within practical activities, even if not formal argumentative propositions. This will be an important point in explaining the relationship between argument and technology.

The other leading pragmatic theories of argument attempt to specify normative models about practical reasoning (Walton 1998) and about the conduct of argumentative discussion (van Eemeren and Grootendorst 2004). Walton's *New Dialectics* essentially focuses on issues of information relevance; that is, the appropriate critical questions to resolve through dialogue to make a valid presumptive argument such as arguments of cause, analogy, or authority. van Eemeren and Grootendorst's *Pragma-Dialectics* essentially focuses on aspects of pragmatic relevance; that is, the valid dialogue moves that will ensure that all doubts to rational acceptance of an argument are addressed through dialogue. These theories are particularly well suited to assessing the rationality of specific moves made by individuals in a presumed dialogue type or conventional argumentative activity type. The disagreement management account, by contrast, draws attention to the construction and maintenance of disagreement space out of practical activity. The joint responsibility of participants for the shape and direction of the disagreement space and the consequences for the content, direction, and outcomes of practical

activity can thus become matters of central attention. Joint responsibility will become another important point in understanding the relationship between argument and technology.

While disagreement management is not in the first place a normative theory of argument, its insights have implications for normativity by reframing the issues of normativity around the way moves and counter-moves realize the argumentative potential of discourse (Jackson 2005; Jacobs and Jackson 2006). For instance, rather than focusing on fallacies as products of individuals represented in a particular argument, Disagreement Management explains how argumentative interaction shapes what is taken up and not taken up in the conduct of practical activity. Disagreement Management opens up new ways to consider the relationship between argument and context and issues of rationality and reasonableness. What disagreement management draws attention to regarding argument and context is not so easily addressed in *Pragma-Dialectics* or the *New Dialectics*. The rationality of individuals and of particular messages is important but so too is the rationality of the interaction in managing the disagreement that arises in practical activity. Argumentative interaction can be more or less well suited to the demands of practical activity and its enabling conditions (i.e., attitudes and motivations of the participants, information and power asymmetries). Argumentative activity can define more or less productive trajectories for practical activity (e.g., the land development case).

2.3 Argument and felicity's condition

Building on the insights of disagreement management, it becomes apparent that information relevance and pragmatic relevance are not simply conventionally given in any circumstance, as so many rules to be followed or so many background assumptions to be drawn upon, but are matters to be maintained. Contributions can have multiple meanings and functions relative to actual and potential participants. While felicity conditions can resolve semantic and functional ambiguities in interaction, there remains the problem of which felicity conditions are in play (e.g., Aakhus

and Aldrich 2002). As Goffman (1983) points out, a recurring problem for communication is *felicity's condition* — that is, the arrangements that enable interactants to see each other's contributions as not strange but within the range of what is considered acceptable. In the land development case, for instance, the maintenance of a sense of what they were doing together — *felicity's condition* — framed the informational and pragmatic relevancies in the moment that kept the discussion on track and mitigated digression. None of this was explicitly discussed in the course of the meeting but the activity they were engaged in was negotiated through the participants' design of their moves and counter-moves. The participants crafted a disagreement space in the flow of their interaction that creatively managed the many demands of holding an unofficial, secret meeting within the broader context of the community conflict. The parties disciplined the expansion of the disagreement space to explore ways to overcome obstacles to the development company's proposal without committing anyone to having actually made or to have actually accepted a proposal. This preserved a degree of strategic ambiguity about what exactly they were all doing together in that meeting and what they were committed to as a result of the meeting. It also narrowed what argumentation became relative to the broader deliberation in the community.

The maintenance of *felicity's condition* happens in the way the parties orient to each other and thus constrain the possible range of things that could be meant in saying something. The coordination of a disagreement space relative to a practical activity shapes the pragmatic force of particular moves and the stock issues associated with those actions and constructs the grounds over which argumentation proceeds. This layer of activity around disagreement, which is largely non-propositional, is a crucial aspect of disagreement management that is rife with opportunity for shaping deliberation.

Another way to see the point about *felicity's condition* is put forward by Levinson (1979) who argues that by organizing into forms of interactivity people put constraints on the possible range of things that could be meant in saying something thus enabling

communication to happen. By ratifying or affirming their relations to each other, participants create and sustain the sense of what it is they are doing together. Relevance involves not only what is being said and what is being done in saying something; it also involves what is being jointly performed in saying things to each other. These aspects are at different times mutually reinforcing and antagonizing to the sense of relevance.

The opportunity for disagreement is found in gaps between what is said and its fit with the state of affairs, what is said and what is meant, and what is performed and the ongoing activity. Central to understanding argument in context, beyond the rationality of individuals and messages, is how the construction of the interaction shapes disagreement space and develops argumentative potential relative to the practical activities where disagreements occur. Thus, in addition to premises, conclusions, justifications, and refutations, argument analysis must attend to speech actions, procedures, techniques, rules, and roles involved in articulating disagreement space from practical activities.

3. Designing disagreement space

An implication of Disagreement Management is that the gaps between claim and doubt, what is said and what is meant, and what is performed and the ongoing activity will always be, in principle, an open-ended opportunity for developing ways to manage disagreement. These gaps are rife with prospects for influencing what argumentation becomes and its role in shaping the content, direction, and outcomes of practical activities. Indeed, considerable practical work in society is directed toward this governance of argument. Aakhus explains that there is a “class of communication work in societies given to constructing means that regulate how argumentation proceeds. Whether these means are found, for example, in professional practice, communication and information technology, or the routines of organizations, implicit in these means are [practical] theories for reconstructing argumentative discourse that invite reflection and development”

(2003: 265). Such work involves the invention of lines of argument and counter-argument but it also involves the invention of means for gathering people to determine prudent courses of action. Communication design work is not only concerned with the content of what is said and the actions performed in saying something but with how felicity's condition is maintained.

While communication design work is a natural aspect of human communication, specialists and systems also perform it as third-party intervention. Such interventions take on some degree of responsibility for the conduct of interaction and introduce practical theories of disagreement management. Conceptualizing communication design work relative to disagreement management further grounds the claim that technology is not simply a conduit of information and communication for argument but is a form of disagreement management enrolled in constructing disagreement space relative to particular distributed practical activities. Moreover, communication design work provides an important avenue for further understanding argument in context.

3.1 Communication design work and designs for communication

Design work exploits principles of language and social interaction to bring about preferred forms of interactivity, while avoiding other forms, for the purpose of shaping the communication achieved among participants (Aakhus 2007). Design is focused on adapting interaction to realize particular contents, directions, and outcomes relative to the multiple goals and demands of the practical activities and their broader contexts. The knowledge of design work entails understanding the nature of interaction including how the components of practical activities interrelate in ways that enable participants to coordinate content and process. These components include types of roles, turns, sequences of turns, speech actions, commitment retraction, and goals. Design work involves developing and maintaining the conditions that enable participants to generate informationally and pragmatically (action/activity) relevant contributions to the practical activity at hand.

A key occasion for design is when practical activities break down over misunderstanding, disagreements, and such. These breakdowns invite interventions aimed at repairing the practical activity. Such interventions can take many forms. One paradigmatic form is the work performed by dispute mediators who assist disputing parties by fostering a reasoned discussion that can settle, if not resolve, the differences that are disrupting practical activity in which the disputing parties are engaged. Mediators do this by asking questions and summarizing the discussion in ways that aid the parties in recognizing ways to overcome the breakdown they are experiencing (Jacobs and Aakhus 2002). The actions of the mediator practically reconstruct, from the circumstances at hand, a productive disagreement space that enables the parties to manage the competing demands of the situation, their relationship, and their state of knowledge (at least when successful). The reconstruction is neither formally normative nor is it naïve but is instead grounded in practical theories about what is possible given the circumstances (Aakhus 2003; Jacobs and Aakhus 2002). The intervention is about constructing interactivity that deals with the limitations and opportunities afforded by second and third order conditions, such as the parties' emotions and self-interests that mitigate willingness to accede to the better argument and to the lack of information or power differentials that undermine critical openness (see van Eemeren et al. 1993 for a discussion of these conditions).

Argument typically happens in conditions less than what idealized models of argument presume. Much design work related to disagreement management involves making do with the circumstances at hand. This creativity is certainly an aspect of argument in context that cannot be dismissed. Jacobs and Jackson (2006: 125) outline three general properties of systems designed to foster reasonable discussion, such as dispute mediation: (1) systems offer solutions to take into account "threats to the reasonableness of deliberation [that] often result from abuses or perversions of basic principles that make communication possible;" (2) "design solutions are often systemic in nature, adjusting the discussion processes as a whole and the conditions

for discussion rather than the characteristics of individual disputants;” or (3) designs “to assure the most reasonable decision-making feasible can sometimes be quite surprising when considered merely in the abstract.” These properties recognize the challenges and ironies of the design work involved in fostering reasonable discussion in less than ideal conditions. These properties suggest that consideration of the opportunity and opportunism in creating and sustaining forms of interactivity aimed at handling disagreement in practical activities is necessary for understanding the relationship between argument and context. Moreover, argumentation can be described and assessed beyond the rationality of messages and individuals by examining how forms of interactivity are constructed and their relevance to the breakdown of practical activities.

Interventions involve (1) some degree of delegation of responsibility for interactivity to the third-party and (2) the introduction of practical theories of how argument functions in managing disagreement. (Such theories can be more or less coherent and more or less well instantiated in performance.) It is through these two aspects of intervention that third-parties exercise influence over the goals of the interaction, the relations participants take up with each other in the interaction, and the epistemic quality the interaction produces. Taking into account the delegation of interactional responsibility and practical theories of disagreement management is an important way to expand the analysis argument in context and to understand the relationship of technology and argument.

3.2 Practical theories and responsibilities for interaction

Design work intervenes by altering the resources for interaction. The consequences of design work can be seen in the way interventions delegate interactional responsibility and introduce practical theories of disagreement management through *formality* and *orchestration*. Practical theory is here used to refer to the reconstruction of communication practice, following Craig and

Tracy (1995), that articulates the normative yet practical reasoning about communication problems and solutions (e.g. Aakhus 2001).

Formality is a concept from Conversation Analysis that refers to the degree to which features of interaction (turns, turn-taking, topics, etc.) are pre-allocated rather than being left to the determination of the participants (Atkinson and Drew 1979). The greater amount and degree of pre-allocation of interactional features the more formal, such as seen in the difference between a business meeting and a judicial proceeding. Formality reveals how interaction is arranged relative to particular goals that involve participants taking on particular relations to each other that in turn establish the epistemic possibilities for interaction (Silverman 1998; Drew and Heritage 1992). The degree to which the parties sustain their orientation to particular procedural rules they institutionalize their talk so that it maintains particular conditions of felicity and unfolds with a particular rationality.

A related but different concept is *orchestration*, which refers to a role taken on in determining when other parties speak and receive attention for what they are speaking about (Dingwall 1980: 156). Orchestration involves devising ways to keep participants oriented toward a course of action and in so doing maintains the principles of relevance that constitute the activity at hand. Orchestration sets the conditions for participants to reason about situating their contributions to the purposes at hand. Communication design work, in practice, can involve either the introduction of formality into interaction or the orchestration of interaction or both. Communication design encompasses both in the way it arranges the features of interactivity and sustains the conditions of felicity.

Design work can be described and analyzed in terms of its practical theory of disagreement management. Analysis of classic third parties, such as dispute mediators and meeting facilitators, reveal how third parties design the disagreement space through formality and orchestration. For instance, Aakhus (2003) found that dispute mediators handled impasse by focusing the disputants' attention on practical matters about their future relationship rather than resolving past differences. This orchestration of the

interaction resulted in a disagreement space that privileged requests for change over arguments for the status quo. Part of the practical theory then was that argument should be deliberative in developing plausible courses of action and not forensic in adjudicating what was right or wrong about past actions. Jacobs and Aakhus (2002) found that dispute mediators' use of questions and summaries revealed three different rational models for managing differences of opinion — critical discussion, bargaining, and therapeutic discussion. Each was a practical theory about managing disagreement and the role of argument that, in practice, opened up very different ways for parties to pursue their disagreement.

Both studies described the situated behaviors of dispute mediators relative to what an idealized third-party would do to create a normatively ideal critical discussion. In particular, how would such an idealized third-party distribute turns, highlight limitations in what was said, foster appropriate speech acts, and so on. Rather than evaluating the shortcomings of mediator behavior relative to the idealization, both studies examined systematic departures from the idealization that, in turn, indicated situated theories of action and models of interaction implemented by practitioners in designing disagreement space. The articulation of practical theories of disagreement management makes it possible to assess the trade-offs for rationality inherent in differing approaches to managing disagreement. Further, the design of disagreement space can be interpreted and assessed relative to the conditions of the practical activity and circumstances in which disagreement arises.

Third-parties become involved in disputing processes in a variety of ways that differ in terms of the responsibility they are delegated for handling the disputes. Black and Baumgartner's (1983) theory of the third-party distinguishes between support and settlement roles in a way that helps clarify the delegation of responsibilities for interaction when third-parties intervene on disputes. A *settlement role* is taken on when a third-party intervenes between two or more parties with the aim of enabling the parties to settle their differences. Settlement roles can be

enacted in a variety of ways that differ in the authority of the intervention as indicated by how much control the principals in the disagreement have over the outcome of the dispute. In dispute mediation, for instance, the third party assists the disputants' communication without directly imposing any outcome. This stands in contrast to a judge who intervenes more authoritatively by structuring the dispute and rendering an outcome for disputants. *Support roles* on the other hand refer to the ways that a third-party offers help to a particular party involved in a conflict. Supporters differ in the degree to which they act on behalf of a party in a dispute by providing assistance and taking risks for the party. Informers offer support, for instance, but take on little risk by providing information or facts for a disputant to use. Advocates offer support by taking a role in the conflict and acting on behalf of a disputant while surrogates stand in for the disputant.

Even though argumentation theory typically focuses on the principals in disagreement, the third parties that become involved in managing the disagreement are consequential for how disagreement is pursued and how it contributes to the content, direction, and outcomes of the practical activity in which it occurs. Interventions can vary in the practical theories introduced and the responsibility taken on. This is the vantage point from which to see how interventions contribute to what argumentation is made possible — especially the non-propositional aspects of speech acts, procedures, and such. The relevance of the practical theory and the degree of responsibility can be described and criticized.

3.3 Argument, technology, deliberation

Technologies for communication are better understood, at least for the purposes of argumentation theory and the analysis of the relation between argument and context, as communication-information services that, as third-party intervention, perform communication design work relative to the demands and opportunities for managing disagreement in the circumstances of some practical activity. Communication-information services are delegated (or take) responsibility for aspects of conducting

distributed interaction and thus the content, direction, and outcomes of practical activities. These interventions vary in the degree of responsibility taken on for the content and process of communication and in how the service aims to design disagreement space. These services are organized around a practical theory of disagreement management that can be more or less well developed, more or less coherent, and more or less appropriated into human interaction.

There are a wide variety of communication-information services in modern political deliberation that reveal an on-going argumentative entrepreneurialism at the gaps between evidence and claims, what is said and actions performed, and actions performed and activities undertaken. Many communication-information services exist for the purpose of enabling deliberative communication while others have been appropriated for such purposes. These services make specifications, either purposefully or inadvertently, about how argumentation works or how it ought to work for deliberation. Various groupware enable participants to focus on the quality of their deliberative process such as group decision support systems (GDSS) and argument visualization systems for supporting reasoning (e.g., *Compendium*, *ReasonAble*, *Aracuria*). More contemporary expressions of groupware are found in uses of the web and social media by organizations and governmental agencies to manage the crowd around products, services, and policies (Ågerfalk, Aakhus, and Lind 2010). Large scale science projects that build cyber-infrastructures also illustrate many concepts originally developed in groupware. Various web-based forms of threaded discussion have been developed over the past two decades. Some are platforms dedicated to supporting a wide variety of online groups (e.g., Google groups, Facebook groups, LinkedIn Groups). Other platforms are specifically integrated to enable discussion about particular matters, such as when media organizations use threaded discussion for reader response to news stories and editorials, when corporations use social media to generate innovation around products and services, and when governmental bodies use social media to cultivate engagement over policies. Chat systems have

evolved over the past few decades into wide-scale platforms such as Twitter but also as more specified implementations meant to support particular internal groups or work-teams. There has been considerable innovation in the uses of ICT to make information available about policy and politics that have reinvented the role of think tanks and advocacy groups. No doubt there will be continued creativity digitizing deliberation.

Communication-information service interventions are not external to the pragmatics of communication and argumentation but part of it. Theories of information systems and information technology point this out. Goldkuhl and Lyytinen (1982; Lyytinen 1985) recognized long ago that ICTs are social and linguistic systems that are technically realized. Information systems are bundles of categories that define roles and relationships among people into particular relations to each other (Bowker and Star 1999; Star and Ruhleder 1996). ICTs are meta-communicational in the way the design signals actions to be taken, roles to be taken up, and affords actability (Goldkuhl and Ågerfalk 2002). Mediated platforms introduce formality and orchestration into interaction by the way the technology specifies how aspects of interaction can happen. The specifications may be more or less intentional and reflective but the specifications are aspects that participants work with or work around when incorporating the technological setting for communicative purposes (e.g., Weger and Aakhus 2003).

The pragmatic role of communication-information services in argumentation is evident in the choices that delegate and take responsibility for aspects of argumentative interaction — the aim of interaction, the relations participants take up, and the epistemic possibilities afforded — that are consequential for how disagreement is managed. These services vary in terms of what the intervention takes responsibility for and the degree to which responsibility is taken in affording communication and managing disagreement. An important task for argument analysis lies in articulating the disagreement management practice evident in the communication-information service provided. As discussed above, there are two key interrelated aspects to these interventions: the

practical theory of disagreement management and the manner of delegating responsibility for interaction.

