David Zarefsky

Rhetorical Perspectives on Argumentation

Selected Essays by David Zarefsky

Springer

Rhetorical Perspectives on Argumentation

Argumentation Library

VOLUME 24

For further volumes:
http://www.springer.com/series/5642

David Zarefsky

Rhetorical Perspectives on Argumentation

Selected Essays by David Zarefsky

Springer

David Zarefsky
Northwestern University
Evanston, IL, USA

For Isabella Louise
My first grandchild

Permissions

Chapter 1 originally appeared as an essay in *Making the Case: Advocacy and Judgment in Public Argument*, edited by Kathryn M. Olson, Michael William Pfau, Benjamin Ponder, and Kirt Wilson (East Lansing: Michigan State University Press, 2012), pp. 1–15. Reprinted by permission of Michigan State University Press.

Chapter 3 originally appeared as an article in *Journal of Communication, 58:*629–640 (December 2008). Reprinted by permission of the International Communication Association.

Chapter 4 originally appeared as an article in *Informal Logic, 29:*299–310 (2009). Reprinted by permission of the Ontario Society for the Study of Argumentation.

Chapter 5 originally appeared as an essay in *The Responsibilities of Rhetoric,* edited by Michelle Smith and Barbara Warnick (Long Grove, Illinois: Waveland Press, 2010), pp. 13–21. Reprinted by permission of Waveland Press.

Chapter 6 originally appeared as an entry in *Proceedings of the [First] Summer Conference on Argumentation,* edited by Jack Rhodes and Sara Newell (Falls Church, Virginia: Speech Communication Association, 1980), pp. 228–238. Reprinted with permission from the National Communication Association; all rights reserved.

Chapter 7 originally appeared as an article in *Argumentation and Advocacy, 18*: 191–203 (Spring, 1982). Reprinted with permission of the American Forensic Association.

Chapter 9 originally appeared as an essay in *Proceedings of the Third Tokyo Conference on Argumentation,* edited by Takeshi Suzuki, Takayuki Kato, and Aya Kubota (Tokyo: Japan Debate Association, 2008), pp. 299–303. Reprinted with permission of the Japan Debate Association.

Chapter 10 originally appeared as an essay in *Argument in a Time of Change: Definitions, Frameworks, and Critiques,* edited by James F. Klumpp (Annandale, Virginia: National Communication Association, 1998), pp. 1–11. Reprinted with permission from the National Communication Association; all rights reserved.

Chapter 13 originally appeared as an essay in *Engaging Argument,* edited by Patricia Riley (Washington: National Communication Association, 2006), pp. 29–35. Reprinted with permission from the National Communication Association; all rights reserved.

Chapter 14 originally appeared as an essay in *Bioethics, Public Moral Argument, and Social Responsibility,* edited by Nancy M.P. King and Michael J. Hyde (New York: Routledge, 2012), pp. 3–13. Reprinted with permission of Taylor & Francis, LLC, a division of Informa plc; www.tandfonline.com.

Chapter 16 originally appeared as an article in *Argumentation and Advocacy, 21:*63–75 (Fall, 1984). Reprinted with permission of the American Forensic Association.

Chapter 17 originally appeared as an article in *Argumentation and Advocacy, 46:*140–149 (Summer, 2010). Reprinted with permission of the American Forensic Association.

Chapter 18 originally appeared as an article in *Presidential Studies Quarterly, 34:*607–619 (September, 2004). Reprinted by permission of Wiley Blackwell Publishers.

Chapter 19 originally appeared as an essay in *Argument in Transition,* edited by David Zarefsky, Malcolm O. Sillars, and Jack Rhodes (Annandale, Virginia: Speech Communication Association, 1983), pp. 365–379. Reprinted with permission of the National Communication Association; all rights reserved.

Chapter 20, coauthored with Dima Mohammed, originally appeared as a chapter in *Keeping in Touch with Pragma-Dialectics*, edited by Eveline Feteris, Bart Garssen, and Francisca Snoeck Henkemans (Amsterdam: John Benjamins, 2011), pp. 89–102. Reprinted with permission from John Benjamins Publishing Company.

There are instances where we have been unable to trace or contact the copyright holder. If notified, the publisher will be pleased to rectify any errors or omissions at the earliest opportunity.

Contents

Introduction

Argumentation and Rhetoric

Since the middle of the twentieth century, argumentation has been a topic of growing scholarly interest. An interdisciplinary field of study, it is concerned generally with the relationship between statements offered as conclusions and other statements that provide the grounds for those conclusions. Put another way, argumentation is about the justification for statements. It asks what the grounds for accepting candidate conclusions are, what makes those grounds count as grounds, and how we know that they are grounds. It is concerned with how grounds are offered, supported, defended, and challenged.

Among the several disciplines taking renewed interest in argumentation, three are prominent: logic, dialectic, and rhetoric. Logic is concerned with matters of form, and hence with the formal properties of grounds and of the relationships between grounds and conclusions. What is it about the grounds that strengthens the force a claim otherwise would have? The logician will answer with reference to such formal factors as the distribution of end terms or the truth conditions of *modus ponens* and *modus tollens*. Whether any of the statements in an argument is true is generally not the logician's concern. The logician will judge as valid an argument on which, *if* the initial statements (premises) were true, then the conclusion would need to be true. Formal logicians are concerned with form without regard to context; informal logicians examine the form of an argument within a particular context.

Dialectic is concerned less with the formal features of statements than with the commitments people make to signal their acceptance of the statements. Paradigmatically, these commitments are obtained through dialogue. The interlocutors engage each other until they either reach agreement or they acknowledge that they will be unable to do so and instead "agree to disagree." Interaction between the arguers is necessary in order to establish the conclusion. For example, each

disputant, having expressed specific commitments, must defend a set of statements that is consistent with those commitments or else renounce the commitments as a result of the clearer perspective that the other has supplied. The formal feature that comes into play is consistency, but it is a characteristic not of statements themselves but of the relationships among them.

Both logic and dialectic can be systematized. That is, abstract models can be developed of the relationships among statements or among commitments. Abstract models of argumentation can be developed that are generalizable and thus permit analysis and assessment of arguments that are external to the specific case or that go beyond it. A set of statements with an undistributed middle term is always fallacious, for example, as is circular argument. The former failing is a matter of form and the latter involves interlocutors' commitments. They both fail to advance the argument or to increase the acceptability of the statement offered as a conclusion.

Rhetorical argument is somewhat different. It is concerned, most basically, with the relationship between arguments and audiences, and hence deals with how people are induced to believe a statement. The statements offered as conclusions are called *claims* because they put forward a claim on the audience's belief. This claim must be warranted by the grounds offered for it. In other words, acceptability of the grounds will increase the likelihood that an audience will accept the claim put forward in the conclusion. This is not simply a matter of persuasion by whatever methods work, however; it is an exercise of justification. A person accepts a claim not as a result of seduction or force, but because he or she believes that the claim is justified. One *is* persuaded, to be sure, but the means of persuasion is the act of justification. From the perspective of rhetoric, then, argumentation can be said to be the practice of justifying claims under conditions of uncertainty. The latter clause is a reminder of the Aristotelian dictum that people do not bother to engage in discussion about matters that can be considered certain. Rhetorical argumentation always is concerned with things that could be otherwise.

Aristotle regarded rhetoric as the faculty of discovering the available means of persuasion in the given case. The phrase "in the given case" reminds us that rhetoric is situated in particular contexts. For this reason, analyses of rhetorical argumentation often focus on specific cases, and the theory they develop is what lawyers call a "theory of the case"—an explanation of the case that reveals its underlying dynamics. Still, rhetorical situations are not unique; they often can be imagined as types of categories, with similar situations sharing similar features. Politicians called upon to defend their character, scientists refuting a rival hypothesis, or advocates addressing a complex moral issue, to cite a few examples, may engage in similar argumentative moves. That may be because the moves follow "naturally" from the situation or it may be because arguers emulate strategies and tactics that have proven successful in persuading audiences. Whatever the reason, scholars of rhetoric often examine particular cases but then, having illumined the case, point to more general application of their findings. They do not even aim for the systematic theory of the formal logicians, but they often do speak to issues broader than the case at hand.

Plan of the Book

This volume contains 20 essays about rhetorical perspectives on argumentation, written over the course of my career. The earliest essay was published in 1979 and the most recent in 2012. They are organized in four parts, proceeding from the most general to the most specific.

Part I concerns goals and objectives for studying argumentation from a rhetorical perspective. Chapter 1 explores how people build cases, structures of argument supporting a claim—one of the most common purposes of rhetorical argumentation. Chapter 2, drawn from my early work in competitive debate, describes the process of argumentation as analogous to testing a scientific hypothesis and suggests that arguing is a means for determining the probable truth of claims that cannot be verified empirically. Although the essay is written with competitive debate in mind, it applies more broadly to argumentation in general. I explore the idea further in Chap. 3, which considers the criticism of rhetorical performances as a kind of argumentation and inquires into the nature of knowledge claims made through such a critical exercise. Chapter 4 casts a broader net and considers what a culture shaped through argumentation would look like. It implies that in the act of arguing, we contribute toward the building of such a culture, and that this is a beneficial outcome. Finally, Chap. 5 considers how argumentation both develops and deploys "public reason," the reasoning about public affairs in which citizens engage and through which they create a civic culture.

Part II contains four essays about general approaches to the study of rhetorical argument. Chapter 6 returns to the distinction between argument as product and as process and suggests a third possibility: that argument is a point of view one takes and through which one frames social reality. Chapter 7 revisits the topic of argument fields, which dominated scholarly discussion during the late 1970s and early 1980s and for a time seemed to promise a standard for evaluating arguments in ordinary use, a midway point between the unrealistic standard of logical necessity and the caprice of vicious relativism. The concept of argument fields is still relevant, even if not currently fashionable. In Chap. 8, I turn to the concept of strategic maneuvering, introduced around 2000 by the pragma-dialecticians, who found in it the means by which arguers seek to gain rhetorical advantage while also meeting their dialectical obligations. I apply this concept specifically to political argumentation and investigate how strategic maneuvering occurs in that specific context. And in Chap. 9, I consider how the analogy between argumentation and jurisprudence developed by Stephen Toulmin and Chaim Perelman, among others, informs argumentation if it is taken seriously. These four essays explore different starting points or frames of reference for studying argumentation rhetorically.

In Part III the focus becomes more specific. The essays in this section are devoted to recurrent patterns or topics in rhetorical argumentation. Chapter 10 considers how definitions, often thought to be neutral exercises of clarification, in fact suggest and often contain arguments, and that there is such a thing as argument "by definition." Chapter 11 pursues this idea by exploring how persuasive definitions (a term

coined in the 1940s by Charles L. Stevenson) are used in strategic maneuvering. In Chap. 12 I illustrate a particular kind of argument *ad hominem*, the circumstantial. Rather than being an abusive personal attack, this form is an argument against a person by showing that that person's premises lead to conclusions that he or she would find unacceptable. I show how this kind of argument was deployed in the U.S. Supreme Court's decision in the 2000 case of *Bush v. Gore*, the decision that ended the recounts in Florida and effectively awarded the presidential election to George W. Bush. Chapter 13 examines the argument from ignorance, a form that generally is thought to be a fallacy, and elucidates how it can be a perfectly reasonable argument in some situations, as in public argument about terrorism, where it has the effect of shifting presumption. In Chap. 14 I take up the topic of arguing about values, which characterizes public argument about moral issues. I consider why it is so difficult and sketch ways in which it might proceed. Finally, in Chap. 15 I consider the topic of "deep disagreement," a situation in which it appears that there is no common ground between competing advocates, and suggest how a dispute might proceed even in the absence of common ground to which advocates ordinarily would appeal.

The final section of the book, Part IV, offers five case studies of rhetorical argumentation, suggesting the potential contribution to argumentation in general that can be made by intensive studies targeted on particular cases. Chapters 16 and 17 both concern the famous Lincoln-Douglas debates of 1858. In the former, I explicate the role of conspiracy arguments and speculate about why conspiracy charges sometimes are: "mainstreamed" and taken seriously. The latter essay considers the rhetorical dynamics of the fifth debate, at Galesburg, and shows how and why argumentative momentum shifted to Lincoln in that debate and how he used it to strengthen his position relative to Douglas in the remaining debates. In Chap. 18 I turn my attention to presidential rhetoric and consider how the president's ability to frame situations and define the nature of social reality are potent rhetorical resources. Chapter 19 focuses on a specific time, the late 1960s, in which the arguments of political liberals reached an impasse, caught as they were between radical and conservative positions. The final essay, Chap. 20, tries to apply the tools of pragma-dialectics, developed primarily for the study of dialectical argument, to rhetorical argument, in order to see whether pragma-dialectics is versatile enough for that task. Coauthored with Dima Mohammed, this essay uses the case of U.S. President Barack Obama's June 2009 address in Cairo in which he urged a new approach to U.S. relationships with the Muslim world.

Argumentation scholarship is nurtured in a network of conferences in which papers are read and discussed. Several of the papers in this volume originated as conference presentations. Even when revised for publication, they retain a degree of informality that marks the oral style. In most cases, I have opted to retain that note of orality in this version of the essays.

For the most part, the essays are reproduced here as originally published except for minor alterations in grammar, syntax, or style, and for the standardization of citations and references and certain conventions of style. This means, among other things, that relevant literature published after the original dates of each of these essays is usually

not cited. The essays should be taken as something of "period pieces" capturing the state of the scholarly conversation at a particular moment and the interventions particular rhetors made in that conversation. There are two exceptions. Chapter 1 was written originally to introduce a collection of essays. Without those essays here, the ending section of the chapter is simply not relevant. So I have excised it and replaced it with a new conclusion. And Chap. 19 seemed particularly dated because of the immense changes in U.S. political culture since the early 1980s, when this chapter was written. Accordingly, I have added a coda to bring the analysis up to date. Otherwise the essays stand essentially as they were originally written. Although there surely are instances in which I cannot imagine ever having said something or other, in general I am pleased with the essays, still think pretty much what I did when I wrote them, and believe that they have met the test of time reasonably well.

In Appreciation

Professor Ton van Haaften of the University of Leiden was the first to suggest that I produce a compilation of my essays on argumentation over the years. I was flattered by his suggestion and grateful for the confidence he placed in me, but I filed it away under the heading of "projects that I might undertake one of these days." But then, I was spurred to action by my good friend and colleague, Professor Frans van Eemeren of the University of Amsterdam, who not only encouraged me to undertake the project but told me that he wanted it for the Argumentation Library series published by Springer. A most cosmopolitan scholar of argumentation, Frans has a way of making things happen. He convinced me that publishing a volume such as this was a matter of some urgency for the development of argumentation studies worldwide. Like other scholars of argumentation around the world, I have benefited immensely from Frans's wisdom and from his friendship. Not only have I learned about pragma-dialectics, but I have learned the value of being part of an international network of scholars and I have benefited from his wide base of knowledge and the generosity of his advice.

Both Professor van Haaften and Professor Thomas Goodnight of the University of Southern California, a long-time colleague and close friend, read the proposal for this book, reread my original essays, and made helpful suggestions that have strengthened this work. My loving wife Nikki assisted greatly with the physical preparation of the book, which included re-entering into a word processing program some of the manuscripts that were proposed initially before the widespread use of the personal computer.

I was working on this manuscript when I received a telephone call from my son, informing me of the birth of Isabella Louise Zarefsky, my first grandchild. Most of the work on the book took place during the months when we were counting the days and eagerly awaiting her arrival. It is especially appropriate, therefore, that the book is dedicated to her, with the hope that someday she might want to know about the subjects that engaged her grandfather throughout his academic career.

Part I
Objectives of Studying Argumentation Rhetorically

Chapter 1
Reflections on Making the Case

Abstract From a rhetorical perspective, arguing involves making a case in an attempt to convince a relevant audience of a claim about what we collectively should do or how we should act. Arguments are often made in public contexts, where norms and conventions are less clearly established than in dialogic situations. While grounded in particular situations, rhetorical argument also reaches beyond them to relate specific cases to more general theories or strategies. It seeks both to use or establish general claims and to enrich our understanding of the specific case. These two goals exist in productive tension. Both practitioners and analysts of rhetoric engage in making the case.

This essay is a slightly revised version of the opening essay in Olson, K.M., Pfau, M.W., Ponder, B. & Wilson, K.H. (Ed.), *Making the case: Advocacy and judgment in public argument*, published in 2012 by Michigan State University Press. This book is a collection of essays originally presented at a conference at Northwestern University on the occasion of my retirement in 2009.

1.1 Dialogic and Rhetorical Argument

Making the case is what arguers do. And they often do it in public.

The most common understanding of *case* is that it is a set of reasons and supporting evidence used by an advocate to support or to oppose a claim. A definition similar to this can be found in most textbooks on argumentation and debate. One thinks, for example, of a prosecutor's case in a criminal proceeding or of the briefs by opposing lawyers outlining their respective cases in a civil suit. Within the realm of science, one can imagine a case being made for or against a disputed hypothesis or theory. In a Talmudic disputation one would expect to find the proffering of

competing doctrines and proof-texts as scholars make the case for one or another interpretation of sacred scripture. And in the competitive debate context, one regularly finds the affirmative case and the negative case, structures of reasoning for or against a stated resolution.

These examples have at least two features in common. First, they are modeled on a dialogic encounter, an exchange between interlocutors in order to determine what is probably true or what is the best action to take. The exchange might not consist of questions and answers, as in a Socratic dialogue, but it is interactive. An advocate puts forward a claim. If it is not accepted by the antagonist, he or she will be expected to provide the reason for doubting either the truth of the evidence, or the link between the evidence and the claim, or both. Once this is done, the original advocate now has the responsibility to defend the original claim against the doubts and challenges. This may involve buttressing the original evidence and inferences or else adding new ones. The challenger then will seek to reinstate and strengthen the grounds for doubt or rejection of the claim. And so it will go until one arguer realizes that he or she is in error and capitulates, or until the two disputants arrive at some common understanding or compromise, or until time runs out and a third party acts as an arbitrator and reaches a decision. To say that the argument is interactive means that it is both sequential and adaptive. It does not spring forth all at once but evolves through a series of communication moves, whether orally or in writing. And each of these moves takes into account the preceding moves and responds to them. Neither repeating one's original position without responding to the interlocutor, nor making comments that are irrelevant to what the interlocutor has said, will be deemed acceptable. To put this another way, arguers must fulfill what lawyers call the production burden or what argument theorists call the burden of going forward with the debate (Ehninger and Brockriede 1963).

The second characteristic of each of my examples is that it takes place in a context that is conventional. Whether stated explicitly or not, there are norms of procedure and standards of judgment that all parties implicitly accept. In the legal setting, these might include such disparate matters as the norm of civility in the courtroom, the presumption of innocence, and the rules against hearsay testimony. In science they might include the commitment to replicability in experimentation, the importance of control groups, and the standard order of topics in a writeup of research results. The disputing theologians work with principles of hermeneutics and a hierarchy of authoritative texts. And the competitive debaters rely on assumptions about what makes expert testimony compelling, what counts as effective refutation, and how to determine whether the benefits of a proposal outweigh its costs.

While the norms and conventions are understood by the arguers making their case, they may be unknown or even meaningless to outsiders. It requires special training and experience in order to gain the competence to make the case. To be able to make the case meaningfully is a sign that one has been admitted to the guild, as it were, and to be admitted to the guild is a sign that one has the expertise to make the case. To say all this is to say that the examples above fall squarely within what G. Thomas Goodnight (1982) has labeled the technical sphere of argument.

1.2   Making the Case in Public Argument

Public argument is different. In principle it is open to all, and its subject matter is potentially of interest to anyone. No particular training or expertise is required in order to participate, and technical expertise is not necessarily valued. There usually are no clearly defined starting or ending points to the argument, and there are no universally accepted rules of procedure. There may be no consensually accepted standards for what counts as evidence or inference. For that matter, there often is no stated claim that marks the focus of the controversy, although it is usually possible to tease one out from the general topic. And that topic involves the uncertain and contingent, since, as Aristotle wrote, we do not deliberate about matters that are certain. Accordingly, the goal of public argument is *phronesis*, practical wisdom about what we should do or how we should act. The arguers seek probable truth, but not in the same sense as the participants in a dialectical encounter. Rather, they seek to determine whether a statement embodying a proposed action—"We should do X"—is true.

Along with these differences in genre, there are several contextual differences between the public sphere and the technical sphere. First, public argument is often one-to-many. A lecturer addressing a large audience; a president addressing the nation by radio, television, and the Internet; a business executive giving motivational speeches to the employees or explaining the company's performance to stockholders; and the writer of an op-ed column for or against the government's intervention in the economy all illustrate this aspect of argument in the public sphere. The arguer is known but the audience is large, possibly even anonymous. Consequently the discussion cannot be sequential in the sense described above. The arguer cannot determine the interlocutor's standpoints and respond specifically to them. Instead, the arguer makes assumptions about what the standpoints are, taking them for granted and using them as premises for arguments. This is what the classical theorists called the *enthymeme*, an argument that looks incomplete because some of its parts are derived from beliefs the arguer attributes to the audience and does not state explicitly (see Bitzer 1959). When a speaker addresses an audience about the best way to close the government's budget deficit or the need to prepare for war, he or she has employed an enthymeme. That big government does not work, that politics is corrupt, and that terrorists pose a mortal threat to the United States are examples of premises that contemporary audiences largely take for granted and that arguers rely upon in building enthymemes. A culture's store of such premises is an index of its values and hence of what its members deem to be persuasive.

The arguer does not have the luxury, however, of validating what the audience's implicit premises are. Since the audience is vast and its exact membership unknown, it is not possible to put individual audience members "on the record" in the manner of a Socratic dialogue. Instead, the arguer must make judgments about premises that are attributed to rather than actually derived from them. These judgments could be wrong—opponents often will be ready to maintain that they *are* wrong—and if they are, then the argument will not persuade the public. But the arguer will improve the

chances of making correct judgments by being both well grounded in the subject matter of the argument and an astute observer of the culture of the audience.

To complicate matters further, a second characteristic of public argument is that the audience is heterogeneous. Or, to put it another way, there often are several audiences for the same message. This is especially likely to happen when an argument concerns and is addressed to a very broad public, such as a society, a culture, a nation, or an international or global community. The argument may be heard by, and its success may depend upon, both liberals and conservatives, or northerners and southerners, or Whigs and Democrats, or secularists and people of faith, or Europeans and Americans. This list of binaries could be extended without limit, and not all the divisions within an audience are as simple as binaries! It is in the nature of public argument that, in order to succeed, arguers must find support from a coalition whose interests and commitments might well be in tension.

Accomplishing this task often will require that the case be made with a certain degree of strategic ambiguity or polysemy. This is nothing new. During the 1850s, Stephen A. Douglas was able to hold the Democratic party together only by adopting a policy of "popular sovereignty," which could be understood *either* as granting the inhabitants of a territory the right to decide for or against slavery at the inception of their territorial government *or* as denying them that prerogative until they applied for admission as a state. Douglas failed to choose between these two interpretations. (The Democratic party divided when this strategic ambiguity no longer could be maintained.) In like fashion, the theme of "human rights" has been used since the 1970s both to reward and to challenge authoritarian governments with whom we have common political interests (see Stuckey 2008), and the concept of a "culture of life" has sometimes been effective in eliciting support from both pro-life and pro-choice groups for certain social service programs. In these and other examples, language is used by arguers to transcend political and other divisions in an attempt to fashion a coalition of supporters. It is in the nature of public argument that advocates will need to do that.

Third, because public argument normally has no defined initial or terminal point, the case will be made in fragmentary fashion by individual arguers and will take its complete shape only over an extended period of time. The case against officially sanctioned racial discrimination, for example, began during the antebellum era and was not concluded until the mid-1960s. Only in retrospect can one see the contours of the case and recognize later claims as repetition, refinement, elaboration, or refutation of earlier ones. The case for guaranteed health care was initiated 100 years ago by Theodore Roosevelt, and, as of this writing, has not been settled yet. The cases for foreign policy guided by idealism and by *realpolitik* have been made in different guises but have been little changed since the early days of the republic. What these examples suggest is that public arguments lack the clarity of structure that more typically can be found in the technical sphere. The relevant unit of analysis may be the controversy (Goodnight 1991), but the structure of a case in a controversy is hardly self-evident. The case must be *found*, and sometimes it must be reconstituted.

Fourth, a characteristic often attributed to argumentation is reasonableness, but public arguments often appear to be unreasonable, at least by conventional standards of reason. They can be based on premises that have been shown to be false, such as the belief that Saddam Hussein orchestrated the terrorist attacks of September 11, 2001 or that Medicare is not a government program. They can rely on seemingly unreasoned rhetorical moves such as the use of terms like "liberal," "sexist," "traditional," or "socialist" as terms of opprobrium without justifying the value judgment that the epithets are meant to convey. They can be based on seemingly inconsistent positions, such as simultaneous advocacy of tax cuts or government spending that will increase budget deficits and a balanced-budget amendment to bring deficits under control, or support for the general claim that government spending should be cut and opposition to any particular cut that might be proposed. It is harder to see in such discourse the site of cases for or against public policies. But argument in the public sphere can be messy. A charitable reading of such discourse is necessary in order to see it as argument, but charity may be rewarded by recognition of the case that may lie beneath the surface of seemingly unreasoned discourse.

Finally, public argument is not always verbal. It also takes the forms of editorial cartoons, iconic photographs, the massing of bodies, graphic presentations, and symbolic actions. There was an argument in the blocking of troop trains carrying conscripts bound for Vietnam during the 1960s, and it was part of a broader case against the war. There is an argument in the "tea party" protests, from Boston in 1773 to the present, and it is part of a case against what is seen as oppressive government taxation. Similarly, there is argument in the pictures of aborted fetuses distributed by pro-life organizations, in the photo of the Marines raising the flag at Mount Suribachi, and in the emptiness of the site in lower Manhattan where the World Trade Center once stood. These arguments, and the cases of which they are a part, do not announce themselves, but they are present nevertheless.

What all these characteristics of public argument suggest is that its shape is far more amorphous than that of the interactive dialectical encounters of the technical sphere. The nature of the case is seldom self-evident. Just as conversational analysts have suggested that informal interactions must be reconstructed in order to reveal their underlying argumentative dynamics (van Eemeren et al. 1993), public argument must be reconstructed to make clear the cases that are being advanced. And reconstruction is a task not for the arguer but for the scholar of argumentation—the analyst, the historian, the critic.

1.3   Making the Case Through Analysis of Discourse

It is not only the advocate who makes a case; the analyst of discourse does so as well. In an essay on understanding history as argument, Clark (1982) puts the matter succinctly: "Documents do not speak, they must be spoken for." In speaking for a text, the analyst introduces his or her own voice. What the text means or signifies, and why it matters, is not self-evident. The analyst seeks to explain such

matters and, in explaining them, makes a case for his or her point of view. And what is true of historical texts in Clark's example is true of any kind of discourse, as well as for symbolic action understood as discourse. The interaction of the analyst (with his or her experience and predispositions) and the text leads to a particular point of view about the text. Explaining that point of view is intertwined with making a case for it. The analyst is saying simultaneously, "Here is how the text looks to me," and "You should see the text this way as well." Just as the discourse being examined is developed with an audience in mind, so is the analysis and criticism of that discourse.

These general insights can be applied specifically to rhetorical criticism. The term "criticism" can be misleading if it is taken to mean attacking or finding fault with discourse. Most critics see themselves as analysts, and rhetorical criticism offers accounts of rhetorical works, whether they are products, artifacts, or processes. The central task is to explain the relationships among the rhetor, the text, and the audience. Doing so involves answering two general questions: (1) What's going on here? And (2) So what? The first question asks the analyst to make clear the underlying dynamics of the rhetorical work, how it might be seen as operating to influence people. The second question asks why the text and its dynamics matter; it relates the particular work to some consideration beyond itself.

In an essay written 35 years ago but which has received far too little attention, Brockriede (1974) maintains that strong answers to those questions involve argument, and that of course involves making a case. The questions are hermeneutic, calling for understanding and meaning rather than prediction and causality. They cannot be answered solely by reference to the text, and they cannot be proved conclusively. It does not follow, though, that any account of the text is just as good as any other. Analysts and critics can miss the mark; they can make farfetched or outlandish statements about the text that no one will take seriously. The accounts and explanations that analysts offer are claims on the judgment and belief of their readers and listeners. And like any claim, their strength is determined by the case they make for it. A strong claim will be one that is supported by good reasons, those that would convince a reasonable person who was exercising critical judgment (Zarefsky 2008).

The questions that the reader or listener should raise of any example of rhetorical analysis or criticism are (1) Does it meet appropriate tests of evidence and inference? (2) Is there a competing explanation that is stronger or more convincing? These are the very same questions that would be raised about any effort to make the case for a claim.

These observations suggest a parallel between the rhetor and the analyst. The rhetor makes claims about a topic with one or more audiences in mind, and the claims must withstand the scrutiny of those audiences in order to be convincing. So too the rhetorical analyst or critic makes claims about what the rhetor is doing; these claims also are made with one or more audiences in mind and will be convincing only if they withstand audience scrutiny. Since the arguments of rhetorical analysts are interpretive and hence not subject to empirical verification, they are tested by

their conformity to norms and procedures of argumentation. The rhetorical analyst who satisfies these tests is said to have made a strong case.

To be sure, not every act of commentary on a text involves argumentation. Brockriede (1974) acknowledges that some responses to the text can be nonargumentative. Simple description (such as summarizing the content of a speech or offering a chronological account of the development of a persuasive campaign) contains no inference going beyond the work itself; it is merely reporting. Simple classification (identifying the genre of which the work is a case) says little about the work and more about the reach of the genre. By some definitions, even these acts could be seen as making a case: that events happened in one sequence and not another, or that the work belongs in this category and not that. These usually would not be robust inferences or ambitious cases, however. The rhetorical critic who wants to convince an audience that his or her view of the text matters usually will aim higher.

1.4   Making the Case Through Case Studies

Thinking about the kinds of argument rhetorical critics deploy brings to mind yet another meaning of "making the case." Aristotle (1932) understood rhetoric as the faculty of discovering the available means of persuasion *in a given case* (emphasis added), and rhetorical critics often are concerned with the particularity of specific (perhaps even unique) situations. Studies of this type are called *case studies*. But what sort of case does a case study make?

It sometimes is assumed that a case study is an application or illustration of a more general theory: one takes the theory and applies it to a particular case, demonstrating the power of the theory to account for the case. The purpose of such a study is to make apparent the utility of the theory, and it can be particularly valuable when the theory is new, when there are competing theories, or when the theory has been derived deductively from abstract propositions or models rather than built inductively from observation of empirical conditions. But it is of less value when the theory is well established or when it is sufficiently vast in scope to be essentially nonfalsifiable. Precisely because theories of this sort—such as Kenneth Burke's dramatism (Burke 1968) or Richard Weaver's insight that the only sound rhetoric is grounded in a preceding dialectic (Weaver 1953)—offer broad perspectives on human nature and on how discourse works, one would expect them to apply to virtually all cases. So to take the theory, map its terms and categories onto the particular case, and then conclude that the theory applies to the case, is not to yield a profound or interesting result.

Moreover, to insist that the sole value of the case study is in its contribution to theory is to underestimate the potential value of studying the particular, as well as to place the work of the historian, analyst, or critic in a subordinate position to that of the theorist. Sometimes there is value in producing what lawyers call a "theory of

the case," a better understanding of a specific instance of rhetorical practice achieved through close reading of the text and careful grounding of the text in its historical context. The analyst who proceeds in this fashion is making a case through abductive reasoning—inference from the facts of the case to what is put forward as the best explanation for them (Walton 2004).[1]

The difference between a study relating a case to a theory, arguing by example, and a study giving primacy to the case itself, arguing abductively, is largely one of audience. In the former situation, the study will be of interest to a broad community whose members share disciplinary identity or commitment to a particular theoretical perspective (such as Marxism or utilitarianism) and who take from the study enhanced insight about their shared commitment. In the latter case, the audience is a broad community, quite likely interdisciplinary, of people who are interested in the case itself, who bring different insights to bear upon the case, and who value the contribution of the rhetorical critic in accounting for the *interaction* between the text and its historical context. Of course, such a community is easier to assemble with regard to texts already well known and regarded as paradigmatic or canonical than it is for obscure or newly discovered texts. In the former situation, though, there is the burden of contributing "news," of adding to what already is known or understood about the work. This is especially true if the general theory is well known or already has been widely applied. In the latter situation, the burden is to justify the interest of the audience in the unfamiliar.

Even if the focus of the case study is the case, however, the analyst should relate the text to something beyond itself, in order to make an inference to support some claim about it. Otherwise it will be very hard to answer the "so what?" question. The claim might be that the case suggests normative standards or models of rhetorical practice, or that its insight might apply analogically to other specific cases, or that it offers perspective by incongruity that aids the understanding of more typical or quotidian cases. It might furnish an explanation-sketch that an analyst could regard as a presumption when exploring new cases. Or it might offer a new point of view about its own meaning, significance, or value. It is important to recognize, though, that the function of the case study is not exclusively to serve as data supporting a larger or grander theoretical claim. It is also valuable in its own right. One can make a case about the case study, just as the case study can make a case.

1.5   Making the Case Through Historical Inquiry

One function of the case study that has received too little attention in recent years is its contribution to rhetorical history. The term "rhetorical history" is variously understood, sometimes as the history of rhetorical theory, sometimes as the idea that history itself is a rhetorical construction. Neither of those understandings is

---

[1] Walton attributes the concept of abductive reasoning to the nineteenth-century American pragmatist philosopher Charles Sanders Peirce.

employed here. Rather, rhetorical history is understood both as the historical study of rhetorical events and the study from a rhetorical perspective of historical forces, trends, processes, and events (Zarefsky 1998).

The historical study of rhetorical events embraces studies in which rhetorical discourse is seen as a force in history, altering prevailing understandings, as well as studies in which it is seen as an index or mirror of historical or cultural forces. The latter sense may be more productive, if only because it is very rare that any individual rhetorical act by itself will effect significant change in an audience's attitudes or understanding. It is the latter sense that Ernest Wrage (1947) characterized when he wrote of public address as a repository of history's intellectual substance, revealing how ideas were affected by the process of sharing them in attempts to influence others. An excellent example of a study employing this sense of "rhetorical history" is the investigation by Condit and Lucaites (1993) of the evolution of Americans' understanding of the term "equality." The shifting meanings of this term in public discourse, they argue, mirror the historical development of race relations in the United States. Work of this sort demonstrates how historical scholarship enhances our understanding of the particular rhetorical case, and how that understanding furthers a larger purpose.

Even more productive than historical studies of rhetorical events, however, may be the study of historical events and processes from a rhetorical perspective. This approach views history as a series of rhetorical problems—situations that call for public persuasion to advance a cause or to overcome an impasse. This approach reveals that American culture is both dialectical and rhetorical. It is dialectical in that it is constituted through a series of relationships between seeming opposites, such as liberalism and civic republicanism, dedication to the individual and to the group, realism and idealism, freedom and equality, diversity and community. American culture does not choose between these terms but embraces them both, enshrining a state of dialectical tension. And the culture is rhetorical in that it is public discourse that keeps these oppositions in productive tension, sustaining and also advancing understandings of the relationships. Case studies of public discourse are studies of individual moments, but they also make the case that the moments fit into this larger pattern. Examining public discourse from the perspective of argumentation is particularly valuable because it draws attention to the controversies among ideas and values that constitute these tensions, because it focuses on the competing rationales underlying these controversies, and because it values reasoned disagreement as the means both to preserve and to advance a culture that is grounded in the embrace of dialectical opposites.

The goal of any case study is to examine how, and how well, people deployed rhetorical resources in a historical moment that called for them.[2] These case studies are valuable to the scholar of public discourse because they reveal patterns and variations in rhetorical exigencies and responses. They are of value to the rhetorical theorist because they provide rich accounts of how communication works in society.

---

[2] The notion that historical circumstances can "call for" rhetorical discourse is adapted from Bitzer (1968).

These accounts undergird broad theoretical claims about such topics as framing, collective memory, and the public sphere. And they are of value to the historian because they provide a different lens through which to view historical events and trends, and hence a different grounding for historical accounts than other perspectives can provide. Each case study reveals not just discrete events but a moment in "the transcript of a continuing conversation" (Zarefsky 1996).

1.6   Conclusion

Rhetorical perspectives on argumentation, then, are grounded in specific situations but reach beyond them in relating particular cases to more general principles. In the process, rhetorical argumentation makes a case, providing a structure of reasons that is intended to convince the audience of some claim. Practitioners of rhetoric make cases in the public sphere, and analysts and critics make cases too, trying to convince *their* audience of claims about the works they choose to examine. These perspectives enable us to study and practice argumentation, keeping in mind the uncertainty that is inherent in the rhetorical situation.

References

Aristotle. 1932. *The Rhetoric of Aristotle.* Trans. L. Cooper. New York: Appleton Century Crofts.

Bitzer, L.F. 1959. Aristotle's enthymeme revisited. *Quarterly Journal of Speech* 45: 399–408.

Bitzer, L.F. 1968. The rhetorical situation. *Philosophy and Rhetoric* 1: 1–14.

Brockriede, W. 1974. Rhetorical criticism as argument. *Quarterly Journal of Speech* 60: 165–174.

Burke, K. 1968. Dramatism. In *International encyclopedia of the social sciences*, ed. D.L. Sills, 445–452. New York: Macmillan.

Clark, E.C. 1982. Argument and historical analysis. In *Advances in argumentation theory and research*, ed. J.R. Cox and C.A. Willard, 298–317. Carbondale: Southern Illinois University Press.

Condit, C.M., and J.L. Lucaites. 1993. *Crafting equality: America's Anglo-African word*. Chicago: University of Chicago Press.

Ehninger, D., and W. Brockriede. 1963. *Decision by debate*. New York: Dodd, Mead.

Goodnight, G.T. 1982. The personal, technical, and public spheres of argument: A speculative inquiry into the art of public deliberation. *Argumentation and Advocacy* 18: 214–227.

Goodnight, G.T. 1991. Controversy. In *Argument in controversy*, ed. D. Parson, 1–13. Annandale: National Communication Association.

Stuckey, M. 2008. *Jimmy Carter, human rights, and the national agenda*. College Station: Texas A&M University Press.

van Eemeren, F.H., R. Grootendorst, S. Jackson, and S. Jacobs. 1993. *Reconstructing argumentative discourse*. Tuscaloosa: University of Alabama Press.

Walton, D. 2004. *Abductive reasoning*. Tuscaloosa: University of Alabama Press.

Weaver, R.M. 1953. *The ethics of rhetoric*. Chicago: Regnery.

Wrage, E.J. 1947. Public address: A study in social and intellectual history. *Quarterly Journal of Speech* 33: 451–457.

Zarefsky, D. 1996. The roots of American community. *The Carroll C. Arnold distinguished lecture, 2005*. Boston: Allyn & Bacon.

Zarefsky, D. 1998. Four senses of rhetorical history. In *Doing rhetorical history: Concepts and cases*, ed. K.J. Turner, 19–32. Tuscaloosa: University of Alabama Press.

Zarefsky, D. 2008. Knowledge claims in rhetorical criticism. *Journal of Communication* 58: 629–640. (Reprinted in this volume, Chap. 3.)

Chapter 2
Argument as Hypothesis-Testing

Abstract This essay proposes that argumentation be understood as a rhetorical analogue to hypothesis-testing in the scientific method. It is a means for determining what should be regarded as true in situations in which empirical methods are not available. The paradigm is described and implications of following it are explored. The specific concern of the essay is with argumentation as deployed in competitive academic debate (referred to as "forensics") but its point of view is generally applicable.

This essay was originally published in an anthology, *Advanced Debate*, edited by David A. Thomas and published by National Textbook Company in 1979.

Keywords Hypothesis testing • Argument as epistemic

2.1 The Hypothesis-Testing Paradigm

In the latter part of the nineteenth century, the pragmatist philosopher Charles Sanders Peirce described four ways of answering the question, "How do we know what we know?" (Peirce 1877). After discussing tenacity, authority, and the a priori method as epistemological instruments, Peirce indicated his preference for verification—the method of science. The value of this method, he wrote, was that perception would be unaffected by quirks of the perceiver; science was a method "by which our beliefs may be caused by nothing human, but by some external permanency—by something upon which our thinking has no effect." (Peirce 1877, p. 11). Since the scientific method is impersonal, it always can be replicated, and the process by which results are obtained can be specified. As a consequence, scientific knowledge is reliable knowledge.

Certainly Peirce was not alone in asserting the primacy of science as a means of gaining knowledge. Within the last few centuries, empiricism has come to share a preferred position with logical deduction among epistemological methods. Both

verification and deduction seem to offer the promise of certainty, to yield knowledge which can be labeled *truth*. And the difference between what could be called *knowledge* and that which could be identified only as *belief* goes back to Plato's time (Plato 1952, p. 454).