Making sense of communication-information services involves articulating the means and logic for transforming a given way of interacting into a preferred way of interacting for managing disagreements that arise in the conduct of practical activities. This involves describing the design specifications for interaction the communication and information services makes through its actions for designing disagreement space. Aakhus and Jackson (2005) summarize research from language and social interaction that identifies seven key matters about language and interaction for understanding the specifications a technological implementation makes about communication (summarized in Figure 1). The design specifications for interaction involve trade-offs in fitting the preferred form of interactivity into the routines of the participants while enabling the participants to manage their differences and reshape the content, direction, and outcomes of the practical activity in which they are engaged. These trade-offs must also be described by considering how the specifications address second order conditions (e.g., involving willingness to accede to the better argument) and third order conditions (e.g., involving asymmetries of resources such as information). Such description aims to articulate how the service frames the problems to be addressed, the purpose of the intervention, the orchestration and formalization the interaction for solving the problems, and the rationale justifying the legitimacy and efficacy of the intervention for the circumstances and practical activity at hand (see Aakhus 2003). Central to analyzing communication-information services is the articulation of the practical theory of disagreement management and the responsibility for interaction evident in a service's design proposal for interaction. Some prior research helps illustrate such analysis.

1. Turn-taking formats vary in the methods for generating and displaying relevant contributions.
2. Participant identity and face concerns affect

participation in any interaction format.

3. Speech is a kind of action with collateral commitments.
4. Speech sequences are indefinitely expandable.
5. Coordinated action depends on repair.
6. Communication is subject to culturally shared assumptions about communication.
7. Consequences of design for practice are interactionally emergent.

Figure 1. 7 Key facts about language and social interaction for design (adapted from Aakhus and Jackson 2005).

Practical theories of disagreement management are evident in the formalities for interaction provided and the orchestration performed. The rational models dispute mediators implemented in negotiations between two parties discussed earlier, revealed practical theories about designing disagreement space. In a parallel fashion, Aakhus (2002a; de Moor and Aakhus 2006) explains how communication-information services differ in terms of the service's theory for designing disagreement space. The formalities for interaction an ICT introduces are resources the participants can use to orchestrate their interaction to give interactivity a particular purpose and an underlying rationale about the handling of disagreement. Groupware products (e.g., GDSS, Argument Visualization software) present different formalities for how interaction should proceed, such as the expression and response to speech acts, the roles the participants take up relative to what has been said, and the structure of topics available for discussion. These affordances and constraints for interaction suggest at least three practical theories for managing disagreement: funneling, issue-networking, and reputation managing (Aakhus 2002a). For instance, groupware with funneling rationality affords the treatment of disagreement as signals of the degree of commitment among participants toward putting a proposal into action while groupware with an issue-networking rationality affords

opportunities for correcting claims based on challenges to the claim.

Aakhus's (2000, 2001, 2013) analyses of the practice of meeting facilitation using group decision support systems (GDSS), likewise, reveal how communication-information services, while ostensibly neutral third-party interventions, introduce practical theories of disagreement management through the orchestration of interaction. A facilitator works in combination with a GDSS to shape the opportunities for participation and expression of points of view. The facilitation takes responsibility for aspects of interaction by posing questions, encouraging the development of topics, and drawing out differences of opinion. Interviews revealed a primary orientation among practitioners that argument involves the expression of preferences and settling differences by achieving "buy-in" more so than argument involving the making and defending claims about states of affairs (Aakhus 2000, 2013). This perspective guided the specific actions and the overall conduct of their interventions in designing disagreement space. Argument functioned to create bargaining more than a discussion approximating critical discussion.

In addition to a practical theory of argumentation, the role that communication-information services take on varies by the degree of responsibility delegated and taken on by the communication-information service. What these services highlight is the potential for division of argumentative labor in the management of disagreement. Theories of argument often focus on or presume that argumentation involves only two parties or two positions on issue. That standard dialectical view misses the polylectical aspects of deliberation (see Lewiński 2010) and thus, in terms of designing disagreement space, the standard view misses out on how the task of argumentation can become divided across multiple actors and multiple activities. Jackson's (2008) identification of black box arguments in contemporary policy discussion illustrates the point. Black box argument refers to the devices specialist communities use to reach conclusions that are then used by others in decision-making, such as how scientific conclusions enter into policy processes through peer review or significance testing. The devices

that produced the argument are generally unavailable to the decision-makers for assessment and to open the black box for assessment undermines the authority of the conclusions produced by the black box for the deliberation. The key issue is whether and when to delegate this aspect of the argumentation in deliberation to an outside authority. Jackson's analysis points out that deliberation is a workflow that involves many actors taking responsibility for different informational and pragmatic aspects of disagreement management.

Argumentative labor can be divided and the various support and settlement roles that communication-information services take on are indicative of the ways that argumentative labor is delegated to communication-information services. For instance, Aakhus (1999) analyzed Science Court, which was a mechanism for handling disagreements in policy deliberation related to matters of science on which those deliberating had no expertise. The mechanism was not an ICT specifically but it was an information system intended to return a definitive result based on the input of experts on the particular scientific matter. Policy makers could then continue their policy deliberation based on accepted scientific factual premises and reasoning. The Science Court was essentially a mechanism for repairing break-downs in ongoing deliberation over policy. It performed a communication-information service by providing a sequence of primary and preparatory argumentative activities. Each activity specified features of interaction such as roles, speech acts, and rules for evidence and commitment retraction for handling a particular argumentation gap in the overall policy activity. Science Court was delegated authority over settling the scientific disagreement relevant to the policy and a support role in informing the policy-makers about the best available science on the policy matter. In terms of its settlement role, the service designed a disagreement space that resembled the normative model of critical discussion. However, implementations of the design revealed that underlying theory of disagreement management was unable to produce credible output to support the policy process but that its design for disagreement was well suited to the demands of general public inquiry for sense-making

of complex issues. The willingness to delegate authority to Science Court was minimal in the legislative, regulatory, and public arenas. It offered a settlement service but could only take a facilitative not adjudicative degree of responsibility in managing disagreement.

The fact that argumentative labor can be distributed among a range of actors across a flow of practical activity, the wide range of roles communication-information services take on in political deliberation becomes increasingly apparent. Services are directed at premise-conclusion relations in political argument and the quality of participation in political deliberation or some combination of the two. Aakhus (2009; Aakhus and Ziek 2008) offers an initial characterization of the variety of communication-information services in political deliberation. The services analyzed aim at designing disagreement space around issues, or potential issues, regarding the consequence of business enterprise on society and the environment. The services attempted to take responsibility by aggregating data for others to use in building arguments and by providing visualizations of complex data patterns that others can use to articulate invisible trends in the state of knowledge, or by generating arguments for others to use. Such services were preoccupied with premise-conclusions relations in policy argumentation. Other services, for instance, provided visualizations of ongoing policy disagreements so that others can make sense of the ongoing debate or framing services that attempt define the terms of the policy issue. Such services were preoccupied with the conduct of deliberation. All of the services identified acted as third parties within local, national, and global political issues by offering communication-information support and settlement services that open, expand, direct, and contract the disagreement space for particular policy issues. Each taking up some action to shape what could and would become argumentation in the deliberation.

The division of argumentative labor poses challenges for assessing responsibility and accountability for what argumentation becomes. Making sense of this aspect of argumentative context can be aided by determining the responsibility for managing disagreement taken on by the communication-information service

when intervening on practical activity, such as exemplified in Figure 2.

The point under development here is that disagreement management practice extends through ICTs and the information systems of which they are a part. This is evident, as discussed above, in the formality ICTs introduce into interaction and the orchestration performed through communication and information services. ICTs and information systems aim to institutionalize forms of talk and interaction through the design of features for interaction. The potential for analyzing the role of communication-information services in argumentation and deliberation is illustrated by briefly considering a case where a communication-information service was provided to aid deliberation about an important public policy issue.

Aakhus (2002b) analyzed an early use of threaded discussion by a media organization to foster discussion about the news stories it presented. A televised news magazine show presented an investigative story about the potential health consequences of using mobile telephones. A transcript of the investigative story with further background information about the health effects of cell phones were posted alongside a space for threaded discussion of the matter. The media organization's implementation of ICT is illustrative of the work performed in society to construct means for argumentation. In this case, the organization acts as a third-party by constructing a venue where those interested in and who have stake in the health effects of cell phones could deliberate the matter. Central to supporting deliberation were the affordances for managing the disagreement provided by the venue and creating a context of deliberation by the participants.

A. Minimal responsibility primarily procedural intervention

- No strong presumption about the type of argumentative conduct
- Chat, Threaded Discussion, Message Board

- B. Moderate responsibility primarily procedural intervention
 - Stronger presumptions about the type of argumentative conduct
 - Organizational Uses of Social Media to manage the crowd
- C. High responsibility involving more than procedural intervention
 - Actor/agent provide settlement or support services aimed at shaping the disagreement
 - Web and Social Media strategies that circulate data and arguments for others to use

Figure 2. Degree and type of responsibility for disagreement space

What was particularly noteworthy in the case was the behavior of the media organization in designing the disagreement space. Through the threaded discussion the participants called out aspects of the investigative news story by challenging assumptions, seeking clarification, and disagreeing with the implications of the investigative story. The media organization's lack of any response to these otherwise very reasonable call-outs by the discussion board participants made it seem like any doubts expressed in the forum were between the participants, not between the participants and the media organization over the veracity of the investigative news story itself. This became an issue in the threaded discussion as contributors were looking for the media organization to advance the deliberation by accounting for apparent gaps in the investigative report and the informational resources provided in the venue. The media organization, despite creating the venue, would not engage even though many of the doubts and disagreements raised by the participants about the story were

highly relevant and important to the deliberation. In so doing, the issues pursued became about what the news organization was covering up and its motivations, rather than joint construction of knowledge and action relevant to the issue.

In terms of the ideas advanced in this paper, the participants resisted the media organization's communication-information service by taking issue with the intervention's practical theory of managing disagreement and the nature and degree of responsibility for interaction taken by the intervention. The media organization's support for deliberation made it possible for the participants to disagree but did not allow the participants to expand the disagreement space in the directions the participants were attempting to take it. Many of the participants sought explicit engagement with the media organization, at least the authors of the investigative story, to account for the story's presumptions and implications. The orchestration of the interaction fostered an activity of expression of opinion rather than critical engagement over facts and values. Moreover, the media organization's intervention displays a form of neutrality where the media organization attempts to remain distant from the substance and outcomes of the discussion (i.e., like a discussion moderator who simply attempts to make turns available to anyone who wants to participate). The participants took issue with both aspects of the intervention and how it framed what counted as normal contributions (and non-contributions) to deliberation about the matter. They resisted what the intervention contributed to the governance of argument, in particular how it specified the aim of the activity, the relations available to be taken up among participants, and the epistemic potential of the argumentation for the practical activity. Their concerns were about the consequences of the communication-information service for the interplay of argumentative content and process.

4. Conclusion

A case has been made here that the relationship between argument and technology should be defined in terms of the pragmatic role technology plays in the management of disagreement and not as a mere conduit of communication. Central to this case is the claim that implementation of ICTs and the development of information systems should be understood, from an argumentative point of view, as communication-information services that take responsibility for aspects of interaction that afford communicative possibilities and thus design disagreement space. These services are built around an often implicit theory of argumentation and forms of disagreement management practice. The claim follows from the Disagreement Management theory of argumentation. That account was originally directed at explaining how argument happens in ordinary conversation, and how argument happens due to the very principles of language and interaction that make communication possible. From this starting point, a general pragmatic account was introduced for understanding the practices of managing disagreement, and their consequences, wherever these may occur — whether through specialized roles, organizations, or information-communication technology. A key consideration is the role communication-information services play in maintaining felicity's condition.

So, from the case developed here, it is possible to see how technology can have a role in governing argument. Moreover, it is possible to see how to account for speech acts, and aspects of speech acts, that shape argumentative process but do not translate, at least directly, into argumentatively relevant propositions (e.g., premises, conclusions, critical questions, qualifications). It is also possible to see how to account for procedures, techniques, or rules (i.e., such as found in technology) that are not propositions in any strict sense but that are consequential for what becomes argumentation in any setting. In this way, then, the analysis of deliberation digitized contributes to understanding argument in context.

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8.

Modeling the Invention of a New Inference Rule: The case of 'Randomized Clinical Trial' as an argument scheme for medical science

Jodi Schneider and Sally Jackson

ABSTRACT: A background assumption of this paper is that the repertoire of inference schemes available to humanity is not fixed, but subject to change as new schemes are invented or refined and as old ones are obsolesced or abandoned. This is particularly visible in areas like health and environmental sciences, where enormous societal investment has been made in finding ways to reach more dependable conclusions. Computational modeling of argumentation, at least for the discourse in expert fields, will require the possibility of modeling change in a stock of schemes that may be applied to generate conclusions from data. We examine Randomized Clinical Trial, an inference scheme established within medical science in the mid-20th century, and show that its successful defense by means of practical reasoning allowed for its black-boxing as an inference scheme that generates (and warrants belief in) conclusions about the effects of medical treatments. Modeling the *use* of a scheme is well understood; here we focus on modeling how the scheme comes to be *established* so that it is available for use.

1. Introduction

A fact about argumentation that deserves more notice is the extensibility of humanity's store of tools for coming to conclusions and defending those conclusions to one another. People invent new methods for inference and they innovate in how they use these methods to come to shared conclusions. That is, they do not

just devise novel arguments to meet specific needs but propose and advocate new *forms* of argument intentionally designed for reusability. Invention and innovation have been occurring intermittently for millennia, but in the past century these processes have become far more continuous, far more intentional, and far more visible than before. New methods of inference may appear at any time as arguers themselves invent and seek to justify new ways of generating dependable conclusions from new (or even old) kinds of data.

At present, many such inventions are emerging in scientific fields, and this burst of inventiveness is dramatically visible in certain domains—such as human health and environmental change—where enormous societal investment has been made in finding ways to reach more dependable conclusions about matters of great importance. But newly invented inference methods, as they emerge, require justification or defense before they can themselves be used to justify or defend particular conclusions. For example, use of computational simulations of natural processes becomes more convincing as particular models accumulate track records of success in describing or predicting the events they simulate. When much is at stake, new ways of coming to and justifying conclusions may themselves be highly controversial, deeply entangled with political interests or conflicting goals. This paper explores how to incorporate the contentious process of invention into the general project of modeling naturally occurring argument.

We focus here on a class of inventions that are generally understood by their originators and users as “methods.” They function both as a way to arrive at conclusions and as a way to justify those conclusions to skeptics and critics. With some modifications to be discussed below, these inventions serve the functions Toulmin (1958) attributed to warrants, that of allowing for inference from data to conclusion. Because they are designed for repeated application to any number of inference problems, they may be seen as argumentation schemes in Walton’s (1996) sense. From any of these perspectives, they are *inference rules* that are

invented for the purpose of drawing and defending certain kinds of conclusions.

In the sections below, we first discuss inventions of new inference rules in health science, then describe the practical reasoning structures that are involved in establishing such rules within that field. Next we argue that no matter how complex the internal structure of such a rule, once the rule is “black-boxed” within a field, it is applied without explicit justification to individual instances of inference. Finally, since black-boxed inference rules can always be reopened for critical questioning, and since any such rule may be superseded by something better, approaches are needed for representing relationships of conflict, preference, and inference among inference rules themselves (and not just for their application in particular cases).

2. Inventions in Health Reasoning

Working on health-related controversies, we have observed a steady stream of inventions and innovations in reasoning since about the middle of the 20th century, accelerating rapidly as the idea of inventing becomes ever more fully naturalized. Jackson and Schneider (2018) introduce the notion of a “warranting device” as a field-dependent inference rule, invented to serve a specific argumentative purpose. The warranting device is conceived as a conclusion-drawing rule that can be applied in many circumstances, plus whatever assurances may be available to back the dependability of the device. That is, the device consists of the warrant and its backing. Many such devices are being proposed and developed to handle various forms of aggregation problems: problems that involve constructing coherent conclusions from large bodies of potentially relevant information.

Jackson and Schneider (2016) identified Randomized Clinical Trial and Cochrane Review as two distinct but closely intertwined examples of warranting devices appearing recently within reasoning about health, and Jackson and Schneider (2018) gave a more detailed analysis of Cochrane Review. Experimental

investigation of medical treatments is itself still a relatively new way of coming to conclusions about the effectiveness of these treatments, still having been in need of explicit defense through the 1950s. Subsequent to widespread adoption of Randomized Clinical Trial in medical science, many topics in medical research have generated dozens or even hundreds of individual experiments. Interpreting the body of evidence is not a matter of choosing among the various conclusions drawn by individual experimenters but a matter of making sense of the whole evidence base. Until very recently, this sense-making was generally accomplished through whatever ad hoc procedures an individual literature reviewer considered reasonable. The Cochrane Review appeared in the 1990s as a newly invented method for aggregating evidence from many individual experiments on medical treatments to arrive at a conclusion that can guide medical practice.

In performing a Cochrane Review, the reviewer must follow well-defined procedures for locating potentially relevant evidence, evaluating the relevance of each source located, systematically examining the substance and the quality of each piece of evidence, and aggregating the results either qualitatively or quantitatively into a carefully-qualified statement of what is (and is not) shown by the body of research as a whole. The Cochrane Review and its closest competitors have obsolesced certain prior practices, and both scientists and nonscientists regard Cochrane Reviews as the most rigorous method currently known for making inferences about the effects of medical treatments. However, the reasons for trusting Cochrane Review typically have no presence in an individual instance of its use.

This is not unusual: Warrants rarely, if ever, have a specific textual anchor in an argument. Freeman (2011) made the same point and went further to say that they should not be included at all in diagrams of argument (as products). At best, an argument may refer to the rule applied in making an inference from data to conclusion, with rule understood here as an instruction for how to draw conclusions from data of that kind. The warrant in an argument from expert opinion, often represented as a kind of assertion, is actually better understood as a directive (“Trust

experts unless there is some reason to doubt them in a particular case”). And the warrant in an argument based on Cochrane Review is (analogously) a set of instructions, very detailed, for what to do, given the availability of a certain kind of information. Why the inference rule is trusted is not part of the argument in any one instance of its use.

A published Cochrane Review will typically describe itself as a Cochrane Review but it will not enumerate all of the reasons that Cochrane Reviews are considered to be a strong basis for conclusions. An individual Cochrane Review does not contain a complete description of how Cochrane procedures justify the inference from a pile of studies to a generalized conclusion about a medical treatment, any more than an argument from expert opinion contains whatever it is that leads people in a particular place and time to assume that if an expert says something, it is likely true.

A very important quality of these invented inference rules is that the rules themselves may change over time. Since its invention (just a quarter-century ago), the Cochrane device has been strengthened through refinement of its procedures and through accumulation of material and institutional resources that make it technically superior to prior and competing reviewing methods. Individual reviews are thus being conducted under conditions of “fluidity” (Tans 2006): While all such reviews produce conclusions warranted by the Cochrane device, the device itself is still changing, generally becoming less vulnerable to criticism, but occasionally making trade-offs between scientific rigor and other goals (such as timeliness of response to clinical need). The Cochrane community implicitly recognizes that this fluidity means that conclusions drawn under one version of the device may be weaker than conclusions drawn under later versions of the device; in fact, a Cochrane Review may be “withdrawn” as it ages, not only because the evidence base may have changed but also because the procedures that were used may fail to satisfy a rising standard of proof associated with improvements in the device. An argument warranted by a device may include interpretation of how the device was applied given the particular circumstances of application. A similar observation has been made by Tans (2006)

for the case of legal (judicial) reasoning; part of the fluidity of legal warrants is the work that goes into establishing whether some particular rule can be applied to a case. Device-based reasoning in science is at least as complex as judicial reasoning in this respect.

The work required to justify a newly invented warranting device appears to be one case of what Toulmin (1958) had in mind when he distinguished warrant-establishing arguments from warrant-using arguments. Unfortunately, Toulmin offered no serious analysis of how a novel warrant might come to be established, providing only a casual and suggestive description of how a warrant might be established: "Warrant-establishing arguments will be...such arguments as one might find in a scientific paper, in which the acceptability of a novel warrant is made clear by applying it successively in a number of cases in which both 'data' and 'conclusion' have been independently verified" (1958). Passing references elsewhere in Toulmin's work suggest that he had in mind newly established empirical generalizations, which could properly be represented as conditionals, resulting in a defeasible modus ponens structure as shown in Bex and Reed (2011). Empirical generalizations phrased as conditionals are better understood not as anything like an inference rule but as part of the data. Warranting devices are not empirical generalizations but packages of procedures used to generate conclusions, and to try to model them as premises would mean enumerating a very large number of premises in modeling every conclusion drawn through application of the device. Bex and Reed discuss the general disadvantages of treating inference rules as conditional premises (2011), and those disadvantages are massively amplified as the rule itself becomes more complex.

Toulmin provided no realistic examples of warrant-establishing argument to clarify what he meant, but our own search for cases of warranting-establishing argument have not, so far, borne much resemblance to Toulmin's speculations. Where Toulmin hinted that warrants might be established by showing their ability to connect premises known independently to be true with conclusions known independently to be true, what we have observed is that warranting devices are often invented to generate

conclusions for which there is no other known method of drawing a conclusion, let alone an independent method for determining whether the conclusion is true. Our very preliminary examinations of new methods for data aggregation suggest that one motivation for invention of a warranting device is to draw conclusions from observations that, previously, were considered too confusing to allow conclusions to be drawn at all, as for example when variations within a set of observations simply appear to be random. Warranting devices may also be invented in an effort to improve on whatever might previously have been the best available way of drawing a conclusion, where improvement might involve something like reducing the proportion of incorrect conclusions. As we plan to argue in the next section, a warrant-establishing argument will have a conclusion consisting of a new warrant (or possibly an endorsement of a new warrant), and data consisting partly of what would commonly be considered backing for the new warrant. To date, computational modeling of argument has mostly tackled the analysis of what Toulmin called warrant-using argument; this is most evident in the design of the Argument Interchange Format (1; Chesñevar et al. 2006) around theory-specific inventories of argumentation schemes that are used to characterize and evaluate individual arguments. Evaluation of schemes themselves, including in the process of establishment (and possibly disestablishment), must also be accomplished through argumentation and must therefore be in the scope of computational modeling of argument.

3. Warrant-Establishing Arguments: Defense of a New Inference Rule

In the real world of argumentation, defense of a new inference rule must itself be accomplished through argumentation, so it depends on use of whatever prior reasoning resources are available to arguers. In different theoretical terms, this means that it must be possible for new inference schemes to be devised as extensions or replacements or improvements of old schemes, and this process

must be possible by using trusted schemes to justify newly proposed ones. This suggests that any proposed modeling system with a finite catalog of inference rules should likewise be capable of extending itself through use of the existing rules to build new rules. We show here that a catalog containing a Practical Reasoning scheme as described by Walton (1990) can generate new schemes of the kinds we have been studying, and there may be other paths to extension of a catalog of schemes. Very likely, one aspect of field-dependence in argumentation may be the paths used for establishment of new warrants or new schemes.

Practical reasoning is reasoning about what to do in a situation. The search for new inference rules is often a search for what to do with certain kinds of information that present unresolvable dilemmas for established inferential practices. One way to establish a new inference rule is to construct a practical argument that advocates application of the rule as a way to meet the field's standing goals in some particular class of circumstances (such as the availability or unavailability of a certain kind of information). The conclusion of such an argument is an instruction about how to proceed in the relevant circumstances. A warrant-establishing argument must have an inference rule in (or as) its conclusion: an instruction or a set of instructions for how to make an inference, possibly including instructions on gathering or producing data.

A number of different analyses of practical reasoning are already available, but none, so far as we know, of what practical reasoning looks like when applied to the justification of an inference rule. Fixed elements in nearly all accounts of practical reasoning are a goal, a set of circumstances in which the goal has not been fulfilled, a means of attaining the goal (urging of which will be the conclusion), and some reasons for believing that the goal will in fact be achieved by the means proposed. Practical reasoning in particular domains can be further specified in terms of the content of the various structural elements (goal, circumstances, means-end premise, etc.). Fairclough and Fairclough (2012) provide a useful variation on Walton's account, specifying the substantive components of practical reasoning in defense of policy

proposals or governance actions. Practical reasoning in politics is characteristically comparative, involving simultaneous consideration of several competing actions, and Fairclough and Fairclough have created a “dialectical profile” for practical argument (2012) that facilitates analysis of this kind of situation. This feature of their work is highly relevant to the use of practical reasoning to establish inference rules in science, since like alternative policies or alternative governance decisions, inference rules must often be defended in relation to other possible ways of drawing inferences in the same circumstances. Specifically, new inference rules typically appear in response to some recognition of weakness or vulnerability in a prior way of arriving at beliefs within the field. At least initially, a newly proposed inference rule may be seen as competing with a prior rule.

Establishing a new inference rule in science depends on showing that the rule satisfies some disciplinary goal (such as forming correct beliefs in the discipline’s domain), given whatever is known about the potential obstacles to forming correct beliefs (here included in what Fairclough and Fairclough term “circumstances”). All practical reasoning includes (implicitly or explicitly) a means-end premise that is a reason for believing that taking an action will in fact achieve a goal, and in the case of arguments in support of an inference rule, the means-end premise will concern the ability of a rule to generate conclusions that are consistent with the field’s goals and values. When multiple rules are available, for instance when a new rule is formulated as an alternative to some prior inference rule, the means-end premise is satisfied by showing that the new rule will produce results that, over many instances of use, will be more often correct than results produced by the old rule. Figure 1 shows our adaptation of Fairclough and Fairclough’s practical reasoning scheme to the purpose of establishing a new inference rule by giving the rule itself as the conclusion of the argument.

To illustrate, consider Randomized Clinical Trials as an inference rule (or in our terminology, as a device for warranting beliefs about medical treatments). Randomized Clinical Trials (or RCTs, as they are commonly called) involve administering

experimental treatments to patients who have been randomly assigned to one treatment condition or another, while attempting to control the influence of anything other than the experimental treatments on outcomes for the comparison groups. Many variations of RCT can be devised to adapt to specific scientific circumstances, but in the simplest possible case, two randomly assigned groups of patients are compared on outcomes that a treatment is expected to affect. For example, to determine whether a new drug is an effective remedy for some disease, an RCT would randomly divide a pool of patients into two groups with the disease, giving the new drug to one group and a different drug or a placebo to the other group. Patients in both groups would be observed to determine whether (or how quickly) they got better (or worse), and the aggregate results for the groups would be compared using statistical techniques to draw a conclusion about whether the new drug improved (or worsened) patient outcomes. In more complicated designs (factorial designs, designs with multiple outcomes, designs with pretest measurements as well as outcome measurements, etc.), random assignment has the same purpose and offers the same basis for fair comparison.

RCTs are experiments done to provide the data required by an inference rule, different from one another in many particulars but relying on the same principles to justify movement from the data generated in the experiment to an empirical conclusion. We will use RCT to refer to the rule in what follows. The path to establishment of RCT as a widely used warranting device must be given complete treatment elsewhere (Schneider and Jackson 2018), but can be briefly summarized here. RCT has some counterintuitive elements that required extensive defense by many advocates before it could become the taken-for-granted “gold standard” for medical evidence (Bothwell et al. 2016). For example, Austin Bradford Hill, a statistician, explicitly argued before medical audiences (1952) for the superiority of controlled experimentation over clinician experience as a basis for belief, and he rebutted ethical objections to experimenting on humans by insisting that *discovering* which treatments really work was among the medical field’s ethical responsibilities. His claim might

be abstracted many ways (e.g., as “RCT is superior to clinician experience in assessing the effectiveness of medical treatments” or as “Medical science should increase its use of RCT”), but since his clear intent, and that of others arguing similarly, was to shift the basis for belief, we represent the conclusion in the form of an inference rule in directive form: “Apply RCT for belief formation about medical treatments.” Bradford Hill’s argument, as written, maps quite precisely onto the practical argument scheme shown in Figure 1.

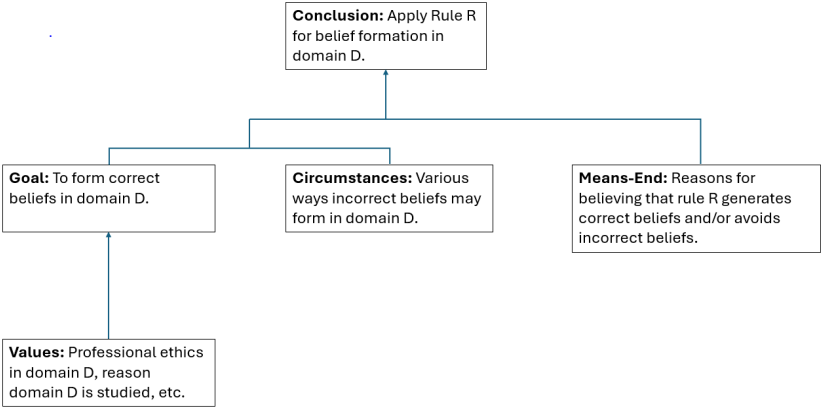


Fig. 1. The general structure of practical reasoning adapted from Fairclough and Fairclough (2012) to apply to establishment of inference rules.

In Figure 2, his warrant-establishing argument for using RCT to derive beliefs about medical treatments is diagrammed in the style of Fairclough and Fairclough (2012).

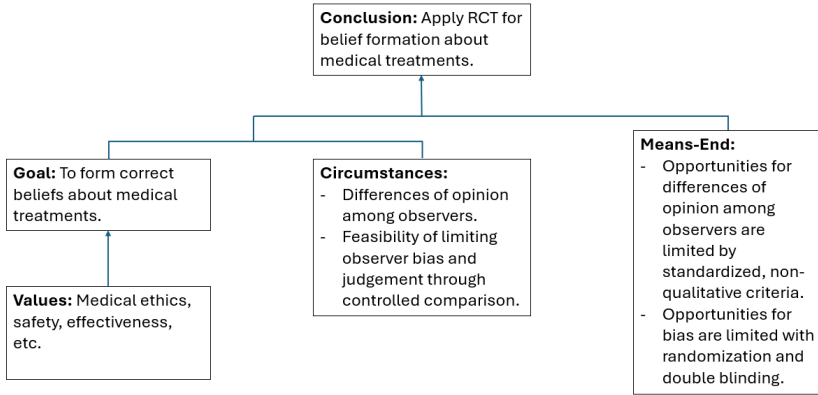


Fig. 2. Bradford Hill's argument for RCT represented as practical reasoning.

The establishment of a new inference rule would be modelled in any AIF-compliant approach as the addition of a new scheme definition. For RCT, as noted earlier, a family of schemes would likely be required, involving variations in the design of experiments. Figure 3 shows a very generic version of a scheme definition for RCT, based on a simple treatment-versus-treatment comparison.

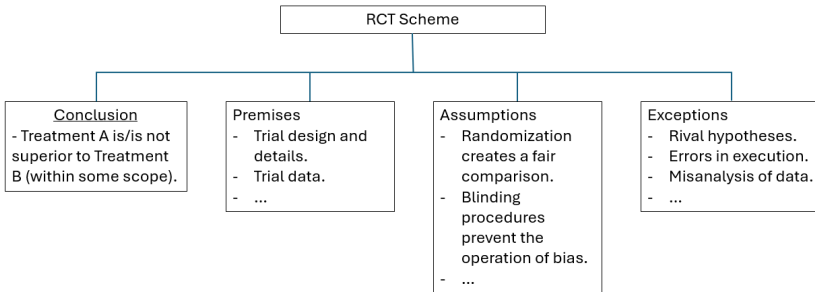


Fig. 3. A Scheme definition for the RCT Scheme, to enable adding it as a new AIF Form.

The difference between the warrant-establishing argument and subsequent arguments using the newly established warrant is illustrated in Figures 4 and 5. None of this defense of RCT (or

other such inference rules) will normally appear in everyday use. Rather, nowadays RCT would be used as an inference rule, as shown in Figure 5.

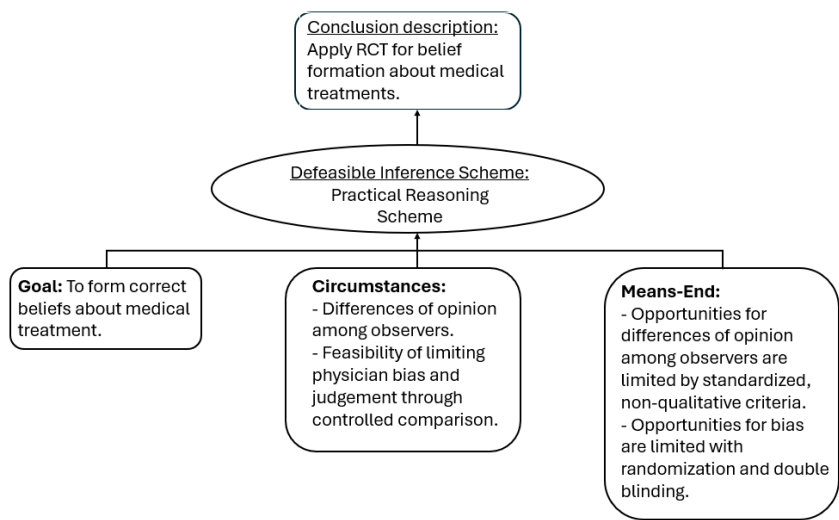


Fig. 4. Establishing RCT as an inference rule using the practical reasoning scheme.

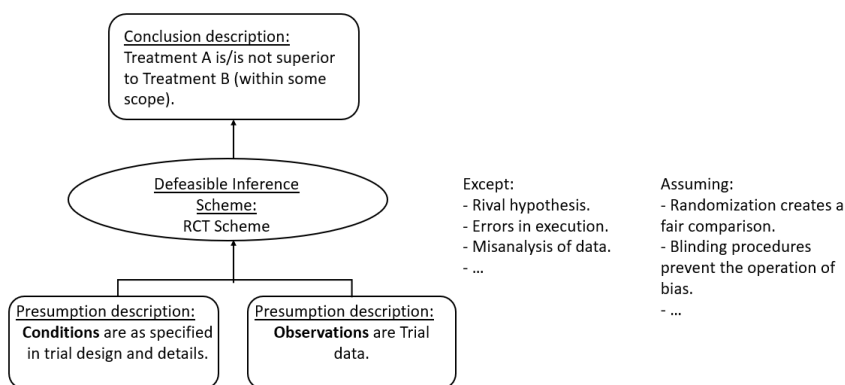


Fig. 5. Using RCT as in inference rule.

Within any computational system with a set catalog of forms, it should be possible to derive new forms by applying some combination of existing forms. If the system acknowledges practical reasoning, it can generate indefinitely many inference

rules by specifying the circumstances, values, and goal, under which the rule would provide an effective means to achieve the desired end. Then, by packaging the name of the rule together with a description of its premises, assumptions, exceptions, and conclusions, the rule can be specified as a new form. A finite catalog of forms can thus grow through recombination. For reasoning in medical science, RCT is such a form.

Although some warranting devices have no competitors, RCT does. That is, RCT is not the only path to a belief about a treatment. For many centuries, doctors formed beliefs about the effectiveness of particular treatments by observing individual patients to whom the treatments were given. A clinician's intimate familiarity with a patient's history and direct observational access to improvements (or worsenings) following a treatment may seem to be good bases for inferences about the effectiveness of the treatment – but they may also be sources of bias, including confirmation bias. Part of the defense of RCT was exposure of the weaknesses and vulnerabilities in these inferences, for example noting that observation of what happened following a treatment does not take into account what would have happened in the complete absence of treatment. In effect, the use of RCT to form beliefs about treatment effectiveness had to be compared with individual clinician experience as a basis for forming beliefs about treatment effectiveness, and establishing RCT as the preferred method for forming beliefs about medical treatment required practical argumentation organized around showing that RCT produces *better* grounding for a conclusion than that produced by clinician interpretation of patients' progress following a given treatment. The role of practical argumentation here is in attempting to get clinicians to give up one rule for forming beliefs about treatment effectiveness for a different rule (one that by its nature would be counterintuitive for the clinician).

Every use of the newly established warrant inherits vulnerabilities that may later be discovered in the inference rule itself. RCT's superiority over case-based reasoning by clinicians has long been assumed; RCT's strengths and limitations as compared with big data methods are matters of contemporary

discussion. This means that an invented inference rule should have explicitly encoded, modifiable preference relationships with other inference rules in use within the same domain.

In the next section, we consider modeling the use of an invented inference rule that has become black-boxed—the kind of object we call a warranting device.