But if the only way to obtain knowledge is through science, large domains of human interaction must operate without benefit of knowledge: all things which cannot be observed, all value judgments, all predictions about the future, all suggestions for action, and so forth. Without being able to *know* anything with respect to these topics, we have no grounds for justifying one position over another. We either must be indifferent to the choice among values or judgments or else believe that the choice must be made on the basis of intensity of commitment to a position, or some other nonrational grounds (Booth 1974, pp. 12–24; Bitzer and Black 1971, p. 239). Drawing the same conclusion in the form of a rhetorical question, Perelman and Olbrechts-Tyteca ask whether we must conclude "that reason is entirely incompetent in those areas which elude calculation and that, where neither experiment nor logical deduction is in a position to furnish the solution to a problem, we can but abandon ourselves to irrational forces, instincts, suggestions, or even violence." (Perelman and Olbrechts-Tyteca 1969, p. 3).

The alternative to accepting this dreary state of affairs is to reformulate the notions of *truth* and *reliable knowledge*. In such a reformulation, science is valued not for what it *is* but for what it *does*. According to this view, science is valuable not primarily because it is empirical but because it yields knowledge that is reliable and consistent. The task then becomes one of inquiring whether a similar epistemological instrument exists in the nonempirical realm.

A growing number of scholars have suggested that rhetoric functions in just such a way. Rejecting the premise that rhetoric is a means of adornment for truths previously discovered, these writers suggest that rhetoric is a means of creating truth. As Carroll Arnold explains, "Manipulating symbolic devices for the purpose of gaining someone else's assent is essential to the very process of coming to know…Rhetorical activity thus becomes not persuasion alone but an activity of ideational discovery." (Arnold 1972, p. 4).[1] A notion such as this may seem hard to reconcile with the traditional view that rhetoric, focused on appearances and probabilities, is antithetical to the discovery of certainty and truth. But rhetorical truth differs in two major respects from scientific truth. First, it exists within a particular context. It is bound by time, and, hence, as Scott says, "it can be the result of a process of interaction at a given moment." (Scott 1967, p. 13). By contrast, scientific truth is thought to be knowledge which exists for all time. Second, rhetorical truth is obtained by consensual validation—it is the assent of an audience which gives to a proposition the status of knowledge. If *agreement* is the criterion for rhetorical knowledge, it follows that rhetoric yields not objective knowledge but "social knowledge"—that is, propositions that are accepted as true by a particular community or society (Farrell 1976).

---

[1] Similar positions have been articulated by several other scholars, including Scott 1967; Perelman and Olbrechts-Tyteca 1969; Booth 1974; Langer 1958, and Ehninger 1975.

What has been suggested so far is that rhetoric is the counterpart of science. Science generates knowledge about matters of fact whereas rhetoric generates knowledge about the uncertain and contingent. Yet the matter is not so simple. To claim that science and rhetoric are distinct (even if analogous) is to assert a difference between fact, which can be observed, and value, which cannot. Increasingly, however, this distinction is being called into question. In his seminal work on revolutions in scientific thought, Thomas Kuhn has observed that scientific belief includes "an arbitrary element compounded of personal and historical accident" (Kuhn 1970, p. 4). As a result, facts are not immutable and independent of the perceiver. Instead, one's context or worldview affects what one observes and declares to be fact. As Kuhn puts it, "scientists see new and different things when looking with familiar instruments in places they have looked before" (Kuhn 1970, p. 111) What gives a perception the status of "fact," then, is that a very wide and durable consensus exists as to its truth. The difference between fact and value is one of degree rather than kind: statements of fact, like those of value, are proved by consensual validation.

What follows from Kuhn's analysis is that science and rhetoric are not distinct modes of knowledge. Instead, scientific knowledge is of a special type because—except in times of scientific revolution—it commends a *broad* and *stable* consensus of adherence. But it, too, depends on consensus, and rhetoric, in Richard Rieke's phrase, "is inextricably involved in the generation of knowledge; not merely *a* way of knowing, but involved in all ways of knowing" (Rieke 1974).

Particularly if rhetoric is seen as ubiquitous, but even if it is not, the notion that rhetoric serves as a way of knowing may seem somewhat discomforting. Throughout history, rhetoric has been viewed with suspicion, often identified with sophistry and deception. If whatever an audience may be induced to believe is granted the status if knowledge, the meaning of "to know" would seem debased, to say the least. Booth illustrates the possibilities: "Charles Manson will be confirmed by the assent of his witches, Hitler by his SS troops, every Christian sect by its hundreds of millions of adherents, and indeed every political and religious program by its ability to present witnesses." Despairing of such possibilities, Booth asks, "Am I not now forced to accept any piece of silliness that any fanatic wants to advance, provided only that he can get somebody to assent to it and that it cannot be clearly refuted with particular disproofs?" (Booth 1974, p. 106).

To answer Booth's question in the negative, one must demonstrate that a counterpart exists in rhetoric to the rigor of scientific procedure: the assumption of the null hypothesis, the revelation of one's method, the advance determination of needed levels of significance, and so on. Such a counterpart is not always found in rhetorical transactions—people may be persuaded to accept the unreasonable—but it is present when rhetoric is approached from the perspective of argumentation. The National Developmental Conference on Forensics defined the argumentative perspective as one that focuses on the processes by which people give reasons to justify their attitudes, beliefs, values, and actions (McBath 1975, p. 11). Rieke elaborates on this definition by referring to "instances in communication when people give reasons to justify their claims, and others interact critically with them to test

those reasons in relation to competing claims" (Rieke 1974).[2] In such a situation, one knows (or imagines) that an interlocutor will be present to probe the weaknesses in one's claims and to present counterclaims; one's interlocutor, moreover, is assumed to be at least as intelligent and skilled as oneself. This knowledge serves as a disincentive to the presentation of sophistical arguments or specious appeals, and as a strong incentive to the presentation of the most tenable claims one can develop—claims that are so strong they will warrant the adherence of even such a talented interlocutor.

Moreover, the audience of argumentation withholds its assent from a proposition unless and until it survives the test served up by the interlocutor. Another way in which to make this statement is to say that a presumption is stipulated to lie against the proposition in dispute, and the overturning of that presumption is a necessary condition for the affirmation of the proposition. It is this stipulation of the presumption which introduces rigor into the argumentative exchange, in order to avoid the acceptance of a false claim.[3] When a rhetorical transaction is characterized by the presence of this rigor, one may feel comfortable in giving to its outcome the same status of knowledge that he would grant to the results of scientific investigation.

A recapitulation of the ideas developed to this point now seems in order. The argumentative perspective enables rhetoric to function in a manner analogous to science or analytic philosophy, yielding reliable knowledge about topics which, these methods cannot address. (If Kuhn's point of view is correct, rhetoric is at the base of both scientific and nonscientific knowledge.) To extend the analogy, the argumentative encounter is the counterpart of the scientific procedure or the logical deduction. The proposition being argued is the counterpart of the scientist's or philosopher's hypothesis, and placing presumption against the proposition is the means of providing for a rigorous test of the proposition. Finally, the judge of argument is the counterpart of the scientist; his goal is to test the hypothesis to determine whether it is probably true. By "probably true" is not meant that the proposition's truth-value is eternal and unchanging, but that, in the situation at hand, the judge has good reason to assent to the proposition.[4]

Two corollaries of this position should be noted briefly. First, argumentation is seen as an essential human activity; it is not a set of strategies or techniques for the presentation of truth which has been obtained by other means. Indeed, Johnstone has argued that what makes us human is precisely this exercise of judgment in generating and accounting for conclusions, and inviting others to do so. Only such an activity introduces "opacity" into experience, transcending the realm of immediacy (Johnstone 1965). Second, the participants in argument always are one step removed

---

[2] Rieke's model for such an instance is "communication among philosophers." There is a strong similarity between this model and Perelman and Olbrechts-Tyteca's view of the: "universal audience" (Perelman and Olbrechts-Tyteca 1969, pp. 31–35).

[3] A fuller explanation of this idea may be found in (Zarefsky 1972). On the function of presumption in inducing rigor, see also (Trapp 1976).

[4] "Good reasons" are those which are psychologically compelling in that they render further inquiry unnecessary and superfluous. See (Wallace 1963).

from action. They are, in Ehninger's phrase, imprisoned in the world of words (Ehninger 1970, p. 107). The process of argumentation leads to belief but not necessarily to action. Commitment to the proposition does not *adopt* it; the judge merely declares that he believes the statement to be probably true. Of course, action sometimes is incipient in belief. Even so, the choice of specific action and the mechanics of implementation lie beyond the process of argument. A commitment to action, in other words, includes both argumentative and nonargumentative components.

2.2   Implications for Current Forensic Practice

Forensics should offer laboratory experience in developing the argumentative perspective on communication. When the hypothesis-testing paradigm is applied to current forensic practice, several theoretical implications result. Six of these implications will be considered briefly.

1. The wording of the proposition receives increased importance; the specifics of the plan to implement the resolution are of less importance. For the terms of this paradigm, nothing is being *adopted*, so the mechanics of the plan are of relatively trivial significance. The function of a plan is to illustrate the principles embodied in the proposition, thereby focusing the argument upon those principles. But all debate about the plan itself is conditional, or hypothetical, in nature. Consequently, it may not always be necessary to present a plan—the principles of the proposition may be self-evident. If a plan is presented, it need not have the specificity of a piece of legislation, since it is not being submitted for adoption. Should some difficulty be discovered in one of the plan's peripheral features, the plan could be amended, so long as the amended version still embodied the principles implicit in the proposition.

By contrast, the wording of the proposition is of central importance, since the proposition is the hypothesis being put to the test. Any different statement of a proposition assumes the character of an alternate hypothesis. In order for proposition *x* to withstand the challenge that alternate hypothesis *y* could account equally well for the phenomena being discussed, a *specific* defense must be made for proposition *x*—not just for "a change" or even for a direction in which change should proceed. Hence the genre of "justification" arguments is of special significance. For example, the proposition that the federal government should establish, finance, and administer programs to control air and water pollution fails if reason cannot be given for each of the three indicated actions, for action by the federal government, and for controls over both air and water pollution. To do less might call for an alternate proposition, but not the specific one at hand (Zarefsky 1972). Or, as Trapp summarizes, the key question for the judge is, "Does the affirmative case provide sufficient reason to affirm or justify all of the terms of the resolution?"(Trapp 1976).

2. Presumption is placed against the specific proposition being debated. This procedure, as described above, assures a rigorous test of the proposition. It differs significantly from the traditional approach, in which presumption is thought to lie naturally with the present system because of the risks inherent in change.

The hypothesis-tester regards presumption as stipulated rather than natural. Moreover, he or she recognizes that there are risks in both change and stability and that neither change nor stability is a complete characterization of the normal state of affairs.

One might ask why rigor is served by placing presumption always *against* the proposition; indeed, it might seem that to do so is to fail to test rigorously the arguments advanced by the negative. But the negative is not proposing a thesis for adherence; its aim is only to negate. Rejecting the proposition does not preclude taking any other position. An alternate hypothesis may be proposed for testing, the original hypothesis may be refined and then reexamined, further study may be undertaken, and so forth. By contrast, to affirm the proposition is to make a personal commitment that it is probably true. Since rejection involves fewer risks than does acceptance, it is appropriate to locate presumption against the resolution. Such reasoning is analogous to that by which the scientist presumes the null hypothesis. Mueller et al. (1970) explain that "false rejection of the null hypothesis will lead to action that will not in itself provide a corrective for a wrong decision".

It might seem that the hypothesis-tester's placement of presumption involves a distinction without a difference, since it still rests initially with the negative. But the difference is that the negative cannot lose the presumption, except by concession or by advocacy of the proposition. As a consequence, hassles over the differences between major and minor repairs, or between repairs and counterplans, are avoided. So long as the negative opposes the proposition, it retains presumption.

3. "Fiat power" is but a figure of speech. In recent years, there has been much discussion of the role of "fiat power" in argument, especially as a device to overcome attitudinal barriers to the solution of a problem (Ling and Seltzer 1971; Cox 1975). According to one point of view, debate involves the "willing suspension of disbelief" so that, for the duration, the judge is regarded as a decision maker with the power to implement a decision. Much argument may ensue, therefore, about advantages deriving from a *guarantee* of action, from the presence of a clear mandate, and so on. In response it has been argued that such advantages are bogus because they derive from the existence of the fiat power rather than from the substantive merits of the proposition.

According to the hypotheses-testing paradigm, all such dispute is rendered moot. "Fiat power" is not treated as if it were real, because argument remains in the world of words and nothing is adopted. To speak of "fiat power" is only to talk, in a shorthand way, about what might be imagined to be the consequences if action contemplated by the proposition were taken. Assuming, *for the purposes of argument*, that actions were taken is a convenient way to consider their effects and implications. But it is a far different assumption to imagine that actions *actually* were taken.

4. Case development emphasizes the generic defense of the proposition, and inherency becomes especially important. It would be a weak affirmative case which reported the facts (such as the number of deaths from highway accidents), *assumed* that the facts were coercive of action, and conveniently offered the proposition as an appropriate solution. The negative might respond to such a case with a long list of alternative possibilities for action which might be equally good. Since these options

are analogous to alternate hypotheses, they would defeat the proposition unless the affirmative could undermine each of them individually—a difficult task, especially when time is limited. Instead, the affirmative should take as its point of departure not "the facts" but the proof requirements of the proposition. The principles implicit in the proposition would be defended; this defense then could envelop a large array of nonpropositional alternatives. On the proposition calling for a guaranteed annual income, for example, discretionary programs might be indicted on the grounds that they are necessarily arbitrary in their administration. Any discretionary program the negative might introduce (unless it could be shown specifically to be an exception) would fall prey to this indictment, whereas any nondiscretionary alternative, by definition, would incorporate the guarantee called for in the proposition. The generic defense of the proposition, which may be strategically the wisest choice in any case, becomes a necessity within the hypothesis-testing paradigm.

Similarly, inherency becomes a crucial consideration. Some answer must be offered to the causal question, "Absent the action envisioned by the proposition, why would presumably good people tolerate evil?" It will not do to report "the facts" and then to *infer*, without analysis, the existence of some causal force that would be removed if the action stated in the proposition were taken. The reason is that there are other, equally plausible, inferences which can be made from the same data. For example, policymakers simply may not yet perceive a situation as a problem. Or they may have determined that the problem cannot be solved. Or they may have concluded that, on balance, solving the problem would bring about far worse consequences than the evils which would be removed. Each of these inferences, because if offers a different interpretation of reality, stands as an alternate hypothesis that must be defeated in order to provide a unique defense of the proposition. To defeat the alternatives, the affirmative will need to answer the causal question which is at the base of the analysis of inherency (Zarefsky 1977).

5. Counterplans are by nature conditional. Just as the affirmation of the proposition does not lead automatically to the adoption of a plan, so the rejection of the proposition does not constitute endorsement of some alternative. The function of the counterplan is to argue by example that the specific proposition under consideration has not been justified. How can proposition x be said to be warranted if alternative proposition y accounts for the data equally well? The counterplan, then, is merely the justification argument in a different form. And, like the justification argument, it always contains an implicit conditional: *If* it is necessary to take some action to deal with a problem, then the action contemplated by the proposition has not been shown to be warranted. As a consequence, to present a counterplan is not necessarily to concede that there *is* a need for a change. Nor—as explained above—does the presentation of a counterplan constitute a surrender of presumption (unless, of course, the counterplan affirms the proposition). And, since arguments about both the plan and the counterplan are conditional, the counterplan need not be presented with the specificity appropriate to legislation. All that is necessary is to claim that action based on principles incompatible with the principles of the proposition would be an equally appropriate way to deal with a given problem.

6. Finally, the hypothesis-testing model directs that the judge make a yes-or-no decision, rather than a this-versus-that decision. The choice is not similar to the one the judge faces when voting for candidates for public office: "Which shall I choose, x or y?" Rather, the choice is similar to the one the judge faces when deciding whether to support a tax increase in the school district: "Shall I choose *x*, yes or no?" Only one hypothesis is being tested—the hypothesis that takes the form of the proposition at hand. To affirm the proposition is to commit oneself to its probable truth. To reject the proposition, however, is not necessarily to make any commitments with respect to alternatives. The decision to reject *x* need not imply the affirmation of *y*. Instead, the choice is between the central principles of the proposition and the universe of nonpropositional alternatives.

Other examples could be cited, but these six should illustrate the implications for current forensic practice of a point of view which regards argumentation as hypothesis-testing for the purpose of determining probable truth.

2.3   The Choice Among Paradigms

Until the last 10 or 15 years, argumentation theory was relatively monolithic. The underlying assumption was that reasonable citizens use argument to decide whether or not to change—whether to reaffirm a commitment to the present order or to proclaim a new one. So widespread was the agreement on this basic paradigm that it was not recognized as only *one* among a number of possible paradigms. As theoretical controversies developed—over the meaning of presumption and burden of proof, the concept of inherency, case focus and principles of case construction, and so on—these controversies were seen as separate and independent issues. Often, discussion did not advance beyond initial statements and subsequent repetitions of thesis and antithesis, with further development stifled by the fact that the disputants began with fundamentally different assumptions.

Now forensics is in a period much like that which Kuhn described as paradigm shift (Kuhn 1970, pp. 84–86). The old rules seem blurred, fundamental assumptions are reexamined, and competing paradigms are vying for consensus within the field. How to choose among these paradigms is a crucial question, since, as has been demonstrated here, one's choice of a paradigm may dictate his opinion about many theoretical disputes. Yet the choice among paradigms is a particularly vexing one because each resists attack except on its own terms. Nothing is gained, for example, by attacking the policy-comparison paradigm for its uselessness in facilitating hypothesis-testing. Advocates of the policy-comparison paradigm would reply, and rightly so, that the attack involved the fallacy of irrelevant function—attacking a paradigm for failing to achieve what it was not designed to achieve in the first place.

Arguments about paradigms belong to that class of philosophical arguments for which, as Johnstone finds, only *ad hominem* argumentation is a suitable response (Johnstone 1959). That is to say, one defeats an argument for a particular paradigm only by showing that it undermines its own purpose. That task may be very difficult,

however, since each paradigm seems internally consistent. Furthermore, many of the problems which might be noted disappear when one realizes that the analogies on which the paradigm is built—argument as science, the judge as legislator, debate as incrementalism, and so on—are figurative rather than literal.

In the absence of appropriate *ad hominem* arguments, other bases for choice among paradigms suggest themselves. One could argue for a particular paradigm on the basis of its practical consequences. This approach may be fruitful. But it also may be dangerously misleading if arguments are based upon the *misuse* of a paradigm rather than upon its intrinsic characteristics. And it may put the cart before the horse, defending one paradigm or another on the basis of its suitability to a particular contest format, forgetting that the contest format is a contrivance to respond to theoretical and pedagogical needs rather than the other way around.

One might argue for a paradigm on the basis of its breadth of utility—noting, for instance, that the hypothesis-testing paradigm applies to all argumentation rather than only to controversies of policy. But such a claim presumes that types of argumentative encounters are more alike than different, a claim which is possible but which has not been much investigated. In the last analysis, we may be forced, Paradoxically, to choose a paradigm for reason-giving on the basis of intuition.

Precisely because argumentation is a generative, or architectonic, process, users differ as to its purposes and product. Hence there exist various paradigms of the process of argument. Since stipulation of a paradigm involves choices and affects one's position in many other controversies, we should be aware of the profound significance lurking behind a seeming tautology when, in an early essay, Ehninger observed that "debate is what we say it is" (Ehninger 1958, p. 30).

References

Arnold, C.C. 1972. *Inventio* and *pronutiatio* in a new rhetoric. Paper presented at Central States Speech Association, Chicago.

Bitzer, L.F., and E. Black (eds.). 1971. *The prospect of rhetoric*. Englewood Cliffs: Prentice-Hall.

Booth, W.C. 1974. *Modern dogma and the rhetoric of assent*. Notre Dame: University of Notre Dame Press.

Cox, J.R. 1975. Attitudinal inherency: Implications for policy debate. *Southern Speech Communication Journal* 40: 158–168.

Ehninger, D. 1958. Debating as critical deliberation. *Southern Speech Journal* 24: 22–30.

Ehninger, D. 1970. Argument as method: Its nature, its limitations, and its uses. *Communication Monographs* 37: 101–110.

Ehninger, D. 1975. A synoptic view of systems of western rhetoric. *Quarterly Journal of Speech* 61: 448–453.

Farrell, T.B. 1976. Knowledge, consensus, and rhetorical theory. *Quarterly Journal of Speech* 62: 1–14.

Johnstone, H.W. 1959. *Philosophy and argument*. University Park: Pennsylvania State University Press.

Johnstone, H.W. 1965. Some reflections on argumentation. In *Philosophy, rhetoric, and argumentation*, ed. M. Natanson and H.W. Johnstone, 1–9. University Park: Pennsylvania State University Press.

Kuhn, T.S. 1970. *The structure of scientific revolutions*, 2nd ed. Chicago: University of Chicago Press.

Langer, S.K. 1958. *Philosophy in a new key: A study of symbolism in reason, rite, and art*. Cambridge: Harvard University Press.

Ling, D.A., and R.V. Seltzer. 1971. The role of attitudinal inherency in contemporary debate. *Journal of the American Forensic Association* 7: 278–283.

McBath, J.H. (ed.). 1975. *Forensics as communication: The argumentative perspective*. Skokie: National Textbook.

Mueller, J.H., K.F. Schuessler, and H.L. Costner. 1970. *Statistical reasoning in sociology*, 2nd ed. Boston: Houghton Mifflin.

Peirce, C.S. 1877. The fixation of belief. *Popular Science Monthly* 12: 1–15.

Perelman, Ch., and L. Olbrechts-Tyteca. 1969. *The New Rhetoric: A Treatise on Argumentation.* Trans. J. Wilkinson and P. Weaver. Notre Dame: University of Notre Dame Press. (Originally published in French in 1958.)

Plato. 1952. *Gorgias.* Trans. W.C. Helmbold. Indianapolis: Bobbs-Merrill.

Rieke, R.D. 1974. *Rhetorical perspectives in modern epistemology*. Paper presented at Speech Communication Association, Chicago.

Scott, R.L. 1967. On viewing rhetoric as epistemic. *Central States Speech Journal* 18: 9–17.

Trapp, R.A. 1976. *Non-policy debate in search of an audience*. Paper presented at Western States Communication Association, Chicago.

Wallace, K.A. 1963. The substance of rhetoric: Good reasons. *Quarterly Journal of Speech* 49: 339–349.

Zarefsky, D. 1972. *A reformulation of the concept of presumption*. Paper presented at Central States Speech Association, Chicago.

Zarefsky, D. 1977. The role of causal argument in policy controversies. *Journal of the American Forensic Association* 13: 179–191.

Chapter 3
Knowledge Claims in Rhetorical Criticism

Abstract This essay examines the function of argumentation in making and defending critical judgments. When claims cannot be verified empirically, and yet we wish for them to be justified rather than arbitrary or whimsical, argumentation is the method employed. The goal is to convince critical listeners that what are offered as reasons for a claim do count as reasons, making the claim more acceptable. Although the specific focus is on rhetorical criticism, the essay applies to critical claims more generally.

This essay originally was published in the *Journal of Communication*, 58 (December, 2008), 629–640, as part of a symposium about how different methods of inquiry can enrich and benefit from one another.

3.1 Introduction

As an academic discipline, communication resides on the cusp of Snow's (1959) "two cultures" dominated respectively by literature and science. It draws on the research methods and traditions of both the humanities and the social sciences. It is not surprising that the relationship between these modes of inquiry is often contested. Are they totally independent, are they mutually supportive, or does one function mainly to serve the needs of the other?

Forty years ago, Bowers (1968) published an article contending that the significant function of rhetorical criticism was "prescientific." In contrast to the traditional view that critics focus on a single rhetorical text in a single context, Bowers urged that they offer insights in the form of testable hypotheses, which would culminate in the advancement and refinement of scientific theory. This he regarded as a "nobler view" of criticism than the traditional one. Bowers did not suggest that the *only*

legitimate criticism was "prescientific" or that critics should see themselves *solely* as aiding the generation of scientific insights. But his article, at least implicitly, does privilege the critic who defines the primary task in this way.

To say the least, rhetorical critics failed to embrace this article. Nothstine et al. (1994) refer to it as condescending. At the very least, it is vulnerable to the seemingly simple question, "who works for whom?" No one wants to be put in the position of creative generator for someone else's enterprise. Rhetorical criticism does not merely serve science; it makes claims of its own. And just as criticism can be enlisted in the aid of science, the reverse is also true.

If criticism is epistemic, however, it certainly seems so in ways different from the methods of science. It is often preoccupied with specific, perhaps unique, cases of communication, and it resists the impulse to generalize or to make predictions. It mixes descriptive and normative elements, and it combines interpretation with judgment. And it cumulates knowledge differently from science: The emergence of a new idea does not necessarily undermine an older one, even if they conflict. Yet if multiple and conflicting claims can all be right, then there seems to be no basis to prefer one critical claim over another—and hence no way for the field to resolve disagreements, to test them rationally, or to make an advance.

Some of these concerns will disappear, and others be thrown into sharp relief, if we understand *how* rhetorical criticism makes knowledge claims. It emerges as an analogue of the scientific method, applied in circumstances that do not lend themselves to empirical verification. This article will explore how argumentation is a means of knowing and how rhetorical criticism is a specific case of argumentation. It will consider two special characteristics of argumentation in rhetorical criticism, will illustrate how criticism and social science can intersect productively, and then briefly will speculate about what sorts of knowledge claims rhetorical critics can make.

3.2 Argumentation as a Way of Knowing

When the social sciences were in their infancy, the pragmatist philosopher Peirce (1877) wrote an article extolling the scientific method as a way of knowing. He contrasted empirical verification with three other approaches to what he called "the fixation of belief": tenacity, authority, and correspondence with beliefs accepted a priori. Tenacity is the method of chance, sticking to whatever beliefs one encounters first. It is arbitrary and nonevaluative. Although it is the dominant mode in certain areas of our lives (such as the role first impressions play in forming judgments about another person), its arbitrary nature makes it undesirable for important decisions about what we believe to be true. Authority—trusting the judgment of an expert—also is frequently employed, particularly because in a highly complex world, there are many matters on which any individual lacks expertise. It is not surprising that Aristotle regarded *ethos*, the apparent credibility of a source, as "almost" the most important means of persuasion. Yet to make decisions about what to believe solely on the basis of authority is to permit no challenge to the authority; it assumes infallibility of the

expert source. Because we know that persons are fallible, this is an inherently flawed method as well. And reasoning deductively from already accepted premises is also a frequently employed strategy. Knowing that a conclusion is entailed by already accepted premises powerfully strengthens one's commitment to the conclusion. This is the reasoning strategy, for example, of the *Declaration of Independence*, in which the general premise is that a long chain of abuses justifies exercise of a right to revolution, the body of the text narrates a long chain of abuses, and the signers conclude therefore that revolution is justified. The difficulty with this approach is that it is a closed system. It does not permit either challenging or moving beyond the previously accepted beliefs with which one began.

Prior to their emergence as discrete fields, the modern social sciences had been seen as branches of moral philosophy in which one or more of these ways of knowing were generally employed. Their new appeal rested in the fact that they relied instead on empirical verification. They were descriptive rather than normative, inductive rather than deductive, critical rather than uncritical. Three advantages have been claimed for the scientific method over other ways of knowing: It is comparatively more reliable, more flexible, and more humane (Ehninger 1970).

First, verification is more reliable. Results are obtained not by accident but by design—by systematically testing a hypothesis rather than prematurely making a judgment about its truth. Because this is so and because the method for testing the hypothesis is made public, the observations can be verified and the exercise can be replicated, whether by the same social scientist or by others. Second, because the bases for the conclusion are known and are public, they can be reexamined in light of changing conditions. The results of science are not eternal truths but truth claims within a particular context. This characteristic makes verification a more flexible approach to knowledge than are tenacity, authority, and correspondence with a priori beliefs. Third, verification is a more humane way of knowing because it is not grounded in instinct or desire—what we feel or hope to be the case. It calls upon higher human functions of discernment, critical thought, and judgment.

For these reasons, it is not surprising that empirical verification became the preferred means of knowing during the twentieth century. If it is the sole means, however, then in an important sense, it is impossible for us to "know" anything about matters that cannot be verified. And such matters compose much of the domain of human affairs. They include values, predictions, choices of action, probabilities, and indeed everything that is uncertain and contingent. For all these matters, there would be no legitimate space between the *necessary* and the *arbitrary*, between those conclusions that are logically necessary and those that are the product of instinct and faith. In effect, rationality would become a meaningless concept for all matters involving value, judgment, and choice—the very matters that since classical times have been the subjects of deliberation and collective decision in the public forum.

Booth (1974) imagined the consequences of excluding most of human affairs from the realm of possible knowledge. He argued that such a world—the world he saw in the 1960s—would be under the grip of either of two "modern dogmas." One he called *scientism*: Because rationally obtained knowledge is not possible in most of human affairs, then no reasons for belief are better than any other. Because this is

so, one is indifferent to choice among knowledge claims. This carries the idea of tolerance for intellectual diversity to its logical but disabling conclusion: Beyond verification, there are no grounds for preferring any idea to another. The other dogma Booth called *irrationalism*. Because no reasons can be shown as superior to any other and there is no rational path to knowledge, one decides what to believe by the intensity of one's passion and commitment or by the application of superior force. The record of the twentieth century should provide ample warning of the dangers of making collective public judgments of what is true on this basis, and the danger is no less when the unit of analysis is the individual.

The way out of this dilemma is to reconsider the ideal of verification. It is valuable because of the attributes of reliability, flexibility, and humaneness. Can these attributes be found in other ways of knowing? Put another way, is there any analogue to the scientific method for knowledge claims that do not lend themselves to verification?

Properly understood, argumentation is such a method. Although in common usage arguing is associated with bickering, quarreling, or fighting, argumentation has a more precise definition. It is the practice of justifying claims under conditions of uncertainty. It establishes not what is "objectively" true but what a person should consider to be true. It involves proffering and testing claims against the scrutiny of others. The seemingly adversarial and competitive aspects of the argumentative encounter are devices to assure that claims will receive rigorous testing. In turn, the knowledge that one's own claims will undergo such scrutiny provides an incentive to put forward the strongest possible claims in the first place, rather than those that come easiest to mind or those that pander to the prejudices of a particular audience. The claims that withstand critical scrutiny, though they cannot be verified, can be taken as true and acted upon with a high degree of confidence.

Understood in this way, argumentation has the same attributes that recommend empirical verification as a way of knowing. It is reliable in that conclusions are achieved through a process of testing claims that can be replicated by others. It is flexible in that conclusions are always provisional, never beyond the realm of reexamination as anomalies develop or conditions change. And it is humane in that it engages higher critical faculties rather than only instinct or desire.

Within the realm of the uncertain and contingent, truth is relative to argument. What people think they know cannot be formally or empirically demonstrated to be so. Hence, they must account for it, by moving from a starting point that others will accept to a new conclusion that may be controversial. Others will determine the quality of this accounting, and if they do so rigorously and carefully, one will have confidence in the results of the test.

Of course, the distinction between argumentation and science is overdrawn. Even if scientific observation is direct and empirical, reaching scientific conclusions itself requires argumentation. The scientific research report is an argumentative exercise in which the researcher seeks to establish that his or her interpretation of the data is more probable than are the alternatives. What distinguishes the sciences from the humanities is not the presence or absence of argumentation but the degree of consensus about the methods employed and the standards for evaluation.

In the sciences, a shared commitment to empiricism and widely accepted design principles and statistical methods produce broad agreement about what counts as knowledge. The humanities are much more diffuse, yet they too rely on argumentation to scrutinize claims and determine which are more deserving of acceptance as true.

3.3   Rhetorical Criticism as Argumentation

Just as the nature of argumentation is sometimes misunderstood, so too is the nature of rhetorical criticism. For some, criticism suggests condemnation or faultfinding, but most critics see themselves as analysts, not complainers. Just as art criticism or literary criticism consists of meaningful statements about the work examined, so too does rhetorical criticism. Moreover, while in earlier years it was widely believed that evaluation was the *sine qua non* of criticism; today explicit judging of the work is generally regarded as one of the critic's options, not a necessary condition.

Broadly speaking, rhetorical criticism offers accounts of rhetorical works. It assumes that the works (whether products, artifacts, or processes) are not transparent in meaning, implications, or significance. The accounts explain the work by providing answers to two general questions: (a) What's going on here? and (b) So what? Answering the first question involves making clear the underlying dynamics of the rhetorical work—how it might be seen as influencing people. (The terms "rhetorical work," "rhetorical act," and "text" are used almost interchangeably.) Understanding these dynamics might, but need not, address the question of the author's intention, and it might, but need not, address the question of the actual response of a specific audience and the degree to which that response can be attributed to the rhetorical work. Studies of production and of reception are gaining in frequency and power, but they are not necessarily or solely empirical. It often is the case that the rhetorical work itself is the central focus of the study. The critic may find through interpretation of the text an image of the audience the author has constructed, the response that the audience has been invited to offer, and the evident purpose of the work, for example.

Answering the second question—"So what?"—relates the particular rhetorical work to some consideration beyond itself. It asks how the understanding of rhetorical dynamics will be useful. What can we say about the meaning, meaningfulness, artistry, historical significance, or value of the work, for example? The answer to the "so what?" question *may* validate or modify a more abstract theory, but this by no means is the only way to answer the question.

As Brockriede (1974) pointed out, answers to each of these two questions can range from nonargumentative to argumentative. Simple description—reporting on the major divisions of a speech, for example, or tracing the chronology of a protest march—is not argumentation because it contains no inference going beyond the work itself. Similarly, simple classification—placing a visual argument into the category of "iconic photographs," for example—usually tells far less about the work itself than about the reach of the category. Instead of these nonargumentative accounts, what is sought is an explanation of the work that moves beyond the rhetorical act itself.

The two questions have in common that they are hermeneutic; they call for understanding rather than prediction and for meaning rather than causality. Moreover, they cannot be answered by reference to the work alone and hence cannot be proved conclusively. But the answer can be supported by good reasons, those that would convince a reasonable person who was exercising critical judgment. A good reason is one that will make the audience increase the strength of its adherence to the claim. To cite a few examples, intrinsic readings of the text, judgments by other critics, consistency with known background conditions, and consistency with theoretical precepts are some of the types of reasons that could be offered in support of one claim rather than another.

So far the object of rhetorical criticism has been referred to simply as a rhetorical work. The paradigm case of rhetorical work is the oratorical text. On this view, rhetorical criticism consists of the analysis of specific speeches. There is a long and still vibrant tradition of studying such works, and scholars still have much to do in order to account for even the canonical texts of public address. But rhetorical works are now understood as extending beyond this limited notion of a text. The object of study might be two or more different texts, permitting a comparative analysis—whether texts by the same author or selected from different authors, time periods, or cultures. Or studies could take on an even larger category—a genre of speeches having similar formal or contextual characteristics.

The word "text" also has undergone something of a metamorphosis. It has long since extended beyond the oratorical text to embrace other forms of oral and written discourse. It has been extended to cover visual as well as verbal messages and to texts that are not explicitly persuasive in nature (such as popular culture and entertainment). More recently, acts of social or cultural performance have been treated as texts. Brown (1987) has interpreted society generally as text. What this suggests is that the objects of rhetorical criticism now include, as the 1970 National Developmental Project foretold, "any act, product, process, or artifact" that can function as a symbol and exert influence on people (Bitzer and Black 1971). This expansive notion of "text" in effect identifies rhetorical criticism with a mode or perspective of analysis rather than with a distinctive critical object. Rhetorical critics bring to any object the focus of making arguments about how symbols influence people.

3.4   Characteristics of Argumentation in Rhetorical Criticism

The arguments of rhetorical critics are interpretive (Jasinski 2001) and hence not subject to empirical verification. The procedural norms of argumentation supply the reliability, flexibility, and humaneness that together make the critic's knowledge claims analogous to those of scientific method. Two special characteristics of these arguments warrant attention.

First, claims in rhetorical criticism may be limited to unique cases of rhetorical practice, reflecting the belief that communication occurs in particular circumstances; it

is an art and not a science. It is appropriate to study exemplary cases because they serve as models. Such study enables us better to understand and to appreciate the particular cases. One develops what lawyers would call a "theory of the case"—an explication of rhetorical dynamics within the text and of their significance (Zarefsky 1998b). One also develops a greater sensitivity to the rhetorical choices that were made in the particular case. Rather than regarding any rhetorical text or outcome as inevitable, criticism opens up the possibility of alternatives. It is then possible to argue about why the rhetor made the choices that he or she did, to consider what reprisals were invited by those choices, to theorize about the functions and consequences of the choices, and—in light of all these factors—to evaluate the choices in the given case.

One might ask, however: If communication's circumstances are local, particular, and unique, what is the point of these analytical exercises? Why is it important to understand a specific case if the factors in that case will not recur? How is knowledge of particular cases useful? Two answers suggest themselves. First, the specific case of communication may be important in itself. This is true of such canonical texts as Cicero's denunciation of Catiline, Edmund Burke's appeal to the electors of Bristol, Lincoln's Second Inaugural, or Martin Luther King Jr.'s "I Have a Dream." These are important historical events in their own right. The events can be understood from multiple perspectives—moral, philosophical, economic, and political, for example. Rhetoric offers another perspective, one that accounts for the production, circulation, reception, and interpretation of messages.

Second, even though instances of communication are unique, they are not random. Without fully capturing the richness of individual cases, one still can generalize. No two U.S. presidents have faced precisely the same circumstances in their inaugural addresses, for example, and yet there are enough similarities among them that the inaugural address can be regarded as a distinct rhetorical genre (Campbell and Jamieson 2008). Because this is so, studying individual cases can yield generalizable insights. The resulting generalizations will have but modest explanatory and predictive power because they abstract out only the common elements of complex individual situations and because the situations to which one might predict are likewise complex and individual. For this reason, rhetorical criticism is unlikely to furnish meaningful, testable hypotheses of the sort that Bowers (1968) sought. It is more likely to furnish explanation sketches or hunches that an analyst can regard as *presumptions* about a new case. Knowing that inaugural addresses frequently make perfunctory references to the Deity, for example, a rhetorical critic might predict that the next inaugural address is likely to do so. But the regularity of past practice does not constrain future choice. The next president may be unaware of this tradition or may wish to deemphasize the role of religion. Even though the generalization is only a presumption, it is still a useful starting point of analysis. It may be even more useful when it points to anomalies. For example, given that the reference to God is usually perfunctory, how does one explain the explicit and pronounced religious dimension of Lincoln's second inaugural address?

Of course, the social scientist also generalizes from particular cases and also recognizes that a prediction is no guarantee about the next case. The social scientist

seeks to reduce the likelihood that results could be obtained by chance, in order to increase the confidence with which he or she can predict future cases. That is the logic of the controlled experiment. Acknowledging the impossibility of its attainment, the social scientist regards law-like certainty as the normative ideal. Whether working with large data sets and employing statistical methods or drawing upon the richness of qualitative data obtained from a small number of informants, the social scientist values the particular case because of the contribution it can make to a predictive generalization. The rhetorical critic's tests never can be controlled, in this sense, so the goal is different. The best one can have is a defeasible generalization that serves as a presumption. If the social scientist abstracts generalizations from particular cases and then uses the generalization to predict or to control future cases, the rhetorical critic is more likely to draw analogies between one case and another, arguing that admittedly distinct circumstances share certain essential characteristics. If the social scientist limits generalizations by finding situations in which they cannot be replicated, the rhetorical critic will challenge analogies by arguing that essential differences outweigh essential similarities. The rhetorical critic's presumptions in theory will have weaker force than the social scientist's probabilistic generalizations, but which is "better" will depend on one's judgment about whether human communication is more idiosyncratic or more patterned and hence about whether vigorous explanation or rigorous prediction should be the principal objective.

In addition to its focus on particulars, the second distinguishing factor about the knowledge claims of rhetorical criticism relates to falsifiability. Far from being strong, a nonfalsifiable claim will be dismissed as self-sealing, tautological, or trivial (Popper 1959). A claim that seemingly accounts for everything does not really explain anything. This is true equally with respect to rhetorical criticism and to science. In rhetorical criticism, the concern for falsifiability arises in the relationship between a general theory and a particular case.

Many of the theories of rhetoric are grand, nonfalsifiable propositions—for example, Burke's (1966) insight that human interaction can be understood as drama—from which various category systems can be derived. These might be the Aristotelian categories of the modes of proof, the Burkeian elements of the pentad, the components of the genre of *apologia*, the vocabulary of psychoanalysis, or the terms of any conceptual perspective that attracts the critic's interest. Some of what is called rhetorical criticism is essentially the application of a category system to a particular case. The formulation of the grand theory may have been heuristically a rich exercise, but the application of categories to cases is often quite mundane. The critic usually will find that the category system applies to the case and will conclude that the theory (from which the category system was derived) helps to explain the case. Such a critic, however, has not really illumined the case; he or she has shown that the *category system* is versatile. This is hardly a surprising conclusion because the category system was derived from a nonfalsifiable grand premise in the first place. This is "cookie cutter" criticism, and it is equally limited in its insightfulness whether the categories are those of the ancients or those of the most contemporary theorizing. It is discouraged because it is nonfalsifiable.

On the other hand, it is not at all uncommon for critics examining the same case to make very different sorts of claims about it. One may interpret it as the discursive enactment of power, another as the reframing of an issue, another as a symbolic progression through time, and another as the instantiation of archetypal metaphor. These interpretations are different but compatible. Each of them may offer valuable insight on the case, enabling criticism to proceed additively rather than only by substituting one explanation for another. For this reason, the study of even canonical rhetorical discourse is never ending; there always is something more that can be said.