4. Warrant-Using Argument with Black-Boxed Inventions

A successful defense of a new inference rule will lead to argumentative “black-boxing” of the rule (Jackson 2008). Black-boxing in argumentation means modularization of a complex structure so that the entire structure may be used without requiring that it be rebuilt for each occasion of use. If for any reason arguers should begin to suspect that a black box is an unreliable source of conclusions, it can be reopened, reinspected, and even redesigned. But that generally means returning to argumentation over the rule itself rather than critiquing the rule only in the context of one instance of its use.

Having been black-boxed within the field, the procedures of the RCT itself are not *defended* in each occasion of use, though certain details of its application may need to be explained. An investigator must show that felicitous conditions exist (e.g., that there are treatments that can be ethically compared) but need not argue for the RCT itself. For this situation, a warranting device can function like any other rule available for application. This conforms well with how empirical argumentation actually occurs within a literature consisting of research reports. The ability of the rule to deliver a believable conclusion, having been established previously within the same domain of discourse, is assumed rather than argued. At this stage, once the device is established, it can be applied matter-of-factly without defense: It is no longer necessary to locate and analyze the arguments that underwrite the inference rule.

An important qualification, though, is that within expert fields, there are very often alternative methods for arriving at a

conclusion, and they need not produce the same result. Consider three ways of building an argument for concluding that a treatment is effective: clinicians' records on their own patients, RCT, and Cochrane Review (of multiple applications of RCT or other rules). In health sciences, these and many other methods are available, and the confidence to be placed in each is discussed quite explicitly, often being represented as an evidence hierarchy that shows preference relationships among different ways of answering questions in medical science. These preference relationships are themselves contentious matters (Ho et al. 2008; Steele and Tiffin 2014), so the establishment of preference schemes for sets of inference rules is also of interest.

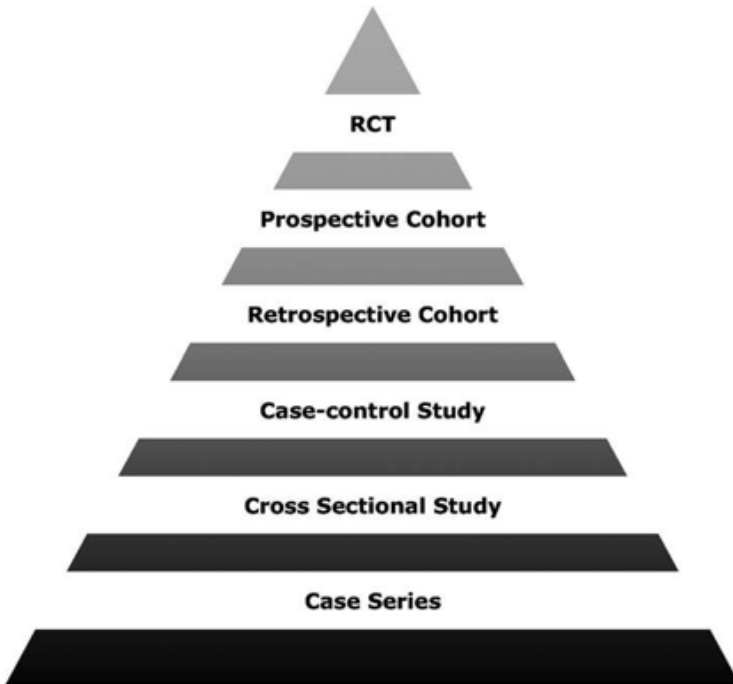


Fig. 6. An example of an evidence hierarchy in medicine, from Ho et al. 2008.

Figures 6 and 7 show a common way of discussing preferences among different methods for drawing conclusions about medical

treatments: as a pyramid, where the top is reserved for what is considered the strongest available form of evidence. RCT has been considered the top of the pyramid for establishing causality, as shown in Figure 6, but there are important qualifications on this having to do with limitations of any one evidence type (Ho et al. 2008). For example, although an RCT can undercut causal arguments supported by other evidence, it is not quite right to say that the RCT-based conclusions will always win over conclusions drawn from (say) a cross-sectional study. An RCT may show that (in a trial setting) a treatment produces better outcomes than any of its alternatives; however, this conclusion can still be rebutted by showing that outside the trial setting, large numbers of patients receiving the treatment fare no better than those who do not receive the treatment.

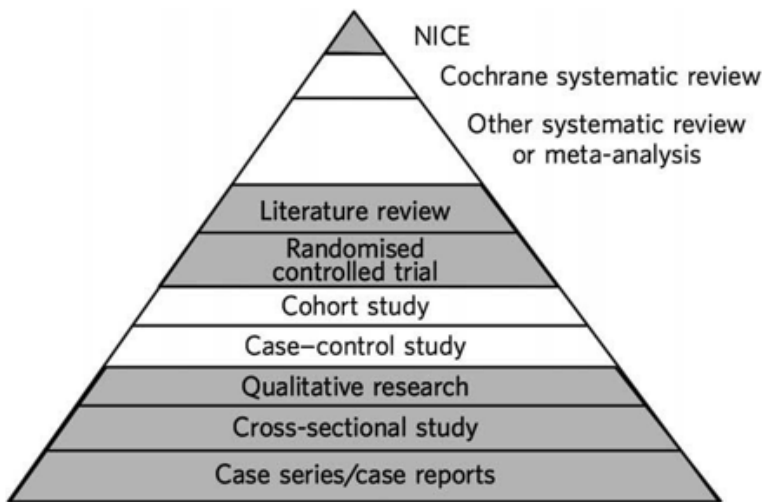


Fig. 7. An example of an evidence hierarchy in medicine from Steele and Tiffin 2014.

As should be clear from Figure 7 (and from Steele and Tiffin 2014), the positioning at the top of the pyramid may be contested. Increasingly, both researchers and scientists regard systematic reviews as preferable to even the most rigorously conducted individual studies, and for good reason. Results from a Cochrane

Review or other systematic review of many RCTs cannot be refuted by any one of the individual studies, while every individual study is open to possible rebuttal on the grounds that it is inconsistent with the whole body of evidence reviewed. In this sense, the review conclusion is preferred to the conclusion of any individual study—leading to “demotion” of RCT from the position it occupies in Figure 6. But both individual circumstances and future innovations may result in challenges to what currently appears at the top of the pyramid. Figure 7 gives preference to “NICE guidelines” (clinical practice guidelines from the UK National Institute for Health and Care Excellence), based on the argument (Steele and Tiffin 2014) that some purposes are better served by qualifying conclusions drawn from systematic review with other sources of guidance.

Representing preference relationships among individual instantiations of schemes is already a familiar task within computational modeling of argumentation, and it seems obvious that there must be preference schemes that compare inference schemes. As Figures 6 and 7 show, there is discourse within the field that can be modeled as preference schemes that apply to alternative inference schemes, and just as there is discourse aimed at establishing new inference schemes, there is discourse aimed at establishing preference among schemes.

Like any inference rule, a warranting device functions differently for performers and evaluators of arguments: For the performer, it functions as a set of instructions for how to arrive at a conclusion. For the evaluator of the conclusion, it functions as a warrant for believing the conclusion drawn by the performer or as a scheme for evaluating that conclusion. Within an expert field, the device itself is trusted to produce sound conclusions, and although the black-boxing of the device is reversible, this is rarely done in the context of challenging a single conclusion returned by the device. Similar considerations apply outside the field, with the additional complication that nonexperts must decide whether the field’s trust in a device is also a reason for nonmembers to trust the device. In our study of Cochrane Review as a warranting device (Jackson and Schneider 2018), we describe how Cochrane Review

has earned trust within medical and public health professions, while still being open to some level of distrust by the nonexpert public (who may not share the goals, values, and means-end assumptions that are taken-for-granted within the expert field).

A complicated arrangement like RCT or Cochrane Review, once established as a reliable basis for inference, can be invoked like any other scheme. These devices *feel* different from other common inference rules because they involve complex and explicit instructions for how to arrive at a conclusion. In any application of the device, representing the complexity of the device itself can be off-loaded to the arguments that establish it as reliable.

5. Conclusions and Perspectives

Toulmin's distinction between warrant-using and warrant-establishing argument gains clarity from the insights of computational argument. A warrant-establishing argument is not a conclusion from induction (as Toulmin's examples seemed to suggest), but an instruction for how to draw a conclusion (including how to *perform* inductions). A new warrant can be established by practical argumentation that has a proposed inference rule as its action claim, and no doubt by other means in other fields.

In this conclusion, we want to draw out several implications for both empirical work in argumentation and for computational modeling as an approach to empirical work.

First, computational modeling of argument can represent more than one level of granularity in argumentation. Figures 4 and 5 illustrate what we mean: whereas Figure 4 represents an explicit trans-situational defense of the rule, Figure 5 represents the matter-of-fact application of the black-boxed rule in some particular situation. The latter involves less granularity in representation of what commitments the arguers take on in any application of the rule. But that can be expanded again since every argument applying the rule depends on the continued viability of

the rule's own defense. Even though these commitments do not have any presence in the argument that invokes an established rule, they can be dredged up under critical questioning; all of the rule's "inner workings" can become part of the disagreement space any time an interlocutor chooses to open up the black box. Whatever reasons there are for the reopening of a black box may or may not become a basis for critiquing any particular conclusion the black box has generated. In other words, reexamination of a device like RCT around a newly discovered issue may mean propagating that new issue through all prior and future uses of the device.

Second, it appears to be quite feasible for computational models to handle new types of arguments characterized by newly invented warrants, overcoming the limitations of a finite catalog of forms. This is important because new inference rules—specific practices, each proposed and validated for a particular use—are continually invented, and we expect them to continue to be invented regularly and without limit, so long as expert fields strive for greater knowledge, and so long as anyone strives for more rational deliberative processes. Modeling argumentation within expert fields will require extensibility in any list of schemes to allow for whatever might be invented to support expert reasoning. Besides allowing for new inference rules to be modeled and represented, there must be some approach for modeling how this actually happens. In scientific fields, where new inference methods are generally sought as solutions to inference problems, practical argument is one obvious path to justification of a new inference scheme.

Finally, the notion that new inference rules may be invented and established suggests at once that old ones may also be disestablished—either abandoned or replaced. The objects we have called warranting devices are obvious candidates for disestablishment, either because experience in their use exposes an unnoticed problem or because some new invention obsolesces what was previously the best-known way to reach a conclusion in a given domain. But even familiar presumptive reasoning schemes, like Argument from Expert Opinion, can be the target of a warrant-disestablishing argument; such an argument would focus on new

reasons to doubt the reliability of the formerly trusted scheme, as in Mizrahi's recent reexamination of trust in experts (Mizrahi 2013, 2018). For computational modeling, interesting challenges surround the process by which arguers maintain a repertoire of forms over time through additions, transformations, and even removals. That is, something new to model is the change in the (natural) system that is being modeled.

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9.

The Persuasive Force of Demanding

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ABSTRACT: Demanding is a fundamental rhetorical strategy for marginalized groups, but recent rhetorical theories of demanding have not explained how speakers can design demands that influence addressees to accede. Although psychoanalytic and decolonial theories have identified constitutive functions, they have not explained how speakers can design demands that pressure addressees to accede, and while speech act theories have explained specific kinds of demands, they have not synthesized insights into a model of demanding generally. We draw on normative pragmatic theory to argue that speakers design demands that generate persuasive force by openly making visible their intent to influence addressees to accede and bringing to bear a reciprocal obligation for themselves and addressees to live up to the norm of “right makes might.”

1. Introduction

A paradigm case of demanding involves making utterances designed to influence addressees to accede.¹ It would be incoherent to say, “I demand that you do *x*, but I am not saying that you ought to do *x*,” or “I demand that you do *x*, although I am fully aware that you cannot do *x*.” The extraordinary nature of demanding may be gleaned from anomalous utterances such as “employees may demand time off by notifying scheduling managers at least one month in advance” and “faculty members may demand an

1. We use “paradigm case” in the sense used by O’Keefe (1982): a case that would elicit widespread agreement that it is an example of some concept, in contrast to a borderline case or an empirically common case.

extension of the tenure clock in writing to the provost.” Demanding is less anomalous in protest rhetoric and in fact an important strategy for marginalized groups who are “criticized for not handling conflicts and controversies through normal, proper channels and procedures, even when those channels and procedures are systematically denied them” (Stewart et al. 2007, 8; see also Bowers et al. 2010). Whence the persuasive force of demanding?

Recent rhetorical theories of demanding have not addressed this fundamental question. Psychoanalytic accounts of demanding (e.g., Lundberg 2012a, 2012b), for instance, have explained the constitutive functions of demands, describing demanding as a trope that shores up subject identity and gives retroactive coherence to subjects. Decolonial accounts of demanding (e.g., Enck-Wanzer 2006; Wanzer-Serrano 2015) have also focused primarily on constitutive functions. Rhetorical accounts based in speech act theory (e.g., Burgess 2013, 2015) have described features of specific kinds of demands—demands for apology and for recognition—but have not outlined a coherent account of demanding generally.

We submit a rhetorical theory of demanding that describes its normative structure, and we show that the theory accounts for design strategies used in a case of successful demanding. Drawing on normative pragmatic theory (e.g., Goodwin 2001, 2007, 2011; Innocenti 2011; Innocenti and Miller 2016; Jacobs 2000, 2016; Kauffeld 1998, 2001, 2009; van Eemeren et al. 2014), we argue that the normative structure of demanding involves speakers openly making visible their intent to influence addressees to accede, thereby incurring an obligation to live up to a norm captured by the aphorism “right makes might.” The obligation is reciprocal; both speakers and addressees can hold each other accountable for failing to recognize and live up to the norm. As a result, demanding creates two reasons for addressees to accede. First, addressees can reason that speakers will not risk criticism for failing to live up to the norm unless they can show they are in the right and that they are counting on rightness, in contrast to threats or coercive tactics, to be the source of influence. Second,

speakers can reason that addressees will be influenced to accede in order to avoid criticism for failing to live up to the norm—for remaining conspicuously in the wrong or for deploying coercive power to squelch demands.

Our argument proceeds in three parts. First, we review three recent rhetorical theories of demanding to illustrate the needs that our model of the normative structure of demanding meets. Second, we defend the model analytically. Third, we illustrate that it accounts for the design strategies used in a case of successful demanding.

2. Psychoanalytic Theory of Demanding

Ever since Richard Gregg published his landmark essay on the ego function of protest rhetoric (1971), psychoanalytic theories of demanding have focused on how demanding shores up demanders' subject identities, but not on how demanding generates persuasive force that pressures addressees to accede. The practical and intellectual starting points of psychoanalytic theories have led to accounts underscoring subject identity formation. One practical starting point is cases of demands that on face appear to be nonserious in the sense that they are not designed to pressure addressees to accede. Gregg aimed to account for cases involving protestors "moving to a perspective which includes the total social, political, and economic scene," where "demands go beyond the power of the authorities to act; it somehow seems unreasonable to expect the president of a Pennsylvania university to be able to grant amnesty to Bobby Seale" (73). In addition, Gregg asserted that the "usual" view of rhetorical transactions—which "expects the entreaties, appeals, arguments, and exhortations of those asking for change to speak somehow to the basic reasoning and feeling capacities of those in authority"—does not fit "contemporary public protest": "The escalation of demands, in fact the very couching of wishes in terms of demands, appears to those in positions of power, reacting to the rhetoric, to foreclose meaningful discussion" (73). So Gregg concluded that "the

primary appeal of the rhetoric of protest is to the protestors themselves, who feel the need for psychological refurbishing and affirmation” and that “the ego-function of rhetoric has to do with *constituting* self-hood through expression” (74).

Since that time, rhetorical scholars have developed increasingly sophisticated psychoanalytic theories of demanding that explain cases of demands that on face do not appear to be serious attempts to pressure addressees to accede. As a consequence, the theories feature subject identity formation and maintenance. They diagnose and address a potential political problem generated just by demanding. On one hand, subjects may demand change in hegemonic structures but, on the other hand, may depend on those very structures in order to claim a marginal subject identity. If addressees accede to subjects’ demands, then a measure of subjects’ identity as marginalized outsiders collapses. In shoring up their marginal identity, demanding subjects become alienated from their desire; they are satisfied to issue demands and do not aim to influence addressees to accede to them (Lundberg 2012a, 2012b).

A second starting point of psychoanalytic theories, assumptions about the nature of language, explains why psychoanalytic accounts of demanding feature the shoring up of subject identity. Following Laclau, psychoanalytic theory has defined the fundamental problem of language as one of “signification”—the failure of language to signify “without remainder,” as Christian Lundberg puts it (2012a, 299, 3). Rhetoric, according to Lundberg, has been theorized as “the effectivity of trope in the context of failed unicity,” so use of a trope is “a mode of enjoyment” that subjects “invest in” because it “lends durability to social formations” (47, 126). In other words, the “subject identifies with an external image of itself for the sake of providing its practices of subjectivity with a kind of enjoyable retroactive coherence” (304). This account explains constitutive but not instrumental functions.

In short, psychoanalytic theories have explained how what appears to be nonserious demanding can generate grounds for political action by dint of the subject identities to which

demanding gives coherence and durability in the face of the failure of language to signify without remainder. But they have not explained how demands that on face appear to be serious attempts to pressure addressees to accede can reasonably be expected to generate persuasive force.

3. Decolonial Theory of Demanding

Like psychoanalytic theory, decolonial theory (e.g., Enck-Wanzer 2006; Wanzer-Serrano 2015) has foregrounded the constitutive functions of demanding. For example, Darrel Wanzer-Serrano (2015; Enck-Wanzer 2006) draws on decolonial theory to explain the “garbage offensive” launched by the Young Lords Organization in the summer of 1969. Every Sunday members of the Young Lords Organization cleaned up garbage in El Barrio, a predominantly Puerto Rican section of New York City. The Young Lords Organization demanded that the New York City Sanitation Department do its job and collect the garbage. When the sanitation department refused, members of the Young Lords Organization and the El Barrio community blocked busy intersections with garbage heaps, and when people in cars and buses moved the garbage, they set fire to the garbage and cars, threw bottles, and more. Their demand strategy was instrumentally successful in pressuring the sanitation department to pick up the garbage occasionally but not regularly. In his analysis of the garbage offensive, Wanzer-Serrano foregrounds the constitutive function of demanding: it was among the acts that “successfully constituted the people and space of El Barrio as potential agents of change” (2015, 124). Likewise, in other work Wanzer-Serrano has theorized the constitutive benefits of unsatisfied demands, asserting that a “demand is interesting and important precisely because it is not satisfied—which means that it continues to drive the relation between self and other, thus keeping the processes of identification open or deferred and forming the contingent foundation of a radical democratic politics” (Enck-Wanzer 2011, 63).