It does not follow, however, that all nontautological insights are equally compelling. Rhetorical criticism is "falsifiable" by subjecting it to scrutiny as argumentation. One asks first whether the critical claim is a sound argument. Is the evidence strong? Are the inferences reasonable? Are there reasons to doubt that the claim follows from the evidence offered? Failure to satisfy these basic questions, which could be raised by the audience for rhetorical criticism, will "falsify" the claim even in the absence of a strong alternative. Regarding criticism as argument means that critical claims are carefully evaluated by the audience—by those the criticism seeks to influence.

Beyond examining the critical claim put forward, a rhetorical critic also considers whether there is a different argument that would explain the particular case of communication more convincingly. Comparative assessment of critical claims is undertaken when competing claims are incompatible (either Lincoln's second inaugural address is evenhanded in assigning responsibility for the war to both North and South or it is not). In those cases, one claim is "falsified" because another replaces it. Even when competing claims might be logically compatible, however, comparative assessment enables a critic to determine their probative force relative to one another. For example, a critic might see a protest demonstration both as a statement made through the massing of bodies and also as a means of personal catharsis for the participants. Even though these claims logically would coexist, one might be more compelling than the other, based on the arguments made for it, and hence deserving of greater credence as a presumption. In this sense, the weaker of the claims can be "falsified" without actually being shown to be false.

Perhaps because the analysis of arguments is a less precise means of scrutiny than is the performance of recognized statistical tests, rhetorical critics may be more likely than social scientists to presume that a particular instance of communication makes a difference and hence to take explanatory claims seriously. Scholars in other disciplines sometimes note that the effects attributed to rhetorical behavior cannot be verified (Edwards 2003). Upon closer examination, it often happens that the critic is offering an interpretation based on elements of the rhetorical act that could be seen as *invitations* for an audience to respond in a particular way, and that the critic is not making a statement about *actual* causes or effects. In such a case, critics are well advised to be precise about the nature of their claims and to eschew causal language when not making a causal claim. Arguments can be grounded primarily in the rhetorical text or primarily in the context, but it is important to keep straight which is which.

3.5 Illustrations

If these considerations are understood, one can imagine how rhetorical criticism and social science can be mutually supportive modes of inquiry. Rather than either being subordinated to the service of the other, they would be recognized as having productive intersections. Two brief examples should illustrate the point.

First, analyses of mediated communication establish that an important role of media is framing, establishing a context within which events are interpreted (Entman 1993). On this view, the meaning of events is not self-evident but is determined socially by imposing one or another frame of reference on ambiguous data. Meanwhile, in rhetorical criticism, growing attention has been given to the nonneutral character of definitions; they structure our understanding of reality in the course of defining it. Definitions often are "persuasive" in the sense identified by Stevenson (1944). The rhetorical use of definitions has been studied in a number of specific cases (Schiappa 2003; Zarefsky 1998a, 2004, 2006). Social science benefits from the case-specific rhetorical criticism, which provides richly textured understanding of how framing can be achieved. And rhetorical criticism benefits from social science, which provides a more general (and generalizable) notion of what has been observed in the specific cases.

Second, rhetorical criticism has called attention to the polysemy of language (Ceccarelli 1998), its ability to have multiple voices and levels of meaning at once. Polysemous language is ambiguous; auditors can hear it in different registers and attribute to it different meanings. A famous example is Abraham Lincoln's frequent statement that the U.S. Constitution omitted the word slavery, though implicitly acknowledging it, so that at a future time, the document could be read without blemish. Empirical studies of audience response also establish that the "same" events are perceived and understood differently by different audiences. Blacks and Whites understood the U.S. race riots of 1967 to convey quite different meanings (Fogelson and Hill 1968). Jhally and Lewis (1992) reached the similar conclusion that Blacks and Whites had different perceptions of the significance of race on U.S. television's *The Cosby Show*. In the case of polysemy, audience research identifies a phenomenon and rhetorical criticism explains it, each mode of inquiry intersecting usefully with the other.

3.6 The Question of Purpose

Finally, it is important to clarify why one engages in rhetorical criticism and why it is a valuable mode of inquiry in its own right. Explicating how rhetorical texts or actions "work" and why they matter is valuable in enabling people both to be appreciative of the artful use of rhetoric and to be sensitive to the possibility of its abuse. In addition, criticism enables one to assess whether and how particular works perform the two principal functions of rhetoric: building community and inspiring people to achieve collective goals. The first function is performed as the rhetor

identifies with the audience, establishing and strengthening common bonds among people and thereby constituting otherwise isolated individuals as a public with shared interests and values. The second is performed as the rhetor articulates a vision or goal and motivates an audience to seek and pursue it. By explaining how this work is done in particular cases, rhetorical criticism offers models for appreciation, insights for possible emulation, and instances of abuse for condemnation. These are hardly trivial knowledge claims.

References

Bitzer, L.F., and E. Black. 1971. *The prospect of rhetoric*. Englewood Cliffs: Prentice-Hall.

Booth, W.C. 1974. *Modern dogma and the rhetoric of assent*. Notre Dame: University of Notre Dame Press.

Bowers, J.W. 1968. The pre-scientific function of rhetorical criticism. In *Essays in rhetorical criticism*, ed. T.R. Nilsen, 126–145. New York: Random House.

Brockriede, W. 1974. Rhetorical criticism as argument. *Quarterly Journal of Speech* 60: 165–174.

Brown, R.H. 1987. *Society as text: Essays on rhetoric, reason, and reality*. Chicago: University of Chicago Press.

Burke, K. 1966. *Language as symbolic action: Essays on life, literature, and method*. Berkeley: University of California Press.

Campbell, K.K., and K.H. Jamieson. 2008. *Presidents creating the presidency: Deeds done in words*. Chicago: University of Chicago Press.

Ceccarelli, L. 1998. Polysemy: Multiple meanings in rhetorical criticism. *Quarterly Journal of Speech* 84: 395–415.

Edwards III, G.C. 2003. *On deaf ears: The limits of the bully pulpit*. New Haven: Yale University Press.

Ehninger, D. 1970. Argument as method: Its nature, its limitations, and its uses. *Speech Monographs* 37: 101–110.

Entman, R.M. 1993. Framing: Toward clarification of a fractured paradigm. *Journal of Communication* 43: 51–58.

Fogelson, R.M., and R.B. Hill. 1968. Who riots? A study of participation in the 1967 riots. In *Supplemental studies for the National Advisory Commission on Civil Disorders*, 221–243. New York: Praeger.

Jasinski, J. 2001. *Sourcebook on rhetoric: Key concepts in contemporary rhetorical studies*. Thousand Oaks: Sage.

Jhally, S., and J. Lewis. 1992. *Enlightened racism: The Cosby Show, audiences, and the myth of the American dream*. Boulder: Westview.

Nothstine, W.L., C. Blair, and G.A. Copeland (eds.). 1994. *Critical questions: Invention, creativity, and the criticism of discourse and media*. New York: St. Martin's Press.

Peirce, C.S. 1877. The fixation of belief. *Popular Science Monthly* 12: 1–15.

Popper, K. 1959. *The logic of scientific discovery*. London: Hutchinson.

Schiappa, E. 2003. *Defining reality: Definitions and the politics of meaning*. Carbondale: Southern Illinois University Press.

Snow, C.P. 1959. *The two cultures and the scientific revolution*. New York: Cambridge University Press.

Stevenson, C.L. 1944. *Ethics and language*. New Haven: Yale University Press.

Zarefsky, D. 1998a. Definitions. In *Argument in a time of change: Definitions, frameworks, and critiques*, ed. J.F. Klumpp, 1–11. Annandale: Speech Communication Association. (Reprinted in this volume, Chap. 10.)

Zarefsky, D. 1998b. Four senses of rhetorical history. In *Doing rhetorical history: Concepts and cases*, ed. K.J. Turner, 19–32. Tuscaloosa: University of Alabama Press.

Zarefsky, D. 2004. Presidential rhetoric and the power of definition. *Presidential Studies Quarterly* 34: 607–619. (Reprinted in this volume, Chap. 18.)

Zarefsky, D. 2006. Strategic maneuvering through persuasive definitions: Implications for dialectic and rhetoric. *Argumentation* 20: 399–416. (Reprinted in this volume, Chap. 11.)

Chapter 4
What Does an Argument Culture Look Like?

Abstract However the term "culture" is defined, a culture becomes an argument culture when it is characterized by consciousness of audience, comfort with uncertainty, expectation of personal convictions, commitment to justification rather than formal proof, realization that the enterprise is essentially cooperative, and willingness to assume risks. Such a culture productively negotiates tensions between contingency and commitment, partisanship and restraint, personal conviction and sensitivity to audience, reasonableness and subjectivity, decision and nonclosure.

This essay originally was presented as a keynote address at the 8th conference of the Ontario Society for the Study of Argumentation, at the University of Windsor in 2009, and subsequently was published in *Informal Logic*, *29*, 299–310. The theme of the conference was "argument cultures" and the essay responds to that theme.

4.1 Introduction

It may have taken some courage for the organizing committee to pick as this year's conference theme "argument cultures." If the word got out, to many people in North America this phrase would be likely to conjure up the title of a book published a few years ago by the popular U.S. linguist Deborah Tannen (1998). Her earlier book claimed to explain why men and women do not understand each other. Having addressed that issue, in *The Argument Culture* she bemoans a society she finds full of people too quick to take offense, too impatient, too insensitive to others. Contemporary U.S. culture, she maintains, is characterized by whining, bickering, complaining, griping, quarreling—or, in other words, by argument. For Tannen, argument is a pathology, and the way to a better life lies in diminishing its role.

Such are the vagaries of the English language—unlike many other tongues—that the words "argument," "arguing," and "argumentation" have two very distinct connotations. There is the popular negative connotation embodied in Tannen's work and in the looks of people who sometimes ask me, incredulously, "You mean you teach *that*?" This, I can safely assert, is not our focus. Then there is a second connotation which animates our work. We are not all philosophers (though I have been accused of much worse), but we do all believe that the relationships among claims, reasons, and people offer material for serious study. We are committed to understand and improve the processes by which people seek to warrant their own beliefs and, through giving and exchanging reasons, to influence the thought and action of others. And our conference theme directs our attention to these activities within the framework of culture.

The term "culture" focuses our attention not on arguments as sets of disembodied propositions but on what people make and do when they argue. In the most general sense, a culture designates a body of norms and practices, and the people who engage in them, that are sustained across time. But the scope of the term "culture" is wonderfully ambiguous. It sometimes is understood in reference to a nation, as when we talk about French culture or American culture. Sometimes it refers to the organization of academic fields, as when we mention the cultures of philosophy or communication programs. Sometimes the reference is ethnic or religious, as in Slavic cultures, Muslim cultures, or Latino cultures. Sometimes what is meant is a particular viewpoint or focus, as in visual culture or postmodern culture. Sometimes general modes of inquiry are suggested by the term, as when we talk about artistic, scientific, humanistic, or professional cultures. In each of these cases, and many others besides, the cultural point of reference conditions how arguments are designed, practiced, understood, and evaluated. In this sense each of my examples could be thought of as a distinct argument culture.

But that is not my approach this morning. I wish to bracket the question of what constitutes a culture and ask instead, for *any* understanding of culture, what happens when it becomes an *argument* culture—that is, a culture that values and encourages argumentation. I am assuming that no culture is an argument culture all the time. Sometimes it will have more urgent needs than encouraging reason-giving. But when a culture becomes an argument culture, what does it look like? What are the characteristics of an argument culture, and what are its predicaments?

At the risk of being too elementary, I would like to speculate about these questions. I will take disagreement between people as the paradigm case of argumentative exchange, but my remarks also apply to other argument configurations. The heart of my remarks will take the form of two lists—one, a set of six characteristics that I think an argument culture will possess, and the other, a series of five tensions that an argument culture negotiates. Let me begin, then, with six features that identify an argument culture.

4.2 Identifying an Argument Culture

4.2.1 Importance of the Audience

First, an argument culture assumes the presence of an audience and emphasizes its importance. Argument forms can be elegant models whether they relate to anyone or not, but a culture implies connections among people. Arguments are addressed to people. The audience can be one person, as in the case of a dialectical encounter, or a small group engaged in deliberation. The audience even can be the same as the arguer, as in the classic dialogue between self and soul. But it also can be the third-party observers of a legislative or judicial hearing, or even a mass public attending to mediated messages, or an audience evoked by the arguer and inferred from the text.

One function of the audience is to establish the boundaries of acceptable argumentative practice. It is well and good to posit normative standards *a priori*, but the standards that really matter are the ones that the audience imposes in a given circumstance, constraining or directing the arguers. To use a simple example, the presence of two contradictory arguments means, logically, only that they cannot both be true. But those attuned to audience-centered argumentation will recognize that people often regard *both* of the inconsistent claims as unacceptable, because the contradiction calls into question the sincerity and trustworthiness of the arguer. In this case, the audience-based standard is more demanding than is a formal standard; in others, it can be less so. In all cases, though, the particulars matter. This finding encourages our concern with what rhetoricians would call the rhetorical situation, what informal logicians would call the context, what pragma-dialecticians would call the activity type. Simply put, in an argument culture, practice begins in awareness of the specific circumstances of the case and of the constraints and opportunities it presents.

Relating arguments to audiences is a concern of the argumentation scholar and critic as well as of the arguer. For example, in the U.S. the *Federalist Papers* often are understood as an exercise in political philosophy, setting forth a particular perspective on the nature of a constitutional republic. In fact, though, they were written with specific assumptions of the beliefs and values animating delegates to the New York state ratifying convention, in an attempt to influence their votes (Eubanks 1989, pp. 314–315).[1] I believe that we will understand these great documents much more richly when we examine their arguments as responses to a particular situation. Similarly, one can read the Lincoln-Douglas debates as abstract discussion of the morality of slavery and be offended by the seeming tentativeness of Lincoln's antislavery commitment. But one can read them instead with an understanding of a lay audience to whom they were directed: the Old Line Whigs of central Illinois who were both antislavery and anti-abolition, and whose votes would decide the election (Zarefsky 1990, pp. 1–39). Realizing that audience beliefs and values

---

[1] Eubanks concludes, however, that the Papers were less significant than one might think, because the argumentation was not adapted well enough to the audience.

constrained them helps one to see more clearly the strategic and tactical artistry of Lincoln and Douglas as they pushed the envelope. In constructing their arguments, each sought to exploit one set of the audience's commitments to position himself as moderate and his opponent as extreme.

The audience consists of those people the arguer wants to influence (Perelman and Olbrechts-Tyteca 1969, p. 19), and they may or may not be those actually present. In any case, in an argument culture arguers take their audiences seriously and the argumentation takes place with an audience in mind.

4.2.2   Uncertainty

Second, an argument culture acknowledges and may even embrace uncertainty. It was Aristotle who wrote (in *Rhetoric* 1357a) that on matters that are certain, no one deliberates. Why should they, when they can discover knowledge or resolve disagreements by far more efficient means? Of course, not much is "certain." Even our knowledge of the external world is mediated by our own perception, and what seems certain has that status only in the sense that it is universally accepted. But when direct perception or appeal to a mutually accepted authority can resolve a disagreement or answer a question, there is no reason to argue about the matter.

In contrast, matters that are uncertain are potentially controversial; they always could be otherwise. However strongly we may believe about them, we cannot know *for sure*. Argumentation, then, is characterized by the existence of opposing viewpoints, and an argument culture is one that valorizes dissensus rather than seeking either to ignore or to squelch disagreements (see Goodnight 1991). Continuing the discussion is a higher priority than is achieving an artificial settlement. Some conflicts can be resolved; others can only be clarified. But argumentation can be productive in either case.

This being so, in an argument culture people respect one another regardless of the beliefs they espouse. Disagreements take place over standpoints, not individuals. Any arguer deserves respect for contributing to the conversation, not disdain for prolonging it. (In turn, each person has an obligation genuinely to contribute, not merely to rehash or to distract.)

4.2.3   Conviction Amid Uncertainty

Third, an argument culture is one that, even in the face of uncertainty, values conviction. To put it another way, individuals do not wallow in uncertainty, indifferent to choices and content to follow the path of least resistance. Nor are they paralyzed by the inability to decide conclusively. On the contrary, they argue both to form and to test their beliefs. They do the former through problem-solving discussions; the

latter, through dialogue, disputation, and debate. Even when people have beliefs so strong that they *think* they know for sure, like the Minnesota high school students who wrote me that everyone knows that human life begins at conception and abortion is chosen only for convenience, still they test their beliefs by submitting them to the scrutiny others will offer through argument. To be challenged is not a sign of weakness, nor is answering a challenge a sign that the challenge was unfounded.

What sustains convictions on this view is not prejudice or closed-mindedness, not reaffirmation of cant or dogma, but the fact that the convictions have withstood meaningful testing through argument. What leads one to change convictions is not force or seduction, not indifference or withering in the face of a challenge, but acknowledgment that the original position could not withstand testing through argument. And arguers do not adhere to convictions forever and always, but only until they are given good reason to change. Precisely because uncertain matters always could be otherwise, in an argument culture there are commitments to positions but there are no final victories.

4.2.4   *Justification Rather than Proof*

Fourth, an argument culture embraces the process of justifying, rather than proving, one's claims. Because matters are uncertain, there is an inferential leap between one's premises and one's conclusions. Argumentation recognizes this leap and offers reasons for making it (Brockriede 1975). The reasons are acceptable if they would convince a reasonable person who was exercising critical judgment. If so, we may say that the claim has been justified. The more critical the "critical" listener, who assents to the argument, the more confident the arguer can be that his or her claim is sound.

Justification, then, is subjective and is dependent upon the particular audience. It says not that something *is true* but rather that a person *should believe* it. What is "justified" is commitment to a position or standpoint, not certification of its truth. In emphasizing justification rather than proof, an argument culture implies that people are open-minded and willing to be convinced without the assurance of truth, yet skeptical enough not to take statements just on faith. Moreover, justification has degrees of strength, ranging from the merely plausible to the highly probable, and the strength attributed to the argument will vary accordingly.

What counts as justification—the sorts of evidence and reasoning structures that will be convincing—will depend on the context, including such factors as the importance of the issue to the participants, the status the arguers have in the controversy, and the possibility of reversing course if the justification is found to be in error. The meaning and importance of justification remain constant, but the criteria for and strength of justification are context-specific. This is similar to the distinction Toulmin draws between field-invariant standards and field-dependent criteria (Toulmin 1958, pp. 15, 30).

4.2.5   Cooperative Argumentation

Fifth, an argument culture is one in which, despite its seemingly adversarial character, argumentation is fundamentally a cooperative enterprise. This feature directly counters the image of arguing as bickering, quarreling, or eristic disputation. It distinguishes the culture that distains or merely tolerates argument from the culture that valorizes and extols it (see Ehninger 1970).

If the popular image of argumentation is that it is sublimated fighting, in what sense can it be said to be at all cooperative? In an ideal argumentative encounter, the arguers share a common goal of reaching the best possible decision under the circumstances. The seemingly adversarial elements of argumentation—attack and defense, refutation and rebuttal—are means toward the achievement of this common goal. It is as though an intelligent designer (pardon the reference)[2] had assigned the arguers to play the role of committed advocates for opposing positions, so that the proposition or standpoint under examination would receive a particularly rigorous test. A standpoint that survives such careful scrutiny is more likely to warrant our trust than one that does not.

But, of course, actual cases of argumentation fall far short of this ideal. Competing arguers may be interested in the best decision, but they believe they already know what it is and want for their view to prevail.[3] But these harsh factors do not negate the beauty of the common goal. Committed advocates, sure that they are right, will be induced to develop the strongest case for their position because they know their views will be examined by equally committed advocates for the opposing view. They owe it to the seeming truth of their position to give it their best case. Just as if there were an "invisible hand" (again, pardon the reference)[4] guiding the process, standpoints will be tested rigorously, and the decision-maker—in this case, probably a third party, since the arguers themselves will be at an impasse—will be enabled to make the best decision under the circumstances.

Beyond their common goal, arguers will cooperate in other respects too. They will agree on the starting points of argumentation (van Eemeren and Grootendorst 1992, p. 35). These will include procedural conventions such as turn-taking, reciprocal obligations such as the need to support claims when challenged and responsibility to take objections into account rather than merely repeating the initial position,

---

[2] The term "intelligent design" is widely understood to refer to a theory that the universe was created by design, rather than that it "evolved" merely through natural selection. The use of the term here was intended as a pun.

[3] This is the central idea behind the program of "strategic maneuvering" developed by van Eemeren and Houtlosser (2002). Given the objectives of their program, however, van Eemeren and Houtlosser stipulate that the strategic moves are subordinate to the dialectical goal of resolving disagreement. Not all approaches to argumentation would share that view. The position here is that in an argument culture, whether arguers are committed to cooperative action or not, their argumentative behavior serves a cooperative goal similar to that specified by van Eemeren and Houtlosser.

[4] The "invisible hand" was a phrase used by the eighteenth-century economist Adam Smith to describe the working of the market.

norms such as what counts as evidence, meanings of the key terms and concepts in the discussion, and values such as modesty, respect for the audience, and respect for one's interlocutor. These agreements are often tacit, but they can be made explicit when questioned. An argument culture is one characterized by these levels of cooperation and by the recognition that seemingly adversarial disputation has the positive function of facilitating decisions of good quality, whether by consensus of the arguers or by the judgment of a third party.

4.2.6   Risk-Taking

Sixth and finally, an argument culture is one in which individuals are willing to take risks. Any arguer accepts two principal risks (see Johnstone 1965, pp. 1–9, esp. p. 3). One is the risk of being shown to be wrong and needing, therefore, to alter one's system of beliefs, attitudes, or values. Cognitive change of this sort can be unsettling, and the more so when one's fundamental convictions are at issue. The second is the risk of loss of face among relevant others as a result of unsuccessful argumentative performance. This can be threatening to a person's self-esteem and sense of worth. If a person knew, for sure, that he or she was right, that person might be unwilling to take these risks. And each of us probably has *some* aspects of our lives about which we will not argue, just as some historians will not engage with those who deny the existence of the Holocaust or other generally accepted facts, and some scientists will not argue with those who deny generally accepted scientific theories such as evolution.

But an argument culture is one in which these zones of exclusion are relatively small. Arguers believe that they are right, but they do not know *for sure*. They will strengthen their confidence if they can gain the assent of valued others, but only if assent is freely given. For the sake of free assent, they will place their own convictions on the table so that they can be examined by others, and while seeking to convince their antagonists, they run the risk that they will be convinced instead. In Henry Johnstone's view, they bestow human dignity and person on their interlocutor, and thereby claim the same values for themselves (Johnstone 1965, p. 9, 1970, p. 150).

So far I have suggested that an argument culture can be characterized by six attributes: consciousness of audience, comfort with uncertainty, expectation of personal convictions, commitment to justification rather than formal proof, realization that the enterprise is essentially cooperative, and willingness to assume risks. I am not yet prepared to say that these are necessary or sufficient conditions for an argument culture, but I do think that they are general descriptions of such a culture.

4.3   Managing Tensions in an Argument Culture

It may occur to you that some of these characteristics are at cross purposes, if not inconsistent. Indeed, I believe that argument cultures exist in productive tension among these characteristics. This is also why there are no final victories in

argumentation, seemingly settled questions can be reopened, and today's minority view can prevail another day.

What then are some of these productive tensions? At the risk of burdening you with another list, let me briefly suggest five.

4.3.1 Contingency and Commitment

One is the tension between contingency and commitment, between accepting the uncertainty of the situation and committing oneself to standpoints one is prepared to defend. In an argument culture, people make commitments in the face of contingency, and at the same time contingency makes them just a bit skeptical about their own commitments. This tension prevents the culture both from wallowing in Hamlet-like indecision and from degenerating into a culture of closed-minded true-believers.

4.3.2 Partisanship and Restraint

A second tension is between partisanship and restraint. Arguers are partisans for the cause they espouse. Except perhaps in interscholastic debate contests in which the goal is to develop argument skills for their own sake, arguers sincerely want their position to prevail and believe that real consequences are at stake. Yet they are not willing to use any and all means to achieve that end. They forego force and bribery, for example—not just because of fear of failure but also because assent under those conditions would not be worth having. President Kennedy referred to nuclear war as one in which even the fruits of victory would be ashes in our mouth (Kennedy 1963, p. 807). At a less cosmic level, arguers are saying in effect that unrestrained partisanship would produce the same result, a victory that is not worth having. An argument culture recognizes that the posture of restrained partisanship will best protect the culture over the long haul.

4.3.3 Personal Conviction and Sensitivity to Audience

A third tension is between personal conviction and sensitivity to audience. An arguer seeks the assent of an audience and therefore will tailor his or her argument choices to the expectations and beliefs of the audience. But the arguer will not go to the extreme of pandering to the audience, telling it whatever it wishes to hear at the cost of fidelity to his or her own convictions. An argument culture will penalize a person who is thought willing to say anything that will help his or her cause; such a person is disparaged as a "flip-flopper." In a seminal essay over 50 years ago, Donald Bryant described the function of rhetoric as "adjusting ideas to people and people to

ideas." (Bryant 1953). Much the same could be said about argumentation, in the sense that arguers both adapt their ideas so that they will be palatable to the audience and also try to move the audience to acceptance of their ideas. In the process, both audience and ideas are changed somehow, and to that degree a new social world is created.

4.3.4   Reasonableness and Subjectivity

A fourth tension is between reasonableness and subjectivity. Arguments are reasonable if they would be generally acceptable on their face by people exercising their critical judgment. People exercise such judgments in what may be highly subjective and idiosyncratic ways, preferring this or that value, giving different weight to this or that criterion, bestowing this or that interpretation on facts or evidence. Every one of these different criteria for choices may be individual and subjective, yet their accumulation in the form of acceptance is what makes an argument reasonable. An argument culture will embrace this tension; its ideology will be less visible and more complex than one which does not.

4.3.5   Decision and Nonclosure

A fifth and final tension is between decision and nonclosure. If I have sounded any consistent note in these remarks, it is that there are no final victories; continuing the conversation is valuable in itself. An argument culture sustains itself by not closing off argument. And yet arguments do end; things do need to get decided. In the United States, for example, albeit at great cost we have decided that slavery and officially sanctioned racial discrimination are wrong. I do not expect those questions to be reopened. And yet even there, underlying arguments remain open: once we have committed ourselves to equality, what does that mean and how far does our commitment go? These are questions underlying controversies on affirmative action, reparations, education policy, and the significance of the election of Barack Obama. An argument culture embraces the tension between decision and nonclosure, recognizing the need to settle certain matters while at the same time keeping the conversation open lest standpoints harden into dogma. Disputes settled on one level may mutate on another.

4.4   Conclusion

To this point I have speculated about six characteristics of an argument culture and five tensions such a culture exploits. What, finally, is the status of these speculations? Have I described a counterfactual normative ideal, or are there actually

argument cultures as I have imagined them? The answer is yes, some of each. My notion of argument culture *is* something like the universal audience, the ideal speech situation, or the critical discussion (Perelman and Olbrechts-Tyteca 1969, pp. 31–35; McCarthy 1978, p. 308; van Eemeren and Grootendorst 2004, pp. 21–23). The sense is that it is a goal toward which we should strive but usually fall short. But it also is a state that sometimes is actually achieved, or at least approximated, by cultures of many different types—not always, of course, but when their discourse is at its best. National cultures become argument cultures when they are self-reflective and especially when they can understand the basis of claims advanced by others. Disciplinary cultures—not excluding our own disciplines of logic, dialectic, and rhetoric—become argument cultures when they move beyond self-serving proclamations about who works for whom and instead focus on the consequences of both their differences and their similarities, and on the justification for their methods.

Lest I leave this question in the abstract, I would like to close by briefly identifying moments at which political discourse in the United States—what I tend most to study—took on many of the characteristics of an argument culture. One occurred in the late eighteenth century, when the states and the people considered whether to ratify the proposed Constitution. The discourse in the state ratifying conventions reflected cognizance of the audience, justification for positions taken, the acceptance of risks, the competing demands of contingency and commitment, and—despite the sometimes excessive passion or hyperbole—the shared goal of framing the best government for the new nation (see *The Debate on the Constitution* 1993). One who studies the ratification debates, I believe, will notice the prominence of argument in the evolution of the controversy.

Another, perhaps surprisingly, took place in the mid-nineteenth century, as advocates grappled with the moral, legal, and political problems posed by American slavery. With the benefit of hindsight, we may see the coming of the Civil War as inevitable, but it certainly did not seem so to most people ate the time. For most of the 1850s, people of good will exchanged arguments about who was qualified to settle the issue, what avenues of compromise might be available, and whether there was a way in which the issue could be outgrown or a decision postponed. It was not until the symbolic violence of the late 1850s—the sack of Lawrence, Kansas, the attack on Senator Charles Sumner, and John Brown's raid—that people first despaired of settling the issue through argument.

I have less confidence in identifying contemporary moments when U.S. civic discourse has become an argument culture. One probably was the period leading up to the first Persian Gulf War, when the nation argued about the comparative merits of military action and of giving United Nations sanctions more time to work. Another may have been the period of 1967–1968 when an extended national argument led many Americans to reassess their beliefs about the Vietnam War. Yet another might be the national discussion after the disputed Presidential elections of 2000, when people learned about arcane elements of the Constitution and remained patient and calm, even while media commentators proclaimed that the nation was facing a crisis and that decisions must be made without the luxury of argumentation.

My point is that at moments like these, U.S. political culture could and did become an argument culture, placing its bet on the processes of reason-giving and justification. And at different moments, other cultures will do the same. Our task as argumentation scholars is to appreciate such moments and to try to enlarge their frequency and scope. We also must recognize that, especially in our multicultural but atomized world, many different argument cultures may be functioning at once. Translating among them is a tall order, but the concepts and terminology of argumentation theory may themselves form a kind of common currency. By doing what we do—all the different things we do—we may not only understand but also help to build argument cultures, cultures in which the practice of argument is welcomed and prized.

References

Bailyn, B. (ed.). 1993. *The debate on the Constitution*. New York: The Library of America.

Brockriede, W. 1975. Where is argument? *Journal of the American Forensic Association* 11: 179–182.

Bryant, D.C. 1953. Rhetoric: Its functions and its scope. *Quarterly Journal of Speech* 39(December): 401–424.

Ehninger, D. 1970. Argument as method: Its nature, its limitations, and its uses. *Communication Monographs* 37: 101–110.

Eubanks, C.L. 1989. New York: Federalism and the political economy of union. In *Ratifying the Constitution*, ed. M.A. Gillespie and M. Liensch, 300–340. Lawrence: University Press of Kansas.

Goodnight, G.T. 1991. Controversy. In *Argument in controversy: Proceedings of the seventh SCA/AFA summer conference on argumentation*, ed. D. Parson, 1–13. Annandale: Speech Communication Association.

Johnstone Jr., H.W. 1965. Some reflections on argumentation. In *Philosophy, rhetoric, and argumentation*, ed. M. Natanson and H.W. Johnstone, 1–9. University Park: Penn State University Press.

Johnstone Jr., H.W. 1970. *The problem of the self*. University Park: Penn State University Press.

Kennedy, J.F. 1963. Radio and television report to the American people on the Soviet arms buildup in Cuba, October 22, 1962. In *Public papers of the Presidents: John F. Kennedy, 1962*, 806–809. Washington, DC: U.S. Government Printing Office.

McCarthy, T.A. 1978. *The critical theory of Jurgen Habermas*. Cambridge, MA: MIT Press.

Perelman, Ch., and L. Olbrechts-Tyteca. 1969. *The New Rhetoric: A Treatise on Argumentation*. Trans. J. Wilkinson and P. Weaver. Notre Dame: University of Notre Dame Press. (Originally published in French in 1958.)

Tannen, D. 1998. *The argument culture*. New York: Random House.

Toulmin, S. 1958. *The uses of argument*. Cambridge: Cambridge University Press.

van Eemeren, F.H., and R. Grootendorst. 1992. *Argumentation, communication, and fallacies*. Hillside: Erlbaum.

van Eemeren, F.H., and R. Grootendorst. 2004. *A systematic theory of argumentation*. Cambridge: Cambridge University Press.

van Eemeren, F.H., and P. Houtlosser. 2002. Strategic maneuvering: Maintaining a delicate balance. In *Dialectic and rhetoric: The warp and woof of argumentation analysis*, ed. F.H. van Eemeren and P. Houtlosser, 131–159. Dordrecht: Kluwer.

Zarefsky, D. 1990. *Lincoln, Douglas, and slavery: In the crucible of public debate*. Chicago: University of Chicago Press.

Chapter 5
Reclaiming Rhetoric's Responsibilities

Abstract Although rhetoric sometimes seems to be a completely neutral instrument, in fact it has several social responsibilities. Chief among these is the display of public reason, justifying contingent claims in the public forum. Other responsibilities include creating a community through revealing common bonds among people and providing the basis for human aspirations. These responsibilities are not self-executing but require committed teachers and citizens to carry them out. A special duty rests with teachers of rhetoric who instruct large numbers of students in written composition and public speaking.

This essay originally was presented as the 2008 Rhetoric Society of America presidential address. It is reprinted from a volume of conference papers, *The Responsibilities of Rhetoric* (Michelle Smith and Barbara Warnick, Ed.), published by Waveland Press in 2010.

5.1 Introduction

For several conferences now, the incoming Rhetoric Society of America (RSA) president has invited the immediate past president to offer remarks in plenary session. Consumed by the responsibility of planning the conference, the new president may be too short-sighted to realize that as you do unto your predecessor, your successor will do unto you. And so here I am. Perhaps you can imagine my rhetorical situation. Should I talk about my own research, on the arrogant assumption that the work I am doing will be of interest to us all? Or should I engage in post-presidential pontification, secure in the delusion that holding this august office imbues one with fresh insight into matters rhetorical? Unable to choose between these appealing prospects, I plan to do both, under the guise of a rumination on this year's conference theme.

Ever since Jack Selzer selected this theme,[1] I have found it puzzling: the responsibilities of rhetoric. Now, I understand that *rhetors* have responsibilities: to be honest and ethical, to respect the audience, to think strategically, to choose wisely. And I understand that we *rhetoricians* have responsibilities: to explain, to assess, and to improve the quality of discourse about topics that matter, and thereby to empower individuals and to enhance our public life. We spend much of our lives trying as best we can to meet these responsibilities. But rhetoric? It is what the ancients regarded as a *techne*, a skill or practice that could be used for good or ill but that was itself neutral. How can we say that rhetoric—our subject matter—has responsibilities?

Yet I believe we can answer that question if we focus our attention on the work that rhetoric does. And here we can take counsel from some of the significant anniversaries we celebrate this year.

5.2 Rhetoric and Public Reason

Fifty years ago, in 1958, Stephen Toulmin published his second book, *The Uses of Argument* (Toulmin 1958). Largely ignored if not criticized by his fellow philosophers, Toulmin's book would have a significant impact on rhetorical studies. Teachers of composition and public speaking latched on to the Toulmin model because it intuitively seemed a more realistic way to diagram arguments than was the traditional syllogism. (I even encountered an intercollegiate debate team during the 1960s that organized its file box according to the parts of the Toulmin model.) But the model was intended to illustrate a larger point: in the world of human affairs, we establish claims not by formal proof but through justification. Proof is concerned with whether statements are true; justification, with whether we should believe them. What determines whether we should believe a claim is whether the inference leading to it is warranted. The warrant is a particularly important part of Toulmin's system (Toulmin 1958, pp. 97–102). It is a license authorizing us to move beyond given evidence to infer a claim. It is necessary because, unlike in deductive logic, in ordinary reasoning the claim goes beyond the evidence, telling us something new, and hence does not follow absolutely from it.

The warrant comes not from any formal system or rule, but from people representing the community to which the argument is addressed. Toulmin mentioned that argumentation is often field-specific (Toulmin 1958, pp. 36–38) and hence the contents of the warrant may vary from field to field. Meanwhile, the force of the warrant is always the same; namely that the claim is authorized on the basis of the evidence. Although Toulmin does not mention rhetoric, and reportedly was surprised to learn of his book's reception among rhetoricians, he nevertheless invokes rhetorical considerations. His jurisprudential analogy suggests that claims

---

[1] Jack Selzer, professor of English at Pennsylvania State University, was the incoming RSA president and the 2008 conference planner.

are to be justified; they must ne justified to *someone*; hence arguments essentially are addressed and are validated by an audience.

This is no small point, because it gives Toulmin a middle ground between the necessary and the arbitrary. It enables him to posit that arguments in ordinary usage, as well as in many specialized fields, have a logic, though not the logic of formal deduction. And it is an audience-dependent logic. By inference we can hint at Toulmin's view of the responsibility of rhetoric. It is to justify the claims we make upon one another, redeeming the promise of reason through field-based intersubjective standards of judgment that are the expression of a community. To say that the standards of judgment are field-specific also means that they are not universal or hegemonic. Though unintended by Toulmin, this move opened the way for one of the major developments of the past 50 years: recognition of diversity in modes of reasoning and judgment.

The role of rhetoric in reasoning is even more pronounced in Chaim Perelman and Lucie Olbrechts-Tyteca's *The New Rhetoric* (1969/1958), whose publication (in French) also occurred 50 years ago. Traumatized by the ability of the Nazis to capture technical reason and to establish a closed system in which even the Holocaust could be a "valid" conclusion, Perelman sought to rehabilitate the concept of reason rather than to abandon a commitment to reason altogether. For Perelman, arguments depended for their strength on their acceptance by an audience—and not just the particular audience one happened to address but also the writer or speaker's conception of a universal audience, of reasonable people. Formal rationality was neither a necessary nor a sufficient condition for an argument's being reasonable. Audience judgments determined that. Most of *The New Rhetoric*, on which he collaborated with Olbrechts-Tyteca, is then devoted to an account of argument schemes that increase or decrease the adherence that reasonable people could grant to claims put before them.

It is noteworthy that Perelman and Olbrechts-Tyteca called their book *The New Rhetoric*, even though they were not familiar with the field of rhetoric as most of us know it But they reached back to the ancient art as the foundation for a humanistic sense of reason grounded in people's ability to exercise judgment. As with Toulmin, a fundamental feature of argumentation is that it is addressed to people, before whom it must pass muster. Rhetoric's responsibility is to enable people to judge whether a claim is reasonable and just.

For both Toulmin and Perelman, then, rhetoric facilitates reason. It is through rhetoric that all the realms of human action outside the boundaries of logical necessity can be rendered reasonable. Although this is a benefit in any area of our lives, it is especially important at moments when we are called together as a public to make decisions under conditions of uncertainty, when the right course is not self-evident but we nevertheless must act. We commemorate this year the anniversary of such a moment.

One hundred years before Toulmin and Perelman and Olbrechts-Tyteca published their books, newspapers reported that the prairies of Illinois were "on fire." The most prominent Senate Democrat, Stephen A. Douglas, was being challenged for his seat by a Springfield lawyer and former Congressman, Abraham

Lincoln. The heart of their contest would be a series of seven debates held in towns across the state. The centerpiece of the debates, and of the campaign, was the question of whether it was right to permit slavery to extend into new territories—a question that was important to Illinoisians primarily because it was the issue to which Douglas had hitched his political fortunes. Between 2,000 and 20,000 people attended these epic forensic encounters, enduring the August sun or October rain for 3 h at a stretch, while Lincoln and Douglas declaimed on the issue of the day (Zarefsky 1990).

Anyone who has read the debates will recognize that they are not what they are cracked up to be—they are not models of statesmanlike eloquence, cogent reasoning, and powerful evidence. They are consumed instead with allegations of plots and conspiracies, often unencumbered by evidence, by arcane legal disputes about the meaning of Constitutional phrases and the finality of court decisions, and by elaborate discussions of what the founders would have thought about the issue had they been on the scene. But to say all this is not to debunk the debates; rather, it is to appreciate them for what they actually do accomplish. To begin with, both debaters make their arguments with a clear sense of their audience: primarily the Old Whigs, whose votes would decide the election, and who in principle were opposed to slavery but also were convinced that abolition would be far too drastic a change. Each man appealed to one pole of Whig thought—Lincoln by portraying Douglas as plotting to spread slavery everywhere, Douglas by depicting Lincoln as a closet abolitionist (Zarefsky 1990, p. 69). Second, however, neither man pandered to his specific audience to the neglect of the larger public. To be sure, they each accused the other of trying—Douglas alleged that Lincoln took different positions in different parts of the state; Lincoln accused his rival of trying to exploit popular prejudices against racial amalgamation. While they both did vary their tone and emphasis for a specific audience, their basic views were consistent throughout. And no wonder—those debates were transcribed and published in the newspapers; neither candidate could hide from an inquisitive public. Third, the debates are sufficiently polysemous that they can be read with a universal audience in mind—if, for example, Douglas's role is seen not as an active conspirator in a proslavery plot but as the unintentional instrument of proslavery thought, or if the conspiracy itself is read allegorically to suggest a natural tendency rather than an active design.

Meanwhile, both men offered carefully developed arguments, spelled out the implications of their positions, tried to invite clash, and for the most part engaged what the other had to say. They did not shirk controversy; they did not take refuge in slogans or sound bites; and with only an occasional lapse they did not engage in personal vituperation. Their attacks on each other were more often uses of the circumstantial *ad hominem*[2] than what we today call negative campaigning.

Here was a case where rhetoric met its responsibilities. It facilitated decision-making about an important matter, involving claims to the ownership of public memory as well as choices about the future direction of the country. Not everyone

---

[2] This is a form of argument directed against a specific person by showing that that person's own premises or commitments lead to conclusions that he or she would find unacceptable (Walton 1998).

made a decision on these grounds, of course, and the rhetorical choices enacted by Lincoln and Douglas ultimately were unable to avoid war. They were in the center of a discourse space that eventually was captured by the extremes, by people who refused to allow themselves to be convinced. But rhetoric cannot do everything. What it did do was to encourage reasoning with an audience in mind, to encourage deliberation, and to engage the citizenry. For all their limitations, the Lincoln-Douglas debates reveal rhetoric in a better light than, say, most contemporary public discussions about the future of Social Security, the fiscal priorities of our government, or the decision to go to war in Iraq.

5.3   Rhetoric and the Constitution of Community

Important as it is, however, promoting public reason is not rhetoric's only responsibility. I would like to speak more briefly to two others by referring to people who were also writing during the 1950s, even if not precisely in 1958.

As everyone here knows, Kenneth Burke (1969/1950) emphasized identification, the perceived consubstantiality of people. It replaced persuasion in his view of the end of rhetoric, and he wrote that it was compensatory to division. People are naturally divided and fragmented; it is the task of rhetoric to unite them, to lead them to see themselves not as isolated individuals but as a community. Rhetoric brings a public or a community into being. It accomplishes this task by enabling people to recognize common bonds, to see their interests, experiences, and aspirations as consubstantial. Identification is not a natural state but a socially constructed reality. It is not too much to say, then, that rhetoric is the glue that holds a society or culture together, making it something more than a collection of atomized individuals. Providing that glue is a giant responsibility indeed.

Communities often are built in response to a perceived external threat. The urgency of the threat causes people to overcome their divisions and stress their solidarity against the enemy. This is a staple in the rhetoric of war and helps to explain why the enemy is simultaneously dehumanized and imbued with great power. The phenomenon is found during metaphorical wars as well as real ones. The enemy might be poverty or drugs, militant Islam or godless communism. During the Cold War, widespread fear of communism that was all-powerful yet morally weak, not only united Americans and justified their deferring other goals, but also brought together in common purpose sovereign nations of what we used to call the "free world." More recently, a similar rhetorical map has been used for the war on terror. Because we need to thwart the terrorists, we unite to support even questionable means toward the achievement of this goal. In both cases, interest and power were mobilized by constructing unity in response to threat.

Although creating a community by negating an enemy is a common rhetorical move, occasionally community is created by transcending old categories and heralding a new day—not by warding off danger but by characterizing the moment in a new way. It is too soon to tell, but the current political campaign may be our

summons to think anew together on the subject of race.[3] And we saw a rare transcendent moment at the height of the Cold War. President Kennedy gave the commencement address at American University in 1963 and he urged his audience to move past the shibboleths of the Cold War by rethinking attitudes toward the Soviet Union, toward communism, and toward peace. "Peace" emerged as the central theme of the president's speech for the first time. It was the new transcendent term, overcoming ideological division. Peace, Kennedy said, was the necessary rational end of rational men, because the alternatives would lead to destruction. Then, offering a transcendent vision that overcame divisions, he reminded his listeners, "We all breathe the same air. We all cherish our children's future. And we are all mortal" (Kennedy 1963, pp. 460, 462). Specific policy issues may divide us, but these larger values reconstitute us as a community. At moments when that happens, rhetoric fulfills one of its highest responsibilities. It transcends old categories and creates a new sense of who we are.

5.4   Rhetoric and the Articulation of Vision

And when we ask to what end we nurture a sense of community, we are reminded of what else rhetoric can do. It can inspire; it can give direction to our thoughts and acts. Richard Weaver had this view of rhetoric in mind when he wrote, also in the 1950s, that rhetoric shows us "better versions of ourselves" (Weaver 1953, p. 25), motivating us to work and sacrifice so that we move beyond the moment and toward a nobler ideal. I know of no recent public figure who has crafted a utopian vision so forcefully as a person born 100 years ago, President Lyndon Baines Johnson. He sought nothing less than a society free of poverty, illness, ignorance, prejudice, and even ugliness. He believed that it was within our power to shape the civilization we want. "Is a new worlds coming?" he asked. "We welcome it, and we will bend it to the hopes of man" (Johnson 1965, p. 74). He sought to inspire and motivate Americans to pursue these lofty goals both by appealing to their moral sense and by projecting confidence that the goal could be reached. The richest nation on earth, he often said, had obligations that followed from its wealth: to use its resources to assure opportunity and to better the lives of all. For him this was no idle, visionary dream; it was an achievable utopia. A nation that was able to explore the mysteries of outer space, *a fortiori* surely should be able to solve its problems here on earth.

With the exception of Medicare, there was no pre-existing constituency for most of the Great Society initiatives. Johnson called one into being through his rhetorical appeals. Again and again he conveyed a sense of a possible future, a moral obligation to reach for it, and confidence that it could be done (Zarefsky 1979). The project of the Great Society foundered, to be sure—partly because Johnson moved too fast,

---

[3] At the time these remarks were presented in May 2008, then U.S. Senator Barack Obama was closing in on, but had not yet secured, the nomination of the Democratic Party for President of the United States.

partly because he paid far more attention to securing legislation than to implementing it, partly because he failed to account for the sharp division of the country along the lines of race. Mostly, though, Johnson failed because he was diverted. In one of that era's great ironies, the man who could see a better vision of American society and dedicate himself to achieving it, could not do what Kennedy had done at American University—to begin to see beyond the Cold War. Imprisoned by Cold War assumptions, he risked everything on a war in Vietnam, even as he foresaw that his policy would fail, because he sincerely believed that he had no choice. As a tragic hero, even today Johnson is remembered far more for this foreign policy disaster than for the transformative potential of his domestic vision and his commitment to achieve it.

So far I have drawn on theorists with whom we are familiar, and cases of rhetorical practice on which my research has focused, to suggest three responsibilities of rhetoric. It permits reasoning together about matters that are not certain but about which decisions nevertheless are required. It binds individuals into communities and publics by establishing common bonds among people. And it inspires people to work toward goals by presenting visions of what might be. These are all things that rhetoric is supposed to do, and they are essential to the success of human life and society. Rhetoric has other responsibilities, of course, though I do not discuss them today. It is a means of celebration, commemoration, and consolation. It is the vehicle by which we collectively construct our past. It is a civilized surrogate for violence. In many religious traditions, it is the bridge between the ordinary and the sacred. No doubt many of you can suggest responsibilities of rhetoric to add to this list. The range and significance of rhetoric's responsibilities have both grown over time.

5.5   Rhetorical Agents and Agency

But here's a paradox. Rhetoric cannot will itself into being; it is, after all, a *techne*. Rhetoric cannot meet its own responsibilities; people have to enable it to do that. Individually and together, we must draw on this faculty so that it can do the work it was meant to do. If we were to take stock of how well our culture's rhetorical practice measures up to these responsibilities—if, in the words of our last conference theme, we were to size up rhetoric[4]—we might find the glass half empty or we might find it half full, but we will not find it full enough.

In this country, we have spent the past two decades not just divided into red and blue states, but with a toxic politics that often has seemed to have no objective other than to mobilize a majority for its own sake. Aristotle said that rhetoric was an offshoot of politics, but there is little it can do to ennoble politics that has no objective beyond tactics and strategy. We have seem a flight from rhetoric in the conduct of international affairs, such that deliberation, consultation, negotiation,

---

[4] "Sizing up Rhetoric" was the theme of the 2006 biennial conference of the Rhetoric Society of America, held in Memphis, Tennessee.

and persuasion are widely seen as signs of weakness, just as the Cold War consensus smothered debate about every foreign policy issue except who could be toughest in standing up to communism. The very real threats posed by terrorism, by asymmetric power, by hostile ideologies, have become not exigencies for collective discussions about how to maintain and adapt our values to a new world, but instead have become trump cards used to threaten, to intimidate, and to silence. We have had no serious discussion lately about how to balance our rights as individuals with our responsibilities to the commons. We have trivialized not only the discourses of our popular and consumer culture but also the discourses of our civic life. And we have not developed a healthy respect for rhetoric itself. Even as we seek inspiration and eloquence, especially in moments of crisis, we think of rhetoric as opposed to reality and we preface the noun with words like "empty" and "mere." We are in the midst of a presidential campaign in which the quality of rhetoric has itself become something of an issue. The fact that a candidate is a skilled speaker has been cited as a reason to suspect that the candidate either lacks substance or has something to hide. This is an old but still powerful *topos*.

You may say that I am overstating the case, and you probably would be right. You could point to examples of constructive rhetoric on matters ranging from local zoning to global warming, and I would agree that we should take pride in those. You could even cite some of the same examples of political debate and oratory that have been criticized, and argue instead that they are strong examples of forging collective judgment on difficult issues, and I would agree with that. I myself argued just last week that former Vice President Al Gore's complaint that we have lost the capacity to reason together is oversimplified and naïve (Zarefsky 2008).

The problem is that as encouraging as the counter-evidence may be, it is not enough. Rhetoric's responsibilities have been enlarged in our time. We face such complex predicaments that we need all the rhetorical resources we can get. Our tasks include reconciling unity and diversity, individualism and community, nationalism and global citizenship, liberty and equality, quality and quantity, faith and doubt, the present and the future. None of these pairs consists of opposites in the logical sense; they are not in principle irreconcilable. But they are inherent tensions and often seem to work at cross purposes. Articulating how they can work together, how we can get the best of both, or how we can transcend the tension, is the task of a responsible rhetoric.

But if rhetoric itself lacks agency, then people must learn how to use it responsibly. Whatever they may have learned so far is not enough. And that is where we come in. It has been observed frequently that the rhetorical tradition is a teaching tradition. What we teach enables men and women to enact rhetoric's social role. And we are not without agency. It is worth reminding ourselves that we as a field probably come closer than anyone else to teaching every student in America. Those of us who teach writing, and some of us who teach speaking, may be presiding over the only required courses remaining in the curriculum. Moreover, many of us work in programs where student demand and enrollment are growing. We flatter ourselves to think that this reflects growing interest in what we do and growing recognition by others of its importance. The work we do is unquestionably important. Yet while it is easy to praise rhetoricians at RSA, I want to ask if we're doing enough to promote the responsibilities of rhetoric.

Fifty years ago, though we were fewer and weaker, we may have had a clearer though narrower sense of what we were about: the study of canonical texts in the history of rhetoric, the pedagogy of writing and public speaking, studies of British and American public discourse by religious and political leaders, argumentation, critical methods. Not every program included all of these topics, but there would be few additions to this list. Moreover, we understood that, by teaching in these areas, we would nurture citizens whose training enabled them to use rhetoric responsibly. That was our product. Both composition studies and what was then called Speech were conscious of their ideological heritage in the Progressive movement of the early twentieth century with its commitments to the cultivation of good citizens.

As the program for this conference implies, each of these traditional areas of study remains vibrant today. It is simply not true that the canonical works have been over-studied, with nothing left to say. We still have much to learn from Aristotle and Cicero, and much to learn from nineteenth century white male orators. We should keep studying them, aided by the conceptual advances of the past 50 years and our ability to see old works in a new light.

But this is not enough. Each of our core subfields encompasses far more than it did then. We have discovered and begun to recover multiple rhetorical traditions. Our canon has been vastly enlarged and the very idea of canonicity has been called into question. Texts and textuality are seen much more broadly than they were then. We have worked to recover voices of those who for far too long were marginalized by their gender, their race, their class, their ethnicity, their sexual orientation. We recognize the many media through which public discourse takes place. We have productively problematized our notions of argumentation, style, effects, and criticism.

And beyond these trends, we have developed entirely new subfields that are, in Justice Douglas's phrase, emanations and penumbras (*Griswold*)[5] of our disciplinary core. These include rhetorics of science and religion, of law and management. They include the rhetorical use of new technologies, vernacular rhetorics, and rhetorics of display—just to name a few.

5.6   Conclusion

Today, the scope of our subject is vast—to some, overly so; to some, infinitely so. We speak sometimes of the rhetorical tradition even as we know that there are many rhetorics and many traditions. We examine rhetorical practice whether oral, written, visual, or mediated; we study the discourses of science, law, religion, medicine, literature and film, popular culture and violent protest, as well as the discourses traditionally associated with civic life. We bring to our studies theoretical and critical perspectives too numerous to list. Our umbrella is large. What should hold our work

---

[5] The allusion is to Justice William O. Douglas of the United States Supreme Court, in a decision recognizing the right to privacy although it is not mentioned specifically in the United States Constitution.

together, though, is a focus on what we are about. Our scholarship should deepen and enrich our understanding of rhetoric and its responsibilities. Our teaching should cultivate persons who responsibly practice our old and useful art in both their personal and their public lives. Our agency and that of our students will in turn enable rhetoric to reclaim its responsibilities.

Two weeks ago, RSA was admitted into membership in the American Council of Learned Societies. Our application stressed the interdisciplinary nature of our subject and its centrality to public life. The importance of what we do makes it all the more crucial that we meet the challenges posed by this year's conference theme and reclaim rhetoric's responsibilities. At a gathering such as this, we should heed the advice that Adlai Stevenson[6] gave to the seniors at Princeton, in a speech he delivered, also during the 1950s: "You will go away with old, good friends. And don't forget, when you leave, why you came" (Stevenson 1974, p. 345).

References

Burke, K. 1950/1969. *A rhetoric of motives*. Berkeley/Los Angeles: University of California Press.

Griswold v. Connecticut. 1965. 381 US 479.

Johnson, L.B. 1965. The President's inaugural address, January 20, 1965. In *Public papers of the Presidents: Lyndon B. Johnson, 1965*, vol. I, 71–74. Washington: U.S. Government Printing Office, 1966.

Kennedy, J.F. 1963. Commencement address at American University in Washington, June 10, 1963. In *Public papers of the Presidents: John F. Kennedy, 1963*, 459–464. Washington, DC: U.S. Government Printing Office, 1964.

Perelman, Ch., and L. Olbrechts-Tyteca. 1969. *The New Rhetoric: A Treatise on Argumentation*. Trans. J. Wilkinson and P. Weaver. Notre Dame: University of Notre Dame Press. (Originally published in French in 1958.)

Stevenson, A.E. 1974. The educated citizen. In *The papers of Adlai E. Stevenson*, ed. W. Johnson. Boston: Little, Brown.

Toulmin, S. 1958. *The uses of argument*. Cambridge: Cambridge University Press.

Walton, D.N. 1998. *Ad hominem arguments*. Tuscaloosa: University of Alabama Press.

Weaver, R.M. 1953. *The ethics of rhetoric*. Chicago: Regnery.

Zarefsky, D. 1979. The Great Society as a rhetorical proposition. *Quarterly Journal of Speech* 65: 364–378.

Zarefsky, D. 1990. *Lincoln, Douglas, and slavery: In the crucible of public debate*. Chicago: University of Chicago Press.

Zarefsky, D. 2008. *Chaim Perelman, Al Gore, and the problem of reason in our time*. Paper presented at "The promise of reason" conference. University of Oregon, 19 May 2008.

---

[6] Former governor of Illinois, two-time presidential nominee of the Democratic Party during the 1950s, and U.S. Ambassador to the United Nations from 1961 until his death in 1965.

Part II
Approaches to Studying Argumentation Rhetorically

Chapter 6
Product, Process, or Point of View?

Abstract   During the late 1970s significant attention was devoted to different senses of argument, especially the difference between argument as a product and argument as a process. Students of argumentative texts focused on the first; those of interpersonal conversation, on the second. Different implications resulted from prioritizing one or the other approach. Others sought to identify additional dimensions to argumentation. This essay, focusing on argumentation as a point of view, is an illustrative example.

This paper originally was presented in 1979 at the first Summer Conference on Argumentation held at Alta, Utah. It is reprinted with permission of the National Communication Association from *Proceedings of the [First] Summer Conference on Argumentation*, edited by Jack Rhodes and Sara Newell (Falls Church, VA: Speech Communication Association, 1980), 228–238.

A paradox inheres in the idea of a conference program on the definition of argument, as it does in the fact that this topic has consumed such a significant amount of our journal space in recent years. In many respects, such discussions are a sign of professional health, in that they signify a willingness to engage in reflection and criticism as to what we fundamentally are about. Moreover, they are necessary to set the boundaries of our field, to form the basis of our constructs and theories, and to give direction to our research.

At the same time, however, our concern with definition may be a sign of distress. As competing views are put forward and scholars "choose up sides," we may prematurely and needlessly divide ourselves—giving rise to unnecessary confusions and wasting our energies on pseudo-problems. Additionally, definitional concerns may distract us from the substantive issues we wish to investigate. It would be a small gain indeed if theorists and critics of argument concerned themselves so

extensively with defining what argument is, that they never got around to *studying* it—to criticizing arguments, explaining the process of arguing, or developing theories of argumentation.

It is my belief that our scholarship has reached the point at which we are courting the dangers I've just mentioned, and that further work along the same lines may not be productive. I hope to explain why I hold this belief and also to suggest that we may be able to avoid the dangers by changing the terms of our problem. I believe that we need to articulate a pluralistic conception of argument, and I shall make an attempt at that task. I confess that the details of my notion are not fully thought through, but I hope at least to be able to describe its general outline.

In a provocative essay, Daniel O'Keefe (1977) distinguished between two senses of the term "argument." The first referred to argument as a *product*—a propositional structure created by arguers in a specific controversy but available for inspection and analysis by anyone interested. O'Keefe's second notion identified the *process* by which arguers seek to gain each other's adherence. An argument$_1$ is something that people make; an argument$_2$ is something that they have. The distinction between process and product is at the base of much of the recent literature on the nature of argument. While I no doubt oversimplify the case, it seems to me that most of our disputes over definition turn on the question of whether argument$_1$ or argument$_2$ should be the primary notion informing our research.

Parenthetically, I do not wish to ignore the third sense of argument introduced by Professor Wenzel on this morning's program: argument as *procedure* (Wenzel 1980). I need to give this idea more thought, but my initial reaction is the suspicion that argument as procedure may be a special case of argument as process—a process that is structured, by convention or stipulation, to maximize the chances for thorough and candid testing of ideas. At any rate, I'll proceed on the convenient assumption that my suspicion is correct, and confine the following remarks to the distinction between product and process.

As I say, I think the chicken-and-egg question of "which comes first" is at the base of most of our definitional disputes. But an answer to this question depends upon answers to at least four others, and I don't think that those four questions can be resolved. Compelling theoretical arguments and paradigm cases can be found to support each of the competing positions.

1. *Should our definition of argument be normative or descriptive?* One view sees argument as communication which satisfies some normative standard. Certainly this view is implicit in the treatment of traditional textbooks which equate "argument" with "logic" or "rationality." By this view, argument is an ideal form of discourse, characterized by the attainment of standards toward which all persuasive communication should aspire. Good reasons easily could be given for a normative view of argument. Without a normative conception, audience adherence would be the only measure of argument's strength. Argument would be indistinguishable from any other type of appeal, and we would face the prospect described by Wayne Booth (1974), in which any arguer could be validated by securing the assent of some audience. Charles Manson would be validated by the assent of his witches, and Hitler by that of his SS troops. Seeing argument as normative offers a way out of

this problem by providing a standard toward which discourse should aspire. If it meets the standard, the discourse is called argument; if it fails, it is given some other designation.

To be sure, a normative definition of argument could be applied either to argument$_1$ or argument$_2$. Ehninger and Brockriede (1963), for example, definite debate as a process in a normative way, stipulating the conventions and assumptions which ought to be shared by the participants in the process. And a normative definition of argument$_2$ seems to resemble Habermas' notion of the "ideal speech situation." (McCarthy 1975, pp. xvi–xvii). Yet, if a normative view is our goal, defining argument as *product* would seem more useful. After all, the only way we can determine whether the participants in a controversy achieved the ideals of the process is by examining the products which the controversy yielded. We could determine whether the participants *believed* they had met the ideal standards by interviewing them, but only by looking at the arguments they produced could we tell whether their beliefs were well founded.

Compelling reasons also could be given, however, for avoiding a normative definition in favor of one that is descriptive. The normative view leads to evaluation according to norms that may be irrelevant or prematurely conceived. Among the great contributions of Toulmin (1958), Gottlieb (1968), and Perelman and Olbrechts-Tyteca (1969), is the explanation of why formal logic is of limited applicability as a set of standards for validity in non-formal argument. Without such a field-invariant standard, though, arguments could be evaluated only on the basis of norms shared within particular fields. But deriving such norms requires a conception of argument fields. And, as Willard argues in another paper at this conference, the notion of field currently is murky at best (Willard 1980). Accordingly, when we invoke normative standards to evaluate argument, we are likely to do so hastily and to select standards that may not be pertinent to the particular controversy we wish to evaluate. On this view, we would be better off avoiding a normative definition of argument and instead using a descriptive notion, one which would focus on explaining what argument actually *is*.

If description is our objective, then regarding argument as *process* would seem to be more valuable. While description could be applied to argument$_1$—identifying the premises and conclusions in a discourse, for instance—the approach would classify rather than explain. Far more productive, it would seem, would be an attempt to describe what is going on when people argue. Such a focus would examine the communication behavior which is present in the type of interaction which we call "argument." Recurrent process features, in fact, are what would define the situation as "having an argument" as opposed to an interaction of some other type.

2. *Is argument primarily interpersonal or public?* The process view of argument, as I understand it, is best suited to interpret argument as a particular kind of interpersonal transaction. Indeed, the process is situated in the interaction between the disputants. This view seems less well suited to explain appeals to a broader public audience, to explain a situation in which argument and response are separated in time, or to explain a dispute, such as appear among scholars or in the public press, which proceeds, not through claim and counter-claim but through the successive

presentation of and response to entire cases. To cite but two examples, a process view of argument would not help us to understand the controversy between Willard and Kneupper (Willard 1976, 1978; Kneupper 1978, 1979) or between Willard and Burleson (Willard 1976, 1979; Burleson 1979),[1] because the process is disjoined in time. What we see are the presentation of successive products. Indeed, it is interesting to note that as soon as Willard "goes public" in explaining and defending his view on the primacy of argument as process, he must do so by making serial predications—that is, employing arguments-as-product!

So which is it, an interpersonal or a public focus, that best characterizes argument? Again, paradigm-case pleas could be made for either position. An interpersonal perspective could be defended on the grounds that it views argument as organic, that it approximates the dialectical encounter, that most significant interaction is interpersonal, that an interpersonal perspective permits us to study the behavior of naïve social actors, and so forth. On the other hand, a public perspective could be defended on the grounds that what gives rise to argument is problems which affect a community and which demand decision, that deliberative discourse is produced in response to social urgency, that society is logically prior to the individual, that only a public focus permits the evolution and testing of ideas over time, and so on. My goal is not to develop any of these reasons in depth, but to observe that they do not point consistently in one direction or another. Yet, depending on how we resolve this question, we will be more likely to see argument$_1$ or argument$_2$ as the primary focus for theory and research.

3. *Is argument necessarily discursive?* To qualify as an argument, is it necessary that the form be propositional (or even terministic, since every term is an implicit proposition)? This question, obviously, forms the major dispute between Willard and Kneupper, and is addressed by Balthrop in another paper on this program (Balthrop 1980). Since the reasons for both positions have been aired thoroughly by the participants in this exchange, I will not repeat them here. I would only add the hardly profound conclusion that to view argument as necessarily discursive would favor a definition of argument as product, since the product—an implicit or explicit propositional structure—is by nature discursive. Likewise, a belief that argument need not be discursive, or that it is fundamentally non-discursive, would favor a view of argument as process. While non-discursive products certainly can be identified—painting and music, for example—the possibilities of analysis are far richer if we view argument in process terms and include within our purview all the non-verbal elements of an interaction as well as the web of myth, metaphor, value, and personal commitment that lie beneath the surface and never receive explicit mention.

4. *Should argument ever be removed from context?* Obviously, argument occurs within context. People have, and make, arguments in response to a combination of personal and situational constraints and opportunities. The question is whether it is useful or defensible to study argument apart from its context. Perhaps an example will help to illustrate.

---

[1] This dispute continued in the pages of *Argumentation and Advocacy* for approximately 2 years beyond the date of this essay.

I currently am beginning a study on argument in the controversy over slavery in the 1850s, hoping better to understand why an issue thought to be settled with finality in 1850 would precipitate civil war barely a decade later. My initial reaction was amazement. Here was Abraham Lincoln insinuating that two Presidents of the United States, the Chief Justice of the Supreme Court, and Senator Douglas of Illinois were engaged in a conspiracy to make slavery legal all over the nation and that the *Dred Scott* decision was an instrument of this conspiracy. Here was Stephen A. Douglas attacking Lincoln largely on the basis that he had opposed the popular Mexican War and that he now was engaged in a conspiracy to aid and abet the abolitionists—a charge so odious that Lincoln took great pains to deny it.

One position would suggest that a study of this type is valuable, even though the original argumentative context cannot be recreated. The study might yield examples of different types of argument, might illuminate the nature of conspiracy argument as a recurrent genre, might provide a means for judging the soundness and effectiveness of the positions taken, and might contribute to a theory explaining the coming of the Civil War. Another perspective, however, would find the study I am beginning to be of minimal value. One cannot know, for example, that the advocates at the time perceived their messages in the same way as would the contemporary critic. As David Potter (1976) has suggested, the whole debate about slavery in the territories—which admittedly has an unreal quality to it—may have been a way of "speaking in code" about another matter altogether: the problem of resolving the values of freedom and union. On this view, a study of argument in the 1850s would be valuable only if it could be grounded in the context which produced it. But since only fragmentary evidence of context survives, and since our world-view has shifted so drastically, contextual reconstruction is impossible. Therefore, as this perspective would have it, I would be better advised to study something else.

It seems apparent to me that the first of these positions—that it may be valuable to study arguments divorced from their context—is conducive to a view of argument as product. Indeed, it is *only* as products that arguments could be said to outlast their contexts. By contrast, a view of arguments as fleeting, ephemeral experiences which lost meaning outside of context would favor a view of argument as process, since the process notion emphasizes the interaction of arguers within a given context.

So far I have suggested that a choice between argument$_1$ and argument$_2$ as our primary definition depends on how we answer at least four other questions. But, unfortunately, we can't just answer those questions and thereby have the choice made. I believe that the troublesome feature of these questions is that they cannot be answered in the abstract. When we deal with paradigm cases, both positions usually are right. For example, it is true that without some sort of normative standard, argument would give way to a vicious relativism. And it is equally true that we may not yet have an appropriate basis for normative standards. It is true that argument is a form of interpersonal communication, but also true that public issues typically give rise to argument. Since paradigm cases will not resolve the issue, it seems pointless to me to engage in extended theoretical discussion over whether argument$_1$ or argument$_2$ is primary.

To avoid this impasse, we may need to change the way in which we think about the problem. Despite their differences, the view of argument as product and

argument as process have one essential feature in common. They both regard argument as existing in the natural environment; they both see it within the natural attitude (Schutz 1970; Swanson 1977). Argument$_1$ regards arguments as real things to be discovered and then analyzed by the critic. Argument$_2$ likewise views the process of arguing as one which takes place among real social actors; the job of the critic is to locate, describe, and explain this process. By this view, dispute about the nature of argument becomes a territorial dispute, involving the question of what elements of the natural world are ours to study. When the issue is whether we ought to study one part of the world or another, the stakes are high: people's careers and research programs could suffer a mortal blow if the object of their study were judged by their colleagues to be trivial or otherwise inappropriate. When the stakes are so high, at least two changes occur in our professional literature. First, it becomes increasingly polemical, tending not only to lay out but to plead for a particular approach. And second, there is a frantic quest for drawing distinctions to separate what we do study from what we don't. The traditional view distinguishes arguments from other discourse types on the ill-conceived basis that argument is composed of "primarily rational" appeals. The constructivist view differentiates argument from other interaction processes on what I find the equally dubious basis that advocates maintain what they construe to be incompatible positions. What takes place in the literature is a vigorous defense of one's boundary line coupled with the denial of another's ability to draw his boundary line. This struggle for territory will persist so long as we see argument as existing in the natural attitude, as being literally an object of study.

Suppose, instead, that we regarded argument as neither process nor product but as a point of view, and suppose that we attributed this point of view not to "social actors" (naïve or otherwise) but to analysts and critics (scholarly or otherwise). According to this approach, our object of study would not be some *part* of the natural world but all communication behavior. The concept of argument would be hermeneutic; that is, it would be a way to interpret communication. I cannot help thinking that a notion like this was in the minds of the Sedalia conferees when they referred not to "the study of argument" but to "the argumentative perspective on communication" (McBath 1975).

As a gratuitous aside to Professor Willard, I might add that this approach seems as firmly grounded in personal construct theory as does the approach he espouses. If I understand Kelly, his central point is that the natural world—our environment—is chaotic and confusing. Man, guided by a striving for predictability and control, "forms constructs and tries them on for size." A construct "fits" if it helps us to understand, predict, and control our environment (Kelly 1963, p. 9). If we regard argument as point of view, we are saying that communication behavior takes place in numerous constructs by which we could seek to explain this behavior, including those of ritual, myth-making, artistic expression, and eulogistic covering for naked self-interest. When we choose to impose the construct of "argument" on the communication, we are saying that we can make sense of it by viewing it as "reason giving by people as justification for acts, beliefs, attitudes, and values" (McBath 1975, p. 11). The crucial point is that it is not anything about the process

or product in the natural world which merits the name of argument; rather, it is a perspective or point of view selected by the *critic*.

I might illustrate this approach with a brief, and hopefully not too immodest, reference to some of my own research. I have just finished a piece on Lyndon Johnson and the Great Society (Zarefsky 1979). I examined the discourses in which the President used or referred to the idea of the Great Society, as well as what information I could find on the processes by which those discourses were generated. Now, this sample of communication could be interpreted as symbolic reassurance to American liberals, following Murray Edelman's notion of the symbolic nature of politics (Edelman 1964, 1971). It could be seen as a set of pseudo-events intended mainly to be news-worthy, following the ideas of Daniel Boorstin (1964). It could be seen as a ritualistic statement of goals such as we have come to expect from Presidents, particularly Democrats. While there may be value in all of these construals, I found it useful to view Johnson's communication from the perspective of argument. That is, I was looking at it as reason-giving in justification of the President's proposals. I tried to identify the types of reasons Johnson habitually selected (arguments$_1$) and to explore the implicit logic by which they were thought to be sound, as well as to explore the processes (arguments$_2$) by which they might be expected to be effective. Now I do not contend that Johnson necessarily saw himself either as making arguments to justify his proposals or as having arguments with his opponents. Nor do I contend that the communication I examined can be designated as argument and thereby distinguished from other types of communication. Rather, it is I, the critic, who have chosen to construe Johnson's behavior as argument, in the belief that I could thereby better understand, explain, and predict the behavior investigated.

This concept of argument as point of view seems so elegant in its simplicity that one legitimately might suspect that it evades the fundamental problem of definition. For, having said that the critic construes communication as argument in order to investigate reason-giving, we still have not said whether that construal should be of argument$_1$ or argument$_2$ or (as in my example) both. The critic's purpose should govern the answer. I agree with Wenzel that the critic may wish to examine soundness, or candidness, or effectiveness, and whichever purpose is dominant will influence the nature of his construal.

But what of the question whether argument$_1$ or argument$_2$ should be the primary focus of our research? The virtue I find in seeing argument as point of view is that it transforms this unresolvable question into a pseudo-problem. Put bluntly, it does not matter. Since we are no longer trying to answer the question of whether to study X or Y, but rather what emphasis should dominate our construal of whatever we study, there is no need to answer the question *a priori*. Instead, it can be put to the pragmatic test. If a normative focus on argument as product is best, that preference should be demonstrated by the heuristic value of argument studies which proceed along those lines. If an interactional focus on argument as process is more valuable, let that value be demonstrated in the heuristic potential of naturalistic studies of argument by naïve social actors. Better yet, let the comparative merit of different construals be determined by the quality of studies of the same communication behavior which construe it variously as argument$_1$ or argument$_2$.

This formulation of argument as point of view, while admittedly sketchy and incomplete, has a potentially significant implication for what we ought to do by way of theory and criticism. Once the dimensions of the different construals of argument have been laid out, there may be little value in attempting to plead for the primacy of one or another on *a priori* theoretical grounds or by argument from paradigm cases—particularly if I am right in stating that the disputes cannot be resolved on that level. Perhaps the various exchanges involving Willard and his critics might be brought to a gracious end, or at least a truce. Meanwhile, let us see the pragmatic consequences of critics' construing communication as argument along the lines which they respectively endorse. In making this observation, I have come full circle, because I am saying that further progress in defining the construct "argument" is less likely to come from *a priori* theorizing than from the labors of practicing critics and the response their work receives in the marketplace.

References

Balthrop, V.W. 1980. Argument as linguistic opportunity: A search for form and function. In *Proceedings of the [first] summer conference on argumentation*, ed. J. Rhodes and S. Newell, 184–213. Falls Church: Speech Communication Association.

Boorstin, D. 1964. *The image: A guide to pseudo-events in America*. New York: Harper & Row.

Booth, W.C. 1974. *Modern dogma and the rhetoric of assent*. Notre Dame: University of Notre Dame Press.

Burleson, B. 1979. On the analysis and criticism of arguments: Some theoretical and methodological considerations. *Argumentation and Advocacy* 15: 137–147.

Edelman, M. 1964. *The symbolic uses of politics*. Urbana: University of Illinois Press.

Edelman, M. 1971. *Politics as symbolic action*. Chicago: Markham.

Ehninger, D., and W. Brockriede. 1963. *Decision by debate*. New York: Dodd, Mead.

Gottlieb, G. 1968. *The logic of choice: An investigation of the concepts of rule and rationality*. London: George Allen & Unwin.

Kelly, G. 1963. *A theory of personality: The psychology of personal constructs*. New York: W.W. Norton.

Kneupper, C.W. 1978. On argument and diagrams. *Argumentation and Advocacy* 14: 181–186.

Kneupper, C.W. 1979. Paradigms and problems: Alternative constructivist/interactionist implications for argumentation theory. *Argumentation and Advocacy* 15: 220–227.

McBath, J.H. (ed.). 1975. *Forensics as communication: The argumentative perspective*. Skokie: National Textbook Company.

McCarthy, T.A. 1975. Translator's introduction. In *Legitimation crisis*, ed. J. Habermas, vii–xxiv. Boston: Beacon.

O'Keefe, D.J. 1977. Two concepts of argument. *Argumentation and Advocacy* 13: 121–128.

Perelman, Ch., and L. Olbrechts-Tyteca. 1969. *The New Rhetoric: A Treatise on Argumentation*. Trans. J. Wilkinson and P. Weaver. Notre Dame: University of Notre Dame Press. (Originally published in French in 1958.)

Potter, D. 1976. *The impending crisis, 1848–1861*. New York: Harper & Row.

Schutz, A. 1970. *Alfred Schutz on phenomenology and social relations: Selected writing*, ed. H. Wagner. Chicago: University of Chicago Press.

Swanson, D. 1977. A reflective view of the epistemology of critical inquiry. *Communication Monographs* 44: 306–320.

Toulmin, S. 1958. *The uses of argument*. Cambridge: Cambridge University Press.

Wenzel, J.W. 1980. Perspectives on argument. In *Proceedings of the [first] summer conference on argumentation*, ed. J. Rhodes and S. Newell, 112–133. Falls Church: Speech Communication Association.

Willard, C.A. 1976. On the utility of descriptive diagrams for the analysis and criticism of arguments. *Communication Monographs* 43: 308–319.

Willard, C.A. 1978. Argument as non-discursive symbolism: A reply to Kneupper. *Argumentation and Advocacy* 14: 187–193.

Willard, C.A. 1979. Propositional argument is to argument what talking about passion is to passion. *Argumentation and Advocacy* 15: 21–28.

Willard, C.A. 1980. Some questions about Toulmin's view of argument fields. In *Proceedings of the [first] summer conference on argumentation*, ed. J. Rhodes and S. Newell, 348–400. Falls Church: Speech Communication Association.

Zarefsky, D. 1979. The Great Society as a rhetorical proposition. *Quarterly Journal of Speech* 65: 364–378.

Chapter 7
Persistent Questions in the Theory of Argument Fields

Abstract The concept of a "field" of arguments, introduced by Stephen Toulmin in 1958 with little explanation, seemed to scholars in the late 1970s and early 1980s to be a promising way to imagine standards for arguments that were context-specific. Although several authors explored the topic, little agreement emerged as to what constituted a field or how theorists and critics would use the "field" concept to analyze or evaluate arguments. This essay examines some of the key questions.

Originally this essay was published in *Argumentation and Advocacy*, 18 (Spring, 1982), 191–203, where it introduced a special issue on argument fields. At the time of publication the journal was known as *Journal of the American Forensic Association*.

7.1   Introduction

At first, the concept of argument fields seemed to be a straightforward matter. In *The Uses of Argument*, Toulmin wrote, "two arguments will be said to belong to the same field when the data and conclusions in each of the two arguments are, respectively, of the same logical type" (Toulmin 1958, p. 14). He proposed that, for any given field, there are accepted standards for judging the worth of arguments. The notion of field dependent standards permitted analysis and criticism according to a criterion which avoided both extremes of universal formal validity and utter relativism.

In the years since the appearance of *Uses*, however, the concept "argument fields" has been used in a variety of ways. In *Human Understanding*, Toulmin (1972) appears to regard fields as "rational enterprises" which he equates with intellectual disciplines. His purpose is different, though: tracing the development and change of concepts rather than judging claims. Other writers have used the term in still other ways. In reviewing the "field" literature, Willard maintained, "It is arguably the case that its diffuse and open-ended nature has been [the field notion's]

most attractive feature and that its widespread employment is owed to the fact that can be made to say virtually anything" (Willard 1981a, p. 21). There are so many different notions of fields that the result is conceptual confusion rather than wholesome diversity. Faced with so many competing "proto-theories" of fields, the argumentation scholar might well wish to eschew the theoretical concept altogether. For example, McKerrow (1981) admits to "skepticism regarding the value of 'field theory' as a rationale for the explication of arguments."

But the "field" concept offers considerable promise for empirical and critical studies of argumentation. It may be useful, therefore, to try to dispel confusion without abandoning the concept altogether. Such is the admittedly ambitious purpose of this essay, which extracts from the literature on "fields" a sense of the persistent questions and problems in theory development. The questions are grouped under three headings—the purpose of fields, the nature of fields, and the development of fields.

Often, one's answer to one question, such as the work one wants the "field" notion to do, will affect how one answers other questions, such as whether fields are defined by their subject matter or by their form. It should be possible, therefore, to construct a small number of consistent viewpoints about the "field" concept. At the same time, there are questions which apply regardless of how one defines a field's nature or a scholar's purpose, and these are explored as well.

7.2   The Purpose of Fields

(1) For what purpose is the concept of argument fields introduced? Since the principle of parsimony would call for abandoning an unnecessary construct, we should be certain that the notion of fields is useful. And since identical terms can be used with different meanings, we should be clear about what work the "field" notion is intended to do.

(1a) Does "field" explain how arguments originate? One approach might be to view fields as the places where arguments occur. On this view, since there is argument in the courtroom, we have the field of legal argument. Since scientists argue, we have scientific argument. The logic behind this approach is that disputes develop within a social community. By identifying the shared norms and purposes of a community, a critic would be sensitized to those matters which are "settled" and those about which there is disagreement. Likewise, the critic could gain a feel for what are the accepted standards for resolving disagreements. In science, for example, a commitment to empiricism reigns; disagreements among scientists are seldom likely to be resolved by appeal to Biblical text or by the toss of a coin.

This approach to the purpose of the "field" concept is both descriptive and sociological, and it is useful if one's research purpose is to investigate the origins of argument within specialized communities. It also may be useful in explaining why an impasse develops when an argument occurs between members of different specialized communities. For example, a dispute about abortion in which one advocate defines the

issue as religious and another defines it as a question of personal autonomy is unlikely to proceed very far. The assumptions about what is relevant to the dispute and what already is "settled" will vary between the arguers. This concept of field also may explain disagreements between advocates who define an issue as belonging to a specialized field and those who see it as a more general matter for deliberation by a larger public. In their study of the accident at Three Mile Island, Farrell and Goodnight (1981) describe just such a conflict over whether the issue was a matter for science or for public judgment.

In recognizing the uses of this view of "fields," one also should recognize the purposes for which it is *not* suited. Since it is sociological in nature, it characterizes situations or occasions for arguing, not argument products themselves. Situations may influence but do not totally determine the argument products. It does not explain how the claims, data, warrants, and so forth adduced by a theologian will differ from, say, those proffered by an artist. And since it is descriptive, it does not speak to the question of quality either of an argument or of a situation which produced it. Theorists interested in these objectives also have employed the "field" concept, but they appear to have different purposes in mind.