Decolonial theory, he argues, is designed to explain practices that “attempt to delink from modernity/coloniality” (2015, 11). Decolonial theorizing does not involve whole cloth rejection of theorizing that reproduces coloniality and that proceeds from geographical locations and bodies of “epistemic privilege” (24–25, 86). But decolonial theorizing can “re-accent” (27) Western theorizing so that the theorizing speaks from and to the global South. Significantly, decolonial theorizing involves reading marginalized discourses on their own terms. In what follows, we note in a Western accent three significant affinities of decolonial theorizing with normative pragmatic theorizing, which, like decolonial theorizing, involves attending to what social actors say and what they say they are doing (e.g., Goodwin 2001; Innocenti and Miller 2016).

Social actors can, as numerous scholars have shown, communicatively design contexts that enable and constrain actions and interactions, creating more favorable conditions or grounds for disputation, deliberation, reflection, and the like (e.g., Aakhus and Laureij 2012; Jackson 1998; Jacobs 2006; Tracy 2012). Wanzer-Serrano explains how participants in the garbage offensive deployed various rhetorical forms and “fundamentally altered the scene in a manner that allowed for different agents and agencies to emerge” (2015, 141).

Wanzer-Serrano (2015) also accounts for the functioning of the garbage offensive in terms of the visibility and accountability that it generated. In terms that recall Robert Asen’s description of the “responsibility attribution” function of arguing in “situations in which less powerful actors compel more powerful actors to accept public responsibility for decisions that they have made in restricted deliberative situations” (2005, 119), Wanzer-Serrano explains that the Young Lords knew full well that New York City Sanitation Department officials would not accede to their demands that it do its job and collect garbage in El Barrio—demands that on face appeared to be serious because the sanitation department was able and expected to collect garbage in El Barrio—but they made these demands anyway in order to show that “the system” was broken. The ongoing presence of garbage in light of the ignored demands

displayed “both evidence of the state’s disrespectful and malicious attitude toward the community and proof of ‘the system’s’ incapability to deal with its own intemperance” (2015, 129). The demand strategy in the garbage offensive redesigned a space that enabled the people of El Barrio to hold the sanitation department and broader system accountable for their complicity with systemic racism and to recognize their own political agency in bringing the problems to light and addressing them.

In addition, Wanzer-Serrano analyzes a case of demanding within the Young Lords organization that was successful because it pressured the addressees to adhere to democratic norms of interaction explicitly brought to bear in a situation. Members of the cadre successfully demanded gender equality from members of the central committee by using the organization’s own democratic procedures. They held a large meeting in which members of the central committee were charged, people testified, and a vote was taken to discipline the central committee members. The persuasive force of their actions, Wanzer-Serrano explains, led to “the structural reformulation of the Young Lords,” which was “a direct result of the cadre asserting their rights to democratic participation and holding all members accountable to the same rules” (2015, 102). As Karen Tracy has suggested, not only the strategy of invoking rules but even the strategy of naming a norm such as “reasonable hostility” (2010, 203) makes norms available to social actors to structure interaction. Strategies make visible rules or norms and so enable interactants to hold each other accountable if they do not act in accord with them.

In sum, although Wanzer-Serrano’s theorizing highlights the constitutive functions of demanding, along the way he also accounts for both constitutive and instrumental achievements in ways that align with normative pragmatic accounts. Significantly, both Wanzer-Serrano and members of the Young Lords Organization shed light on the persuasive force of strategies by pointing to the visibility and accountability that strategies generate as they change the scene or context. This kind of account describes the normative structure of demanding generally.

4. Speech Act Theory of Demanding

Speech act theories address the question of how speakers can design demands to pressure addressees to accede. The question is practical, inquiring into how demanding can be designed to do what it is ostensibly designed to do rather than inquiring into other functions demanding may serve. In addition, the question does not feature the referential functions of language but language as action.

Drawing on the fundamental insight of speech act theory that saying something is performative—that in saying something we do something (Austin 1962)—Sarah Burgess (2013, 2015) has developed accounts of demands for apology and demands for recognition. She has described both kinds of demands as “speech acts” (2013, 352; 2015, 521): utterances whose power is in “the *saying*” (2015, 530). Rather than attempting to produce a general model of demanding, she seeks to analyze the rhetoricity of law in which the issue of “how law itself operates in response to or is affected by a demand for recognition” is overlooked—an “elision . . . repeated in the scholarly critiques that focus on recognition’s pathological attachment to identity and/or its inability to challenge structures of power” (2015, 519). However, because she begins with a view of language as action, her accounts of demands for apology and for recognition point to the normative structure of demanding generally. In this section we note four key insights of her accounts, and in the following section we synthesize the insights into a coherent model of the normative structure of demanding. In doing so we necessarily elide details from her accounts of specific kinds of demands, but having a coherent general model of demanding may bring into sharper focus the “rhetorical contours” (Burgess 2015, 522, 528) of specific kinds of demands.

First, the fundamental insight of Burgess’s analyses, one shared with Wanzer-Serrano’s (2015), is that uttering a demand changes the context or, as she puts it, is “an act of rhetorical invention that ‘makes a scene’” (2015, 522) and “constitutes the

scene of address in which it operates” (2013, 357). For example, Burgess notes how a demand for recognition “creates the structures in which we might engage the terms of law, expose the conditions in which law’s claim of recognition is made, and unsettle law’s place as a frame” (2015, 532).

Second, Burgess’s analyses suggest the need to design a demand that is recognized as a demand. This means, first, that a speaker must actually utter the demand. As Burgess remarks, “both the contingency and the power of a demand for recognition is that it depends on the recognizability of the speech act itself” (2015, 530). In addition, a speaker must openly demand, and so, on one hand, she cannot plausibly deny that she is demanding, and, on the other hand, addressees cannot plausibly deny recognizing that she is demanding. The demand must be “transparent” and “heard as a demand” (527, 528). Burgess points to the need to act openly when she notes how a speaker who demands an apology may respond to the apology: “The success of an apology depends . . . on how this apology is ‘taken up’ and read. Thus the one who demands an apology judges whether the apology meets the conditions of recognizability in the particular context” (2013, 353). By openly apologizing, the apologizer constrains the demander of the apology from easily, perfunctorily dismissing her utterance as not an apology.

Third, Burgess’s analyses explain how the mere act of demanding implies that a speaker “claims the high ground, a position from which he takes authority to pass judgment on [the addressee’s] speech and actions” (2013, 355). Moreover, Burgess observes that the point of demanding an apology may be to serve as “a performance of the place (and the power) the speaker claims by virtue of the demand” (2013, 355).

Fourth, Burgess’s analyses foreground the insight that demanding entails risk: “To demand recognition is to take a risk and to occupy a place from which one might (later) be displaced. It is possible that the other might not hear the demand or understand what the demand means. It is possible that one’s demand will be met with doubt. It is possible that one’s demand will be read as

a joke or a rhetorical question” (2015, 531), and it “might entail humiliation, injury, violence, and perhaps even death” (527).

These insights—that demanding communicatively changes the context, that it must be performed openly and recognizably, that it implies a claim to occupy the high ground, and that it entails risks—joined to Wanzer-Serrano’s observation that strategies generate accountability and thereby pressure speakers to live up to norms help to account for why a demander who simply says “I demand that you do *x*” can in favorable circumstances reasonably expect the utterance alone to influence addressees to accede. In what follows we synthesize these insights into a model of the normative structure of demanding generally.

5. Basic Normative Pragmatic Model

Normative pragmatic theories (e.g., Goodwin 2001, 2007, 2011; Innocenti 2011; Innocenti and Miller 2016; Jacobs 2000, 2016; Kauffeld 1998, 2001, 2009; van Eemeren et al. 2014) explain why speech acts may reasonably be expected to influence addressees in just the way the speaker intends. The theories are normative because they locate persuasive force in norms that message designs bring to bear in a situation, and they are pragmatic because they account for the persuasive force of actual message designs. In broad outline, the basic normative pragmatic model is the following. A speaker’s utterance makes visible her intent and concomitant obligation to live up to some norms. The visibility of the intent and obligation enable the speaker and addressees to hold each other accountable if they fail to live up to these norms. The utterance thus changes the context, creating two reasons for addressees to be influenced. First, they can reason that the speaker would not risk criticism for failing to discharge obligations she has incurred just by saying something unless she can meet them. Second, the speaker can reason that addressees will be influenced in order to avoid criticism for failing to meet obligations.

Normative pragmatic theories are based on Kauffeld’s work in the philosophy of language, specifically a Gricean analysis of

utterance meaning. Kauffeld (2001, 2009) uses Grice's work to outline the intentions and subintentions that account for what it means to seriously say and mean something and Dennis Stampe's work to explain how addressees' recognition of a speaker's intentions gives some reason for them to be influenced. The basic Gricean account of utterance meaning is that a speaker not only intends her utterance to induce some response in addressees (the primary speaker intention) but also intends addressees' recognition of both the speaker's primary intention and the speaker's intention for the utterance to induce them to respond gives addressees reasons to respond just as she intends (Kauffeld 2001, 2009). The speaker's efforts to secure addressees' recognition of her primary intention involve her deliberate attempts to make that intention apparent. Her efforts to secure addressee's recognition of her intention that her utterance induce them to respond involve her openly attempting to make her primary intention apparent. These deliberate, open efforts to induce a response give addressees some reason to respond as the speaker intends, because the speaker incurs obligations for which addressees can hold her accountable.

How are obligations communicatively generated, and why are they potentially effective in securing the speaker's intended response? Kauffeld, drawing on Stampe's work, explains how obligations undertaken and discharged by speakers give some reason for addressees to respond as the speaker intends. This explanation is the linchpin of normative pragmatic accounts of why speakers can reasonably expect their performances of illocutionary speech acts, such as proposing and accusing, to pressure addressees to act as the speaker intends. To illustrate, consider the basic presumption of veracity. When a speaker seriously says and means an utterance, *u*, she incurs an obligation to speak truthfully. The obligation is fundamental because addressees who can easily dismiss a speaker's utterance as untruthful, ignorant, and the like will not experience pressure to be influenced by the utterance. So ordinarily, making an utterance licenses addressees to presume the speaker is speaking truthfully or, put differently, generates a presumption of veracity: Addressees can reason that the speaker would not risk criticism for lying,

ignorance, and the like, unless she had made a responsible effort to ascertain the veracity of her utterance. That presumption is one reason that is created just by making the utterance that addressees now have to be influenced by it. Obligations incurred by the speaker just by making an utterance are reciprocal, because their visibility creates a context in which both speaker and addressees can be held accountable for failing to live up to them; as speakers ought to speak with veracity, so addressees ought not act with undue skepticism, cantankerousness, and the like. So bringing to bear an obligation to speak truthfully creates a second reason for addressees to be influenced by the utterance: in order to avoid criticism for undue skepticism, cantankerousness, and the like, addressees can acknowledge the veracity of the utterance.

Of course, rhetorical influence is not as simple as this account, or any account for that matter, suggests. As Kauffeld puts it, “The presumption of veracity, upon which statements fundamentally depend for their efficacy, does not carry enough practical weight to fulfil the speaker’s purpose in the face of doubt, disagreement, evasion, and opposition” (1998, 259; see also Pinto 2007). Consequently, speakers routinely make special efforts to influence addressees to, say, carefully consider a proposal or accede to a demand—efforts in addition to the basic act of saying, “I propose *x*” or “I demand that you do *x*.” In what follows we outline and analytically defend a model of the normative structure of demanding based on just the utterance “I demand that you do *x*.” In the next section we show how the model accounts for actual message design, or the special communicative efforts that speakers made in a case of successful demanding.

6. Normative Pragmatic Model of Demanding

The *sine qua non* of demanding is openly making visible an intent to influence addressees to accede. Demanding must be recognizable as a demand; it must be serious. It would be incoherent for a speaker to say, “I demand that you do *x*, but I do not mean to suggest that you do *x*.” If a speaker can plausibly

deny the intent to influence addressees to accede to a demand, then demanding loses persuasive force because addressees can ignore the utterance with impunity, perhaps dismissing it by saying, "You can't be serious."

Besides an obligation to speak truthfully, what obligations do speakers incur just by demanding? What norms does demanding bring to bear in a situation and oblige speakers and addressees to live up to? As we have noted, demanding is extraordinary; it is a step outside the bounds of propriety and sounds out of place in statements of routine institutional policies and procedures. This quality indicates another part of the normative structure of demanding: demanding implies that ordinary procedures are not working, which obligates the speaker to be able to show that addressees are procedurally in the wrong. In ordinary circumstances, if an employee demands time off, the scheduling manager just needs to direct the speaker to follow protocol and make a request. But if the scheduling manager denies the employee's routine request for time off, the decision appears to be arbitrary, and the manager could not produce good reasons for denying the request, then it may be appropriate for the employee to demand time off. This scenario points to another part of the normative structure of demanding: Demanding implies that addressees are substantively in the wrong, which obligates the speaker to be able to show just that. It would be incoherent to say, "I demand that you do *x*, but I cannot show you why *x* is the right thing to do."

Unlike routine requesting, demanding may routinely produce resentment just because demanding implies criticism of addressees and is designed to constrain addressees' response. Inherent to routine requesting is the possibility of addressees accepting or denying the request. A faculty member who requests something from a dean maintains the dean's wiggle room because, other things being equal, the dean can accept or deny the request with impunity; requesting acknowledges the dean's prerogative to accept or deny. If the dean is amenable to persuasion in routine ways, such as requesting, then there is no need to demand. In contrast, a faculty member who demands something from a dean

implies a negative judgment about the direction of the dean's moral compass and implies that it cannot be corrected unless the dean accedes to the demands. The dean may resent how demanding both makes him look bad and reduces his wiggle room by pressuring him to accede or look even worse.

In short, demanding implies that the speaker can show that she occupies the substantive and procedural high ground. Her efforts to produce change by using ordinary procedures and routine speech acts such as requesting have failed, and so she needs to perform a different speech act to influence addressees to act. She counts on addressees seeing that she occupies the high ground, and it is her visibly being in the right that is expected to influence—to generate the persuasive force that routine speech acts such as requesting have not. Consequently, we submit that the central obligation incurred just by demanding is living up to a political, rhetorical norm that power accrued by conspicuously occupying the high ground ought to trump institutional, coercive power. This norm is captured in the aphorism “right makes might,” perhaps best known to students of rhetoric in its explicit statement by Abraham Lincoln as he exhorted Republicans at Cooper Union in 1860: “Let us have faith that right makes might, and in that faith, let us, to the end, dare to do our duty as we understand it” (Holzer 2004, 284). “Right makes might” is at the center of historical and contemporary rhetorical theorizing that describes rhetoric as a way of mitigating violence—as a counter to the position that “might makes right,” or “the idea that it is acceptable for a dominant party or group to maintain power over the dominated by using coercive force” (hooks 2015, 118; Conley 1990; Crosswhite 2013). Demanders demand rather than exercise brute force. Because demanding brings that norm to bear in the situation, both demanders and addressees can be held accountable for failing to live up to it.

How does this normative structure—openly demanding to make visible the intent to influence addressees to accede and incurring an obligation to live up to the norm of right makes might—account for why somebody uttering a statement of demand may reasonably expect just that utterance to pressure addressees

to accede? The answer hinges on Burgess's (2015) and Wanzer-Serrano's (2015) insights that demanding communicatively changes the context, generates accountability, and entails risks. Bringing to bear the norm of right makes might redesigns the disagreement space (Jackson 1992, 1998; Jacobs 2006) such that addressees now have two reasons to be influenced. To see what these reasons are, recall the resentment that demanding can occasion. For example, if an employee demands time off without first making a request, a scheduling manager can express resentment with impunity, perhaps by saying, "All you had to do was ask!" Or if an employee demands time off on the two days before a major deadline in order to binge watch a television series, the scheduling manager can express resentment with impunity, perhaps by saying, "It is wrong to leave your colleagues in the lurch for frivolous reasons!" Because demanding implies substantive and procedural criticism of addressees, a speaker who demands risks resentment in addressees if the speaker unfairly impugns their conduct—if the speaker fails to make good on the claim to be in the right. As a result, demanding communicatively creates a context in which, first, addressees can reason that the demander would not risk criticism for unfairly impugning their conduct unless she can show she occupies the high ground. Significantly, because norms that speakers bring to bear in a situation are reciprocal, bringing to bear the norm of right makes might constrains addressees from exercising institutional or coercive power, because doing so would put them at risk of criticism for using strong-arm tactics or abusing their position of authority and for failing to see the rightness of the speaker's position. Consequently, second, demanding communicatively creates a context in which a speaker can reason that addressees will accede to demands in order to avoid criticism for remaining conspicuously in the wrong, or at least give the speaker a fair hearing to avoid criticism for not adhering to institutional policies and procedures calling for a fair hearing, or for not changing policies and procedures that preclude a fair hearing. Demanding redesigns a disagreement space such that arguments may be discussed on their merits.

The pressure generated just by demanding is not compulsion. Addressees can ignore or dismiss demands with impunity if they are manifestly unreasonable—if it is apparent that the demander is not substantively in the right. Addressees can also ignore or dismiss demands with impunity if they calculate that they will not be held accountable for refusing or failing to see that they are in the wrong or if they can use strong-arm tactics with impunity. Persuasive force is grounded in responsibility and accountability, and in some circumstances persons may be held accountable for actions only after some time has passed. Addressees may also be able to dismiss demands with impunity if the demands are accompanied by coercive tactics—if it appears that the demander is not living up to the norm of right makes might. The further demanders step outside the bounds of propriety, the more conspicuously the norm of right makes might is brought to bear in the situation, but the greater the risk of criticism for apparent coercing, threatening, impropriety. At the same time, by conspicuously undertaking that risk, demanders generate more visibility and therefore accountability for making good on the obligation to show the rightness of their demands and the shortcomings of conventional modes of communication and the structures in which they occur to produce change.