(1b) Does "field" serve to compare and contrast arguments? A second possible purpose for the concept of "fields" is to examine similarities and differences among arguments. Arguments which are alike on the dimensions examined would belong to the same field. This seems to be the approach Toulmin had in mind in *Uses* (1958). On this view, a field would consist of arguments—regardless of the circumstances of their origin—in which the notions of what constituted evidence, what were acceptable grounds for inferring conclusions, and so on, were the same. Law and science might be distinguished, for example, because one relies heavily on reasoning from precedent whereas the other relies primarily on direct observation and reasoning from probabilities. Ethics might differ from either field because of its emphasis on reasoning from an *a priori* nature of the good. Psychoanalysis would be a distinct field from behaviorism on the basis of how each would answer the question of what counts as evidence.

It is important to recognize how this purpose of fields differs from the first. In some cases, the two approaches would lead to different views of the boundaries of a field; in others, to similar views for quite different reasons. Like the first approach, this one is descriptive. But it is a description of argument products rather than of situations in which arguing occurs. It therefore may be a useful conception if one's research purpose is to explore similarities and differences in the arguments which actors produce or to identify recurrent patterns of reasoning by induction from actual arguments rather than by an *a priori* taxonomy.

(1c) Does "field" provide a standard for the validity of arguments? Yet a third view of the purpose of the "field" concept is that it offers a standard for evaluating arguments. Whereas the first two purposes were descriptive in nature and hence conducive to an empirical research program, this sense of purpose is frankly normative and hence serves the interest of the argument critic.

This point of view represents a midpoint between two unacceptable extremes for answering the question, "What is a good argument?" If goodness, or validity, were

treated as a matter of form, then few if any meaningful arguments could achieve the standards of formal validity. Both Toulmin (1958, pp. 146–210) and Perelman and Olbrechts-Tyteca (1969, pp. 1–10) have pointed to the difficulties in treating formal logic as the paradigm case of argumentation, noting the inability of this paradigm to accommodate most actual disputes. Recent writing in mathematics calls into question the ability of a formal system fully to account for arguments even in that most formal of realms (Kline 1972, pp. 42–43; Heijenoort 1967, pp. 348–357).

The other extreme position, that an argument is valid if someone thinks it is, seems equally unsatisfactory. It would force the abandonment of any impartial standpoint for assessing the value of arguments, and would lead to the vicious relativism characterized by Wayne Booth: "Charles Manson will be confirmed by the assent of his witches, Hitler by his SS troops, every Christian sect by its hundreds or millions of adherents, and indeed every political and religious program by its ability to present witnesses" (Booth 1974, p. 106). If we abandon both the quest for formal validity and a commitment to *any* notion of "reasonableness" which transcends individual occasions, it is hard to see how we could evaluate the soundness of arguments.

Having rejected the absolutism of formal logic and the implications of vicious relativism, one might arrive at the field concept—as Toulmin did—as a middle ground. The fragmentation of knowledge is thus viewable as a temporary setback, held in check by the promise of an impartial standpoint of rationality. Plausibly, the impartial standpoint may turn out to be a procedural principle capable of authorizing evaluations of arguments while doing justice to interfield relativity.

If one uses the field concept to pursue such epistemic/judgmental purposes, identifying fields and their boundaries becomes critically important. Only a clear conception of fields can yield a clear impartial standpoint of rationality since the former is the "ground" from which the latter "figure" emerges. Right now—without the impartial standpoint—the soundness of arguments depends upon their fit with the procedural and substantive ecologies of different fields. This perspective suggests that fields should be defined by their judgment criteria for what counts as "reasonable" or "valid." Whether the mapping of fields which results from such a standard would correspond in any significant way to the maps produced by the other two approaches is an open and largely unexplored question.

It is idle to speculate about whether sociological or argument-centered perspectives, description or evaluation, empirical research or criticism, is the more important task. Certainly we need both. What needs to be recognized is that one's view of fields will depend heavily on the work one wishes the concept to do. Much of the confusion in the extant work on fields may result from using the concept and arguing about its ramifications without making one's research purpose clear.

Whatever the purpose, one must assume that where argument occurs significantly affects its nature, or the concept of "fields" would be superfluous. As Cox puts it in discussing public policy argumentation, we must assume that the concepts of "public" and "policy" *inform* argumentation in a meaningful way (Cox 1981, p. 126). Whether one's goal is description of situations, description of arguments, or critical evaluation, one must posit characteristics which define the nature of a field. There is considerable divergence among writers as to what these characteristics should be.

One approach to this problem may be to employ different labels. Wenzel distinguishes among fields, forums, and contexts of argument (Wenzel 1982, pp. 204–205). Fields are grounded in the contents of knowledge structures; forums are grounded in the practices of a rational enterprise which attempts to create knowledge structures; and contexts are grounded in the general sociocultural environment. Fields relate to argument products; forums to procedures; and contexts to processes. These distinctions identify different perspectives which can be taken in studying argumentation.

7.3   The Nature of Argument Fields

A second persistent question is *(2) For any given argument, what determines the field it is in?* If one holds, as Toulmin seemed to in *Uses* (1958), that fields are groups of arguments in which data and conclusions are of the same logical type, it would follow that formal differences would distinguish among fields. Few contemporary writers take this strict position, probably because it assumes a degree of formalism which is not appropriate to practical reasoning.[1] Willard (1981b) makes a cogent case against the equation of fields with logical types.

Toulmin et al. (1979) seem to have adopted a modification of this position. They describe the structure of argument in five different fields—law, science, management, ethics, and the arts. They maintain that what are regarded as acceptable data and warrants vary by field, as do the importance of backing, rebuttals, or qualifiers. But these are not really *formal* differences. Toulmin and his colleagues have first identified fields according to the criterion of subject matter, and *then* have asked how fields differ according to what types of substantive statements count as the various parts of the argument. To see in this procedure a *formal* criterion for the definition of fields is to beg the question.

(2b) Are argument fields determined by subject matter? This approach to defining fields focuses on argument content rather than form. The assumption is that arguments dealing with the same subject are alike in important ways—origins, structural features, validity standards, etc.—and that they differ on those same dimensions from arguments on a different subject.

A particular version of this approach which has received widespread attention is the equation of fields with academic disciplines. Toulmin (1972) distinguishes among compact disciplines, diffuse disciplines, would-be disciplines, the undisciplined, and the undisciplinable. Toulmin et al. (1979) identify law, science, management, ethics, and the arts as examples of fields. This same approach is evident in several papers at the Second Alta Conference which attempt to characterize legal argument as a distinct field (Ziegelmueller and Rhodes 1981, pp. 159–278).

For some purposes this approach may be useful, particularly for understanding the norms and conventions of an academic discipline and how they constrain

---

[1] McKerrow does tend in this direction, however, in arguing that fields ought to be regarded as logical types. See McKerrow (1980a), esp. p. 403.

argumentation. For example, it may help to explain why scientists might dismiss certain data or claims as unscientific while another discipline might embrace the very same data as claims.

But as a way to define fields or to distinguish among them this approach has serious problems. First, where, for example, does psychology leave off and sociology begin? As Gronbeck (1981) notes in his paper on "socioculture," a concerted effort seems underway to blur disciplinary boundaries. Moreover, different disciplines address common problems (and their members are able to argue meaningfully with one another when they do). And disciplines—psychology or communication studies, for instance—may be so broad that the variance in approach among scholars *within* a discipline is greater than that among scholars *between* cognate disciplines.

There is a more serious difficulty with the equation of fields and academic disciplines. This approach may well recreate the same error which Toulmin finds in formal logic: selection of an inappropriate paradigm for general argumentation. Most instances of argumentation do not occur within the confines of any academic discipline. They involve personal and public matters on which the arguers lack the specialized expertise associated with an academic discipline. Even when arguers concern themselves with, say, the federal budget and national finance, they often generate arguments uninformed in any meaningful way by the discipline of economics. One could define public and personal arguments as fields in their own right, but doing so would confound our attempt to define fields by the *subject-matter content* of arguments. In short, defining argument fields by reference to subject matter will fail to account for a substantial portion of everyday informal argumentation (Willard 1980).

(2c) Are argument fields determined by situational features? Since Bitzer's seminal essay (Bitzer 1968), the concept of "situation" has loomed large in rhetorical theory. A third approach to defining fields is by reference to features in the situation or in the orientation of the arguers to it. Variations on this approach range from Willard's (1981a) personal-construct assumption that "A is in field X when he thinks he is," to generic exploration as recommended by Fisher (1981), to identify the recurrence of situations of the same basic type.

This approach would seem most useful for researchers investigating arguing as a process, who would be interested in probing the circumstances under which argumentative interactions occur. In viewing argument from a dramatistic perspective, for example, Klumpp (1981) is concerned with the enactment of symbolic drama in response to a situation. In adopting a constructivist/interactionist orientation, Willard appears to be concerned with the personal constructs by which people define situations as arguments, and with the sort of behavior for which such a definition of the situation calls. Our literature has seen diverse approaches under the common label "constructivism." But whether one takes the personal-construct view identified with Willard (1981c) or the social-construction-of-reality view identified with Kneupper (1981a), the common thread is to define fields by reference to aspects of the argumentative situation.

A specific variation on this approach may be worthy of special note. In referring to Freudianism and behaviorism as distinct fields within the subject area of

psychology, Willard introduces the possibility that arguers' schools of thought or world-views determine the field in which their arguments reside. Of course, one might regard a world-view as being an integrated set of personal constructs consistently applied. Pepper's work on root metaphors (Pepper 1942) suggests that one's world-view affects argumentative choices in significant ways. This suggestion is borne out by Linder's historical research on the rhetoric of the American Revolution and the anti-war protest movements of the 1960s (Linder 1978, 1980). In each case she found that arguers who had the same basic conclusions defended them in quite different ways, arguing often from different presuppositions and interpreting data differently.

Defining fields in this manner seems appropriate for one particular type of research objective. It is well-suited to Willard's goal of investigating how people come to decide that they know something (Willard 1983). Since this purpose is descriptive and social psychological, it is sensible to define fields according to descriptive features of the social situation. Even such a seemingly broad statement as "A is in field X when he thinks he is" makes sense within the context of Willard's research program. What clouds the matter is either the grafting of this definition onto research purposes for which it is ill-suited, or the criticism of this definition on the grounds that it is unsuited for research purposes for which it never was intended. Here is a good example of how one's answer to the first question—the purpose for invoking the field concept—powerfully influences how one determines what field an argument is in.

(2d) Are argument fields determined by the shared purpose of the arguers? One might regard the arguers' purpose as one dimension of the situation and hence subsume this question under the immediately preceding one. But its implications are sufficiently different to warrant separate treatment.

Rowland (1981) makes a forceful plea that it is *purpose* which energizes the activity of arguing in the first place. Accordingly, two arguers are in the same field if they share a common purpose, and—probably because of the shared purpose—the arguments they produce will differ in important ways from arguments which derive from a different purpose. Presumably, purpose may be identified either explicitly by the arguers or implicitly in their discourse.

This view has much to recommend it, particularly since purpose (or motive) may well be the root term from which different conceptions of the situation, or different academic disciplines, derive. Rowland's case studies of the law and newspaper criticism do seem to bear out the utility of his approach. Moreover, it is an approach which potentially could serve each of the three objectives mentioned earlier. It could explain how arguments develop, it could explain and predict differences in the structural features of argument, and it could serve as the basis for critical evaluation by prompting the question, "Did the advocate argue appropriately in light of the purpose?"

Still, there are problems in regarding purpose as the defining characteristic of fields. Arguers have multiple purposes. Meaningful discussion does occur among people whose purposes are not only different but incompatible. (Sometimes these exchanges may be productive if either party can step outside his own conception of

purpose to imagine the other's. Sometimes they are futile, as in Willard's example of conversation in the dispute between the creationist and the evolutionist over the meaning of the Bible.) Arguers do not always *know* their purpose—much of everyday argument is produced spontaneously, even mindlessly. Even if an arguer knows his purpose, the analyst or critic may not, and hence may be unable confidently to classify the argument according to its field. Finally, for a critic who wishes to avoid the intentional fallacy, the arguer's purpose may not matter. Such a critic would focus on argument as discourse, a product of an interaction which has come to have a life of its own.

(2e) Are argument fields determined by the audience for argument? A final approach to characterizing argument fields is to distinguish them according to the composition of the appropriate audience to evaluate claims. This approach has its roots in any theory of knowledge which holds that *consensus* is a test for the soundness of claims; the question naturally follows, "consensus among whom?" Perelman and Olbrechts-Tyteca (1969) distinguish between the universal audience and particular audiences; presumably the field of argument would be determined by which type of audience was addressed.

Both McKerrow (1980b) and Goodnight (1982) have distinguished among audiences which arguments address. McKerrow identifies the social, philosophical, and personal as three distinct "communities" of argument, distinguished by the nature of the audience. To be sure, McKerrow does not offer his view as a *definition* of fields, but he employs the concept of "community" in an analogous way. It is the community who determines what norms are appropriate and what evaluative standards should prevail. In his critique of fields, Rowland (1981) identified some of the difficulties of attempting to equate fields with audiences in this manner. Such immense differences may be found among arguments addressed to the same community as to compel the conclusion that the common audience is an incidental rather than essential feature of the argumentation. Moreover, in genuine controversies often multiple audiences are addressed simultaneously. In such a case, it seems impossible to determine which audience's standards of validity or appropriateness should prevail.

Goodnight's (1982) view is somewhat different. Since he takes one of the purposes of the "field" concept to be providing grounds for the evaluation of argument, he maintains that to define a field is in effect to define the set of persons competent to evaluate the argument. If we are in the field of science, for example, only scientists ultimately are capable of judging the discourse. The distinction here is between *listener* and *judge*: scientific discourse may be addressed to virtually any audience, but only one audience is presumed competent to assess it. Hence, nonscientific objections to an argument in the field of science can be dismissed precisely on the grounds that they are not scientific. They do not address the special concerns of that audience which is ultimately competent to rule in the matter.

For Goodnight, the fact that arguments are addressed simultaneously to multiple audiences helps rather than hinders his claim. For he explores how, in just such ambiguous situations, one statement of who is competent to judge comes to prevail over another. How is it, for example, that nuclear accidents are seen as falling under

the rubric of technological rather than religious authority, or that abortion is a matter for decision by criminal law rather than medicine? There are interests involved in assignment of arguments to one field or another, and Goodnight attempts to show how the interplay of interests accounts for the growth and decay of entire realms of argument. Just as Schattschneider (1960) called attention to the interests involved in widening or narrowing the scope of a conflict, so Goodnight suggests the strategic interests involved in classifying an argument within one or another field. For him, as for McKerrow, fields designate audiences. If McKerrow focuses more on actual audiences, Goodnight is more concerned with the audiences to whom one attributes standards for evaluation.

   (2f) Are inferences from fields to characteristics reversible? There is an additional issue related to the way in which argument fields are defined; it concerns the relationship between a field and its properties. If we have defined and mapped fields correctly, then once we know we are in field X (or witnessing an argument from field X), we would know that the argument would have certain features different from those of an argument in field Y. But is the converse also true? If, for example, we hear someone make an assertion that sounds "legal," can we infer that the speaker is in the field of law? We used the concept of field to identify the features of an argument within it; can we use the features to identify the field?

   In a logical sense, the answer must be no, since the principle, "All As are Bs," does not imply its converse. One could assert that all legal arguments cite precedent cases without knowing that all arguments which cite precedent cases are legal. But in fact we make just this sort of "logically invalid" inference all the time. Perelman and Olbrechts-Tyteca (1969) describe the interaction between essence and accident. From repeated observations of an act's accidental features we form an impression of its essential nature, though that nature is not directly knowable. Then, from our impression of its essence we make predictions about the accidental features which might be subsequently displayed. The point is that there is an ongoing interaction between the view one has of a field and one's view of the characteristics displayed by arguments in the field. What prevents the reasoning process from circularity is the cumulation of cases. From an examination of the features of arguments 1, 2, 3, …, n, all of which are commonly recognized as belonging to field Z, we form a notion of the essential nature of X which we then use to predict the features of argument n + 1.

   The answer to this question is of special value to the critic. To determine what a speaker's statements mean and hence what their truth conditions are, one must locate the statements in a particular field.[2] From features of the argument the critic infers the field; from the nature of the field he or she predicts the appropriate validity standards or truth conditions. The question for the critic is whether, in any given argument, the features of one field are more prominent than the features of another. The concept of field, however, provides a principle according to which one can interpret ambiguous claims.

   In summary, the extant literature reveals considerable variation in how argument fields are defined. In part, this variation reflects diversity in the work which scholars

---

[2] Wenzel (1982) employs the terms "context" and "forum" instead of "field" for this sort of usage.

expect the "field" concept to do. However, variation in definition is at least partly independent of variation in purpose. Some of the approaches to definition either cross-cut various purposes for the concept of "field" or else are compatible with multiple purposes. Moreover, once one has defined a field, the relationship between a field's essential nature and its surface properties is complex and troublesome. One observes the features of arguments universally located within a given field, infers from those features what is the basic nature of the field, and then predicts—based on the assumed nature of the field—the characteristics of other arguments which may be taken to reside in the field. Through this sort of sign reasoning, the field concept enables a critic to determine what ambiguous statements mean and what are the appropriate grounds on which to test them.

7.4   The Development of Fields

The final question to be considered relates to the growth and decay of argument fields: *(3) How do fields develop?*

The importance of this question can be seen from the consequences of failure to answer it. As with "instincts" in psychology, the temptation is great to "invent" fields as it suits one's purpose to do so. Whenever an argument does not fully fit within existing categories—whether of subject matter, purpose, audience, or whatever—the eager researcher might proclaim the existence of a new argument field. This proliferation of fields, made all the more likely by the amorphous nature of the field concept itself, threatens to rob the idea of its significance. If every argumentative encounter has become its own field, then the concept has been trivialized. It no longer explains the genesis of arguments, except in a tautological way; and it thwarts the possibility of identifying argument structures or evaluating arguments in any way that transcends the details of the particular case. To avoid these pitfalls, we need an account of the growth and demise of fields against which we can check individual claims for the emergence or disappearance of fields. Toulmin (1972) offered such an account of how concepts change in *Human Understanding*; what is needed is a similar if less ambitious account of the rise and fall of fields. Several specific aspects of this question are explored here.

(3a) Do arguers create their own field? An affirmative answer to this question seems implied by the several variations of "constructivism." Kneupper (1981b), for instance, maintains that fields are formed by actors' creation and transformation of symbols. Willard (1980) believes that fields can be understood best as psychological constructs. Both writers appear to share the belief that fields are called into being by arguers in specific situations. What saves this approach from a vicious relativism is the assumption that, because arguers validate assumptions intersubjectively there is a finite range of situations and that types of situations recur. Still, this perspective on the evolution of fields is probably more useful in accounting for an argument's genesis than it is for the other possible purposes described above.

(3b) Are fields different from the public? Goodnight (1982) poses the possibility that fields, as specialized interests, stand in opposition to the public, a term which

refers to a general community interest. On this view, the way a field emerges is by an expert group's successfully defining a topic area or exigence as not the proper concern for the general public. The effect, Goodnight surmises, is to denude the concept of "the public" and to deprive individuals of responsibility for their collective choices. Hence, fields grow at the expense of the public. The motive for their growth is the desire by specialists to assume the power to decide about matters which affect or interest them. This desire can be rationalized with the claim that the public is incompetent. The attempt to see in economic or scientific issues matters which are technical rather than ideological, is an illustration of how separate argument fields emerge.

Goodnight's case is cogent, but it depends upon a particular stipulation: the belief that the personal, technical, and public are not only different spheres but wholly different orders of magnitude. On Goodnight's view, fields are subdivisions of the technical sphere. Whether an argument is assigned to one field or another is a matter of little consequence except to the technical experts themselves who are battling for the prerogative to control discussion of the issue. The crucial question is whether a dispute is assigned to the technical sphere *at all* or whether it is reserved for the public domain. If, however, one views public argument as *coequal* with any of the specific specialized fields—as Cox (1981) appears to do—the nature of the problem is somewhat different. Advocates for the public would be on an equal footing with advocates for any specific field and hence would not be at the disadvantage Goodnight's essay implies. His account of field origins would be attenuated since the contest to control the discussion would occur between one field and another rather than between *any* field and the more general "public."

(3c) How do time and historical experience influence the demarcation of argument fields? Several scholars have addressed the issue of how fields progress through time and are affected by experience. For example, Campbell's (1981) provocative analysis of historical epochs suggests that they constitute "new model[s] of ultimate explanation," subsuming earlier contexts of argument. And Goodnight (1982) draws upon the relationship among the personal, technical, and public spheres in order to explain how entire realms of argument may come to be lost, no longer representing live options for speakers or audiences. Farrell (1982) also addresses how a society's conception of knowledge is shaped by time. Central to all of these essays is the recognition that an argument field is shaped by a larger sense of chronology. If, for example, there are cycles in the emergence and disappearance of issues of a certain type, or cycles in the optimism or pessimism of a people, or any of the other varieties of historical cycles which have been theorized, these cycles will affect the constellation of argument fields. To cite but one example, in a time of economic expansion social welfare programs are advocated as economic investments, but in tight times the same arguments are assigned to the field of "charity."

Not just the passage of historical time, but experience more generally affects argument fields. An audience's notion of validity standards is affected by history. In surmising that fields differ in their assumptions about what is reasonable, I observed that reasonableness is dependent on history: "audiences are willing to make an inference confidently because the inferential pattern in the past has led to satisfactory

results far more often than not" (Zarefsky 1981, p. 88). The ways in which experience affects fields should be of particular interest to those whose research purposes are descriptive and sociological. A theory which grounds fields in the experience of social communities needs some account of what in their historical experience leads these communities to spawn significantly different approaches to the nature of argument.

(3d) Other than in their defining characteristics, how do fields differ? If our interest in argument fields is to have value beyond the taxonomic, identifying different fields must somehow make a difference. Having said, for example, that legal argument and scientific argument are discrete fields, we should be able to make sound predictions about how these differences would be manifest. Otherwise little has been gained from the "field" usage. If it were determined, say, that fields were defined by logical types and that they differed only in logical type, we might just as well abandon the "field" construct and say that *arguments* vary by logical type.

Two major answers have been offered to this question. One, represented by Toulmin et al. (1979), is that fields differ in the component parts of arguments or in their configuration. They maintain that the nature and pattern of data, warrants, claims, backing, and so on differ across the range of fields they examine. In like fashion, Klumpp (1981) has suggested that fields determine what types of data are even considered relevant to the support of a given claim. And Farrell's (1982) work involving the concept of "authority" implies the question of whether fields differ according to judgments of what constitutes authority. These and other differences in argument structure should be of special interest to researchers whose goal is to describe argument products as they are affected by fields.

The other major suggestion is that fields differ according to validity standards, or—put more broadly—how they answer the question of what makes an argument reasonable. A reasonable argument is one which most people would accept when they were exercising their critical judgment. This approach to the question assumes that each field has its own "standpoint of rationality" and that these standpoints represent the middle ground between formalism and vicious relativism. This possibility is implicit in Gronbeck's (1981) suggestion that the correctness of an argument depends on contextual validity standards and that these are determined by a socioculture. It is likewise implied by Fisher's (1981) contention that the nature of *reason* varies with genre. It is made explicit in my own hypothesis that fields will differ in the substantive underlying assumptions made about an argument and that these assumptions are a key determinant of an argument's reasonableness (Zarefsky 1981). The claim that public policy arguments are deemed reasonable if they appeal to both liberal and conservative presuppositions represents a beginning effort to delineate the ways in which standards for reasonableness are constrained by an argument field. This approach has been of primary interest to scholars seeking to use the field concept as a tool for the critical appraisal of arguments.

For researchers whose goal is to describe argumentative situations, less has been done to explicate the ways in which fields differ, perhaps because there is a strong tendency to regard "field" as synonymous with "situation," assert that fields exist in

the minds of the arguers, and then conclude that no two situations are exactly alike. Willard (1981a), however, has suggested that fields vary by the audiences for argument. Unlike McKerrow or Goodnight, Willard does not *define* fields by reference to audiences. Nevertheless, he suggests that it may be more productive to view fields as characterizations of audiences than of speakers, because the speaker's affiliation may be difficult to determine and because it is the audience as well as the speaker who bring predispositions and values to the argument. Certainly such a position is consistent with a view of fields as sociological categories, and it is compatible with much of what we know about audience analysis.

7.5   Conclusion

There is a certain temptation to throw up one's hands in the face of conceptual fuzziness and confusion, abandoning the troublesome concept altogether. But the "field" concept has useful purposes to serve. It is a potential aid to explaining what happens in argumentative encounters, to classifying argument products, and to deriving evaluative standards. To be sure, researchers on argument fields are not yet pursuing a coherent program. By identifying the different jobs that the "field" concept is expected to do and explicating some of the key questions in theory development, we may bring greater coherence to this work.

One value of the field concept is that it has forced argumentation scholars to re-examine their discipline's purposes and methods, and to see the relationship between a purpose or method and the sort of theory it produces. This disciplinary self-consciousness is not only valuable in its own right but essential to the integration of empirical and critical studies on which mature and robust theories of argumentation will depend.

References

Bitzer, L.F. 1968. The rhetorical situation. *Philosophy and Rhetoric* 1: 1–14.

Booth, W.C. 1974. *Modern dogma and the rhetoric of assent*. Notre Dame: University of Notre Dame Press.

Campbell, J.A. 1981. Historical reason: Field as consciousness. In *Dimensions of argument: Proceedings of the second summer conference on argumentation*, ed. G. Ziegelmueller and J. Rhodes, 101–113. Annandale: Speech Communication Association.

Cox, J.R. 1981. Investigating policy argument as a field. In *Dimensions of argument: Proceedings of the second summer conference on argumentation*, ed. G. Ziegelmueller and J. Rhodes, 126–142. Annandale: Speech Communication Association.

Farrell, T.B. 1982. Knowledge in time: Toward an extension of rhetorical form. In *Advances in argumentation theory and research*, ed. J.R. Cox and C.A. Willard, 123–153. Carbondale: Southern Illinois University Press.

Farrell, T.B., and G.T. Goodnight. 1981. Accidental rhetoric: Root metaphors of Three Mile Island. *Communication Monographs* 48: 271–300.

Fisher, W.R. 1981. Good reasons: Fields and genre. In *Dimensions of argument: Proceedings of the second summer conference on argumentation*, ed. G. Ziegelmueller and J. Rhodes, 114–125. Annandale: Speech Communication Association.

Goodnight, G.T. 1982. The personal, technical, and public spheres of argument: A speculative inquiry into the art of public deliberation. *Argument and Advocacy* 18: 214–227.

Gronbeck, B.E. 1981. Sociocultural notions of argument fields: A primer. In *Dimensions of argument: Proceedings of the second summer conference on argumentation*, ed. G. Ziegelmueller and J. Rhodes, 1–20. Annandale: Speech Communication Association.

Kline, M. 1972. *Mathematics in western culture*. Oxford: Oxford University Press.

Klumpp, J.F. 1981. A dramatistic approach to fields. In *Dimensions of argument: Proceedings of the second summer conference on argumentation*, ed. G. Ziegelmueller and J. Rhodes, 44–55. Annandale: Speech Communication Association.

Kneupper, C.W. 1981a. Argument: A social constructivist perspective. *Journal of the American Forensic Association* 17(Spring): 183–189.

Kneupper, C.W. 1981b. Argument fields: Some social constructivist observations. In *Dimensions of argument: Proceedings of the second summer conference on argumentation*, ed. G. Ziegelmueller and J. Rhodes, 80–87. Annandale: Speech Communication Association.

Linder, P.L. 1978. World-view and rhetoric: The ideological foundations of American revolutionary communication. M.A. thesis, Northwestern University.

Linder, P.L. 1980. World-view and rhetorical choice: The ideology and tactics of selected antiwar protest groups during the Vietnam era. Ph.D. dissertation, Northwestern University.

McKerrow, R.E. 1980a. On fields and rational enterprises: A reply to Willard. In *Proceedings of the [first] summer conference on argumentation*, ed. J. Rhodes and S. Newell, 401–413. Falls Church: Speech Communication Association.

McKerrow, R.E. 1980b. Argument communities: A quest for distinctions. In *Proceedings of the [first] summer conference on argumentation*, ed. J. Rhodes and S. Newell, 214–227. Falls Church: Speech Communication Association.

McKerrow, R.E. 1981. *Field theory: A necessary concept?* Paper presented at the convention of the Speech Communication Association, Anaheim, CA.

Pepper, S. 1942. *World hypotheses*. Berkeley: University of California Press.

Perelman, Ch., and L. Olbrechts-Tyteca. 1969. *The New Rhetoric: A Treatise on Argumentation*. Trans. J. Wilkinson and P. Weaver. Notre Dame: University of Notre Dame Press. (Originally published in French in 1958.)

Rowland, R.C. 1981. Argument fields. In *Dimensions of argument: Proceedings of the second summer conference on argumentation*, ed. G. Ziegelmueller and J. Rhodes, 56–79. Annandale: Speech Communication Association.

Schattschneider, E.E. 1960. *The semisovereign people*. New York: Holt, Rinehart, and Winston.

Toulmin, S. 1958. *The uses of argument*. Cambridge: Cambridge University Press.

Toulmin, S. 1972. *Human understanding: The collective use and evolution of concepts*. Princeton: Princeton University Press.

Toulmin, S., R.D. Rieke, and A. Janik. 1979. *An introduction to reasoning*. New York: Macmillan.

Van Heijenoort, J. 1967. Gödel's theorem. In *Encyclopedia of philosophy*, vol. 3, 348–357. New York: Macmillan.

Wenzel, J.W. 1982. On fields of argument as propositional systems. *Argumentation and Advocacy* 18: 204–213.

Willard, C.A. 1980. Some questions about Toulmin's view of argument fields. In *Proceedings of the [first] summer conference on argumentation*, ed. J. Rhodes and S. Newell, 348–400. Falls Church: Speech Communication Association.

Willard, C.A. 1981a. Field theory: A Cartesian meditation. In *Dimensions of argument: Proceedings of the second summer conference on argumentation*, ed. G. Ziegelmueller and J. Rhodes, 21–43. Annandale: Speech Communication Association.

Willard, C.A. 1981b. Argument fields and theories of logical types. *Argumentation and Advocacy* 17: 129–145.

Willard, C.A. 1981c. The status of the non-discursiveness thesis. *Argumentation and Advocacy* 17: 190–214.

Willard, C.A. 1983. *Argumentation and the social grounds of knowledge*. Tuscaloosa: University of Alabama Press.

Zarefsky, D. 1981. "Reasonableness" in public policy argument: Fields as institutions. In *Dimensions of argument: Proceedings of the second summer conference on argumentation*, ed. G. Ziegelmueller and J. Rhodes, 88–100. Annandale: Speech Communication Association.

Ziegelmueller, G., and J. Rhodes (eds.). 1981. *Dimensions of argument: Proceedings of the second summer conference on argumentation*. Annandale: Speech Communication Association.

Chapter 8
Strategic Maneuvering in Political Argumentation

Abstract Although political argumentation is not institutionalized in a formal sense, it does have recurrent patterns and characteristics. Its constraints include the absence of time limits, the lack of a clear terminus, heterogeneous audiences, and the assumption that access is open to all. These constraints make creative strategic maneuvering both possible and necessary. Among the common types of strategic maneuvering are changing the subject, modifying the relevant audience, appealing to liberal and conservative presumptions, reframing the argument, using condensation symbols, employing the locus of the irreparable, and argumentative use of figures and tropes. It is difficult to evaluate strategic maneuvering in political argumentation, however, because the activity types dictate wide latitude for the arguers, so there are few cases of unquestionable derailment.

This essay originally was published in the journal *Argumentation*, 22 (2008), 317–330, published by Springer. It is based on a presentation for a conference on strategic maneuvering in specific fields and contexts, held at the University of Amsterdam in the fall of 2007.

8.1 Introduction to Political Argumentation

On the face of it, it may seem strange to include political argumentation within the scope of institutionalized contexts. Normally we think of institutions as formal structures of decision-making, bound by accepted procedures, norms, and conventions that together define the parameters of acceptable discourse. Institutionalized contexts produce argument fields, subdivisions of the technical sphere of argument (Goodnight 1982), to which one is admitted by virtue of background, training, and expertise. Though not impermeable, there often is a clear distinction between participants and spectators.

But politics? Political argumentation is about gaining and using power, about collective decision-making for the public good, about mobilizing individuals in pursuit of common goals, about giving effective voice to shared hopes and fears. These are what the pragma-dialecticians would call its activity types. It is preeminently the discourse of the public sphere, to which access is in principle unrestricted and for which technical expertise is not the price of admission. Its discourse is unregulated and often free-form. It reflects not only general understandings of argumentation but also, even more powerfully, the particularities of a specific political culture. It undoubtedly depends upon strategic maneuvering, but it seems the very antithesis of an institutionalized context.

Yet political argumentation is neither random nor unpredictable. Across situations and even eras, one can find recurrences that help to define the genre and to establish its conventions. Though situated in particular contexts, it permits scholars to offer reflections that may transcend the details of any particular case. It is in this sense that we can speak of political argumentation as institutionalized. It is not that there are rules governing practice, but rather that from the accumulation of cases one can make generalizations *ex post facto*.

We also must identify a unit of analysis. For example, an argument between two friends or dialogue partners that happens to be about politics could be considered a case of political argumentation, but if so it is an unproblematic case. It would proceed according to the same principles of dialogue logic, such as pragma-dialectics for example, that would characterize any other informal interaction in which the parties recognize and seek to resolve their disagreement by examining their respective commitments in a framework of argumentation. The fact that the parties are discussing politics would not by itself change the nature of their situation or our understanding of it. More challenging for our purposes are the sorts of disagreements and predicaments that engage entire political units, societies, or cultures, and that are addressed either by representative bodies or by a loosely-structured and ongoing circulation and modification of ideas and standpoints. This larger and more open-ended sense of political argumentation will be my focus in what follows: a sketch of some of the characteristics of this sort of argumentation and then an examination of some of the approaches to strategic maneuvering it invites. My examples will come from the experience of the United States, but the underlying principles should be more generally applicable.

8.2   Characteristics of Political Argumentation

8.2.1   Lack of Time Limits

One feature of political argumentation is that it has no necessary time limits. Sometimes an artificial deadline will be imposed, as in the case of a political debate that is set for 90 min or a legislative deliberation with a time limit. But often this is not the case. Argumentation about the best way to provide and pay for health care,

for example, has been a feature of the U.S. political culture for almost 60 years, will again be featured in the 2008 election campaign, and probably will be contentious for some time thereafter.[1] Public controversy over whether the U.S. should pursue a relatively isolationist or relatively interventionist foreign policy has manifested itself, albeit in different guises, since the early days of the nation. And disagreements between advocates of liberalism and of communitarianism reach back to the classical age. These may fit the definition of "essentially contested" arguments (Kekes 1977): they involve competing dialectical visions, each of which gains meaning only in relation to the other. The natural trajectory of arguments can be very long, especially when a culture is in dialogue with itself.

Lengthy and indeterminate arguments in turn create difficulties for invention and selection of topics. Arguers must recognize the ongoing nature of a long conversation yet must not simply repeat the same claims and standpoints that have been advanced and perhaps answered by others, lest "the well of invention run dry" (Griffin 1952). Balancing the novel and the familiar is a constant challenge.

8.2.2   Lack of Clear Terminus

Another characteristic of political argumentation is that arguments often have no clear terminus: one cannot be sure that the argument is over. Of course, one can find cases in which, by common consent, a dispute is treated as settled. For example, the Japanese attack on Pearl Harbor in 1941 decisively answered the question of whether the United States should (or even could) remain apart from the war engulfing the world. The American Civil War settled the question of whether the republic could coexist with the "peculiar institution" of slavery. And the landslide victory of the Democratic party in 1964 settled the question of whether it was appropriate for the federal government to aid in the financing of education or to expand Social Security to include medical care for the elderly.

But these cases are uncommon. More often, political argumentation ends in a manner akin to Kuhn's account of paradigm shift (Kuhn 1970). A way of thinking is not decisively refuted but at some point people simply find it less useful than a competing perspective as a world-view or explanation of reality. So, for example, the assumption of monolithic communism was no longer a useful premise for argument after the Sino-Soviet split emerged during the 1960s, though different people "saw the light" and discarded the premise at different times. Similarly, arguments grounded in the assumption of a bipolar rivalry between superpowers who respectively embodied good and evil, fell out of fashion after the collapse of the Soviet Union—at least until rogue states and international terrorists replaced atheistic communism in the American national imaginary. But the prospects and possibilities for what the elder George Bush called the "new world order" were not

---

[1] This prediction from 2008 has proved to be correct. Nearly 4 years after the Affordable Care Act became law in 2010, it remains highly controversial.

self-evident to most and were embraced at different times by different people; there was no clear point at which the Cold War arguments were settled and post-Cold War argumentation began.

It is particularly risky to interpret election outcomes as ending political arguments and creating mandates for specific actions. American elections are mixtures of personality contests and choices about issues, and there almost always are multiple issues in play. It is a frequent occurrence, therefore, that individuals will vote for a candidate despite, rather than because of, that candidate's views on one or more issues. Yet victorious candidates have strong incentives to construe results as mandates, because doing so enhances their own credibility and creates momentum for action (Conley 2001). But the candidate who thinks that his or her election has ended an argument often is surprised to discover the contrary. Franklin D. Roosevelt misunderstood his landslide 1936 re-election as a mandate to press forward with the New Deal by taming the power of a recalcitrant Supreme Court, and George W. Bush misunderstood his close election in 2000 as a national decision to enact a conservative legislative agenda.

Sometimes arguments thought to be ended are only dormant. It seemed as though the dispute in the 1920s between modernists and fundamentalists resolved the question of the place of religion in politics, but this controversy has reappeared with force in the past 25 years. Even court decisions that are intended to settle a controversy may turn out instead to reignite it. This is certainly true with respect to the U.S. Supreme Court's 1857 decision in the *Dred Scott* case, which some hoped would settle all outstanding issues regarding slavery. And it was true of the 1973 decision in *Roe v. Wade*, which some thought would end public disagreement about abortion.

The implication of this lack of temporal boundaries is that it is very difficult to know which of the pragma-dialectician's four stages the argument is in. Different arguers, in fact, may be at different stages of the same argument. One may be identifying a difference in standpoints, another trying to resolve it, and another trying to argue it out, all at the same time. Not only is the argument messy, but it is very hard to know what sort of norms and requirements ought to govern the dispute.

8.2.3   *Heterogeneous Audience*

Additionally, the audience for political argumentation is heterogeneous. After all, it arises in situations of dissensus—if people all held to similar standpoints, there would be little need to argue. As a consequence, though, the arguer will have a difficult time attributing any specific commitments to the audience as a whole, so it is a risky matter to relate one's own statements to the audience's prior commitments. If one were to imagine the audience as simulating the antagonist in a dialogue, then one would have to say that the antagonist is schizophrenic or has multiple personalities. Yet the arguer often tries to appeal to these multiple personalities at the same time.

The best one can do is to assume that the audience will share general understandings and beliefs that characterize a political culture—what Farrell called social knowledge (Farrell 1976). This knowledge consists largely of core values and norms. In the contemporary United States, for instance, the following statements would be regarded as examples of social knowledge: (1) The market mechanism generally works. (2) We all want what is best for our children. (3) A higher power guides our destiny. An arguer usually would not go wrong in assuming that his or her listeners held these beliefs. The task would be to develop arguments that recognize and build upon these commitments.

Not only that, but any audience member may hold inconsistent elements of social knowledge at the same time. For example, a listener may believe both that government spending is wasteful and that no specific government program should be cut, or both that needy people deserve help and that public welfare encourages laziness and sloth, or both that we must defer to the sovereignty of other nations and that we must take whatever unilateral measures are necessary to stop terrorism. The arguer must calibrate his or her appeals carefully, in order to respond to audience members' concerns without so strongly identifying with them as to inspire opposition from those who would identify more strongly with competing values or norms.

Among the community's social knowledge are simplified theories of attribution and motivation. For example, people often are more likely to attribute success to their own efforts and failure to efforts beyond their control, rather than the reverse. As a result, they may skew their judgments of causality. Because Ronald Reagan was U.S. President when the Cold War wound down, his efforts are assumed to be a large part of the cause. Similarly, because Bill Clinton was President at a time of record economic growth, that record is attributed by many to his economic policies. Or because there have been no terrorist attacks on the United States since September 11, 2001, supporters of President Bush credit his anti-terrorism policies with keeping the nation safe. This view of social knowledge promotes the use of the *post hoc* fallacy: after this, therefore because of it. This in turn constrains what the arguers are able to claim. Challenging popular beliefs about the locus of praise or blame must be undertaken delicately.

Similarly, people carry around naïve theories of motivation. Uncomfortable with randomness or uncertainty, they assume that things happen because someone intends for them to. When what happens is unfortunate or harmful, many people have no difficulty in assuming that conspiratorial forces are at play. Why did mainland China "go communist" in the 1940s when the United States was the world's most powerful nation? For many, the answer was that subversives in the U.S. contrived a plot to betray their own country. Why was the United States attacked on September 11, 2001? For many, the answer was that it was the unfolding of a design by unnamed Islamic radicals to wage war on Western liberties and freedom. It is easy to see how those holding this view would be unconvinced to view the terrorist attacks as anything other than an act of war requiring a full military response.

8.2.4   Open Access

The fact that political argumentation is open to all also creates constraints. Less sophisticated arguers cannot be expected to use technical terms accurately or to say exactly what they mean. More sophisticated arguers may find that their understanding of a standpoint is not shared by other participants or spectators. As a result, extensive reconstruction of an argument may be needed before the parties all understand exactly what is at issue or before the argument can be appraised. A famous example occurred during the second U.S. Presidential debate of 1992. The "Town Hall" format featured citizen questioners rather than journalists or politicians. One questioner asked the candidates how the national debt had affected them personally. Although "national debt" has a precise meaning as an accounting term, it seems evident from the context of the exchange that the questioner really was referring to the recent recession. Ross Perot and Bill Clinton understood this, "translated" the term into a reconstructed question focusing on the recession rather than the debt, and then answered what they thought the questioner really meant to ask. President George Bush, acknowledging that he did not "get" the question, offered an ineffectual response. Not only did his answer suggest that he misunderstood the question, but it also supported the inference that he really did not understand the economic plight of many Americans—that he clearly was "out of touch" with their needs.

8.2.5   Summary

These, then, are some of the institutional conventions that shape political argumentation: no temporal limits, no way to be sure that the argument is over, heterogeneous audiences holding inconsistent standpoints, naïve theories of attribution and motivation, and of course the assumption that access to argumentation is open to all, which makes it necessary often for argument to be reconstructed.

These constraints not only create opportunities for strategic maneuvering; they make it essential if political argumentation is to have a constructive result. At the same time, it is harder in political argumentation than in other institutionalized contexts to identify fallacious arguments, because derailments of strategic maneuvering are in the eye of the beholder and are easily influenced by one's particular political beliefs and commitments. Recognizing the activity types in political argumentation, one must give the arguers significant latitude before judging them harshly.

8.3   Means of Strategic Maneuvering

In their treatise on the subject, van Eemeren and Houtlosser (2002) suggest three broad categories of strategic maneuvering: (1) topical potential, the selection of what lines of argument to use; (2) audience demand, the adaptation of one's argument to

the beliefs and commitments of the audience; and (3) presentational choice, referring to matters of style, structure, clarity, literalness or figurativeness, and so on. Rather than strictly following these categories, I identify types of strategic maneuvering in political argument that might fall under one or more of these headings.

8.3.1   Changing the Subject

One very obvious exercise in strategic maneuvering is to change the subject. There are many different controversies in the public sphere at any one time. If a potentially damaging topic has emerged, it may be possible to redirect attention to a topic more favorable to one's own interest. Candidates for office as well as incumbent office-holders do this often. Concerned that the perception of a stalemate in Iraq might dominate the public forum in 2006, President Bush tried instead to focus on the health of the economy. President Clinton sought to do the same in 1998 in the face of accusations about his personal misconduct.

8.3.2   Modifying the Relevant Audience

A second type of strategic maneuvering is to change the scope of the relevant audience, reflecting Schattschneider's (1960) dictum that the party who can successfully define the scope of an argument has the best chance to win the argument. If defense policy is seen as a matter of counting missiles and estimating their throw-weight, then only defense specialists will pay much attention. But if it is seen as both a moral issue and a competition for scarce fiscal resources, then it is a matter of more general concern and others come into the fray. Schattschneider theorizes that the would-be loser has an incentive to alter the scope of the conflict, changing the balance between supporters and opponents.

So, for example, when President Kennedy declared in a 1962 speech at Yale University that economic policy no longer raised broad questions of right and wrong but involved the practical management of a complex economy, he was trying to remove the issue from the realm of political argument and to reassign it to the technical sphere where only the experts need worry about it. This was to his strategic advantage because most of the public during the early 1960s believed that budget deficits were wrong in principle. Since Kennedy was championing Keynesian economics, including the planned use of deficit spending as a means of economic stimulus, his position would be enhanced if he could effectively remove most of the general public from his audience. Conversely, when former Vice President Al Gore and others were stymied by their difficulty in advancing the case to control global warming at a time when the science seemed inconclusive, they refocused the problem as a moral issue regarding our stewardship of the earth and our responsibilities toward future generations. These were matters that engaged a broad swath of the public and, as expected, they brought far more people into the fray and shifted the balance of opposing forces.

8.3.3   *Appealing to Liberal and Conservative Presumptions*

Another kind of strategic maneuvering is to construct arguments that appeal to both
the liberal and the conservative presumption (Goodnight 1980). In a society without
fundamental ideological differences, people are likely to share elements of both liberal
and conservative world-views. This is true even when the society is politically polarized
as in the example of the contemporary United States. People may be fiscally conservative
but socially liberal, for example. Or they embrace the future while feeling nostalgia
for the past. Or they favor government intervention in the economy but not in the
private relationships between consenting adults. Arguers can enhance their chances of
success by strategically combining elements of the liberal and the conservative
presumption. For example, change can be presented not as a radical new departure but
as a restoration of past conditions that have been lost. Both Woodrow Wilson and
Franklin Roosevelt advocated a strong, activist government not as a move toward a
welfare state but as a way to counteract the power of big business and to return to the
equilibrium that had marked the society of yeoman farmers, local merchants, and
owners of small business. Or arguers might justify the expansion of government
programs to aid education and health care by arguing, as Lyndon Johnson did, that
they will make people more self-reliant and economically productive so that the
government will gain more tax revenues and reduce its expenditures in the long run.

8.3.4   *Reframing the Argument*

A fourth kind of strategic maneuvering involves deciding how to *frame* a given argu-
ment. Since social reality is jointly constructed rather than "given" in advance, a set of
factual circumstances can be understood in very different ways, depending on the
frame of reference in which they are cast. The loss of jobs to other nations can be
framed as a threat to the domestic economy or as proof of the economic theory of com-
parative advantage. The withdrawal of troops from Iraq can be framed as evidence of
the failure of President Bush's "surge" strategy or as proof of its success. The principal
means of strategic maneuvering for this purpose is the persuasive definition, and prob-
ably the principal means of engaging in persuasive definition is the process Perelman
and Olbrechts-Tyteca (1958/1969) label dissociation. I have spoken and written about
these topics elsewhere (Zarefsky 2006, reprinted in this volume) and will resist the
temptation to repeat myself here, except to note that when these devices reframe an
argument, it is easy to see how they are elements of strategic maneuvering.

8.3.5   *Using Condensation Symbols*

To accommodate the diversity of their audiences, political arguers often employ
"condensation symbols" (Sapir 1934)—visual or verbal symbols that "condense" a
range of different meanings into a generally positive or negative connotation. People

will share the same reaction to the symbol although they may do so for very different reasons. A national flag is an obvious condensation symbol. Except when it is used ironically, people can be expected to respond to it positively, even though the specific meanings it triggers will be variable: patriotism, identification with sacrifice, nostalgic identification with the past, pride, consciousness of citizenship, and so on. Similarly, well-crafted verbal phrases such as "strengthening the national security," "investing in the future," and "health care that's always there" can attract adherence from people who actually support diametrically opposite policies. A coalition of supporters can be built from among those who intend very different policies but who employ the same symbols. Rather than confronting potential critics directly, this approach seeks to disarm them pre-emptively, converting them to supporters by bringing them within the ambit of one's own symbolic resources.

8.3.6   Employing the Locus of the Irreparable

Another characteristic of diverse audiences is that some members will be ready to take action, others may be opposed, and a still larger number will be uncommitted. Included among this larger category are people who are interested in an arguer's topic and standpoint but who are not ready to take action committing themselves to it. For this group, the arguer may rely upon what Perelman and Olbrechts-Tyteca (1958/1969) call the locus of the irreparable. It is a standard pattern in which an arguer claims that if we do not act now, the moment will be lost. In the late 1990s, for example, President Clinton suggested that unless the U.S. took advantage of budget surpluses to solve the coming fiscal crisis of Social Security, it would lose the opportunity to do so in a way that was both economically and politically viable. Political argumentation, in part, is about bringing dormant beliefs and values to the surface in a way that impels listeners to act.

8.3.7   Using Figures and Tropes Argumentatively

The final means of strategic maneuvering I will mention involves the argumentative use of what usually are regarded purely as figures of speech and literary devices. Perelman and Olbrechts-Tyteca (1958/1969) have shown how these have argumentative effect by heightening or weakening an argument's presence, clarifying choice, and increasing or decreasing a sense of communion among arguers and audiences. Many of these devices are used in political argumentation—repetition to create momentum, alliteration to create memorable phrases, antithesis to suggest open-mindedness and the ability to see both sides, the locus of the irreparable to create a sense of urgency, and so on. I want particularly to highlight the use of analogies, especially historical analogies. Both Presidents Bush gained traction for their Iraq policies by portraying Saddam Hussein as analogous to Adolf Hitler,

whereas opponents of the war referred to Iraq as "another Vietnam," hoping to evoke the sense of frustration with a quagmire that characterized the earlier war. Countless political candidates who were trailing in the polls have sought to reassure their supporters by reference to the amazing comeback by Harry Truman in the 1948 Presidential election. The power of the historical analogy lies not just in the suggestion of similarity but in the belief that current events are re-enacting those of an earlier time. Knowing how the earlier events came out imbues the current events with a teleological dimension: we know how they will come out too. This conviction gives arguers both inspiration and confidence that they are on the right path. So, for example, President Bush can express confidence that terrorists ultimately will fail, because they are following in the same path as earlier forms of totalitarianism. Similarly, opponents of abortion express confidence that their cause ultimately will prevail, because they see the U.S. Supreme Court's decision in *Roe v. Wade* as analogous to the infamous *Dred Scott* decision defending slavery, a decision that ultimately was repudiated in the eyes of history.

These examples of strategic maneuvering are not meant to be exhaustive but to suggest possibilities. Changing the subject, changing the scope of the relevant audience, appealing to both liberal and conservative presumptions, framing of an argument, use of condensation symbols, invoking the locus of the irreparable, and argumentative use of historical analogies, are all means by which political arguers seek not only to resolve a dispute but to resolve it in their favor. To different degrees, they illustrate the three categories of strategic maneuvering set forth by van Eemeren and Houtlosser: topical potential, audience demand, and presentational choice.

8.4   A Case Study

So far I have suggested some of the constraints facing political arguers and some of the devices of strategic maneuvering with which they respond to the constraints. It might be useful to see some of these approaches at work in the context of a specific case. For this purpose I have selected an excerpt from one of the Kennedy-Nixon Presidential debates of 1960 (Kraus 1962, pp. 401–403). This example is mundane—not eloquent, not especially memorable, but a good case of ordinary political argumentation. It also reveals at least the semblance of a developed argument, not just a series of disconnected sound bites. And it is a *more* structured argument than are many cases of political argumentation (See Appendix).

On the surface the argument is straightforward. The moderator reports that Vice President Nixon has alleged that the Democratic platform is significantly more expensive than that of the Republicans; he invites Senator Kennedy to respond to this allegation. In effect, Nixon is the protagonist in the argument and Kennedy is the antagonist. But interestingly, Kennedy's answer never responds directly to the exact question he was asked. He begins by asserting that the Democrats propose a balanced budget. He then offers specific examples of Democratic programs that are *less* expensive than those of the Republicans, while also acknowledging that there

are some areas where he would spend more. He suggests that lowering interest rates would save the government money, offsetting the new spending he has proposed. Moving the cost of medical care for the elderly to Social Security rather than the general budget would do the same. Finally, he accuses Nixon of mis-stating the figures in his statements about program costs. In all of these statements, Kennedy never responds to the original allegation that the Democratic platform costs more than does the Republican version.

But Kennedy's response is not so clearly irrelevant to the question. It appears that he has reconstructed the argument. He imagines the argument as part of a larger dialogue, to which his answer is dialectically relevant (Walton 2006). Kennedy appears to infer that the real question is not the one that was stated, but instead is something like, "Are the Democrats fiscally responsible?" He is responding to the imagined allegation, which was in wide circulation at the time, that Democrats could not be trusted to manage the federal budget or the national economy. Kennedy's support for a balanced budget, for example, neither affirms nor denies that the Democratic platform is more expensive; it indicates instead that he has a way to pay for it without adding to the budget deficit or fueling inflation. He seems to be reasoning that the real question on the voters' minds is not how much he will spend *per se* but whether he will have the budget under control. Although he does not directly answer the question posed by the moderator, he does answer the question believed to be on the minds of his larger audience.

Similarly, Kennedy's claims that lowering interest rates will reduce the need for government spending and that taking medical care for the aged off the federal budget would do the same, are not responsive to the question of whether his programs cost more, but they *are* responsive to implicit claims that Democrats do not understand how monetary and fiscal policies have second-order effects or that the management of the budget is a complex exercise. His answer also implies, without directly stating, that the true cost of a platform cannot be determined just by adding up first-order costs; the secondary and tertiary effects of the platform must also be considered. By arguing in this way, he also conveys the message that he understands better than Nixon what is involved in managing a complex economy. This is significant because one of the Republicans' main themes in the campaign was that Kennedy lacked the experience and judgment needed to perform well in the office. Without directly addressing *that* question (at least in this part of the text), he nonetheless responds to it in the course of answering another, unstated standpoint. Kennedy's credibility is enhanced by his pointing out that Nixon has mis-stated his figures. The ostensibly inexperienced candidate has it right and the savvy incumbent Vice President got it wrong.

What are we to say of Kennedy's response? Is it a "derailment" of strategic maneuvering or simply a mundane example of the institutionalized nature of political argumentation? If one assumes that this is a dialogue between Kennedy and the moderator, then these moves on Kennedy's part are dialectically fallacious. But if one assumes that there is a much larger audience and that the activity types of political argumentation dictate wide latitude for the arguers, then the argument critic should be correspondingly charitable in evaluating their strategic maneuvering.

I tend toward the latter point of view. The constraints on political argumentation require that the advocates have broad latitude to reconstruct the argument in order both to resolve the dispute and to resolve it in their favor. This case is evidence of the messiness of political argumentation, in which what is said may not be what is meant, and in which what is said may not permit the arguer to advance his or her own ground.

Nixon's rejoinder to Kennedy's response is neither fish nor fowl. He does not return to his original standpoint (as presented by the moderator) that the Democrats' plan is more expensive. Nor does he answer Kennedy's implicit argument that the Democrats are just as fiscally responsible as is he. Rather, almost in hit-and-miss fashion, he selectively answers charges that Kennedy had made, moving the debate along the lines that Kennedy had established rather than playing to his own presumed strength. He promises that he will issue a statement showing that his figures were correct. He then challenges some of Kennedy's answers as reflecting financial sleight-of-hand. Removing medical care for the aged from the operating budget will save money for the operating budget, but this will be offset by placing it under Social Security, which itself requires a tax. This is a useful exercise because Nixon is trying, apparently, to undermine Kennedy's credibility while re-establishing his own. Both Nixon and Kennedy are using this mundane exchange about the budget in order to speak to a question that was pre-eminent in voters' minds although not stated explicitly here: the character of each candidate. This is a generalized issue transcending any of the specific policy questions. Yet character seldom can be addressed directly because questions are answered with platitudes. Character is revealed in the way that the candidates discuss other issues. (One thinks of Nixon's later statement, "I am not a crook," in the context of the Watergate burglary, as an example of an explicit character defense that backfires.)

Nixon then refers to the specific example of agriculture, one of the policy areas where Kennedy had said he would spend less. Nixon does not challenge the accuracy of the claim; rather, he changes the subject by introducing a new standpoint: that Kennedy's farm policy is a bad policy. This is an attempt to reframe the discussion. Although it violates the relevance rule, as does much of Kennedy's strategic maneuvering, Nixon's tactic here is not a derailment *per se*. The real problem is that it is not likely to have been as effective as Kennedy's own reconstruction because, for many, farm policy was not a burning issue and those for whom it was most salient likely were already inclined to support Nixon. The Vice President attempted to reframe the issue, but it did not work to his advantage.

Finally, Nixon asserts (without argument or explanation) that a change in the interest rate will produce inflation and that it is unwise for that reason. This is somewhat similar to Nixon's earlier response on Social Security. It suggests that he, not his challenger, understands the complexities and interrelationships of the economy. He also is able to refer to inflation almost as a condensation symbol and then to attack Kennedy as either misguided, deceptive, or naïve. Given his purposes and the activity type in which he was engaged, this too is an acceptable use of strategic maneuvering. Because it is not pursued, however, it is not as effective as what Kennedy has done.

8.5   Conclusion

In short, this example underscores that strategic maneuvering in political argument is widespread. It also points to some of the difficulties in evaluating the acceptability of strategic maneuvering by reference to the rules for a critical discussion. In a normative sense, political argumentation shares *some* of the characteristics of a critical discussion, but it is shaped largely by the constraints of a sphere of argument that is open to all without preconditions regarding training, expertise, or prior commitments. These circumstances require that the argument critic give wide latitude to the participants and be charitable in understanding what they are trying to do. If one keeps that advice in mind, political argumentation provides rich material for studying the possibilities and pitfalls of strategic maneuvering.

Appendix

Kennedy-Nixon Debate Excerpt

From the third Kennedy-Nixon Presidential Debate, October 13, 1960

MR. SHADEL [Bill Shadel, ABC News]: The next question is by Mr. Cater for Senator Kennedy.

MR. CATER [Douglass Cater, *Reporter* Magazine]: Uh – Mr. Kennedy, uh – Senator – uh – Vice President Nixon says that he has costed the two party platforms and that yours would run at least ten billion dollars a year more than his. You have denied his figures. He has called on you to supply your figures. Would you do that?

MR. KENNEDY: Yes, I have stated in both uh – debates and state again that I believe in a balanced budget and have supported that concept during my fourteen years in the Congress. The only two times when an unbalanced budget is warranted would be during a serious recession – and we had that in fifty-eight in an unbalanced budget of twelve billion dollars – or a national emergency where there should be large expenditures for national defense, which we had during World War II and uh – during part of the Korean War. On the question of the cost of our budget, I have stated that it's my best judgment that our agricultural program will cost a billion and a half, possibly two billion dollars less than the present agricultural program. My judgment is that the program the Vice President put forward, which is an extension of Mr. Benson's [Ezra Taft Benson, Eisenhower's Secretary of Agriculture] program, will cost a billion dollars more than the present program, which costs about six billion dollars a year, the most expensive in history. We've spent more money on agriculture in the last eight years than the hundred years of the Agricultural Department before that. Secondly, I believe that the high interest-rate policy that this Administration has followed has added about three billion dollars a year to interest on the debt – merely funding the debt – which is a burden

on the taxpayers. I would hope, under a different monetary policy, that it would be possible to reduce that interest-rate burden, at least a billion dollars. Third, I think it's possible to . . . gain seven hundred million to a billion dollars through tax changes which I believe would close up loof – loopholes on dividend withholding, on expense accounts. Fourthly, I have suggested that the medical care for the aged – and the bill which the Congress now has passed and the President signed if fully implemented would cost a billion dollars on the Treasury – out of Treasury funds and a billion dollars by the states – the proposal that I have would be financed under the Social Security taxes; which is less than three cents a day per person for medical care, doctors' bills, nurses, hospitals when they retire. It is actuarially sound. So in my judgment we would spend more money in this Administration on aid to education, we'd spend more money on housing, we'd spend more money and I hope more wisely on defense than this administration has. But I believe that the next Administration should work for a balanced budget, and that would be my intention. Mr. Nixon misstates my Figures constantly, which uh – is of course his right, but the fact of the matter is: Here is where I stand and I just want to have it on the public record.

MR. SHADEL: Mr. Vice President?

MR. NIXON: Senator Kennedy has indicated on several occasions in this program tonight that I have been misstating his record and his figures. I will issue a white paper after this broadcast, quoting exactly what he has said on compulsory arbitration, for example, and the record will show that I have been correct. Now as far as his figures are concerned here tonight, he again is engaging in this, what I would call, mirror game of "here it is and here it isn't." Uh – On the one hand, for example, he suggests that as far as his medical care program is concerned that that really isn't a problem because it's from Social Security. But Social Security is a tax. The people pay it. It comes right out of your paycheck. This doesn't mean that the people aren't going to be paying the bill. He also indicates as far as his agricultural program is concerned that he feels it will cost less than ours. Well, all that I can suggest is that all the experts who have studied the program indicate that it is the most fantastic program, the worst program, insofar as its effect on the farmers, that the – America has ever had foisted upon it in an election year or any other time. And I would also point out that Senator Kennedy left out a part of the cost of that program – a twenty-five percent rise in food prices that people would have to pay. Now we are going to have that when it isn't going to help the farmers? I don't think we should have that kind of a program. Then he goes on to say that he's going to change the interest-rate situation and we're going to get some money that way. Well, what he is saying there in effect, we're going to have inflation. We're going to go right back to what we had under Mr. Truman when he had political control of the Federal Reserve Board. I don't believe we ought to pay our bills through inflation, through a phony interest rate.

References

Conley, P.H. 2001. *Presidential mandates: How elections shape the national agenda*. Chicago: University of Chicago Press.

Farrell, T.B. 1976. Knowledge, consensus, and rhetorical theory. *Quarterly Journal of Speech* 62(1): 1–14.

Goodnight, G.T. 1980. The liberal and the conservative presumption. In *Proceedings of the [first] summer conference on argumentation*. Falls Church: Speech Communication Association.

Goodnight, G.T. 1982. The personal, technical, and public spheres of argument: A speculative inquiry into the art of public deliberation. *Argumentation and Advocacy* 18(4): 214–227.

Griffin, L.M. 1952. The rhetoric of historical movements. *Quarterly Journal of Speech* 38(2): 184–188.

Kekes, J. 1977. Essentially contested concepts: A reconsideration. *Philosophy and Rhetoric* 10(2): 71–89.

Kraus, S. (ed.). 1962/1977. *The great debates*. Bloomington: Indiana University Press.

Kuhn, T.S. 1970. *The structure of scientific revolutions*, 2nd ed. Chicago: University of Chicago Press.

Perelman, Ch., and L. Olbrechts-Tyteca. 1969. *The New Rhetoric: A Treatise on Argumentation*. Trans. J. Wilkinson and P. Weaver. Notre Dame: University of Notre Dame Press. (Originally published in French in 1958.)

Sapir, E. 1934. Symbolism. In *Encyclopaedia of the social sciences*, ed. E.R.A. Seligman. New York: Macmillan.

Schattschneider, E.E. 1960. *The semisovereign people: A realist's view of democracy in America*. New York: Holt, Rinehart, and Winston.

van Eemeren, F.H., and P. Houtlosser. 2002. *Dialectic and rhetoric: The warp and woof of argumentation analysis*. Dordrecht: Kluwer.

Walton, D. 2006. *Fundamentals of critical argumentation*. New York: Cambridge University Press.

Zarefsky, D. 2006. Strategic maneuvering through persuasive definitions: Implications for dialectic and rhetoric. *Argumentation* 20(4): 399–416. (Reprinted in this volume, Chap. 11.)

Chapter 9
Taking the Jurisprudential Analogy Seriously

Abstract Both Stephen Toulmin and Chaim Perelman described argumentation as analogous to reasoning in law and jurisprudence, in which judgment rather than demonstration is called for and the exercise is one of justification rather than proof. This essay reviews the critiques of formal reason each theorist offers and their different bases for coming to law as the model for argumentation—jurisprudential procedure in Toulmin's case and the rule of justice in Perelman's. It then considers how the theory and practice of argumentation would be affected if this analogy were taken as the starting point for theory construction rather than just as a general orientation for the field.

The theme of this year's conference is "Argumentation, the Law, and Justice." Legal argumentation is a distinct field of argument with its own conventions regarding such matters as burden of proof, standards of evidence, and identification of issues. It involves the study of argumentation in which lawyers and judges engage, and its materials range from courtroom advocacy to jury deliberations and from legal briefs to the texts of judicial decisions. Its scope is vast, extending from local and municipal law to international law, from individual case studies to comparative legal systems, and from empirical examination to philosophical speculation.

It is also the case, however, that the law can be understood as a frame of reference, a model, perhaps a metaphor, for argumentation in general. This point of view—sometimes referred to as the jurisprudential analogy—is invoked especially to

distinguish practical argumentation from systems of formal reasoning. The analogy is featured prominently in two works whose 50th anniversary we celebrate this year[1]—Toulmin's *The Uses of Argument* (1958) and the French edition of Perelman and Olbrechts-Tyteca's *The New Rhetoric* (1958/1969). By reviewing their work, we can understand the concept as a framework for general argumentation.

9.1 Toulmin and the Jurisprudential Analogy

Toulmin's book was the sequel to his 1950 work, *The Place of Reason in Ethics*. In the earlier work, he focused on the inability of formal deductive logic to account for ethical issues. This circumstance he regarded as a defect of formal logical systems. *The Uses of Argument* broadened the inquiry, addressing itself to problems that result "when one withdraws oneself for a moment from the technical refinements of [logic], and inquires what bearing the science and its discoveries have on anything outside itself" (Toulmin 1958, p. 1). Although Aristotle had intended that logic be concerned with the way conclusions are established, over the centuries it had developed in a different way, so that by the mid-twentieth century it could be seen as "neither an exploratory science nor a technology, but rather pure mathematics" (Toulmin 1958, p. 4). Logic depended for its validation on nothing outside itself, only on the coherence of its internal structure.

What was missing from formal logic, Toulmin believed, was the exercise of judgment—the activity of people who decide that a claim is justified, and hence worthy of their acceptance, on the basis of the grounds offered for it. Toulmin embodied this exercise of judgment in the Warrant, and he described its function as legitimizing the inference from Grounds to Claim. In other words, what authorized the inference in reasoning was not any formal properties of a logical system but the judgment of people. The concept of the Warrant, rather than the graphic model that composition and public speaking teachers found so useful, was in my view the most important part of Toulmin's system. It enabled him to distinguish between "working logic" and "idealised logic" and to deny that the latter was the model for the former.

In attempting to describe the nature of everyday reasoning, Toulmin turned to the example of law. He regards logic as "generalized jurisprudence" and suggests that arguments are similar to lawsuits; claims in extralegal contexts are similar to claims made in courts (Toulmin 1958, p. 7). He proceeds to suggest several points of comparison. First, jurisprudence characterizes procedures and categories, which are the essentials of the legal system; similarly, argumentation characterizes the procedures by which claims-in-general are argued for and settled, and the categories in which such claims can be placed (Toulmin 1958, p. 7). Second, jurisprudence is about evaluating a case not in the abstract but in comparison to another case. Likewise, general arguments are assessed in large part on their ability to stand up to criticism

---

[1] This paper originally was presented in 2008. The chronological references were preserved in this version.

(Toulmin 1958, p. 8) rather than on any intrinsic features. Third, law distinguishes between field-invariant and field-dependent elements. In Toulmin's example, broad phases of legal proceedings (such as proffering a claim, evidence, and judgment) are field-invariant; they apply regardless of the subject or the nature of the case. Other elements, such as the sources of evidence or the stipulated meaning of certain terms, will vary with the nature of the case. Just so, general argumentation will have field-invariant and field-dependent elements: the expectations that one establish the existence of a problem before putting forward solutions is field-invariant, whereas the specific evidence one selects will be field-dependent (Toulmin 1958, pp. 16–17).

Fourth, "certain fundamental procedures are taken for granted" both in deciding questions of law and in assessing the soundness of general arguments (Toulmin 1958, p. 42). These might include, for example, the assumption that one must advance and defend a claim before one's adversary is required to doubt or deny it, or the assumption that those who advance claims sincerely believe the statements that they make. Violations of these procedural assumptions by themselves would call the argument into question. In both law and general argument, then, procedural correctness rather than formal validity is the criterion of argumentative soundness. Fifth, rebuttals in the Toulmin model are similar to the legal concept of defeasibility (Toulmin 1958, p. 142), suggesting that in both cases the materials of argument are presumptions rather than truths. Inferences and claims can be accepted as provisionally correct even while we acknowledge that they are not "beyond the shadow of a doubt." They will be set aside when good reason is provided to doubt them. There undoubtedly are other points of similarity between law and general argumentation, but these will suffice for the present.

As much as the jurisprudential analogy is discussed in his work—Toulmin claims that its authority is what makes his model more complex than the syllogism (Toulmin 1958, p. 96)—it has not received careful attention in the scholarship on his theory of argumentation. Scholars have been preoccupied instead with the structure and utility of the Toulmin model and perhaps with the philosophical reasoning underlying the model. Taking the jurisprudential analogy seriously would entail several basic commitments about the nature of argumentation—commitments which many theorists hold implicitly but which usually are not developed explicitly.

First among these commitments is that argumentation takes place with regard to matters that are uncertain and hence cannot be established conclusively. We substitute common sense and the product of our experience for formal standards of correctness. We believe that these standards are generally reliable but we know they are fallible, and that is why we regard the products of our reasoning as presumptive and defeasible rather than certain. Second, argumentation is inherently dialectical in character.[2] Our claims and inferences can be assessed only in the context of challenges that an interlocutor may raise against them (see Johnson 2000). Even a monologue or an essay is developed with an implied questioner in mind, and even in the case of a

---

[2] The dialectical character of argumentation, of course, does not deny the fact that it is also inherently rhetorical in character, addressed to a specific audience in a specific situation and context.

message directed to a mass audience, the audience can be understood as acting as if it were the dialogue partner in a critical exchange.

Third, the underlying procedures of argumentation are defined by people rather than by forms. Instead of logical consistency, for example, the consistency of an arguer with his or her own personal commitments is a basic standard. This is why the circumstantial *ad hominem* can be so devastating, since it points to an inconsistency between an arguer's stated commitments and his or her own actions. Fourth, argumentation is about applying general processes and standards of judgment to the facts and circumstances of a particular case.

In short, taking Toulmin's jurisprudential analogy seriously would mean abandoning "applied formalism" (Cox and Willard 1982, pp. xxii–xxv) as a description of or even an ideal for general argumentation. Lest this rejection of a particular authoritative standard be seen as the rejection of any standard at all, Toulmin finds in the jurisprudential analogy a midpoint between what is logically necessary and what is purely arbitrary.

9.2 Perelman and the Rule of Justice

A different sort of analogy to the law is implicit in the writings of Chaim Perelman—not only in *The New Rhetoric* (1958/1969) but also in his previous book, *The Idea of Justice and the Problem of Argument* (1963). The idea is developed in depth in the earlier work, which I will summarize, and then is drawn upon in the sequel. For Perelman, rejection of the authority of formal or technical reason stemmed from the Nazi experience in Europe. By relying on technical reason that rejected any authority outside itself, the Nazi regime was able to "deduce" Hitler's "final solution" as a valid outcome of a technical argument. Whereas some of his academic colleagues despaired of reason itself, Perelman traded his earlier logical positivism for a broader understanding of reason (Frank 1997, 2004). For him, what validated reasoning was the "rule of justice" (Perelman and Olbrechts-Tyteca 1958/1969, p. 219). In its essence, this is a rule that things which are essentially alike will be treated in the same way. Injustice results not from differential treatment—because there always are differences between people and situations—but from unequal treatment of persons and situations whose differences are unrelated to the matter at hand. Applying this rule is the basic task of legal systems. Legal cases are not decided according to fixed principles but according to people's decisions about what outcome would best comport with the rule of justice.

If Toulmin is best known for his model, Perelman is perhaps best known for his construct of the "universal audience," an audience composed of all reasonable persons (Perelman and Olbrechts-Tyteca 1958/1969, p. 31). Such an audience does not actually exist but is a mental construct of the speaker. It is characterized by its commitment to the rule of justice. An argument that would sway the universal audience is one that does not pander to the predispositions, prejudices, or commitments of a particular audience. A particular audience may be unable to see beyond its own

self-interest and may find it very easy to delude itself into equating personal self-interest with a broader general or public interest. Those who will benefit personally from certain tax or regulatory policies will be likely not to see themselves as a special interest but to assume that their benefit is in the interests of the public as a whole. So believing, such an audience is likely to reach conclusions its members would not regard as equitable if the circumstances were different. To operate in this fashion is to replace the standard of formal validity with nothing more substantial than the standard of raw power or self-interest. Since that would not be just, Perelman interposes the assent of the universal audience as his middle ground between the necessary and the arbitrary (Perelman and Olbrechts-Tyteca 1958/1969, p. 35). Like legal disputes, Perelman believes, ordinary arguments should be decided according to the rule of justice.

Whereas Toulmin focuses on procedures for conducting arguments, then, Perelman is concerned with standards for deciding them. As with Toulmin's work, Perelman's suggests principles that would follow if we took the jurisprudential analogy seriously. First, the participants in an argument would need to recognize themselves as standing in for a larger public who presumably could be affected by the outcome of the argument. They represent not only themselves but a universal audience. Just as judges decide particular cases with a view to the broader implications of their decisions, so too would people reach conclusions in general argumentation with the interest of a broader public in mind. If this view of the audience is salient, it will limit the utility of special-interest appeals that take advantage of the predispositions or values of the particular audience but are not generalizable. Of course, this is a normative ideal rather than a description of actual argumentative practice! But to the degree that the norm is internalized by taking the jurisprudential analogy seriously, the quality of public argument is enhanced. Competing advocates still engage in an adversarial proceeding, but they do so by invoking transcendent appeals that would convince the universal audience rather than pandering to the audience immediately at hand. Still seeking victory, they realize that their goal is best achieved by promoting the rule of justice. This idea is akin to what van Eemeren and Houtlosser call "strategic maneuvering," the incorporation of rhetorical elements within a dialectical system (van Eemeren and Houtlosser 2002, p. 135).

Second, the rule of justice would privilege arguments by analogy. The goal of the rule is that essentially alike beings are treated in the same way. From knowledge of how one thing is treated, we infer that the other should be treated in the same way. A critical step in the argument, therefore, is to establish that the second thing is essentially similar to the first, the treatment of which is not in doubt. If, for example, it is widely accepted that citizens whose property is damaged deserve compensation, then the task in the specific controversy—say it is a land use decision that has the unintentional consequence of reducing the value of someone's property—is to show that it is essentially alike the situation contemplated in the rule, that the critical points of similarity outweigh the critical differences. Literal analogies will be more useful than figurative analogies for establishing that one case is basically like another; the accepted case is regarded as a precedent for the case at hand.

Argument by analogy is inherently inductive; cases are only similar, not identical. There is no way to establish conclusively that one thing is more like another than not; this is always a matter for judgment. This being so, the strength of an analogy may well be a function of its fit within a convincing narrative. In the land use case, for example, deciding whether the aggrieved property owner merits compensation may depend on which party has the most compelling story. If the property owner reports that his or her ability to enjoy the property has been weakened by the greater traffic volume on adjoining property, this story may be less convincing than a story relating how the change in the adjoining property has killed vegetation and brought litter to his own. In the former case, the effect is more indirect and the causal chain harder to locate.

To emphasize the significance of stories in analogical arguments need not entail a belief in what Fisher described as a distinction between the "narrative paradigm" and the "rational-world paradigm" (Fisher 1984, p. 3). Narrative, after all, is itself rational. But it is to say that analogical claims cannot be self-evident. It is usually possible to argue both that the things being compared are essentially similar and that they are essentially dissimilar. The argument that is likely to win the assent of the audience is the one that offers a more plausible and coherent story.

Third, the emphasis on human judgment would suggest that presumption should be understood as residing with prevailing opinion. This is subtly but importantly different from locating presumption with the *status quo*. The latter refers to legal and institutional structures that may not necessarily reflect prevailing opinion. To use a simple example, in the summer of 2008 the United States remains involved in war in Iraq. Locating presumption with the *status quo* would require that the advocate of withdrawal shoulder the burden of proof. Defenders of the Bush administration's policies who ask critics what they would do instead are trying precisely to assign the burden of proof to their critics. But the war is unpopular; approximately two-thirds of the U.S. population believes that the war was wrong in the first place and that it should be brought to an end. If presumption rests with prevailing opinion, then the burden of proof would be on supporters of the administration to justify continuation of the war rather than on critics to justify withdrawal. This example should make clear why the assignment of presumption and burden of proof can make such a difference.

The reason that presumption should rest with prevailing opinion, if the goal of argumentation is to decide what is just, is that it is public judgment—and hence prevailing opinion—that will determine the standard against which the case at hand will be compared. This standard is presumptively correct and the goal is to align one's own argument with it. Another way to say this is to say that presumption is a matter of social knowledge, of beliefs and preferences that are held by the public to be true (see Farrell 1976). Their truth comes not from any intrinsic or formal property but from the fact that they are widely believed. For example, during the period we designate as the Cold War, it was the prevailing opinion that the world was divided into two competing power blocs and that the Communist bloc was monolithic. If this was accepted by people as the nature of reality, then an argument for a foreign policy grounded in different values—say, that Japan should be neutral rather than

allied with the West—would be dismissed as not only unjust but also naïve. On the other hand, arguments that the United States should support educational and cultural exchanges because they would spread the message of freedom and refute the appeals of Communism, were seen not only as expedient but as fundamentally just. They were grounded in the same values that were widely accepted and hence deserved the same reception.

Of course, as this example suggests, prevailing opinion is not always right, nor is it always permanent. This is why we speak of a standard based on it as a presumption rather than a certainty. It is rebuttable, but the burden of proof is on the party who would rebut it. The most effective way to rebut it is to do so in the name of some other shared value. In the example I used, values such as "diversity" or "peace" might be shown to trump the value of "anti-Communism."

Fourth, once we acknowledge the role of human judgment in argumentation, it becomes clear that experience rather than formal or procedural correctness is the standard for determining whether an argument is sound or fallacious. Just as arguments are accepted presumptively rather than conclusively, they are rejected on the same basis. An inference is considered presumptively fallacious if, over time, it has led to unacceptable results. We reject *post hoc* arguments, fallacies of composition, and bandwagon appeals not because they are inherently wrong but because, over time, they have led arguers astray. They have prevented people from making good judgments about what is just. For this reason, too, the context of a particular argument is especially important. The question is whether a particular context is essentially like that in which experience has found the use of an argument to produce unsound results. This is the approach taken by Walton, who argues that contextual rather than formal properties distinguish among arguments that are valid and strong, valid but weak, and fallacious (Walton 1995). For example, the statement that U.S. presidents elected in years ending in zero are likely to die in office is a meaningful sign inference for purposes of historical commentary but a fallacious one for the purpose of advising either Al Gore or George W. Bush that he should not have run for office in the year 2000. In the former case, it is consistent with the norm that historical regularities suggest generalizable results, but in the latter case it is dismissed as nothing more than a statement of coincidence, a claim that certainly should not have practical effects on any specific case.

Fifth, the rule of justice provides the criterion for arguments about values. Values figure prominently in public discourse, especially when the issue is not whether a course of action is good or bad in the abstract, but instead is about the best tradeoff between incompatible values that are both desirable or undesirable. In such cases, the value to be preferred is that which will best promote the rule of justice. If, for instance, race is understood as not a defining characteristic of human beings, then laws or customs that distinguish among people on the basis of race would not be just, because they would confound the ability to treat essentially similar people in the same way. They would rely on non-preferred rather than preferred values. This is why disputes among anthropologists about whether race is an innate or an ascribed characteristic have such serious social ramifications. On this reading, justice is the ultimate value sanctioning an argument. The way to understand a society's changes

in values—for example, the decreasing significance of race and gender as primary characteristics in the United States—is as a shifting understanding about whether distinguishing people on the basis of these characteristics is just. The conviction that it is not, a conviction often aroused by personal experience or narrative, precipitates a change in values, although of course the pace of change is often slow.

Finally, the emphasis on the rule of justice helps to clarify Perelman's useful distinction between rationality and reasonableness (see Perelman and Olbrechts-Tyteca 1958/1969, pp. 1–4). Rationality is a function of systems and involves validation within the system itself. Formal logic and other systems of technical reason have rationality as the goal. The elegance of the system is a source of satisfaction; reference to external realities is not necessary. In contrast, reasonableness is a function of people. It is the provisional acceptance they give to an argument when they are exercising their critical judgment. On this view, what makes an argument reasonable is its conformity to the rule of justice. Reasonableness is not whimsical, and what people do take seriously is not necessarily the same thing as what they should. The standard of reasonableness asks that people consider whether the candidate claims on their belief are consistent with the rule of justice.

9.3   Conclusion

What I have tried to do is not to offer particularly new ideas or perspectives, but to focus intensively on an often-noted but little-examined analogy in argumentation theory: the analogy between arguments in the legal setting and arguments in general. I have suggested that if we take the jurisprudential analogy seriously, we can draw from it a number of precepts and guidelines for developing a coherent theory of argumentation and for engaging in argumentation in everyday life.

To recapitulate, I have derived from Toulmin an analogy between decision-making procedures in the law and those in general argumentation. I have derived from Perelman an analogy between the objective of law and that of general argumentation. The analogies have suggested a number of implications for argumentation theory and practice.

I have tried to explain how argumentation is rooted in uncertainty and contingency, and what this commonplace means. I have tried to show that argumentation is both dialectical and rhetorical in nature, both developed in a comparative context and dependent on the judgment of audiences. It is the genre of discourse that bridges these ancient arts usually thought to be opposed. I have emphasized the role of human judgment in validating arguments and have suggested that audiences ideally make judgments not just for themselves but also for a larger audience that they represent. And I have tried to suggest the modes of reasoning and inference that would be especially prominent if these characteristics of argumentation were widely understood.