Our analysis of the normative structure of demanding is based on the most basic utterance: “I demand that you do x.” Typically just that utterance does not make presumptions sufficiently conspicuous to pressure addressees to accede. How can ordinary social actors design demands that generate persuasive force? Wanzer-Serrano (2015) has shown how members of the Young Lords Organization and the people of El Barrio managed to do so by acting in accord with the organization’s own democratic procedures and by conspicuously displaying (by setting fire to piles of uncollected garbage in intersections) that they were substantively and procedurally in the right in demanding the sanitation department to collect garbage in El Barrio. In what follows we show how another group of marginalized people designed demands that pressured establishment members to accede.

7. Designing Demanding

Shortly after 5:00 p.m. on Friday, 4 February, 1972, C. J. Brune, a senior at the University of Kansas, received an excited phone call. On the other end of the line, Mary Coral, the wife of a KU faculty member, declared, “It’s on. Come to the head of the alley. Bring enough clothes for a week and lots of food” (Brune 2012). Brune, Coral, and almost twenty other women who called themselves the February Sisters, entered the East Asian Studies building and barricaded the doors. Simultaneously, leaflets notifying the campus community that a group of women and children was now occupying a campus building hit the streets, and a statement of action was sent to Chancellor E. L. Chalmers. The statement listed six “nonnegotiable demands” including the creation of a campus day care center, the development of a women’s studies program, and the establishment of women’s health services. By 10:00 p.m. the Senate Executive Committee was convened, and several February Sisters representatives left the occupied building to attend a negotiation session. While the first session was fruitless, a second session ended with the committee acceding to two demands: the university expressed in writing support for day care and a health care program.² Satisfied with these results, the February Sisters left the building.

One historian recounts that “after that action, and a few news conferences over the next several weeks, they [the February Sisters] never met again as a group, although many of the participants remained active in other feminist organizations” (Monhollon 2002, 202). The February Sisters are local heroes; their actions are memorialized by a plaque at the site of the building they occupied, and the anniversary of their actions continues to be remembered in the local newspaper and on the

2. “A History of the Seizure and Occupation of the East Asian Studies Building by the February Sisters, or What it Takes to Make Men Move,” 7 Feb. 1972, February Sisters, box 1, chronological records, 1972–, University of Kansas Student Organizations Records, 1886–, 67/126, Spencer Research Library, University of Kansas Libraries (hereafter cited as FSR).

university campus. Their actions are a well-circumscribed case of serious demanding and so are well suited to illustrating how social actors can design demands that generate persuasive force. How did the February Sisters design demands, and why could they reasonably expect them to pressure administrators to accede?

To answer that question, we analyze both the February Sisters' rhetoric and administrators' responses. The February Sisters' rhetoric comprised a leaflet distributed during the occupation of the campus building to students going to Friday films, a statement of action, a position paper, an account of the history of the seizure of the building, a press release, an editorial in the university student newspaper, and their occupation of a campus building. The university's response comprised the minutes of meetings between the university Senate Executive Committee and representatives of the February Sisters, an official university response, and other press coverage quoting administrators. In what follows we show how the February Sisters did more than say "we demand changes" to attempt to influence administrators to accede. As we have shown, just uttering "we demand changes" implies criticism of addressees' moral compass, implies that the speaker can show that she occupies the moral high ground, and implies that the speaker is counting on her occupation of the high ground to influence addressees rather than coercion, threats, and the like. The February Sisters designed their demands in such a way as to make conspicuously visible that they were undertaking and discharging an obligation to live up to the norm of "right makes might"; they thereby redesigned the context to pressure university administrators to live up to it as well—to accede to demands or at least give them a fair hearing.

First, the February Sisters openly made demands. In the leaflet distributed during the occupation of the campus building, they wrote, "We are demanding a daycare center for women on campus," adding that "a complete list of demands" was available at the Student Activities Center.³ In the mimeographed statement of action distributed during the occupation, they listed six "non-

3. "Women and Children Are Now Occupying a Building on Campus," 1972, FSR.

negotiable demands” and began each with the phrase “We demand.”⁴ In the position paper released the night of the occupation they wrote, “We demand control of our own program. We demand that Chalmers not speak on the topic of achieving equity for women.”⁵

By openly demanding, the February Sisters repeatedly made visible their intent to influence administrators to accede. Because openly demanding constrained their ability to disclaim the intent to influence by demanding, they communicatively created a context in which they could be held accountable for failing to meet obligations incurred just by demanding. By demanding, the February Sisters stepped outside the bounds of propriety. In fact, the recorder of the minutes of the Senate Executive Committee meeting with representatives of the February Sisters used scare quotes to mark the February Sisters’ use of the word “demand”: “Chancellor Chalmers cited positive but unpublished progress on several of the ‘demands,’” and another university administrator “outlined in detail the University position on the six published ‘demands.’”⁶ Likewise, a student critical of the February Sisters who annotated a copy of the February Sisters’ position paper underlined the word “demands” and wrote, “Note: demands—not requests.”⁷ Just by demanding the February Sisters incurred an obligation to show that they had good reasons for stepping out of bounds—that they were right to do so and not unfairly impugning administrators’ conduct. In other words, they incurred an obligation to live up to the norm that right makes might.

Because undertaking and discharging obligations is the source of persuasive force, ordinarily social actors make special efforts to show they are living up to obligations incurred in the performance of a basic illocutionary act such as demanding. How

4. “A Statement of Action,” 1–6 Feb. 1972, p. 1, FSR.

5. “Position Paper of the February Sisters,” 1–6 Feb. 1972, p. 2, FSR.

6. “Minutes of SenEx,” 18, 26, and 31 Jan., and 4 Feb. 1972, p. 4, FSR.

7. Phillip W. Garrett to Chancellor Chalmers, 11 Feb. 1972, p. 2, FSR.

did the February Sisters not just imply but explicitly show that they were procedurally and substantively in the right? First, they displayed grounds that they were procedurally in the right in the position paper. "The Chancellor has overtly ignored legitimate demands of women at KU for three years," they noted, adding that "program after program has been met with administrators [*sic*] ennui if not outright hostility."⁸ Likewise, at a table in the Kansas Union the February Sisters distributed a history of their actions that began "women have been working for three years through legitimate channels on a number of issues."⁹ Second, they provided evidence that they were substantively in the right. In a press statement released to the university information center, the February Sisters referred to "accompanying leaflets" for "reasons for this action."¹⁰ For example, the position paper displayed grounds for their demand for on-campus day care, documenting, for example, the amount and kind of work that women performed at the university and the "institutionalized discouragement of all women to use their talents and skills in areas outside of domestic duties."¹¹ Similarly, the February Sisters described the handling of birth control at the university health care center as haphazard and inconsistent: "Doctors vary according to personal belief, practice, and mood concerning birth control."¹² By showing that they had good reasons for impugning administrators' conduct, the February Sisters made good on a claim to be in the right.

In displaying grounds for impugning administrators' conduct, they showed that they were counting on their conspicuously occupying the high ground to be the source of their power rather

8. "Position Paper of the February Sisters," 1–6 Feb. 1972, p. 1, FSR.

9. "A History of the Seizure and Occupation of the East Asian Studies Building by the February Sisters," 7 Feb. 1972, p. 1, FSR.

10. "Press release 9:00," 6 Feb. 1972, FSR.

11. "Position Paper of the February Sisters," 1–6 Feb. 1972, p. 2, FSR.

12. *Ibid.*, p. 4.

than coercion by occupying a campus building. In their action statement, they explained that they felt the occupation was “a means of obtaining resources to meet the pressing needs of women” and that they did not intend to “damage property or violate laws other than those few central to our act” or to “‘substantially obstruct the operation of the University’ in any way.”¹³ Likewise, in a press release they stated that “our actions are non-violent, non-destructive, and carried out with the specific intention of showing our strength and solidarity, and of drawing public attention to our pressing needs.”¹⁴ In press coverage a sympathetic administrator noted the February Sisters were aware that they risked arrest, expulsion, and loss of parental support: “They didn’t want to damage anything and they were careful not to.”¹⁵ To have damaged property would have made them vulnerable to a charge of threat or coercion—of failing to live up to the norm of right makes might.

So far we have shown that the February Sisters openly demanded and thus visibly displayed their intent to influence administrators to accede and incurred an obligation to live up to the norm of right makes might. They showed that they were in the right by explicitly stating grounds for substantive and procedural criticisms of administrators. Likewise, they displayed that being in the right was the source of might by toeing a line of propriety as they occupied a campus building and explicitly disclaimed violent tactics. But why could they reasonably expect just those strategies to influence administrators to accede?

The visibility of the obligation created a context in which both the February Sisters and administrators could be held

13. “A Statement of Action,” 1–6 Feb. 1972, p. 1, FSR.

14. “Press release 9:00,” 6 Feb. 1972, FSR. See also “A History of the Seizure and Occupation of the East Asian Studies Building by the February Sisters,” 7 Feb. 1972, pp. 6, 7, and Peggy Scott, Beverly Pryce, and Anne Franke, “Sisters Criticize *Kansan*,” *University Daily Kansan*, 18 Feb. 1972, FSR.

15. Judy Henry, “February Sisters’ History Related, Demands Probed,” *University Daily Kansan*, 17 Feb. 1972, FSR.

accountable if they did not live up to it; the obligation to live up to the norm of right makes might was reciprocal. The reciprocal nature of the obligation is indicated by administrators bringing it to bear in the situation as well. “To achieve legitimate goals by means which can assure their attainment and acceptance,” they wrote in the official university position statement, “free discussion, recognition of the rights and responsibilities of all parties involved, and persuasion rather than coercion must be employed.” Furthermore, they noted, “to accede to the demands made on this basis [occupation of the campus building] would be to violate the rights of all other members of the University community and attack the fundamental liberties of free discussion, careful consideration of alternative courses of action in arriving at decisions, and the rule of reason for which the University stands.”¹⁶ The press directly quoted the university position so both administrators and the February Sisters could be held accountable if they failed to act in accord with the norm.¹⁷

By visibly and dramatically undertaking and discharging an obligation, incurred just by demanding, to live up to the norm of right makes might, the February Sisters changed the context and thereby created two reasons for administrators to accede. First, administrators could presume the February Sisters would not risk arrest, expulsion, and so on unless they could display that their demands had merit—unless they could show that administrators were ignoring oppressive conditions and failing to live up to procedural norms such as “free discussion, recognition of the rights and responsibilities of all parties involved, and persuasion.” This reason created just by demanding is an essential part of the normative structure of demanding, without which its persuasive force diminishes or collapses. If speakers can talk with no risk—no

16. “Minutes of SenEx,” 18, 26, and 31 Jan., and 4 Feb. 1972, p. 11, FSR.

17. “Women’s Lib Group at KU Ends Sit-In,” *Topeka Capital-Journal*, “Sisters Call Off Sit-In,” *Hutchison News*, and “KU Women’s Lib Calls Off Sit-In,” *Wichita Eagle*, 6 Feb. 1972, FSR.

responsibility or accountability—then the talk is cheap and can be ignored with impunity.

Certainly administrators recognized that the February Sisters' talk did not appear to be cheap and in fact sought to undermine its persuasive force—to deny the efficacy of the February Sisters' demanding—by trying to show that they had beat the February Sisters to the substantive and procedural high ground. First, they reported that unpublished progress on some demands was already being made. In newspaper coverage of the event, the director of university relations and development said the university “may have been at fault for not publicizing its efforts more, as the women were unaware of many steps the University had taken and was contemplating.”¹⁸ Likewise, the official university position statement noted, for example, that “the Senate Executive Committee has been deeply concerned about equal opportunity for women and has been involved in discussions with the Chancellor and other members of the administration and the staff for some months” and that “Chancellor Chalmers pointed out that significant action already had been taken on many of the women's demands” and listed them.¹⁹ Second, administrators explicitly brought to bear the norm of right makes might as they called for “free discussion” of the issues. In short, the value of the February Sisters' talk is indicated by administrators trying to take their positions for themselves.

A second reason for administrators to accede that was created just by demanding was that by acceding they would avoid criticism for failing to live up to the norm of right makes might. This part of the normative structure is apparent from the February Sisters' metadiscourse about their demand strategy: “Unless Senex gave written commitment to the establishment of a day-care center and the implementation of a health care program for women, ... we

18. “‘Sisters’ End Sit-In After KU Talks,” *Lawrence Journal-World*, 5 Feb. 1972, FSR.

19. “Minutes of SenEx,” 18, 26, and 31 Jan., and 4 Feb. 1972, p. 4, FSR.

would remain in the building until we were removed by force.”²⁰ To avoid the “bad publicity” (Lawhorn 2013; Rombeck 2002) of a charge of coercion—of failing to live up to the norm of right makes might—administrators took the demands seriously. Administrators could have called in law enforcement authorities, but then they would have been vulnerable to a charge of coercion. Thus the February Sisters’ extraordinary action and risk of criticism on procedural grounds pressured administrators to publicly take responsibility for their actions and engage in more apparently democratic procedures to address their substantive criticisms.

In sum, the February Sisters designed demands using strategies that constrained administrators from ignoring or perfunctorily dismissing them. Just by uttering demands they implied that administrators were procedurally and substantively in the wrong and incurred an obligation to live up to the norm of right makes might. But they did more, as demanders typically need to do in order for demands to generate persuasive force. They displayed grounds for demanding at all, and by occupying a campus building and disclaiming violence, they showed that they were counting on the rightness of their position rather than coercion to influence administrators to accede. They communicatively designed a “normative terrain” (Goodwin 2011, 291) such that administrators could be held accountable for failing to live up to the norm and so created a reason—to avoid criticism for coercion—to give the February Sisters’ demands serious consideration.

8. Conclusions

In short, by openly demanding, the February Sisters made visible their intent and concomitant obligation to live up to the norm of right makes might. Because the obligation was reciprocal, the strategy communicatively changed the scene to create two reasons for administrators to accede. First, administrators could reason

20. “A History of the Seizure and Occupation of the East Asian Studies Building by the February Sisters,” 7 Feb. 1972, p. 7, FSR.

that the February Sisters would not risk resentment unless they could show good reasons for staking a claim to the substantive and procedural high ground. Second, the February Sisters could reason that administrators would accede rather than risk criticism for failing to live up to the norm of right makes might. The February Sisters' rhetoric was designed to display grounds for presumptions generated just by uttering demands—to show they were in the right procedurally and substantively. Likewise, occupying the campus building and disclaiming violence were designed to display that they were counting on their being in the right—not coercion—to influence administrators to live up to that same norm and accede, or at least engage in “free discussion.”

Our analysis shows why demanding is a fundamental strategy for resisting oppression. Persuasive effects may not be immediate; social actors may need to demand and engage in other rhetorical activities for days or decades to create conditions in which it becomes increasingly difficult to make sexist, racist, homophobic, and other derogatory remarks and to turn a blind eye to systemic sexism, racism, homophobia, and the like with impunity. Demanding may not only serve identitarian desiderata of a more just political culture but also reaffirm a fundamental norm of political interaction by bringing to bear the norm of right makes might.

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10.

Designing Soundscapes for Argumentation

Justin Eckstein

ABSTRACT: This article asks if soundscapes are reasonable by inquiring if they can be designed to enhance the capacity for reasoned judgment. Using a normative pragmatic approach to argumentation theory, I demonstrate that soundscapes can be strategically designed to amplify or attenuate obligations, increase or weaken conviction, and create or mask argumentative context. I use the paradigm case of the 2012 casserole protests in Quebec to identify how arguers can use soundscapes to compel a response, increase the desire for advocacy, and create a public context. This expands the multimodal argumentation literature to incorporate sound. This article also intervenes into sound studies by supplying critical norms of reasonableness to assess soundscapes.

Arguments do not occur against silent backdrops. From the drone of televisions to the music in a retail space to the symphony of combustion engines on the street, we are perpetually immersed in sound. We live in a noisy world. The combined sounds of these environments, or soundscapes, provide the very conditions of social interaction. Charles Hirschkind remarked that soundscapes are as necessary “to politics and public reason as are markets, associations, formal institutions, and information networks” (2006, 9). These soundscapes are far from neutral and can be designed to promote desired outcomes: soothing tones as you board an airplane to alleviate fear, a blaring voice over the loudspeaker to compel acquiescence, or rhythmic sermons enjoining piety. In each instance, soundscapes supply a context for judgment. Soundscapes contribute to a “sensory environment from which the subject draws its bearings, an environment that

nourishes and intensifies the substrate of affective orientations that undergird right reasoning” (Hirschkind 2006, 125). While there is a preponderance of research on persuasive design of soundscapes, there is correspondingly scant work done on their reasonableness (e.g., Burner 1990; Fulberg 2003; Huron 1989; Park and Young 1986). And if we lack the capacity to “critique sound, we leave ourselves open to the awesome manipulative powers of Madison Avenue professionals, the military industrial complex, and political operatives” (Goodale 2010, 131).

While soundscapes might not be arguments, they do constitute conditions that accompany the exchange of reasons. A normative pragmatic approach to argumentation is uniquely positioned to assess reasonableness. Such an approach would measure a soundscape’s reasonableness by its capacity to either improve or diminish the conditions for reasoned judgment (Jacobs 1998, 2000, 2006). Attending to sound as an undertheorized aspect of argumentation would expand upon a growing body of multimodal argumentation research. Multimodal argumentation explores how the senses afford arguers resources to craft reasons (Eckstein 2017; Gilbert 2004; Groarke and Kîsîcek 2016; Groarke 2015; Kîsîcek 2014). Visual argument, for instance, is a well-developed line of multimodal inquiry spanning a number of special issues and canvassing a wide array of topics from brutalized bodies to functional magnet resonance images (fMRI) of the brain (e.g., Birdsell and Groarke 1996, 2007; Gibbons 2007; Harold and Deluca 2005; Kjeldsen 2015). This article extends multimodal scholarship to account for sound. Sound’s immersive qualities shift the problematic from argument as something external, a looking-at, to something enveloping, a being-in (Eckstein 2014). Because a majority of our media is as much aural as it is visual, incorporating sound into multimodal argument is necessary to understand being-in our media environment (Dyson 2009; Eckstein 2014, 2016; Sterne 2012b).