There is one final implication to state. Argumentation is not just a way of knowledge and decision; it is involved in all ways of knowledge and decision. It is simply

not the case, for instance, that the humanities rely on argumentation whereas the sciences deal with facts. What facts mean is not self-evident; nor is the classification of sense-data as one sort of fact rather than another, or even as fact rather than opinion. These are all matters about which we argue. If anything distinguishes the sciences from the humanities, it is that there is a broader consensus about the methods of inquiry, about what counts as evidence, and about the interpretation of evidence. These, however, are not self-evident conclusions but grounds for arguments. So it is not just in the law that human judgment and decision play the central role; it is also in the natural sciences, the social sciences, the humanities, and the world of practical affairs. By regarding the law rather than formal logic as the model case of argumentation practice, we enrich our understanding of one of the most important activities that makes us human.

References

Cox, J.R., and C.A. Willard (eds.). 1982. *Advances in argumentation theory and research*. Carbondale: Southern Illinois University Press.
Farrell, T.B. 1976. Knowledge, consensus, and rhetorical theory. *Quarterly Journal of Speech* 62: 1–14.
Fisher, W.R. 1984. Narration as a human communication paradigm: The case of public moral argument. *Communication Monographs* 50: 1–22.
Frank, D.A. 1997. The new rhetoric, Judaism, and post-enlightenment thought: The cultural origins of Perelmanian philosophy. *Quarterly Journal of Speech* 83: 311–331.
Frank, D.A. 2004. Argumentation studies in the wake of *The New Rhetoric. Argumentation and Advocacy* 40: 267–283.
Johnson, R. 2000. *Manifest rationality*. Mahwah: Lawrence Erlbaum.
Perelman, Ch. 1963. *The Idea of Justice and the Problem of Argument.* Trans. J. Petrie. London: Routledge & Kegan Paul.
Perelman, Ch., and L. Olbrechts-Tyteca. 1958/1969. *The New Rhetoric: A Treatise on Argumentation.* Trans. J. Wilkinson and P. Weaver. Notre Dame: University of Notre Dame Press.
Toulmin, S. 1950. *The place of reason in ethics*. Cambridge: Cambridge University Press.
Toulmin, S. 1958. *The uses of argument*. Cambridge: Cambridge University Press.
van Eemeren, F.H., and P. Houtlosser. 2002. Strategic maneuvering: Maintaining a delicate balance. In *Dialectic and rhetoric: The warp and woof of argumentation analysis*, ed. F.H. van Eemeren and P. Houtlosser, 131–159. Dordrecht: Kluwer.
Walton, D. 1995. *A pragmatic theory of fallacy*. Tuscaloosa: University of Alabama Press.

Part III
Patterns of Rhetorical Argumentation

Chapter 10
Definitions

Abstract Definitions play a significant role in argumentation, but that role often appears to be non-argumentative. While there are arguments about definition (in which a proposed definition is the conclusion of the argument) and arguments from definition (in which a stipulated definition is the premise), many uses of definition involve argument by definition, in which a definition is stated or implied as if it were uncontested fact. This sort of argument is used to form associations, make dissociations, exploit ambiguities, and shift the frame of reference.

This essay was presented originally as the keynote address at the 10th biennial National Communication Association/American Forensic Association Summer Conference on Argumentation, held in Alta, Utah, in 1997. It is reprinted from the conference volume, *Argument in a Time of Change: Definitions, Frameworks, and Critiques* (James F. Klumpp, Ed.), pp. 1–11 (Annandale, VA: National Communication Association, 1998). Reprinted by permission of the National Communication Association.

10.1 Introduction

When Douglas Ehninger and Wayne Brockriede brought out *Decision by Debate* (1963) nearly 35 years ago, they offered several conceptual innovations to the study of argumentation. Among the most obvious were the framing of argumentation as a fundamentally cooperative rather than competitive enterprise and the application of the Toulmin model. Less prominent but equally significant in its implications was the authors' classification of propositions. Rather than the threefold division of fact, value, and policy that had become commonplace, Ehninger and Brockriede added a fourth category, the proposition of definition, in recognition that many disputes centered on questions of meaning or interpretation (pp. 218–220, 240–243, 246–247).

To be sure, Ehninger and Brockriede were not plowing completely new ground. Antecedents for viewing definition as a propositional type can be found in the *stases* of antiquity, with definition appearing alongside conjecture, quality, and place. And yet contemporary treatises on argumentation had largely overlooked the significance of definition. Ehninger and Brockriede notwithstanding, they still do—even though our literature is replete with such aphorisms as "to choose a definition is to plead a cause," "a definition is an incipient proposition," "the person who defines the terms of the debate can win it," and my own, "The power to persuade is, in large measure, the power to define" (Zarefsky 1986, p. 1).[1] Yet by combining case studies with scattered and partial treatments in an interdisciplinary literature, we can achieve a better understanding of arguments from, about, and by definition. And we may even be able to say something about the mission of argumentation studies.

10.2 Case Studies

Consider three vignettes of contemporary controversy. First, until about the time of the first Alta conference,[2] the idea that the creation of a "hostile work environment" could constitute "sexual harassment" did not exist. I, of course, do not mean that the practices to which we apply these terms did not exist, but rather that they were not named in this way. Incidents of sexual harassment went unmentioned because they were accepted as part of normal life—or, perhaps, they were accepted as part of normal life because they went unmentioned. In either case, the power to define the behavior, to give it a name with connotations of unacceptability, trumped the power exhibited in perpetrating acts of harassment themselves.

Once the category name had been established, discourse centered on its breadth and scope. Some feminists sought to expand the range of social behavior to which the definition applied. In 1980 the Equal Employment Opportunity Commission endorsed a concept first developed by Catharine MacKinnon. In addition to "*quid pro quo*" behavior—making some action or outcome contingent on granting sexual favors—the Commission accepted the view that words or acts that create a "hostile working environment" are a form of sexual harassment (Wood 1994). Determining what behavior fits this category, even leaving aside the potential First Amendment implications, has been an unending task.

And yet the very idea of sexual harassment resists tidy definition and remains essentially contested. It comes at the nexus of power, gender, politics, and language. In a way, the allegation of sexual harassment is an index of a communicative failure, since both alleged victim and alleged perpetrator see themselves as victims of misunderstanding. Defining a given act as sexual harassment performs

---

[1] The other three definitions, though enclosed in quotation marks, are general paraphrases and not quotations from any specific printed material.

[2] The Alta conference (formally, the National Communication Association/American Forensic Association Summer Conference on Argumentation), began in 1979.

several rhetorical functions, including making visible what had been invisible (or achieving greater presence, in the sense that Perelman and Olbrechts-Tyteca (1969, pp. 116–120, 174–177) use the term), making visibility both a strategy of defense against harassment and a therapeutic strategy to facilitate recovery by its victims, generating solidarity among victims and empathy for them, and so on. In summary, the discourse on sexual harassment can be characterized as, first the positing of a name to define previously unnamed practices, and then arguments in which advocates try to broaden or to narrow the range of the definition.

A second example of a contemporary controversy relates to affirmative action. The origins of this policy have been traced to the Kennedy administration; the words appeared in an Executive Order banning discriminatory hiring by Federal contractors (Lemann 1995, p. 36). It gained momentum when President Johnson, in a commencement address at Howard University in 1965 (Johnson 1966), argued that the removal of legal discrimination was not enough to assure equal opportunity for those who had been its victims or maimed by its legacy. He committed to a broader goal: "not just equality as a right and a theory, but equality as a fact and a result." It would take affirmative action to get there. But what Johnson meant by affirmative action was compensatory education and training for the disadvantaged, such as the programs in his War on Poverty, together with aggressive recruiting of minorities for positions in both the public and the private sector. What he did not mean was quotas or group-based entitlements.

But the definition of affirmative action was unstable. In the continuing discourse on race relations, some advocates suggested that "equality as a result" was the only reliable evidence of the existence of equal opportunity. Committed to the latter, they called for the former. They were aided by an unlikely ally, President Richard Nixon, whose administration approved quota-based hiring in the construction trades and called that affirmative action. Skeptics have questioned the purity of Nixon's motive, suggesting that his action was a politically expedient way to create a rift between blacks and labor, two groups that heavily supported the Democrats. Regardless of the reason, his administration contributed in a major way to redefining the term.

At least two other forces were operative. First, colleges and universities, whether voluntarily or under court order, adopted affirmative action programs in hiring and admissions. Some of the earliest involved explicit quotas. When these were outlawed by the courts, modified programs in effect created racial preferences in order to achieve numerical targets for minority students and staff. These programs were justified not so much as means to remedy past discrimination as steps toward the advancement of diversity, a goal that was in the general interest. Second, the idea of affirmative action was extended beyond the category of race. During the past 25 years, others have argued that they are victims of discrimination too. In various ways and to varying degrees, affirmative action has been applied with respect to women, Vietnam veterans, persons with disabilities, and gays and lesbians.

These efforts to broaden the meaning of affirmative action, not surprisingly, fueled a reaction, and it too took the form of efforts to redefine the term. Affirmative action, now meaning quotas and racial preferences, was redefined as "reverse discrimination" against white males, as unjustified as was the pre-Civil Rights Act

legal discrimination against women and blacks. This was the argument used by Allan Bakke in successfully claiming that his exclusion from the medical school at the University of California at Davis had been discriminatory. It was the argument that led President George H. W. Bush to veto the Civil Rights Act of 1990 because he thought its implementation would lead inevitably to quotas even though the bill itself specifically disclaimed them. And it is the logic that propelled the California Civil Rights Initiative to victory at the polls, although implementation has been blocked by the courts.

Proponents of the California Civil Rights Initiative noted that its text was quite similar to that of the Civil Rights Act of 1964. They also sometime claimed, on dubious historical grounds, that Martin Luther King, Jr., would have supported them because his dream was of a society in which his children would be judged "not by the color of their skin but by the content of their character."[3] What is remarkable is that affirmative action, regarded by its original proponents as the path to a color-blind society, is now effectively portrayed by its opponents as an obstacle to that goal.

What makes this circumstance possible is the inherent instability of the definition of affirmative action. I was told recently by an adviser to proponents of the California Civil Rights Initiative—a former president of the American Forensic Association well known to many of us here—that "if you will let me define affirmative action, I am for it."[4] But, he suggested, control of the definition had been taken by those who equated affirmative action with group rather than individual rights, with racial preferences, and with quotas. That was what it meant today, he said; that was what the California initiative opposed; and that was why in opposing it, the Initiative supporters could maintain that they were in the tradition of the civil rights movement of the 1960s. One is reminded of President Reagan's frequent assertion that it was not that he had deserted the Democratic Party but rather that the Party had deserted him.

A final example of a contemporary controversy involves the latest turn in the discourse about abortion. After years of contention about whether or not the fetus was a person, and whether "protection of innocent life" or "the woman's right to control her body" was the predominant value, it seemed as though something resembling a conclusion had been reached. The courts might qualify but would not overturn *Roe v. Wade*, and the "undue burden" test articulated in *Planned Parenthood v. Casey* would determine the legitimacy of attempts to qualify the rights set forth in *Roe*. Meanwhile, public opinion could be characterized accurately with the phrase President Clinton frequently used: abortion should be "safe, legal, and rare."

But within the past 2 years, the controversy has taken a different direction. Abortion opponents have focused on a particular procedure and have campaigned against it as if it were a synecdoche for the main issue. And this procedure, long known by the

---

[3] The quotation is from Martin Luther King Jr.'s "I Have a Dream" speech delivered at the Lincoln Memorial at the conclusion of the March on Washington on August 28, 1963. The text is widely available.

[4] The reference is to a personal conversation with Professor Gerald H. Sanders of Miami University.

medical profession as "intact dilation and extraction," they have effectively redefined as "partial-birth" abortion.

The effect of the redefinition was to employ rhetorical depiction (Osborn 1986) to focus on a particularly gruesome procedure, and to emphasize concrete details rather than abstractions such as "right to life." Ralph Reed, executive director of the Christian Coalition, acknowledged this shift and approvingly pointed out that its effect was to divert attention to the fetus rather than to the woman. The debate over "partial-birth" abortion is largely symbolic. For abortion opponents, all abortions are equally unacceptable, regardless of the method. For supporters of choice, out-lawing a particular procedure would mean only that doctors must use a different procedure, not that abortion itself would be illegal (Seelye 1997a).

But the definition of late-term abortions as "partial-birth" significantly changed the abortion debate. First, it re-framed the discussion onto concrete procedures rather than abstract rights; typically the abstract is trumped by the concrete. Second, it gave primacy to the experiences of the fetus rather than to the choices of the woman. Third, it portrayed the procedure as barbaric and implied that any reasons offered for it must be frivolous when viewed against the magnitude of the trauma it induced. Fourth, it exposed rhetorical weaknesses in the pro-choice position. Defending this particular procedure makes abortion rights advocates "seem like extremists" and it has "cost them enormous political capital" (Seelye 1997a). Indeed, abortion-rights supporters in Congress found themselves voting either for the ban on partial-birth abortions or for an alternative bill that would ban all abor-tions after viability, with exceptions only to save the mother's life or to prevent grievous injury to her health. President Clinton, who insists he will again veto a ban on partial-birth abortions, supports this alternative put forward by Senate Minority Leader Tom Daschle. These politicians are responding to pressure caused by shifts in public opinion; the opponents' focus on "partial birth" led 71 % of Gallup's respondents to state that they opposed the procedure (Seelye 1997a). For his part, Ralph Reed openly acknowledged that he saw the partial-birth debate as the thin entering wedge leading to a series of votes to outlaw abortion by stages (Seelye 1997b). These are immense political effects resulting from the ability to define a specific procedure in a particular way.

These three examples illustrate the significance of definitions in public argument. Many other examples could be cited. The ambiguous term "welfare reform," for which there has been widespread support for decades, has been used to describe a law that will end altogether the guarantees of welfare benefits. Supreme Court Justice Clarence Thomas was able to refocus his confirmation hearings by defining Professor Anita Hill's accusations as a "high-tech lynching for uppity blacks,"[5] thereby creat-ing the conditions under which race trumped gender. President Kennedy's use of the term "quarantine" rather than "blockade" to define our response to the Cuban missile crisis made it easier to view our conduct as therapeutic and medical rather than as an act of war. Speaking of war, the use of military metaphors to define our campaigns against poverty and drug use helps to characterize those issues as crises requiring

---

[5] For a discussion of the dimensions of the "lynching" metaphor, see Williamson (1997).

immediate action rather than sustained debate. When President Nixon said during the 1968 campaign that the first civil right of every American was the right to be free from domestic violence, he was redefining an issue on which he was weak (race relations) by associating it with one on which he was strong (domestic riots and crime).

To be sure, not every strategic definition is successful. President Reagan was not able to make his renaming of the MX missile as the "Peacekeeper" stick; nor was he able to overcome skepticism about whether the Nicaraguan contras really ought to be called "freedom fighters." These counter-examples suggest that Humpty Dumpty was not quite right; words do not mean just whatever we want them to. But the large number of supporting examples suggests that, while there might be limits, still the ways in which we define our terms affects the way we think, talk, and act about the realities for which they stand.

10.3   Arguments About, from, and by Definition

Definitions, then are fundamental units of argument. But notice something interesting about each of my examples. They are not overtly about definition at all. If we were to frame a proposition that embodied the controversy, it would not be what Ehninger and Brockriede ([1963](#)) called the claim of definition. Indeed, in a forthcoming manuscript Schiappa maintains that arguments about definition are likely to lead to unproductive impasses. He argues that disputes about questions of the form, "What is X?" are not susceptible to answer because they are overly abstracted from the world of experience in which people's own values and commitments determine what X means. The "real nature" of X, in other words, is a matter of how X is used in communication.[6] Instead, the claims in my sample controversies seem to be about policy: Should affirmative action be repealed? Should partial-birth abortions be outlawed? Should employees be fired if they have been found to engage in sexual harassment? No, these are not arguments about definition, although they are powerfully influenced by what definition prevails.

Nor, for that matter, do these seem to be arguments *from* definition, in the sense described by Richard Weaver ([1953](#)): arguments that reason from a premise about the nature of a thing. Indeed, when this sort of argument is prevalent, the result is likely to be a stalemate. Abortion opponents may argue from the definition of the fetus as a person, only to encounter pro-choice advocates who reject that premise and instead argue from definition that the woman, as a person, has the right to control her own body. Likewise, discussions of affirmative action might feature reasoning from the definition of either individual or group rights as primary. But beyond the assertion that one or the other should take precedence, there is not much to say. Similarly, one could begin from the premise that the nature of sexual harassment is abuse of power or that its nature is harmless bantering, but adherents to either of these beliefs are unlikely to be swayed by argument intended to support the other.

---

[6] The manuscript was subsequently published as Schiappa ([2003](#)).

If these are not arguments about or from definition, then, what *can* we say about the place of definitions in argument? What is going on in these controversies, how, and why?

What we really see in these examples is a kind of argument *by* definition. The key definitional move is simply stipulated, as if it were a natural step along the way of justifying some other claim. The clearest example is the definition of late-term abortions as "partial-birth." The only thing even resembling support that is offered is a description of the procedure. Even this is circular because the description is influenced by the very definition—"partial birth"—that it is intended to support.

One cannot help noticing an irony here. Definition of terms is a key step in the presentation of argument, and yet this critical step is taken by making moves that are not themselves argumentative at all. They are not claims supported by reasons and intended to justify adherence by critical listeners. Instead they are simply proclaimed as if they were indisputable facts. On the surface, at least, these stipulations resemble the arts neither of logic nor rhetoric but what William Riker called heresthetic. In an intriguingly-titled book, *The Art of Political Manipulation*, he defines heresthetic as "the art of structuring the world so you can win" (Riker 1986). This is not the work of a monomaniac; Riker is a distinguished political scientist. And heresthetic is not the diabolical, diametric opposite of argumentation but is closely related to it. We can see how this is so if we turn back again to the role of definitions in argument.

In examples like those I have mentioned here, what really is being defined is not a term but a situation or a frame of reference. Definition of the situation and framing are related concepts with currency in sociology, political science, journalism, and mass communication, but with the exception of an article here or there, they have not interpenetrated with argumentation studies. I want to urge such interpenetration as a way to address the irony I have described above. Let me explore the concepts and then relate them to definitional moves in argument.

In an essay that has received less attention than it deserves, J. Robert Cox (1981) linked the concepts of argument and definition of the situation. He points out that our understanding of reality is not a given; it is something that we construct. The referents of any given situation are not clear and univocal; rather, they are constituted by the participants in an interaction. This process of construal is a central aspect of rhetorical invention. Since situations always can be construed in more than one way, the choice among points of reference is not neutral. Any definition is, in Kenneth Burke's phrase, both a selection and a deflection of reality (Burke 1966, p. 45). Framing refers, to the process of selecting one definition or perspective rather than another.

There are interests at stake in how a situation is framed. The definition of the situation affects what counts as data for a conclusion about whether or what action should be taken. It highlights elements of the situation that are used to construct arguments about it. It determines whether people will notice the situation and how they will understand it. The definition identifies causes and poses remedies, and it invites moral judgments about circumstances or individuals (Cox 1981, p. 200; Entman 1993, pp. 52–56; Elder and Cobb 1983).

In a similar vein, William A. Gamson explains that obstacles to people's participation in political movements is overcome only when movements "offer one or more collective actions frames," by which he means "action oriented sets of beliefs and meanings that inspire and legitimate" these activities. He suggests that these frames have three basic components: injustice (requiring "a consciousness of motivated human actors who carry some of the onus for bringing about harm and suffering"), agency (referring to "the consciousness that it is possible to alter conditions or policies through collective action") and identity (defining a "we" in contrast to an adversarial "they") (Gamson 1992).

The process of framing is not random. It is influenced by cultural and political traditions as well as by a competition among advocates. For example, Christopher Bosso (1994) has argued that the primacy of free-market capitalism and its values rules certain definitions of the situation out of bounds. This may be part of the reason, for example, that poverty is so typically seen as a defect in the individual rather than in the social structure. For another example of a constraint on framing, "constitutionality" has a strong effect in determining what kinds of problems are and are not considered within government's legitimate scope, the recent appetite of the Congress for considering Constitutional amendments notwithstanding.

Other writers, such as J. R. Zaller (1992), contend that framing is under the control of political elites. Elites compete for the power to define situations, and the definitions they put forward profoundly influence how the public responds to an issue and authorizes the elites to act. Entman modifies Zaller's argument by pointing out that there is effectively a competition not just among political elites but between political elites and media celebrities, to control the definition of the situation. At least a partial explanation for the current depth of the adversarial relationship between politicians and press is that they both recognize the significance and power inherent in the act of defining a situation. As Spector and Kitsuse (1987) explain in another context, "when one group wins" control over the definition of a problem, "its vocabulary may be adopted and institutionalized."[7] It is not surprising that each party to the exchange views its own efforts as getting out the story and sees the other party as engaged in "spin doctoring." These characterizations, I hardly need point out, are themselves acts of framing.

Sometimes, however, a definition of the situation commands wide adherence and hegemonically excludes alternative frames of reference. Because terms are hard to avoid once they become established in public discourse, Gamson notes, "labels frequently and appropriately become the target of symbolic contests between different ways of framing an issue domain." (Gamson 1992, p. 9). The clearest example in modern times is the influence of the Cold War frame of reference in structuring perceptions about foreign policy (Entman 1993, p. 52). At least until the Vietnam war called the frame into question, it structured an enduring

---

[7]The reason the competition is so important was explained by Elder and Cobb (1983, p. 129): "What is at stake in any particular conflict [over the definition of the situation] is a matter not simply of the facts of the situation but of what facts are considered relevant and the meanings people assign to them."

bipartisan consensus on foreign policy goals. When there was disagreement, it was only about means: who could best stand up to the Communists and convince them that America meant business.

Other examples of successful framing, though less clear-cut, also can be found. The premise that problems ranging from crime control to the federal budget deficit are crises has given urgency to the need to act, lowered the advocate's burden of proof, and depicted conscientious opponents as obstructionists. For much of the past 60 years, the belief that government's role was to try actively to address social problems, also held public attention and commitment. In contrast, the belief that some problems may have no solution or that it is not the province of government to find one, were dismissed as the ranting of naysayers or cranks.

Within politics and government, the definitional question that has been most explored is how conditions come to be defined as public problems. Although some of the political science literature still misleadingly regards problems as empirical conditions to be found, a growing number of writers recognize that they are categories that are created. A strong example of how events are construed as public problems is Gusfield's (1981) study of drinking while driving.

To define a condition as a problem is to invoke a frame of reference within which the severity of the condition is assessed, causality and blame are determined, and solutions are considered. Willingness to regard situations as public problems is one of the criteria that distinguish what Tom Goodnight at the first Alta conference called the liberal and the conservative presumption (Goodnight 1980). One mark of the modern liberal, at least until recently, has been a commitment to an active state which is an active agent in generating problems to solve. Baumgartner and Jones have pointed out, in fact, that "agreement on a particular issue definition almost always implies a consensus about what, if anything, government should do" (Baumgartner and Jones 1994, p. 52).

What makes one definition of the situation more effective than another? Sometimes a dramatic incident, especially if there are aftershocks, can so drastically alter perceptions as to produce a new frame of reference. Usually, though, what determines the acceptability of a frame is a more prosaic series of questions that relate to its political acceptability, comprehensiveness, and authoritative grounding. These factors not only determine the definition of an event as a public problem but answer the question of who "owns" the problem. Problem ownership means domination of the way a concept or social concern is thought of and acted upon (Rochefort and Cobb 1994, p. 14; Portz 1994, pp. 45–47). This power of ownership over a problem is the likely reason for the aphorisms I sketched out at the beginning, such as the claim that the party who can define the terms will win the contest.

These explanations are of some value after the fact. They might help, for example, to indicate why the MX-as-Peacekeeper definition did not wash. It was not consistent with what people "knew" about the function of missiles; it was not comprehensive in that it related only to the deterrent function of missiles and not to such dimensions as provocation and accidental deployment, and it was grounded in no authority structure other than the President's pronouncement. But these criteria regard the process of defining the situation essentially as a "black box." In contrast,

our understanding of how this sort of argument by definition occurs may help us to illumine and to critique the argumentative moves that are involved.

10.4   Argumentative Moves in Definition

In the literature of argumentation and related disciplines, we can find at least brief hints of what is happening in definitional arguments. I would like briefly to discuss associations, dissociations, ambiguities, and frame-shifting language.

10.4.1   Associations

As the term suggests, associations involve definition through linking one term or idea with another. Although the linkage may be postulated rather than argued for, identifying and drawing attention to it will render it available for support or critique.

One way in which association occurs is by expanding the meaning of a "term of art." A term of art is a seemingly common and non-technical term that, when placed in a particular context, normally is given a precise meaning. The term's scope is expanded if its connotations are invoked and then linked to a different set of conditions or circumstances. An example can be found in the shifting antebellum meanings of "slavery" and "equality." Slavery referred to a political relationship and equality, to the absence of government restrictions on individual opportunity. Each was a term of art with a precise meaning in a political context. But each became generalized through association, the former to call the practice of chattel slavery into question and the latter to designate an end state that government ought actively to promote. Each term's definition was changed by associating a term of art with a different and wider context.

In an insightful analysis of David Mamet's play *Oleanna*, Christine MacLeod suggests that the term "rape" is used in this fashion. It is used to cover a situation in which, strictly speaking, no rape has occurred. But "rape" has been extended beyond its legal usage as a term of art. Instead, it designates a power relationship that bears some analogical resemblance to the power relationship implicit in the physical act of sexual abuse (MacLeod 1995). The saga of affirmative action also illustrates the expansion of a term of art through association. It has come to refer to all approaches that acted, whether by design or by accident, to enhance diversity.

A second approach to definition through association involves the use of what the philosopher Charles L. Stevenson called "persuasive definitions" (Stevenson 1944). A persuasive definition is one in which favorable or unfavorable connotations of a given term remain constant but are applied to a different referent. The case of "partial-birth" abortion followed this course. The relatively neutral term, "intact dilation and extraction," was persuasively redefined. The connotations associated with birth and death, about which emotions are strong, were made to fit a previously arcane medical procedure.

The persuasive definition of "war" extends its connotations of urgency and patriotic sacrifice to cover relatively prosaic (thought admittedly serious) domestic concerns.

10.4.2   Dissociations

Dissociation, like association, is an approach to definition utilizing linkages between concepts, but it works by breaking rather than creating the links. Perelman and Olbrechts-Tyteca (1969, pp. 417–459) describe the process. A seemingly unitary concept is divided by pairing it with two philosophically opposed terms, one of which is a value generally thought to be preferred over the other. A common example of such a pair is "appearance/reality." This pair would be employed in an argument by saying, for example, that national security only appears to be about military might, but in reality it is a matter of establishing strong economic and trade ties with other nations. Through this dissociation, national security is defined as being something other than what it appears to be, and this stipulated new definition is then employed in arguments about economics and trade.

10.4.3   Ambiguities

Besides association and dissociation, a third approach to how framing occurs is to draw upon ambiguities in the use of language. Using what Edward Sapir (1934, p. 492) called "condensation symbols" is one way in which to do so. He distinguished referential symbols, for which it is fairly clear what the symbol indicates, from condensation symbols, which designate no clear referent but "condense" a host of different meanings and connotations that otherwise might diverge. These symbols are particularly useful in defining an ambiguous situation because people can highlight different aspects of the symbol yet reach the same conclusion. For example, if the public policy discussion of health care costs can be defined as the issue of "saving Medicare," one person may understand that to mean protecting the economic viability of the system by cutting costs, another might understand it to mean protecting the existing package of benefits despite increasing costs, a third might take it to mean protecting the taxpayers against fraud by Medicare providers, and a fourth might think it means protecting the program from elimination. Yet all can unite behind the symbol of "saving Medicare," and all would vigorously object if their position were defined by others as threatening this vital federal program. For this reason an advocate might well use the unifying term to defend a controversial policy proposal.

If "saving Medicare" is a good example of a condensation symbol, even better are the terms that Michael McGee (1980) labeled "ideographs," single terms which encapsulate ideological claims. One such term is "equality." As Condit and Lucaites (1993) demonstrate, this term has had different meanings over time and it usually has meant different things to blacks and whites. Yet it is a powerful term with which adherents of seemingly opposite policies have all wished to associate.

10.4.4   Frame-Shifting

A final approach to defining situations is frame-shifting. For a subject that usually
is defined from a certain perspective, a different frame of reference is postulated.
The effect is that people see the thing "in a different light" and their attitudes about
it therefore change. Riker, in fact, suggests that "most of the great shifts of political
life result from introducing a new dimension" (Riker 1986, p. 151), and examples of
this process are not difficult to find. For many years, sexual harassment was under-
stood as a private matter. It became a public issue when seen in a different light, as
an abuse of power and an offense against individual rights. Subjects falling in what
Goodnight (1982) calls the technical sphere, such as nuclear power, can be recon-
textualized as moral questions and thereby attract the interest of a wider public.
Indeed, a principal purpose of shifting the frame of reference, as political scientist
E. E. Schattschneider (1960, pp. 15–18) has argued, is to widen or narrow the scope
of a conflict by making it relevant to those not initially involved or irrelevant to
some of those who were.

   In the wake of the "gag rule" controversy of the 1830s and 1840s, when Congress
refused to receive petitions regarding slavery, the scope of the antislavery argument
was expanded. Those who were against slavery would be joined by others who were
agnostic on that issue but who were opposed in principle to infringements on the
freedoms of press and petition. Similar scenarios were enacted during the 1960s.
Though not supporting the cause of a protest, one might oppose the repression of
protesters by the police. Protest leaders drew upon that opposition to expand the
scope of conflict. The effect often was to radicalize the moderates.

   These four approaches to defining the situation in the context of controversy
return us to the paradox I observed above. Definitions are central to argument, yet
definitional arguments often take the form of argument by, rather than about or
from, definition. Seemingly defying the argumentative perspective, definitional
claims are stipulated, often *en passant*, rather than being defended with any sort of
elaborated case. Upon closer examination, though, definitions are enacted through
argumentative moves. These moves, if properly understood, are themselves implicit
claims. By identifying what is going on, we can open the process for analysis and
critique, thereby redeeming an argumentative perspective on definition.

10.5   Conclusion

One function of keynote addresses is to suggest agendas. My suggestion is that we
would be well served by focusing energy on the seemingly simple but analytically
rich subject of definitions. We need to refine conceptual approaches, such as the
four I have offered, by examining how they work in the context of particular cases.
And we need to derive other theoretical and critical ideas from the close and careful
analysis of controversy.

An additional benefit of focusing energy on the building blocks of definition is that it may help to coalesce the field of argumentation itself. Defining argumentation may be an impossible task, and in any event one that I will not pursue here. Surely we are familiar with the distinction O'Keefe (1977) introduced between argument$_1$ and argument$_2$ and the subsequent dispute about whether argument is cognition, product, process, procedure, or point of view (Zarefsky 1980). Those disputes, without really having been resolved, have faded into the background. We have a discipline, in this respect like economics, that is divided into micro- and macro- levels of analysis. Micro-argumentation deals with the individual text or encounter. It is dominated by studies of particular arguments, texts, transcriptions, or interactions. Macro-argumentation begins with the controversy, rather than the single text, as the basic unit of analysis, and proceeds all the way up to social formations and cultural practices. For the most part, scholars work in these vineyards separately, and it is not hard to see why. But they share a common interest, even if they do not realize it, in the importance of definition. We need to understand the role of defining and redefining situations, creating and modifying frames, at both the micro- and the macro- levels. Perhaps a greater focus on this common concern might help us to achieve greater coherence as a field of study, as I and others have urged (Zarefsky 1995), without denying or undermining the richness and diversity of the elusive object we study. At least it seems worth a try.

References

Baumgartner, F.R., and B.D. Jones. 1994. Attention, boundary effects, and large-scale policy change in air transportation policy. In *The politics of problem definition*, ed. D.A. Rochefort and R.W. Cobb, 50–66. Lawrence: University Press of Kansas.

Bosso, C.J. 1994. The contextual bases of problem definition. In *The politics of problem definition*, ed. D.A. Rochefort and R.W. Cobb, 182–203. Lawrence: University Press of Kansas.

Burke, K. 1966. *Language as symbolic action*. Berkeley/Los Angeles: University of California Press.

Condit, C.M., and J.L. Lucaites. 1993. *Creating equality: America's Anglo-African word*. Chicago: University of Chicago Press.

Cox, J.R. 1981. Argument and the definition of the situation. *Central States Speech Journal* 32: 197–205.

Ehninger, D., and W. Brockriede. 1963. *Decision by debate*. New York: Dodd, Mead.

Elder, C.D., and R.W. Cobb. 1983. *The political uses of symbols*. New York: Longman.

Entman, R.M. 1993. Framing: Toward clarification of a fractured paradigm. *Journal of Communication* 43: 51–58.

Gamson, W.A. 1992. *Talking politics*. Cambridge: Cambridge University Press.

Goodnight, G.T. 1980. The liberal and the conservative presumption: On political philosophy and the foundations of public argument. In *Proceedings of the [first] summer conference on argumentation*, ed. J. Rhodes and S. Newell, 304–337. Falls Church: Speech Communication Association.

Goodnight, G.T. 1982. The personal, technical, and public spheres of argument: A speculative inquiry into the arts of public deliberation. *Argumentation and Advocacy* 18: 214–227.

Gusfield, J.R. 1981. *The culture of public problems: Drinking-driving and the social order*. Chicago: University of Chicago Press.

Johnson, L.B. 1966. Commencement address at Howard University: "To fulfill these rights". In *Public papers of the Presidents: Lyndon B. Johnson, 1965*, vol. 2, 635–640. Washington, DC: U.S. Government Printing Office.

Lemann, N. 1995. Taking affirmative action apart. *New York Times Magazine*, June 11, pp. 36–45, 52–54, 62, 66.

MacLeod, C. 1995. The politics of gender, language and hierarchy in Mamet's *Oleanna. Journal of American Studies* 29: 199–213.

McGee, M.C. 1980. The "ideograph": A link between rhetoric and ideology. *Quarterly Journal of Speech* 66: 1–16.

O'Keefe, D.J. 1977. Two concepts of argument. *Argumentation and Advocacy* 13: 121–128.

Osborn, M.M. 1986. Rhetorical depiction. In *Form, genre, and the study of political discourse*, ed. H.W. Simons and A.A. Aghazarian, 79–107. Columbia: University of South Carolina Press.

Perelman, Ch., and L. Olbrechts-Tyteca. 1958/1969. *The New Rhetoric: A Treatise on Argumentation.* Trans. J. Wilkinson and P. Weaver. Notre Dame: University of Notre Dame Press. (Originally published in French in 1958.)

Portz, J. 1994. Plant closings, community definition, and the local response. In *The politics of problem definition*, ed. D.A. Rochefort and R.W. Cobb, 32–49. Lawrence: University Press of Kansas.

Riker, W.H. 1986. *The art of political manipulation*. New Haven: Yale University Press.

Rochefort, D.A., and R.W. Cobb. 1994. *The politics of problem definition*. Lawrence: University Press of Kansas.

Sapir, E.A. 1934. Symbolism. In *Encyclopaedia of the social sciences*, ed. E.R.A. Seligman, 492. New York: Macmillan.

Schattschneider, E.E. 1960. *The semisovereign people*. New York: Holt, Rinehart and Winston.

Schiappa, A.E. 2003. *Defining reality: Definitions and the politics of meaning*. Carbondale: Southern Illinois University Press.

Seelye, K.Q. 1997a. A partial-victory abortion vote. *New York Times*, May 25, Sec. 4, p. 5.

Seelye, K.Q. 1997b. House vote on abortion procedure signals a change in political momentum. *New York Times,* March 23, Sec. 1, p. 15.

Spector, M., and J.I. Kitsuse. 1987. *Constructing social problems*. New York: Aldine deGruyter.

Stevenson, C.L. 1944. *Ethics and language*. New Haven: Yale University Press.

Weaver, R.M. 1953. *The ethics of rhetoric*. Chicago: Regnery.

Williamson, J. 1997. Wounds not scars: Lynching, the national conscience, and the American historian. *The Journal of American History* 83(March): 1221–1253.

Wood, J.T. 1994. Saying it makes it so: The discursive construction of sexual harassment. In *Conceptualizing sexual harassment as discursive practice*, ed. S.G. Bingham, 17–30. Westport: Praeger.

Zaller, J.R. 1992. *The nature and origins of mass opinion*. New York: Cambridge University Press.

Zarefsky, D. 1980. Product, process, or point of view? In *Proceedings of the [first] summer conference on argumentation*, ed. J. Rhodes and S. Newell, 228–238. Falls Church: Speech Communication Association. (Reprinted in this volume, Chap. 6.)

Zarefsky, D. 1986. *President Johnson's war on poverty: Rhetoric and history*. Tuscaloosa: University of Alabama Press.

Zarefsky, D. 1995. Coherence in argumentation studies: Can the center hold? In *Argumentation and values*, ed. S. Jackson, 54–59. Annandale: National Communication Association.

Chapter 11
Strategic Maneuvering Through Persuasive Definitions: Implications for Dialectic and Rhetoric

Abstract In the pragma-dialectical research program, strategic maneuvering refers to processes of seeking rhetorical advantage while meeting one's dialectical obligations. One principal means of strategic maneuvering is the use of persuasive definitions, those in which connotations are changed while keeping the denotation constant, or vice-versa. Brief examples and an extended case study (the labeling of the September 11, 2001 terrorist attacks as "war") demonstrate that strategic maneuvering functions analogously, if not identically, in dialectic and rhetoric.

11.1 The Desirability of Bridging Perspectives

The current landscape of argumentation studies is complicated. Much of the twentieth century was spent in a revolt against applied formalism, the belief that formal deductive logic should be the model for all cases of argumentation. In response, strong traditions of dialectical and rhetorical argument were rediscovered and revitalized, while formal logic extended its reach by developing models of ordinary argumentation. Now it is safe to say that there are three general approaches to studying argumentation, each of them deriving from a different intellectual tradition. Logic is concerned with matters of form and the relationships among statements in an argument. Dialectic deals with procedures of critical questioning between interlocutors in order to resolve disagreements between them. And rhetoric concerns itself with the relationship between claims and audiences, examining both the pragmatic influence of claims and the philosophical question of how audiences validate

arguments in everyday life. One focuses on validity, one on intersubjective agreement, and one on persuasiveness.

If each of these approaches makes a unique contribution, however, each also suffers from a limitation of perspective. Logical approaches, in general, are unconcerned with the actual practice of argumentation or with the existence of an audience. Rhetorical approaches, conversely, have difficulty in addressing the normative dimension of argumentation—assessing not only what audiences *do* accept but what they *should*. Dialectical approaches offer the promise of a middle position between logic and rhetoric, but only within the atypical and often counterfactual context of a critical discussion. It therefore would be to the advantage of argumentation studies if means could be found to help overcome the differences in perspective.

11.2   Strategic Maneuvering, Dialectic, and Rhetoric

I understand the study of strategic maneuvering as an attempt to do precisely that, in order to increase the potency of our accounts of argumentative exchanges. As van Eemeren and Houtlosser (2002) characterize it, it is "a systematic integration of rhetorical considerations in a dialectical framework of analysis" (p. 135), recognizing that people who are involved in argumentation usually wish not only to resolve a disagreement but to resolve it "in their own favor" (p. 134). This approach would "overcome the sharp and infertile ideological division between logic and rhetoric" (p. 137). Since their project is dialectical, they describe strategic maneuvering as the incorporation of rhetorical perspectives into dialectic. But they do not mean to suggest that strategic maneuvering is optional—that it can be either added in to dialectic or left out. The clear implication of their analysis is that every dialectical move and every step in an argumentative exchange involves strategic maneuvering; it is an inherent part of the exchange.

From a rhetorical perspective—at least one with which I am comfortable—strategic maneuvering is likewise ubiquitous. Since the ancient Sophists, rhetorical theorists for most purposes have rejected a foundationalist assumption that we somehow can access reality or truth apart from the judgment of a discourse community that some particular interpretation is more persuasive than another (see, for example, Consigny 2001). This means that there is no alternative to persuasion in order to influence the judgment of a specific audience; it is all strategic maneuvering, all the way down. From the dialectical perspective, strategic maneuvering coexists with but does not trump the desire to resolve a disagreement; the goal of the activity is a constraint that influences judgments about the acceptability of any case of strategic maneuvering. From a rhetorical perspective, the goal of persuading an audience is not only not a constraint but would seem to encourage whatever strategic maneuvering would be effective; in that sense, strategic maneuvering is all there is.

This difference, however, may be more apparent than real. The most recent thrust of the pragma-dialectical project implies the possibility of a bridge, by finding a

place in dialectic for considering persuasion and a place in rhetoric for considering the normative assessment of arguments. While van Eemeren and Houtlosser try to integrate rhetorical insight into a dialectical framework, "because [their] primary interest was and is the resolution of differences of opinion" (p. 135n.), my primary interest is just the reverse—integrating dialectical insight into a rhetorical framework—because I am concerned with the general quality of ordinary rhetorical argument and would like to develop clearer normative guidelines for what makes such arguments strong as well as persuasive. But which way we proceed does not really matter, as will become clear when we distinguish between models of what is normatively ideal and explorations of what occurs in actual cases of argument.