To explore the soundscape’s potential to shape argumentation, I turn to the paradigm case of the May 2012 casserole protests across Quebec. For over two weeks in May 2012, citizens picked up their pots, pans, and other kitchen utensils

to protest the recent passage of Bill 78, an emergency measure that stripped citizens of their rights to gather and protest. Citizens demanded Premier Jean Charest repeal such an antidemocratic law. The casseroles used the soundscape to render their intention audible, energize their movement, and inaugurate a context of disputation.

Thus, my central claim is that soundscapes can be strategically designed. This article joins a chorus of work exploring the intersection of argumentation and sound studies (e.g., Eckstein 2014, 2016; Goodale 2010, 2013; Groarke and Kîsîcek 2016; Groarke 2015; Groarke and Dewey 2002; Gunn 2010; Gunn et al. 2013; Kîsîcek 2014; Marchiselli 2016). While much of this scholarship has focused on discrete sound objects, this article listens to the entire soundscape. It explores how immersive soundscapes can be designed to either enhance or diminish the conditions for reasoned decision. Thus, this article makes two contributions: First, it expands the study of multimodal arguments to encompass soundscapes and their potential influence on reasoning. Second, multimodal argumentation offers sound studies critical commitments to reasonableness that can be used to evaluate these sonorous environments.

The next section elaborates on the normative pragmatic approach to argumentation, outlining its three significant conditions: obligations to compel engagement, conviction to motivate the disagreement, and a context to decide what counts as a good reason. Next, I theorize how soundscapes contribute to these conditions. Here, I outline how arguers can amplify obligation, attune conviction, and (re)design auditory context. Then, I attend to the paradigm case of the casseroles. This section illustrates how the casseroles used the soundscape to amplify their demands upon the Charest regime, motivate their movement and attract new followers, and create a public auditory context. Finally, I conclude by speculating on the future of soundscapes and argumentation. I suggest that expanding our analytics to include sound is an important step to confront our sensual world.

1. The Normative Pragmatic Model

Argumentation involves the transparent attempt to bring about a desired outcome based on the strength of reasons. The normative pragmatic program seeks to “integrate a commitment to empirically adequate description with a critical stance toward argumentative practice” (van Eemeren et al. 1993, 2). Such an approach cuts across rhetorical and dialectical approaches to argumentation. While the dialectic offers norms to evaluate reasonableness, the process of reconstruction misses the messy dimensions of everyday argumentation. And while rhetoric focuses on a situated account of everyday argument, it lacks the critical vocabulary to assess “the degree to which the rationale for persuasion manifest in a message lives up to standards of reasoned deliberation” (Jacobs 2000, 272). A normative pragmatic approach merges these two traditions to give a more robust account of argumentation. The critic assesses how argumentative strategies *enhance* or *diminish* the conditions for a reasoned decision (Jacobs 1998, 2000, 2006).

As a self-regulating activity, arguments reflexively contribute to the broader conditions that facilitate deliberation (Goodwin 2007; Jacobs 1998, 2000, 2006). An argument involves both expressive and functional elements. The expressive dimension of an argument encompasses the strategic decisions accompanying the presentation of a reason: the way words, sentences, visual aids, sounds, smells, and other sensual stimuli create a context for interpretation. For instance, framing an anti-underage smoking advertisement with a bright yellow border and topping it with a poorly drawn red flower changes the context that guides the interpretation of the message. While the ad text might suggest anyone under eighteen should not smoke, the expressive design defines underage as very young children (Jacobs 2000). Arguments also have a functional side: “Their meanings are implicated in chains of social and cognitive consequences that have a bearing on the deliberative process” (Jacobs 1998, 400). That is, offering reasons constrains some future arguments while

enabling others. Arguments can be designed to evade critical reflection, compel a response, or shut down discussion. If a strategy undermines the capacity for arguers to call each other out, critique the rules, question the context, or debate the norms governing a disagreement, then it falls outside the scope of argumentation (Goodwin 2007; Jacobs 2000, 2006).

Three significant conditions for argumentation include obligation, conviction, and context. Obligations compel engagement, conviction encompasses motivation to advocate, and context defines appropriate reasoning. Each of these factors facilitates argumentation; obligation configure duties, conviction fuels the exchange, and context helps select what counts as a good reason.

First, the presentation of any argument invokes norms that distribute obligations. As arguers accuse, demand, doubt, and/or propose, they undertake obligations and confer burdens onto their interlocutor (Innocenti and Miller, 2016; Innocenti 2011; [Innocenti] Manolescu 2005; Kauffeld 1998). Beth Innocenti and Elizabeth Miller (2016) explain how message design distributes obligations:

1. A strategy changes the context by making visible the speaker's (a) intent and (b) concomitant obligation to live up to some norm.

2. The obligation is reciprocal. Both speaker and audience can hold each other accountable for seeing the norm and living up to it.

3. As a result, the strategy creates two reasons to be influenced:

- a. The audience can reason that the speaker would not risk criticism for failing to meet the obligation unless she planned to live up to it.

- b. The speaker can reason that the audience will be influenced in order to avoid criticism for failing to live up to the obligation. (Innocenti and Miller

2016, 371)

In other words, when a speaker presents an argument, she also undertakes an obligation. Here, her intent to persuade manifests a series of norms: to tell the truth, to not waste time, and to defend when doubted or retract when confronted with the better reason. If an arguer fails to meet her burdens, then a listener may simply dismiss the arguer, and the argument ends. But, if an arguer successfully satisfies these burdens, then the arguer confers a reciprocal obligation onto the listener. If an auditor ignores or discounts the arguer, he may receive criticism for being cantankerous or difficult. Sometimes parties want to work together, and obligations ensure that both parties satisfy the duties required to resolve their disagreement. But obligations can compel uncooperative parties to participate or risk social sanction ([Innocenti] Manolescu 2005). If either party shirks their obligations, then argumentation falters.

Second, argumentation requires at least one participant willing to advocate. Conviction describes the motivation to advance a standpoint, defend against doubt, or critically test another's perspective. Convictions can come from investments in standpoints and/or procedures (Hicks 2007). If an arguer has strong convictions, then she is more likely to raise an issue or defend it when tested. If an arguer must advocate for something she does not believe in, as is the case for some attorneys, her motivation comes from her investment in the procedure (Hicks 2007). Convictions follow a logic of intensity; some convictions are loose and easily jettisoned, while others are uncontestable and unshakable. If people have enough conviction, then it operates as an engine driving a disagreement forward. It supplies the fuel to compel arguers to risk their standpoint, respond to objections, and doubt another's position. However, if arguers lack conviction, then it is unlikely they will advance, defend, or attack any standpoints. At the same time, a surplus of conviction undermines argumentation because it suggests an arguer will not surrender her standpoint to the better reason. An arguer must have enough conviction to advance a standpoint and defend it against doubt, but

not so much that she will not surrender it when confronted with better reasoning (van Eemeren 2010; Mitchell 2010).

Third, arguers must appeal to broader institutional norms to determine what constitutes acceptable, sufficient, and relevant reason. Context describes the broad norms of appropriate reasoning that precede an argumentative exchange. Institutions like the court, the public, the lab, and the bedroom invoke different norms that dictate what counts as relevant, sufficient, and acceptable reasons (e.g., van Eemeren and Houtlosser 2009; Goodnight 2012). What counts for evidence in one setting might not be acceptable in another. For example, in a private context, a friend recounting something she heard might be sufficient evidence to change one's mind, but in a courtroom this evidence would be discounted as unacceptable because it is hearsay. Contexts also dictate appropriate presentational devices. While cursing may be acceptable in a bar, in a subcommittee hearing it may cause some to bristle.

A constellation of obligation, conviction, and context is required for reasoned deliberation. If any of these conditions are missing, then argumentation may not be possible. If arguers do not have a normative framework to hold each other accountable, then deliberation struggles. If arguers do not have sufficient conviction, then there is no fuel to prompt disagreement. And if arguers do not know what counts as an appropriate reason, then there is no way to select the stronger reason. All three of these are interrelated: An arguer must have conviction to undertake the risk required to make an intent visible while adhering to a context's idiosyncratic definitions of the reasonable.

The next section introduces how sound contributes to the conditions of argumentation because sound renders obligations audible, attunes conviction, and creates auditory contexts. The acoustics of disagreements can be configured to enhance or diminish the conditions for argument. It is possible that soundscapes create an unwelcoming environment that deters advocacy and masks obligation, or sound can forge a territory that motivates partisans to publicly air objections and participate in an exchange of reasons.

2. Sonic Conditions of Argument

Sound describes the perception of vibration between 20 Hz and 20 kHz (Chion 2016; Horowitz 2012; Sterne 2012b). Anything outside of this narrow bandwidth misses human perception and enters the domain of force (e.g., sonic weapons) or does not exist for humans (e.g., dog whistles). The world immerses listeners in multiple, simultaneous sounds coming from all directions. The human ear is endowed with the capacity to apprehend and organize these concurrent sounds into something meaningful. The cultural practice of listening discerns signal from noise, locates it in a social category (e.g., music, speech, noise), and appraises it (good/bad) (Chion 2016; Gautier 2014; Goodale 2010; Sterne 2003). The capacity to extract meaning involves narrowing attention on some sounds while pushing others to the background. Sounds at the center of attention are called sound objects, while the sounds that sit in the background are called soundscapes (Chion 2016; Schafer 1993). Both sound objects and soundscapes garner attention concurrently, mutually informing one another. But soundscapes are not always inarticulate subtexts. They can become so loud as to mask all the other sounds. Masking describes the threshold of perceptibility for a sound object out of a soundscape. The conditions for masking are relational, based on factors like soundscapes and sound object's respective decibel and frequency. If a soundscape usurps a sound object, then it drowns it out, making it difficult if not impossible to hear (Chion 2016). Because sound is immersive, a sound can move back and forth between these two registers. A sound object can be amplified to overtake a soundscape and a soundscape can be designed to obscure a sound object.

Like other sensory modalities, sound can be designed to either enhance or diminish the conditions for argument. Soundscapes determine the appropriate volume to render an intention audible (amplify obligations), modify people's desire to advocate (attune conviction), and distribute cues on appropriateness of reasoning (auditory context). As an aspect of

argumentation, sound has both expressive and functional elements: amplification allows arguers to weaken or increase the force of obligations (functional); attunement offers a mechanism to modulate another's conviction (expressive); and an auditory context allows arguers to inaugurate, alter, or mask the norms that regulate the disagreement (functional). As such, sound argumentative strategy can both be a move within a disagreement and contribute to the broader conditions of argumentation. While it may be tempting to analytically separate these features, sound performs these functions simultaneously: Sound can render intention audible, while motivating advocacy and creating the context for what counts as a good reason.

First, soundscapes determine the conditions to make intent audible. I use the term "audible" as opposed to Innocenti and Miller's (2016) "visible" to underscore the potential of sonic amplification. When an arguer presents a reason, she must consider not only the configuration of reasons but also the soundscape that determines what volume will render her intention audible. A loud soundscape can *mask* reasons, the way it is difficult to hear someone talk in a loud bar, or a subtler soundscape might risk inviting bystanders into an exchange. In both cases, arguers are afforded strategic opportunities: In a loud bar, a reason may garner less force because an arguer can claim to have been misheard, or an auditor can claim to have never heard it. If noise intervenes into an argument, then neither interlocutor risks criticism for appearing cantankerous. In a quieter space, a reason can accrue greater force, because sweeping bystanders into the disagreement carries the assumption that the arguer would not interrupt if it were not for something sincere and significant. If a reason becomes so loud as to take over the soundscape and someone cannot reasonably walk away from the disagreement, then they have undertaken a significant burden to compel a response. An audience might reason that a speaker would not so publicly offer a reason unless he thought it was true and significant. If the arguer is wrong, then he faces significant social criticism. Thus, arguers can alter the conditions of argumentation by amplifying or attenuating the force of obligations. Whispering

an argument carries a different amount of normative force than routing it through an AV system and a microphone.

Second, soundscapes attune interlocutors' convictions. I use the term "attunement" to describe how arguers can design their sonic environment to make an audience more or less receptive to advocacy. Sound can *pump people up* to argue or can dissuade them from offering a position because the *mood does not feel right* (Birdsall 2012; Corbin 1998; DeNora 2000; Hirschkind 2006; LaBelle 2010). The use of sound design strategies contributes to the broader soundscape, creating a positive feedback loop between arguers and environment. For example, walking in Cairo, Egypt, Hirschkind (2006) observed a soundscape dominated by Islamic cassette sermons that activated listeners' devotion to the Quran. So when issues of virtue and piety emerged, people felt compelled to argue. At the same time, the sounds of argument expanded the soundscape, attuned bystanders, and encouraged them to also participate. Hirschkind's experience illustrates how soundscapes facilitate argumentation and how argumentation also contributes to broader soundscapes. Because individuals contribute to soundscapes, arguers can design a sonorous environment to enhance or undermine people's desire to argue.

Third, auditory contexts mark what counts as appropriate reasoning. There is not an intrinsic link between a material space and a context. It is sound that "correspond[s] to a particular notion of territoriality" (Corbin 1998, 95). Sound offers an occasioning device that constitutes subjects and sanctions acceptable behavior (Corbin 1998; DeNora 2000; Hirschkind 2006). Auditory contexts are not static entities but are constantly shifting, as other sounds always linger and threaten to interrupt or mask one another. People have the capacity to create, interrupt, or mask them.

Take, for example, arguments occurring in a courtroom. In addition to the visual trappings of a trial, there are also sonic signals that suggest appropriate reasoning. Arguments offered during a trial occur against the backdrop of the whir of an air conditioner, the taps of a stenographer, the vocality of the lawyers, and the hush of a jury. If any of this soundscape is disrupted, say by a loud outburst, the auditory context is threatened. If more people

join the unruly patron, then the technical space of jurisprudence transforms into something more akin to a public forum. However, the judge asserts her authority and reestablishes sonorous order—through the banging of a gavel. Yet during lunch breaks, the courtroom fills with the murmur of small talk and shuffling bodies. Here, partisans engage in different modes of argument as two of the lawyers appeal to feelings and personal experience to decide where to go for lunch. Even though they are still sitting in the courtroom, the changes in soundscape shift the context. While the trial's ordered soundscape mandates norms of reasonable doubt, presumption of innocence, and appropriate evidence, the lunch break's bustle suggests less formal norms associated with personal decisions, like appeals to feelings and past experiences (DeNora 2000; Hirschkind 2006). Sound design strategies must adhere to the auditory context to be relevant to the discussion, or they might be dismissed. But sounds can create a new context, which a loud outburst, for instance, might prompt others to join in and undermine the ordered legal soundscape.

Sound configures some of the significant conditions of argumentation: it renders intent audible, it attunes conviction, and it supplies context to guide appropriate reasoning. An arguer might sculpt the conditions for an interlocutor to render intention audible (soundscape), or she might modify the volume of a reason (sound object); an arguer might attune her own conviction by singing to herself (sound object), or she might pipe music into speakers to fill an entire space (soundscape); and an arguer might design a sound object that adheres to a preexisting auditory context (sound object), or she might try to create a new auditory context (soundscape). In the same disagreement, a sound design strategy can move from a sound object into a soundscape, and a soundscape can turn into a sound object.

The next section illustrates how sound can be strategically designed to favor a standpoint by turning to the paradigm case of the 2012 casserole protests. For Canadian citizens, sound offered a resource to subvert tyrannical rules that sought to exclude citizens from the public sphere. By coming out every night at eight o'clock to bang pots and pans, the casseroles rendered their intention

audible and invoked the norm that *right made might* to amplify obligations, attuned disconcerted citizens' conviction, and inaugurated a public auditory context that prompted a robust public conversation. In short, the next section argues that the casseroles used sound as an argument to create the context for reasoned deliberation.

3. The Paradigm Case of the Casseroles

In the 1960s and 1970s, Quebec's Quiet Revolution brought with it a promise of accessible education. However, in March 2011, Jean Charest, premier of Quebec, proposed a 75 percent tuition hike (to be phased in over a three-year period), and students immediately went on strike. The students' goal was to shut down the public education system until the proposed tuition hike was thwarted. At first, the strike was localized to just a couple of different student organizations. In the following months the protests intensified, as student groups joined from across Quebec. Students shut down major urban bridges, occupied buildings, and blocked other students from entering classes (Rakobowchuk 2012). The protests became increasingly violent as the protesters, armed with Molotov cocktails and rocks, met police equipped with pepper spray, batons, and loudspeakers (Hamilton 2012). Violence, vandalism, and clashes with riot police quickly became a nightly occurrence.

To bring back social peace, Charest introduced Bill 78 under the pretense of restoring order to institutions of higher learning. Bill 78 restricted the ability for anyone to impede access to education, meaning that people were no longer allowed to block access to buildings or classrooms. It also mandated that gatherings were not allowed within fifty meters of a college campus. Article 16 further stipulated that demonstrations of forty or more people anywhere in Quebec were illegal, unless the police preapproved their gathering. Failure to meet any of these new regulations resulted in significant fines and potentially jail time. On 18 May 2012, the National Assembly of Quebec adopted the controversial law (Marshall 2012).

Although Bill 78 offered education as the primary justification for the law, it was designed to curb student protests. Keith Jones (2012) noted, “Bill 78 effectively outlaws student picket lines. It will henceforth be illegal for strike supporters to picket or stage any ‘form of gathering’ within 50 meters of the ‘outer limits’ of the ‘grounds’ of any university” (para. 2). The law meted out significant fines, and potentially jail time, for anyone striking *or even potentially supporting* a strike. The legislation’s ramifications extended far beyond the student strikes to any form of activism. Jones (2012) continued,

Bill 78 makes it illegal for anyone to stage or participate in a demonstration of more than 40 people anywhere in Quebec and *over any issue* unless the demonstration’s organizers have informed police in writing at least 8 hours in advance of the precise route of the protest and the duration of the demonstration, and agree to abide by changes in the protest route made by police. (para. 5)

Although some of the student strikes were arguably illegal, Bill 78 created a dangerous presumption that any protest was illegal. Demonstrations had to be vetted and approved by the police before they were permitted to occur. But what kind of effective resistance happens by adhering to all the norms imposed by authorities? As Andrew Gavin Marshall (2012) succinctly stated, “This is no longer about tuition. Our very freedom is at stake” (para. 21).

On May 19, a local political science teacher, François-Olivier Chené, sent out a Facebook invitation that encouraged denizens of Quebec to take to the streets of Montreal on 22 May at eight o’clock and protest Bill 78. The invitation proclaimed, “Nos casseroles contre la loi spéciale!” (roughly translated as “our saucepans against the special law”). The use of the kitchen equipment to make noise bestowed the name “casseroles” onto the protests. The argument that Bill 78 may be oppressive brought out many people. On May 22, 200,000 people took to the streets and made their opposition audible. Some people marched down the street smacking together pots and pans, others played music and danced, and even more came out onto their patios and porches to

slap their instruments together. The event was labeled the largest act of civil disobedience in the history of Quebec (Hallward 2012). After the May 22 protest, the casseroles continued into June each night at eight o'clock, eventually losing momentum in the summer.

4. The Casseroles' Strategic Design of the Soundscape

The casseroles demanded that the Charest administration repeal Bill 78. The formulation of this claim is the most obvious in François-Olivier Chené's (2012) May 22 Facebook invitation for the first protest, in which he wrote, "The Chilean dictator [Augusto Pinochet], decided that all gatherings of more than 4 people was [sic] illegal. In response to that, the citizens used their casseroles to express their anger. Let's do like they did!" (para. 1). Chené likens Bill 78 to a law that the brutal and repressive Pinochet would pass. Both laws move power from the people and toward the state. Just as Pinochet usurped democratic authority by banning peaceful gatherings, so too did the Charest government undermine the rights of citizens. Even though Bill 78's regulation is on groups of forty or more (and not four, like Pinochet's), any incursion into the right to gather indicates a potential threat to democracy. The similarity in circumstance between Pinochet and Charest mandated a similar tactic in response: the charivari. The banging of pots and pans, or charivari, French for loud music, "was an alternative to violent exclusion, instead shaming its target into compensation or reparation" (Sterne and Davis 2012, para. 3). Citizens stepped onto their patios, walked on the sidewalks, and poured into the street, all the while smacking kitchen utensils together to make a hubbub.

The charivari altered the soundscape in three ways: It compelled a response, lured people into the streets, and created a public context. While Bill 78 shifted presumption toward the state and mandated protestors justify their resistance, the casseroles moved the burdens to account for Bill 78's morality. By rendering their intent audible and invoking a norm that *right makes might*, the casseroles amplified the normative force of their demand.

While Bill 78 proffered a fearful soundscape that made people averse to direct advocacy, the casseroles created a joyful noise that brought out the public. The protests circulated conviction that beckoned protestors into the street each night. While Bill 78 dictated where, when, and how to protest, the casseroles sprang from all directions to create a citywide, public assembly. The din of pots and pans forged a public, auditory context to argue the merits of Bill 78.

First, the casseroles used the *charivari* to make their demands audible. The Charest regime was an uncooperative party that legally preempted debate before it even started. Bill 78 gave the police the opportunity to deny protest, or revise the sites, routes, or times. As a result, Brian Massumi (2012) explains, Bill 78 “no longer waits for warning signs such as the stray rock thrown at police lines before criminalizing the entirety of an event in anticipation of more trouble. Now, the anticipation moves forward to become an *a priori*” (para. 5). That is, the presumption was so strong that it eliminated the chance to render opposition visible.

In response, the casseroles rendered their intent to persuade audibly by using sound to subvert the law. This rhetorical strategy invoked the norm that “right makes might” (Innocenti and Kathol 2018). Underwriting this action is the norm that it is justifiable to violate the law if the cause is moral and the legal avenues of remediation have been exhausted. For instance, many in the US celebrate the civil disobedience of the 1960s, even though it violated the law, because the protestors were on the right side of history. The casseroles’ audible opposition licensed an audience to infer that if the casseroles did not believe they were morally correct, then they would not risk jail time and social sanction. If the casseroles failed to live up to this norm, they risked significant social backlash, undermining their cause. But, by invoking this norm, they also conferred a reciprocal obligation onto the Charest government to justify the decision to pass Bill 78. If the government could not prove that the law occupies the moral high ground, then they might face rebuke.

The casserole’s sound design strategy enabled the protestors to amplify these obligations. Like other large metropolitan areas,

Montreal is loud. If it is simply one person banging a pot and pan in the street, the sound object's reach is fairly limited. The soundscape would mask the protestor's intent. As such, the burden of being right is significantly smaller. If someone proves an allegation baseless or unworthy of attention, the rebuke would be circumscribed to the distance of the sound. But as the casseroles amplified their protest, they took on an increased obligation to substantiate their claims that *right makes might*. If the protestors did not *truly believe* in their cause, then why would they risk such strong social rebuke? This, in turn, conferred a stronger obligation to respond onto the Charest regime. If the casseroles were willing to take on such a great social risk, then the regime would appear unreasonable if they ignored them. The louder the disruption, the stronger the reciprocal burden conferred onto the Charest administration.

The casseroles bloomed over the entire city. By masking the entire soundscape, the casseroles undertook a significant burden to live up to the norm that right makes might. As Jeremy Stolow (2012) remarked, "I can't possibly imagine how even the most conservative or apolitical of my pot-banging neighbours will be able to back down from the positions we have shared over the past ten days" (para. 4). Eventually, the casseroles circulated on social media and spread to other cities. Nelson Wyatt (2012) reported, "People took up the percussive protest Thursday night in several towns and cities including Sorel, Longueuil, Chambly, Repentigny, Trois-Rivières and even in Abitibi—several hundred kilometres away from the hot spot of Montreal" (para. 3). To participate in such a grand interruption and fail to substantiate a claim risked significant criticism.

At the same time, the Charest government and the audience were reciprocally obligated to listen reasonably to the casseroles. If they were to appeal to ignorance as a countermove, then they would risk criticism for being out of tune with the happenings of the province. The sheer force of the casseroles also took away the strategy of discounting the protestors as outliers peddling lies. Indeed, the assumption that someone is lying would not take on such a significant social risk. Alternatively, saying nothing in

response to such a strong argumentative tactic would acknowledge the accusation that they were oppressive and could risk even greater penalties, like losing power. Here, I do not simply mean that the failure to address a claim results in *de facto* truth. Instead, the force generated by the casseroles, coupled with silence, moved the burden onto Charest's administration to respond.

Second, the casseroles attuned citizens for advocacy. The student protests that preceded Bill 78 were heated, vehement, and fierce. The "sounds of panic filled the air" and fomented an atmosphere of fear, dread, and anxiety (Chapman 2012, para. 7). The soundscape discouraged citizens from participating. But when the casseroles started, the mood shifted. If the racket of violence blunted people's desire to advocate and deterred them from joining in, then the joyful din of pots and pans lured them into the streets. For instance, Les Perreux (2012) observed, "The din of wooden-spoon-on-wok overtook the soundscape Montrealers had grown to fear: rocks thrown against glass, fusillades of plastic bullets and police helicopters flying overhead" (para. 9). The casseroles *masked* the noise associated with the violent protests. The new auditory context came with a sonorous envelope that energized the crowd. Joseph Rosen, for example, described casseroles as "joyous and playful" with "an incredible effectivity" which "has fueled us for a week now: anarchic joy is a renewable resource!" (2012, paras. 6–7). If conviction describes the motivation that compels someone to stand up for something she believes in, then the casseroles circulated and externalized that sentiment. That sound carried with it a sense of comfort, joy, and positive affect required to propel the movement forward. Here, attunement describes the positive feedback loop between the arguers and the environment. The casserole soundscape attuned and encouraged listeners to come out and alter the soundscape.

Each night the casseroles grew, as more people took to the streets to protest Bill 78. The sound attenuated the fears of many vulnerable populations, who might otherwise have been averse to participating. The casseroles attracted the elderly, young, and differently abled. For instance, Stollow (2012) celebrated the kids, aged three to twelve, dancing in the streets with their parents.

Rosen applauded the “grandmothers, middleclass families, and neighborhood kids wearing capes and distributing cupcakes” (2012, para. 1). Carrie Rentschler (2012) noted a woman who was in her wheelchair on the street “to participate in the evening’s activities” (para. 1.7). In addition to attracting vulnerable populations, the sound also attuned the police. During the student protests, police were primed for violent encounters. However, when they become enveloped in the dings of pots and pans, their concerns diminished. For instance, Stollow recounted feeling anxious when he saw the police, but “we were greeted by smiles from the cop car” and sometimes “the police seemed even to be bouncing to our beat” (para. 2). The casseroles created an auditory environment where different generations and diverse segments of the population *felt comfortable* enough to advocate. In other words, the soundscape activated their convictions and motivated them to join (Hirschkind 2006). The external environment configured audience members’ conviction, encouraging them to participate, which in turn amplified the sounds and expanded the protests.

Third, the casseroles inaugurated a public auditory context for disagreement. Bill 78 created a difficult challenge for the casseroles and articulated a territory with juridical rules (who and what can stand and where, procedures for approval), demarcated borders (appropriate and inappropriate space), and segmented times (correct times and durations of protest) and subjects (anointed with speech). Within this territory, the denizens of Quebec lost their capacity to enter a disagreement, unless they preplanned and met rigid requirements. The boundaries were codified by the sounds of violence ringing out in the streets. Prior to the passage of Bill 78, the clashes between protestors and police became increasingly tense and violent. Owen Chapman (2012) recounted that one of the student protests proceeding the casseroles ended when “the riot police started to rush the crowd, which quickly splintered into different fleeing groups, with people screaming, yelling to stay calm, to slow down, not to run, not to be afraid” (para. 6). The sounds of tear gas, the staccato beat of

the riot cops, and the reverberating drone of loudspeakers pit cops against protesters and relegated the rest of the city to the sidelines.

The casseroles coming together to make noise challenged Bill 78's notion of territory. People came out en masse to walk the streets and bang their cookware. They converted materials traditionally accorded to private spaces, such as wooden spoons, pots, and cookie sheets, into technologies of publicity. Smacking them together created sounds that reconfigured private space into a public square. Jonathan Sterne (2012a), who both participated and observed, stated, "The percussion is overwhelming, beating a rhythm of phenomenal collectivity that is entirely immersive because it is so loud. At some distance, the noise tickles neighborhoods, enticing some neighbors to join in while others, like Montreal's mayor, cringe at the protester's extended touch" (para. 4). Sound went where bodies were forbidden and turned the entire city into a public space. It was impossible for the city to regulate. The casseroles' auditory context allowed anyone to speak in her capacity as a citizen on an issue of public concern, in this case the state of democracy.

Additionally, the casseroles' repetition of the eight o'clock start time became an affective moment that called citizens down, a moment of gathering and coming together, to challenge the oppressive policies of the Charest regime. Wyatt (2012) remembered that the casseroles "acted like an alarm clock for regular evening marches by Quebec student protesters, sounding at 8:00 p.m. on the nose" (para. 1). The repetition of the casseroles created a sense of timing, codifying and structuring the auditory context. If Bill 78 attempted to sequester protest to specific space, the charivari redefined those very parameters. In place of a segmented space regulated through the force of the state, the entire city became immersed within a sonic environment. As far as the ear could hear became the terrain of disputation.

5. Evaluation

How might we evaluate the casseroles? Some may argue production of a loud cacophony masked the potential for opposition. Masking describes the capacity for a soundscape to drown out a sound object. They would claim that someone could not reasonably raise an objection because no one could hear it. Yet Jacobs (2006) warns against such *a priori* evaluations because every potential rhetorical tactic can be construed as a fallacy. Instead, he instructs argument analysts to make a situated assessment of reasonableness based on what he calls the heuristic and condition criteria. The heuristic criterion asks if the move is the best considering the limitations of a specific situation, and the condition criterion inquires if a tactic enhances the potential for continued deliberation.

First, considering the number of options afforded to them, the casseroles were reasonable according to the heuristic criterion. Before the casseroles, Bill 78 sought to snuff out any potential protests. The laws restricting where people could gather and requiring preapproval for protest undermined the public square. The corresponding legal sanction set such a high threshold of conviction for advocacy that many would not undertake the risk. And Bill 78's proscription against protests, unless approved, made it nearly impossible to even enter a disagreement. In short, Bill 78 diminished the potential for reasoned debate. When faced with such restrictions, arguers must turn to the creative strategies to shift attention to their cause. While the previous protests used violence as its primary tactic to draw attention, they also traded off with public support. If the goal is to put pressure on the government and open up debate, then the public is critical. The casseroles' pots and pans were a novel strategy that drew attention without alienating others and were preferable to other strategies, such as legal remediation, because they kept Bill 78 firmly at the center of public attention. Moving it to the courts would have risked the movement getting snagged in litigation that could ultimately have foreclosed deliberation. Given the limited options,

the charivari might have been the only way for the opposition to become audible.

Second, the casseroles also satisfy the condition criterion. The charivari invoked norms to hold the Charest regime accountable, attuned citizens to advocacy, and created a fleeting public context. The context of deliberation was not relegated *only* during the hours of eight to eleven o'clock. Instead, the nightly protests became a refrain that organized the political context. When the sounds faded, the auditory context, the conviction, and the normative territory remained. For instance, Rentschler (2012) recounted,

At the corner grocer, the young woman at the cash checks in with me most days to see if I'll be at the manifs that night. Conversing in French, the owner of the dry cleaning business I use asks if I beat on my pot. I tell him I most certainly do, and that it's an important civil act, to which he responds in agreement. In practice, les manifs are not primarily about dialogue, they are about co-presence in taking over the streets. But as a result, I am talking more about the state of public culture and political engagement with my local shop merchants, store employees and my neighbors as people who are mutually engaged, as participants and witnesses, in public action that is larger than ourselves. (para. 3)

In Rentschler's account, the casseroles transformed the relationships of people from private strangers and shopkeepers into public citizens discussing an issue of public concern. The soundscape reconstituted individuals into citizens with a common set of concerns. People felt comfortable commenting on the casseroles, Bill 78, and the tuition hike. Citizens engaged in meta-arguments about the merits of the casseroles and the reasonableness of Bill 78 and the Charest government. When Bill 78 sought to silence dissent, the casseroles sparked debate. It did not matter if citizens were for or against the measure; the casseroles ensured that it was a topic of deliberation.

Rentschler's account is not isolated. The cacophony of pots and pans ringing out through the streets propelled Bill 78 into the public and provided an entry point for debate. The casseroles inspired numerous face-to-face conversations, social media posts,

videos, newspaper articles, think pieces, and academic articles. From bystanders to the police and the protesters, everyone was unified in their position as a citizen on an issue of public concern. The casseroles, in short, created ample opportunity for reasoned decision. Ultimately, Charest's administration did not engage the protestors. In September 2012, Charest lost his seat to Pauline Marois, who immediately gutted Bill 78 and froze tuition hikes (*CBC News* 2012). While it might be unreasonable to say that the casseroles were sufficient to prompt such a change, they were most certainly necessary. Indeed, the casseroles *enhanced* the conditions for deliberation.

6. Conclusion

This article argued that soundscapes can be strategically designed. Amplified obligations highlight how the volume of a reason can modify its force. Attuned convictions underscore how soundscapes create reflexive loops, between individuals and the spaces they inhabit, that can enhance, spread, or dampen the motivation to advocate. Finally, auditory context describes how sound defines the norms and expectations of a specific space. I used the paradigm case of the casseroles to illustrate how soundscapes contain strategic affordances. The protests created the conditions to engage in reasoned deliberation about the Charest government. The ensuing debates shaped the sentiment and anticipated the eventual regime change.

The central question of a soundscape's reasonableness raises questions around masking—the way a soundscape can be configured to preclude sound objects from becoming audible and/or the way a sound object can overtake a soundscape. Although lower frequency sounds are more likely to disrupt audition than high frequency sounds, masking is a situated event. It occurs through a nexus of frequency, acoustics, and decibels. Beyond the situated nature of psychoacoustics, reasonableness is measured based on its capacity to facilitate the exchange of reasons. That is, soundscape design is reasonable based on a situated assessment if

the soundscape enhances or diminishes the conditions for reasoned judgment. The addition of water features in parks, for example, alters a soundscape by providing masking noise and offering park dwellers auditory privacy. They might allow others to freely share a disagreement without concern of eavesdroppers or auditory distractions. Other times, a soundscape can be designed to undermine the exchange of reason: a cacophonous space might make it difficult to hear a friend, hindering decision making. In short, in the context of the casseroles, this masking surfaced as the cacophony physically drowned out the potential for a response. Yet, as I indicated, it ultimately was reasonable because it fomented a much more robust public that engaged in debate and meta-argumentation around Bill 78.

This article contributes to the growing conversation in multimodal argumentation. While this article focuses on how sound can configure the conditions of argumentation, it also moves away from the narrow view of an abstracted, bundled subject. The present study suggests that expressive features of argument design can either enhance or diminish a subject's capacity for action, such as the way that the casseroles lured people out into the street and activated their desire to argue. If multimodal argumentation wishes to account for sound's expressive features, then we must revise the *image* of the arguer as self-contained, discrete, and divorced from a material context. The approach outlined here theorizes the arguer as auditor. The auditor does not have ear lids and thus is always open to material surroundings. In place of a self-contained subject impervious to the environment, the auditor is a porous membrane (LaBelle 2010). Defining the subject through the ear "as a channel through which voices, noises and musics travel" (LaBelle 2010, xx), this perspective acknowledges that the material sites of disagreement also exert agency. It is important to note that such a position does not suggest that an environment determines the subject because like the casseroles, the arguer can also exert agency upon the environment. It is the intentional action of the arguer that creates the soundscape that attracts others to the cause. Yet the protest created an environment that drew others not participating out into the streets. Hence, arguers and environments

existed in a kind of reciprocal relationship. If we adopt this approach, we must develop a more robust vocabulary to audit the material conditions of argumentation.

We need to continue to explore other argumentative modalities. The casseroles demonstrated that environments can be exploited by arguers advantageously. While this article has focused on sound, taste and scent also wield influence on conditions of reasoning (Eckstein and Conley 2012). Although some of these maneuvers might fall outside the scope of an argument, they still contribute to the conditions that underwrite reasoning. Some may object that a sensual backdrop changes too much between places and times of the day to be analytically useful. While there is no way that we can account for the specificity of every sensual backdrop, we can develop a generic account. In a similar fashion to the systematic work done on context, with further investigation we might identify, analyze, and assess sensual commonalities that can enhance or diminish the opportunity for reasoned judgment.

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