11.3   The Ideal and the Real

It is important to distinguish between models of ideal argumentation (normative) and studies of actual argumentation (descriptive), lest one mistakenly compare one perspective on argument as an ideal with another as actually practiced. It is unproductive, for example, to say that the model of critical discussion can accommodate rhetorical elements easier than actual rhetorical argument can incorporate pragma-dialectics. Normative models of dialectic may not resemble actual cases of dialectic, for that matter, just as normative models of rhetoric may not resemble actual rhetorical practices. We can hardly expect, therefore, to make a fair comparison between the ideal in one case and the reality in the other.

van Eemeren and his colleagues regard the critical discussion as a normative model of interpersonal argumentative exchange. Interlocutors discover that they are in disagreement and then, desiring consensus, commit themselves to resolve the disagreement by following certain procedures and observing certain rules. The rules are not just their own invention; empirical research suggests that these are rules that ordinary arguers claim to share. But van Eemeren and colleagues are *not* contending that every argumentative encounter actually follows all these rules. They are observed in actual cases to greater or lesser degree. They are norms toward which to strive. The task of the argument analyst is to assess to what degree the actual argument observed the norms, and thereby to encourage arguers to try harder—so that the norms, if never fully realized, can be more closely approximated.

There are two ways in which we might imagine a rhetorical situation. One involves a single advocate addressing an audience; the other, two or more advocates in competition for the adherence of an audience. The first of these frames of reference is identified with public speaking; the second, with debate. The first might resemble a dialectic in which the audience collectively assumes the role of one interlocutor, except that the audience is relatively passive and must be anticipated and responded to by the speaker without the benefit of extended interaction. The second frame of reference might resemble a dialectic between two interlocutors, except that they are not trying to resolve a disagreement to their own mutual

satisfaction; they are appealing to the audience to agree with their position rather than their opponent's. Even in an ideal sense, these two frames of reference are often combined, as in the case of an audience attending to a single speaker in the midst of an ongoing controversy in which several advocates appeal for their support with regard to the issue at hand.

Tending to focus on the study of specific cases, scholars of rhetoric have not focused so much on the development of an ideal model analogous to that of the critical discussion. Despite its lack of specificity, though, one good candidate for such a model is Perelman and Olbrechts-Tyteca's notion of the universal audience (Perelman and Olbrechts-Tyteca 1969). In their brief discussion, this is an audience of all reasonable people—an audience that is a mental construction of the speaker rather than one that actually exists. In the ideal case, even though addressing a particular audience, the speaker will select only those arguments that would gain the assent of the universal audience. What will not pass muster are arguments that depend upon the predispositions, prejudices, prior experiences, or other particularities of a specific audience. Even though that audience might find those arguments persuasive, they are not good enough for the ideal rhetor to use, because they would not persuade other reasonable people who do not happen to share those particularities. So the construct of the universal audience encourages the rhetor to strive for stronger arguments, not to settle for those that for idiosyncratic reasons would persuade the audience actually at hand. Again, actual cases of argument do not achieve this ideal but approximate it to greater or lesser degree, and the task of the argument analyst is to assess the gap between the real and the ideal, and to urge arguers to work to close it.

At the normative level, there is a congruence between the universal audience and the critical discussion. *If the universal audience existed, it would observe the rules of a critical discussion.* Following those rules would make it most likely that arguments would merit the adherence of all reasonable people. Arguments that were doubtful, or that closed off the possibility of challenge, or that pandered to a particular audience would be filtered out by the application of the rules. Conversely, *derailments of strategic maneuvering are those arguments that would fail to persuade the universal audience.* These would be the arguments in which topical choice, presentational devices, or audience adaptation were selected not because they clarify focus, increase presence of the ideas, or achieve stylistic elegance, but because they gave an unfair advantage to one advocate or because they took advantage of the special circumstances of a particular audience.

It follows from this discussion that strategic maneuvering has exactly the same meanings and implications in dialectical and in rhetorical argument, as a normative ideal. It is idle to discuss whether strategic maneuvering incorporates rhetorical elements into dialectic or dialectical elements into rhetoric. How one will explain strategic maneuvering will be based on one's interest in a particular case, but there is no fundamental issue at stake. It is more useful to consider how strategic maneuvering is executed in actual arguments. For this purpose I wish to focus on persuasive definitions as a kind of strategic maneuvering.

11.4   Persuasive Definitions

van Eemeren and Houtlosser discuss three general categories of strategic maneuvering: presentational choice, audience demand, and topical potential. The first two are incorporated explicitly in the persuasive definition and the third by implication.

Consider two general means of strategic maneuvering. One is to take advantage of connotative meaning, using language in a way that will give a boost to one's position. This is sometimes called "loaded language," and is akin to the presentational dimension in van Eemeren and Houtlosser's discussion of strategic maneuvering. The other is to advance claims and evidence that are acceptable to a particular audience but might well be unacceptable to a different particular audience. This is sometimes called "pandering," telling an audience whatever it wants to hear, and is akin to the audience demand dimension in van Eemeren and Houtlosser's account. Neither "loaded language" nor "pandering" is viewed favorably; both are sometimes considered fallacies. But the underlying moves are frequent if not inevitable, and in some circumstances are perfectly acceptable. The task for the argument analyst is to clarify when strategic maneuvering is sound and when it is fallacious.

These two means of strategic maneuvering are often employed jointly, through the use of what Charles L. Stevenson (1944) has called the "persuasive definition." This is a particular approach to definitions. It is not an argument *about* definitions, in which the dispute is overtly and explicitly about whether a concept or situation should be defined in a certain way (as, for example, about whether or not a certain employment practice constitutes a "hostile work environment" for purposes of the law). Nor is it in argument *from* definition, in which the advocate reaches a conclusion from a premise that stipulates the nature of a thing (as, for example, when Abraham Lincoln reasoned that slavery was wrong from the premise that the Negro is a person). Rather, a persuasive definition is a non-neutral characterization that conveys a positive or negative attitude about something in the course of naming it. The name is, in effect, an implicit argument that one should view the thing in a particular way. But the argument is never actually advanced. Rather, the definition is put forward as if it was uncontroversial and could be easily stipulated. The argument in behalf of the proposed definition is simply "smuggled in" through the use of the definition itself. I have referred to this as "argument by definition" (Zarefsky 1998). Examples from the United States include the naming in the 1930s of a limited program of social insurance as "Social Security," the definition of the blockade of Cuba in the 1962 missile crisis as a "quarantine," Ronald Reagan's choice of the name "Peacekeeper" for the MX missile in the 1980s, and the designation of the estate tax as the "death tax" and of withdrawal from Iraq as "cut and run" by the George W. Bush administration. Choosing the particular definition to apply in any given case implicitly invokes the topical potential dimension of van Eemeren and Houtlosser's account.

How does persuasive definition embody strategic maneuvering? Consider another example. In the autumn of 2006, in the case of *Hamdan v. Rumsfeld,* the

U.S. Supreme Court had held unconstitutional the Bush administration's plans to try suspected terrorists in special tribunals in which many procedural protections normally available in civilian or military trials were not present. The Supreme Court's reasoning, in essence, was that the President was usurping Congress's power to create courts. The Bush administration urged the Congress, in the closing days of its session and in the face of an impending election, to negate this decision by passing laws creating a system of tribunals similar to the one the Supreme Court had struck down. In the resulting Congressional debate, a central focus of controversy was whether certain interrogation techniques, not normally permitted, should be allowed in the special military tribunals. Some of the issues were whether these practices yielded reliable information, whether they were consistent with prevailing standards of morality, and whether the prospect of gaining valuable information warranted the infringement on civil liberties. These were obviously important questions; one could imagine them as the subjects of excellent public deliberation approaching the standards of a critical discussion. But, by and large, that is not what happened. Instead, opponents of using these methods referred to them as torture, while supporters followed the example of President Bush in calling them "alternative interrogation techniques." In either case, a persuasive definition was used to do the work of a complete argument.

It is easy to see how each of these definitions incorporated strategic maneuvering. Since torture is a concept that elicits widespread abhorrence, if the opponents of the Detainee Treatment Act were to prevail in calling the questionable tactics "torture," they would be far more likely to prevail in the dispute—not only resolving the disagreement but resolving it in their favor. At the very least, they would have placed a very heavy burden of proof on their opponents—to justify the use of torture. And they would have done so not by defending the standpoint that "torture" is really the appropriate name for these activities, but merely as the result of giving them that name and having the corresponding frame of reference take hold in the public mind.

In contrast, the connotation of "alternative interrogation techniques" is one of bureaucratic ordinariness. These methods are just variant approaches to a shared goal. If this definition gains traction, then the supporters of the act will be more likely to prevail. Opponents, at the very least, will now have to shoulder the burden of proof to establish why these seemingly normal procedures should be regarded as a special case. In neither of these scenarios is the assignment of the burden of proof the result of critical analysis of the controversy. Instead it is the result of the answer to an empirical question: Which of the competing frames of reference will resonate more strongly with the audience for the discourse?

What make the use of persuasive definition possible are certain characteristics of language usage. First, some terms are "essentially contested"; they acquire meaning only dialectically, in relation to their opposites. They therefore are flexible in their application. Since their meaning is not fixed, they offer opportunities for an advocate to identify his or her position with the term and take advantage of its presumably favorable or unfavorable connotation. Examples of such essentially contested terms include "liberal," "prudent," "progressive," "normal," and the like.

Second, some terms facilitate visualization more than others. They encourage what Osborn (1986) has called "rhetorical depiction," the ability as a result of discourse to picture a scene in the mind's eye. We know that visual rhetoric is particularly powerful. It can evoke strong images, almost viscerally, because, as the old adage suggests, a picture is worth a thousand words. The word "torture" is not just an abstraction, for example. It conjures images that most people would find utterly repugnant, such as those that came from the prison at Abu Ghraib. These depictions are more concrete than the abstract terms themselves, and, as Perelman and Olbrechts-Tyteca (1969) have argued, concrete values usually will trump abstract ones. That is why the philosophical pair "abstract/concrete" has "concrete" in the denominator position.

And third, persuasive definitions provide anchors for analogies. Often the nature of controversial subjects is somewhat ambiguous. They do not readily fall clearly into one pre-existing category rather than another. For example, the interrogation techniques do not unequivocally fall within either the category of those that are clearly acceptable or those that are definitely forbidden. This uncertainty means that there is something of a contest between the advocates for the right to classify. By calling the practices either "torture" or "alternative interrogation techniques," one is implying—though not proving—that the essential similarities between the practice and the term outweigh the essential differences. And we know that analogy is a particularly potent form of rhetorical argument because people are perhaps most readily influenced by recognizing a resemblance between what is unfamiliar to them and what they already know.

These explanations of how persuasive definitions "work" should also make clear how they embody strategic maneuvering. Within the procedural rules and conventions of argument, they are attempts to "put a finger on the scale" to help one's own cause, increasing the chance that one not only will resolve a disagreement but will resolve it in one's favor.

11.5 How Strategic Maneuvering Affects Arguments

What happens to the course of argument when such strategic maneuvering is undertaken? Here the answer depends on whether we assume the dialectical model of a critical discussion or the rhetorical model of persuading a specific audience. In the former case, the strategic maneuver has the status of a rebuttable presumption. That is, it will prevail unless it is challenged, but once it is challenged, the burden is on the user of the definition (the maker of the claim in which it is found) to defend it. In an actual case of dialectic, the arguers themselves implicitly decide whether they adopt and follow the standards of a critical discussion and what would count as a violation of the rules.

What would challenge the claim that the U.S. supports torture, for example, is an assertion by the interlocutor that this claim violates one or more of the rules of a critical discussion—and hence that it is a derailment of strategic maneuvering—whether

by closing off a possible standpoint, by failing to support assertions, by failing to acknowledge one's own assumptions, and so on. This assertion will carry weight to the degree that both interlocutors have chosen to follow the rule that the charge that the U.S. condones torture has been alleged to violate. That will be determined by how the protagonist (who first used the label of "torture") responds to the antagonist's assertion that this is a derailment of strategic maneuvering. If it becomes clear that the protagonist also accepts the rule that he or she has been accused of violating, then raising the question of violation of the rules shifts the discussion. Until the advocate's conduct can be squared with the rules, the question of the merits of the issue is set aside.

This is consistent with the classical notion of *stasis* in place, which is pre-emptive of the substantive issues. The allegation that the dispute is not being conducted in the right forum creates a dispute that must be resolved before the merits of either side in the dispute are considered. Likewise, the claim that alleging "torture" violates the rules of critical discussion raises an issue that must be resolved before this claim can enter into a discussion of whether Congress should legalize the interrogation methods in question.

On the other hand, should the protagonist signal that he or she does *not* accept the rule which he or she has been accused of violating—perhaps noting that the accusation itself is a strategic maneuver to shift the focus of the argument—then the antagonist has different choices: to convince the protagonist that he or she *should* accept the rule in question, to identify *another* rule of critical discussion that the protagonist *does* accept and then argue that it too has been violated, to withdraw the challenge to the rules and argue instead that the tactics in question do not meet the definition of "torture," to accept the definition of "torture" but to argue that the interrogation tactics should be legalized anyway, or to agree with the protagonist's explicit claim that the tactics are "torture" and with the implicit claim that for that reason they should not be legalized, thereby resolving the disagreement in the protagonist's favor and ending the argument.

Within a rhetorical perspective, the scenario is different although analogous. If the antagonist says that calling the interrogation techniques "torture" is fallacious, this charge need not have any effect on the protagonist. It does not matter whether the protagonist accepts the rule or not. The interlocutors are not colleagues pursuing the goal of resolving disagreement, but partisan competitors for the adherence of an audience. So what matters is how strongly the *audience* is committed to the rule—something about which the competing advocates must guess. If a particular audience does not follow the rule, the protagonist could avoid the charge altogether or dismiss it as a time-wasting or diversionary device, a derailment of strategic maneuvering itself.

What complicates the situation is that the nature and extent of a particular audience's implicit commitment to specific rules of critical discussion is usually unknown to the arguers, and because the audience does not participate directly in the interchange, there is no way that critical questioning will elicit this commitment. As a result, antagonists will take steps to "hedge their bets" if the audience's

commitments are in doubt. Rather than assuming that the question of rule violation has any pre-emptive status, they may advance it alongside other substantive arguments. Or they might advance an argument in defense of the rule, drawing on some other value that the audience is likely to accept, in order to justify the rule in question. Or they may try to shift the focus of the argument in order to render moot the charge of rule violation.

For example, when it was proposed to strip enemy combatants of the protections in the Geneva conventions, on the grounds that terrorists did not "deserve" *habeas corpus*, the grounds appealed to the predisposition of much of the American people that they were under siege from terrorists who deserved no mercy. The response was not to say that terrorists *did* deserve this protection, or to allege that the argument was invalid because proponents of this claim were unwilling to entertain challenges to their standpoint. The response instead was to suggest that the argument was not about terrorists at all. Rather, if the U.S. signaled its disregard for *habeas corpus*, other nations hostile to the U.S. would have a justification for denying the same internationally-recognized protections to captured U.S. soldiers in future conflicts.

By shifting the focus of the argument, the respondent is able to overcome the derailment of strategic maneuvering represented by the appeal to emotion about what terrorists "deserve," but without ever explicitly identifying that appeal as an inappropriate strategic maneuver or focusing the dispute on that charge. Since, in the absence of knowledge by the speaker about the audience's adherence to particular norms, the allegation of fallaciousness does not enjoy privileged status over any other argument, the application of the validity tests is but a preliminary step. First the interlocutor uses them to reach a private judgment about the argument, for his or her own reassurance. But then he or she must draw on inventional resources to fashion a *different* argument (such as the precedent-setting nature of *habeas corpus* violations in this example) that will persuade the audience that the claim in question really is invalid. This too is an exercise in strategic maneuvering: finding some *other* argument that will *also* exploit the commitments of the particular audience in order to refocus the controversy.

By doing so, the rhetorical advocate induces the audience to think like an interlocutor, and hence collectively to simulate the role of a participant in a critical discussion (Walton 2007; it should be noted that Walton regards "critical discussion" in an empirical sense, to designate a category of dialogues, rather than as an ideal model as the pragma-dialecticians do). To think of a rhetorical audience as a simulated dialogue partner brings us full circle. When we consider ideal models of argumentation, strategic maneuvering is conducted and challenged in analogous ways in dialectic and rhetoric. When we consider actual arguments, which can only approximate the models, the explanation of strategic maneuvering may be different in dialectic and in rhetoric, but the underlying workings are again analogous. In both dialectic and rhetoric, the charge of invalidity does not permit a self-evident resolution. Making the charge is itself a strategic maneuver and is only the beginning of a process of invention, not the end of the matter.

11.6   An Extended Case Study

These insights about strategic maneuvering can be illustrated by reference to probably the most significant case of persuasive definition in the past decade: naming the terrorist incidents of September 11, 2001 as acts of war. This definition of the situation has been so widely used, with so many extensions and corollaries, that it is tempting to regard it as natural and straightforward—which is precisely the power of persuasive definitions. But we must step outside this frame of reference and acknowledge that the nature of the incidents was ambiguous. They could have been imagined as an accident, or as a criminal action, or as a symbolic form of communication about the perils of global capitalism, or as a tragic action by deranged individuals, or as a miscalculation, to cite but a few examples. What took place resembled war in some respects: attacks were launched against locations in the United States, there was physical destruction, and lives were lost. But wars are understood as military conflicts between nation-states. Yet no nation, not even Afghanistan, claimed responsibility for the attacks. No nation declared war against the United States; neither did the United States against any other nation. President Bush sought and received Congressional authorization to use military force in response, but the authorizing resolution did not label either the attacks or the response to them as war. The President did not seek a Declaration of War, nor did Members of Congress call for one. The point of identifying all these possible characterizations is to recognize that regarding these incidents as the opening moves in a war on terrorism was not necessary or foreordained. It was a rhetorical choice to rely on that frame of reference, a persuasive definition.

The choice to regard September 11 as the beginning of a war was made early and often. Told of the attacks while in Florida, Mr. Bush first said that the perpetrators must be brought to justice—a usage that could be consistent with either a "war" or a "crime" frame of reference. But television commentators quickly adopted the "war" frame, and so did the President. Told of the second attack on the World Trade Center, he reportedly responded, "We are at war." The next day he told his Cabinet that the attacks were "acts of war." In his remarks at the National Cathedral just 2 days later, he said, "War has been waged against us by stealth and deceit and murder." When he met with senior advisers on September 15 at Camp David, he told them, "We're at war." Similar claims were made in his September 20, 2001 speech to Congress, and he has not wavered from this point of view ever since (Zarefsky 2004).

Naming the events as acts of war, the President made clear what was ambiguous, made visible and present what had been hidden or only latent. Picking this frame of reference helped to resolve in his favor the question, "What should we do?" First, war is understood to be a time when a nation unites in pursuit of the common goal of victory. Debate and criticism, which in other contexts might seem the lifeblood of democracy, are luxuries that must await the return of more tranquil times. In a war, as Susan Sontag noted, "the call to reflectiveness was associated with dissent, dissent with lack of patriotism." Objecting to the claim that the nation was engaged in a struggle between good and evil was characterized as condoning the terrorist attacks (Sontag 2002). The space for challenging the official view is closed.

Second, the construction of war establishes that conditions are in a state of crisis. Crisis is marked by urgency, requiring that decisions be made quickly and without the opportunity for calm deliberation. As Edelman and others have shown, in a state of crisis people will rally around their political leaders, so long as the leaders give the impression of their ability to cope (Edelman 1964, 1971). Support for the President becomes a sign of patriotism; this fact undoubtedly explains why President Bush's approval rating soared to 90 %. Crises are times of great risk but they also give leaders the opportunity to solidify their positions.

Third, war changes priorities. Personal or domestic considerations suddenly seem trivial; they are put on hold for the duration. On September 10, the President was in something of a stalemate over issues ranging from the treatment of the budget surplus and the state of the Social Security trust fund to national policy regarding stem cell research. These concerns were all swept away on September 11, and the President found himself free to act, even sometimes in opposition to his own previous commitments, so long as doing so would contribute to the cause of victory.

In *Henry IV, Part Two,* Shakespeare has the elderly king advise his son, "Be it thy course to busy giddy minds/With foreign quarrels, that action, hence borne out,/May waste the memory of the former days." The factors I have just mentioned help to explain why leaders continue to find it attractive to proclaim a situation to be a war. But it does not always work. The power of a persuasive definition is not guaranteed merely by the fact of its use. President Carter proclaimed the energy crisis to be the "moral equivalent of war," but this statement did not appear to change public attitudes or improve his legislative prospects. President Johnson called for a war on poverty and President Reagan for a war on drugs, in both cases with mixed results. Yet the description of the terrorist attacks as war quickly took hold and has maintained its potency for over 5 years.[1] Why is this so?

The answer, I think, does not so much reflect general principles or theories as the use of the term in a particularly kairotic moment. There *had*, after all, been an attack, which most people were able to see on their television sets. "War" was not an abstract metaphor; it was highly concrete. There was carnage and destruction. The fact that there were multiple attacks strongly encouraged the belief that there had been a plan developed in advance. The early identification of al Qaeda as the likely source of the attack established that this was a foreign threat (which could only be a step toward war), not a case of domestic terrorism like the bombing of the Oklahoma City federal building in 1995. The surprise nature of the attack invited people to view it by analogy to another surprise attack on the United States—at Pearl Harbor. Arguing from historical analogy suggested that September 11, 2001 was this generation's December 7, 1941, that it too was the opening move in a war. Finally, describing the terrorist incidents as war provided numerous opportunities for corollary usages, including references to "enemy combatants," "hostilities," "command structure," "patriots," "traitors," and "victory." It was the confluence of all these factors that gave the "war" frame of reference such staying power.

---

[1] This essay was originally prepared in the fall of 2006.

11.7   Applying the Case Study

Now that I have sketched out this use of persuasive definition and shown how it is a case of strategic maneuvering, let us consider how it might develop in dialectical and rhetorical argument. In the case of the critical discussion, one participant might invoke the "war" characterization, thereby taking on the burden to defend it if challenged. The proponent would have a strong incentive to use it, because it would predispose the argument in his or her favor. The opponent, however, might object to this maneuver, challenging the appropriateness of its use and pointing out that it gives the proponent a strong advantage unrelated to the substance of the argument. It is thus a derailment of strategic maneuvering, the opponent would suggest. Since the interlocutors are presumed to be cooperating in trying to resolve a disagreement, this objection would carry weight. In keeping with the rules of a critical discussion, the argument would move to the confrontation stage over the question of whether or not the "war" frame of reference is appropriate. In fact, this disagreement would need to be resolved before the interlocutors could proceed to other elements of the controversy. What this example suggests is that strategic maneuvering can be incorporated into a critical discussion without hazard to the overall goal of resolving disagreements, because it always can be challenged and the challenge creates an obligation to respond. This is so because strategic maneuvering does not trump the rules for a critical discussion but instead is subsumed by them.

The above scenario describes what would occur in the ideal case of a critical discussion. In an actual encounter, in which the participants commit themselves to the rules of critical discussion to greater or lesser degree, compromises would need to be made. As discussed above, these could take several forms: developing multiple arguments conditionally (this is a war, but even if it weren't, we should take these actions for the sake of public safety), arguing the truth of the persuasive definition (this really is a war), dissociation (there are wars and then there are wars; this is a different kind of war), minimizing the issue (let's don't get hung up on semantics), accepting the persuasive definition for the sake of the argument while rejecting the conclusion (even in war, we take care to protect civil liberties), and other possibilities too numerous to list. What these compromises have in common is that they enable the dialogue to continue without the interlocutors' having to deal directly with the charge of faulty strategic maneuvering, much less by making that charge pre-emptive.

In the case of an ideal rhetorical argument, the scenario would be similar to that of the critical discussion. The universal audience, sensitive to the same rules that regulate a critical discussion, would respond positively to an advocate who alleges that the use of the "war" metaphor is inappropriate, explains why, and prevails in any subsequent argument about the matter. And the resolution of that question would take precedence over any other aspects of the controversy that depend on defining the post-September 11 era as a war.

In an actual case of rhetorical argument, like the actual case of dialectic, compromises from the ideal are made. Strategic maneuvering is an inherent feature of

rhetorical argument, so introducing the persuasive definition of September 11 as war is not by itself problematic. Rather, the problem will arise when this characterization is challenged. A challenge to the use of strategic maneuvering will not enjoy privileged status when the arguers do not know whether the audience regards the challenge as fundamentally important. The proponent of the challenge is not assured that the opponent will feel compelled to reply, much less that this question will pre-empt other aspects of the controversy. If rhetorical arguers are cooperating at all, they do so in agreeing to play agonistic roles in order to help the audience reach a sound decision. To agree that a challenge to the definition of "war" is an overarching issue would be to abandon the agonistic role. Instead, what must happen is that the *audience* (an element of rhetorical argument that is not crucial to dialectic) must be convinced that this particular use of strategic maneuvering is inappropriate. It is not enough just to raise a challenge. Put another way, in the ideal case the burden of proof is on the *recipient* of the challenge to defend the particular use of strategic maneuvering. In an actual case, the burden of proof is on the *maker* of the challenge to show that the other party's use of strategic maneuvering is harmful or unfair.

Not only does the challenger of strategic maneuvering in an actual case bear a greater burden, but discharging that burden is exceedingly difficult, because the frame of reference being challenged often can be appealed to in order to envelop the challenge. Questioning the applicability of "war" to September 11 easily can be characterized as being unpatriotic, not supporting the troops, weakening the Commander-in-Chief, being irresolute in the face of the terrorist threat, and so on. In other words, the very act of challenging this use of strategic maneuvering can undercut the utility of the challenge and question the motives of the challenger.

What must be done in rhetorical argument, then, is not to *challenge* strategic maneuvering directly, but to *draw upon* the specific case of it, if only "for the sake of the argument," and then to show that the opponent's position weakens rather than strengthens the value that is being strategically maneuvered. So rather than denying that the U.S. is in a war on terrorism, critics have argued that policies they do not like have the effect of weakening the U.S. in that war. For example, they have said that the invasion of Iraq has diverted attention from the war on terrorism and spawned new terrorists, that the interrogation techniques at Abu Ghraib weaken the moral distinction between the U. S. and the terrorists, or that engaging in conflict with militant Islamists turns moderates against the United States. These claims have been advanced with some effect in recent months as the war in Iraq has proceeded with no end in sight, but they got little traction in the first months after September 11, when they only exposed their proponents to contempt. What this tells us is that the audience for rhetorical argument is not a *tabula rasa*, but it comes to the controversy imbued with the values and predispositions of the culture. In the case of U.S. culture, we know that citizens generally rally to support the President in the face of a crisis, but that they are impatient with long and inconclusive wars. Strategic maneuvering that reinforces critical predispositions will be potent and hard to challenge, and the successful challenge probably will not attack the cultural predispositions but point out that the strategic maneuvering leads to consequences that actually undermine them.

11.8   Conclusion

This essay has sought to explore the nature of persuasive definitions as a type of strategic maneuvering and how they are used in dialectical and rhetorical argumentation. Beyond illuminating persuasive definitions themselves, the analysis suggests five general conclusions.

First, it is important to distinguish between discussion of ideal-case models and analysis of actually occurring arguments. Actual cases can only approximate the models to greater or lesser degree, and they will not necessarily share all of the commitments that the ideal-case models assume.

Second, in the ideal case, strategic maneuvering would be evaluated analogously in dialectic and in rhetoric. If the universal audience (the rhetorical ideal) existed, it would be guided by the rules of critical discussion (the dialectical ideal). Conversely, an arguer following all the rules of the critical discussion would persuade the universal audience. Whether one's orientation was dialectical or rhetorical, one could say that fallacies are derailments of strategic maneuvering and that derailments of strategic maneuvering are fallacies.

Third, when examining actual cases of argument, explanations of strategic maneuvering in dialectic and rhetoric are different but analogous. The differences reflect the fact that dialectic takes place between interlocutors and is an interactive mode in which commitments can be made explicit, whereas rhetoric takes place between an advocate and an audience and is a relatively one-way presentational mode in which audience commitments must be guessed or anticipated. The analogues are that in both cases the allegation of faulty strategic maneuvering is itself a strategic maneuver, that making the allegation is just the beginning of an inventional process rather than the end of the matter, and that even sustaining the allegation may not be enough (since the parties may not be committed to the rule), so that disputes about the legitimacy of strategic maneuvering coexist with other disputes in an actual controversy. They do not enjoy a privileged position.

Fourth, given the analogues between strategic maneuvering in dialectic and in rhetoric, disagreements about whether a focus on strategic maneuvering incorporates rhetorical insight into dialectic or dialectical insight into rhetoric are unnecessary and unproductive. This analysis supports the judgment of van Eemeren and Houtlosser that dialectic and rhetoric are the "warp and woof" of argumentation analysis.

Finally, the normative goal of the argumentation scholar is to narrow the gap between the ideal and the real by using both analysis and pedagogy to bring practice more into line with the norms embodied in ideal models. One way to do that, as I have suggested elsewhere (Zarefsky 2006), is to rehabilitate the notion of validity, so that it is not purely a matter of formal characteristics as in traditional deductive logic. The rules of the critical discussion, whether 10 or 15 in number, can be understood as validity standards for dialectic and rhetoric. In place of formal standards, they are procedural. Argumentative encounters that have the procedural characteristics embodied in the rules will yield valid results, sound cases of strategic maneuvering. Those that do not will yield results that are fallacious, derailments of strategic

maneuvering. Bringing the real more in line with the ideal is essential if rhetorical argument is to have a strong normative as well as empirical component and if advocates are to challenge themselves to present the strongest possible "dialectical" arguments, not just those that will "work."

References

Consigny, S. 2001. *Gorgias: Sophist and artist*. Columbia: University of South Carolina Press.

Edelman, M. 1964. *The symbolic uses of politics*. Urbana: University of Illinois Press.

Edelman, M. 1971. *Politics as symbolic action*. Chicago: Markham.

Osborn, M. 1986. Rhetorical depiction. In *Form, genre, and the study of political discourse*, ed. H.W. Simons and A.A. Aghazarian, 79–107. Columbia: University of South Carolina Press.

Perelman, Ch., and L. Olbrechts-Tyteca. 1969. *The New Rhetoric: A Treatise on Argumentation.* Trans. J. Wilkinson and P. Weaver. Notre Dame: University of Notre Dame Press. (Originally published in French in 1958.)

Sontag, S. 2002. Real battles and empty metaphors. *New York Times*, September 10, p. A31.

Stevenson, C.L. 1944. *Ethics and language*. New Haven: Yale University Press.

van Eemeren, F.H., and P. Houtlosser. 2002. Strategic maneuvering: Maintaining a delicate balance. In *Dialectic and rhetoric: The warp and woof of argumentation analysis*, ed. F.H. van Eemeren and P. Houtlosser, 131–159. Dordrecht: Kluwer.

Walton, D.N. 2007. *Media argumentation: Dialectic, persuasion, and rhetoric*. New York: Cambridge University Press.

Zarefsky, D. 1998. Definitions. In *Argument in a time of change: Proceedings of the 10th biennial NCA/AFA summer conference on argumentation*, ed. J.F. Klumpp, 1–11. Annandale: National Communication Association. (Reprinted in this volume, Chap. 10.)

Zarefsky, D. 2004. George W. Bush discovers rhetoric: September 20, 2001 and the U.S. response to terrorism. In *The ethos of rhetoric*, ed. M.J. Hyde, 136–155. Columbia: University of South Carolina Press.

Zarefsky, D. 2006. The ten rules of pragma-dialectics and validity in argumentation. In *Considering pragma-dialectics*, ed. P. Houtlosser and A. van Rees, 313–323. Mahwah: Lawrence Erlbaum.

Chapter 12
Felicity Conditions for the Circumstantial *Ad Hominem*: The Case of *Bush v. Gore*

Abstract The circumstantial *ad hominem*, unlike the abusive variety, attacks a particular person by showing that his or her argument is inconsistent with his or her prior positions or circumstances. The difference between valid and fallacious uses of this form of argument is illustrated through analysis of the U.S. Supreme Court decision in the case of *Bush v. Gore*, which effectively halted the manual recount of disputed ballots in 2000 and effectively awarded the presidential election to George W. Bush. In its commission of the circumstantial *ad hominem*, the Court acted improperly. Broader implications for the use of this form of argument are recommended.

This essay is based on a presentation at the 2002 conference of the International Society for the Study of Argumentation, and is reprinted from a conference volume, *Anyone who has a view: Theoretical contributions to the study of argumentation* (Frans H. van Eemeren, J. Anthony Blair, Charles A. Willard, and A. Francesca Snoeck Henkemans, Ed.), pp. 297–308, published by Kluwer Academic Publishers (a forerunner of Springer) in 2003, and reprinted by permission.

In popular usage and many textbooks on reasoning, the argument *ad hominem* is defined as a personal attack on one's opponent, which is a distraction from the real issues at hand. Because it is a diversion, substituting personal for substantive argument, it is defined as a fallacy *per se*. As is often the case in informal reasoning, however, it is not as simple as that. Not all *ad hominem* arguments are fallacies, and in not all situations is the *ad hominem* inappropriate.

12.1   The Circumstantial *ad hominem*

In his recent book, Douglas Walton distinguishes among five varieties of the *ad hominem* argument, any of which may be strong, valid but weak, or fallacious, depending on circumstances (Walton 1998). Walton's key distinction is between abusive and circumstantial forms of the argument. The abusive form—misleadingly named—suggests that a person's claims should not be accepted because he or she has bad character. "Of course we shouldn't accept Smith's argument against European integration; after all he is a homosexual," is an example of this type. The notion that sexual orientation has anything to do with one's views on European unity is so far-fetched that we can dismiss the argument as fallacious. Not all cases of abusive *ad hominem* are fallacious, however. In contrast, the circumstantial *ad hominem* is not really an attack against a person's character but the identification of a breach between one's argumentative position and one's own circumstances. It suggests that one's actions deny one's principles. The classic case is the chain-smoking parent who admonishes his or her child not to smoke, only to be met with the reply, "You can't really mean that, since you smoke three packs a day yourself." Although *some* person could make a case against smoking, this person cannot, because his or her own behavior undermines the force of the claim.

Walton suggests (Walton 2001) that the circumstantial *ad hominem* was quite common in the ancient world, with philosophers often attacked for the discrepancy between their claims about what constituted the good life and their own behavior. The implicit assumption was that one's inability to live out his own precepts is evidence of the weakness of those precepts.

As Walton implies, however, the discrepancy between statements and actions may not be the strongest case of the circumstantial *ad hominem*. Since humans are imperfect, one's inability always to live out one's values is not necessarily proof of insincerity. The chain-smoking parent may recognize that smoking is harmful, acknowledge that nicotine is addictive, and admit his or her inability to conquer the addiction, and therefore urge the child not to smoke. The target of a circumstantial *ad hominem* may be able to repair the argument simply by acknowledging his or own imperfection and then urging the other person, in the familiar maxim, "Do as I say, not as I do."

A stronger characterization of the circumstantial *ad hominem* is to see it, in Walton's phrase, as argument from commitment. The essence of the argument is that a person cannot commit himself or herself to a claim and advance that claim for the adherence of others, because the claim is inconsistent with other commitments the same person has made. Over 40 years ago, Henry Johnstone maintained that all valid philosophical arguments are of precisely this type (Johnstone 1959). Because differing philosophical positions typically reflected incommensurable world-views, a philosophical position could not be dislodged merely by reference to external evidence. That evidence would be understood within incommensurable frameworks so that it might be deemed dispositive by one arguer and irrelevant by another. Accordingly, Johnstone suggested, the only way to dislodge a philosophical

argument is to establish that it is inconsistent with its adherents' own commitments. And doing so does not dislodge the argument universally. But for the person caught in the inconsistency, it cannot be a reasonable position.

If one is on the receiving end of a circumstantial *ad hominem*, three possible replies suggest themselves. The nature and persuasiveness of the reply will determine whether discussion will shift to another level. First, one could maintain either that he or she did not make the initial commitment or that the other party has misunderstood the commitment. For example, the allegation that one cannot really oppose secessionist movements since one believes in self-determination might be countered by saying that one was not really committed to self-determination or that it applied only to culturally homogeneous nation-states.

A second type of response is to distinguish the case at hand from the category that the commitment covers. Yes, one is committed to self-determination, but this is not a case of it: it is a terrorist act that targets innocent civilians and actually denies them the opportunity for self-determination.

Third, one could respond by suggesting that extenuating circumstances outweigh or transcend the original commitment. One still maintains the original view but sees it in a different light. Committed civil libertarians who have acquiesced in the grant of additional investigative powers to national governments fighting terrorism reason that civil liberties depend upon the existence of a society that embraces them, and some sacrifice may be justified in order to defend such a society against attack.

12.2   The Case of *Bush v. Gore*

The workings of this form of argument are illustrated in the United States Supreme Court decision in the case of *Bush v. Gore*, the case that effectively ended the dispute over the 2000 Presidential election by halting the manual recount of ballots in Florida. Those unfamiliar with the mechanics of U.S. elections were reminded in 2000 that the contest for the Presidency is not truly a national election. Instead, each state is responsible for determining how its Presidential electors will be chosen, and a majority of the electoral vote, not the popular vote, determines the winner. This arrangement is set out in the United States Constitution, adopted in 1788 as the result of numerous political compromises but in a culture generally suspicious of ordinary citizens' abilities to make wise choices. Over the past 200 years, each state has determined that a popular election will be the means of making its choice, but the laws regulating these elections vary from state to state.

In 2000, the results in several states were quite close, especially in Florida. It soon became clear that whoever won Florida's 25 electoral votes would win the election. On Election Night, George W. Bush led in Florida by only 1,784 votes out of six million that had been cast. Since the winning margin was less than half of 1 %, state law provided for an automatic machine recount, which reduced Bush's lead to 300 votes. There were also procedures for protesting the vote count before it

was certified, and contesting it afterwards, if there was reason to believe that a recount might alter the election results.

Vice President Al Gore sought manual recounts in four counties where he won by large margins but where there were significant numbers of "undervotes" (ballots on which no vote for President was registered). So that these recount might be completed, he sought a court order delaying the certification of the results. After lower-court skirmishes, the Florida Supreme Court ordered the certification deadline pushed back to November 26. The Bush campaign appealed this decision to the U.S. Supreme Court, holding that the Florida court was violating Federal law by changing the rules that were in place before the election and that it was violating the U.S. Constitution by usurping a role assigned to the Florida legislature. Defenders of the Florida court held that it had done no such thing but merely had engaged in the normal process of statutory interpretation when there were conflicting provisions in state law. The U.S. Supreme Court did not decide the case, *Bush v. Palm Beach County Canvassing Board*, but remanded it to Florida, seeking clarification as to whether the state court had based its decision on state law or whether it had invoked the U.S. or Florida constitution. If the latter, the Florida court would have run afoul of the Constitutional stipulation that the legislature, not the court, determine the means of choosing Presidential electors. On December 11, the Florida court replied that it had based its decision on state law alone.

Meanwhile, the certification deadline had arrived and the recounts requested by Vice President Gore had not all been completed. The addition of military absentee ballots, some of them of dubious legality, had raised Bush's margin to 930 but the completed recounts lowered it to 537. By that margin Governor Bush was certified as winning Florida and thus the election.

Still unconvinced, Vice President Gore contested these results, asking that partial recounts be included, that the incomplete recounts be finished, and that a lenient standard be used to discern "the intent of the voter" so that a candidate might be assigned ballots on which a machine registered no vote if the voter's intent could be determined. A circuit court ruled against the Gore campaign but its decision was overturned by the Florida Supreme Court, which ordered a statewide recount of all "undervotes." No sooner had these recounts begun than the Bush campaign obtained an order from the U.S. Supreme Court stopping them. The Florida decision was then reversed in the case of *Bush v. Gore*, rendered on December 12.

Bush v. Gore is a complex case with six separate opinions. The majority, in an unsigned opinion, held that the recount procedures denied Floridians the equal protection of the laws guaranteed by the 14th Amendment to the U.S. Constitution, because there was no consistent standard for what counted as "the intent of the voter." Moreover, there was no time for Florida to correct this deficiency because December 12 was the deadline for states to choose electors who would enjoy a "safe harbor" from challenge by the U.S. Congress. Justices Kennedy, O'Connor, Scalia, Thomas, and Chief Justice Rehnquist supported this opinion.

The latter three justices, in a concurring opinion, also found the recount invalid because the Florida court had taken over a function assigned by the U.S. Constitution to the state legislature and because it had changed the rules after the election had

been completed. Each of the four dissenting Justices—Stevens, Souter, Ginsburg, and Breyer—also wrote an opinion. None of the four believed that the Supreme Court should have taken the case. Two believed that there was a potential equal-protection problem but that it could be solved by remanding the case to the state level with instructions to apply a consistent standard for determining the voter's intent. The other two dissenters did not believe there was any equal-protection issue at stake.

The decision and the reasons for it were controversial. In my judgment, a principal reason for controversy was that the majority and concurring opinions so readily lent themselves to the circumstantial *ad hominem*. Inconsistency between the Court's reading of this case and the prior commitments of this particular Supreme Court invited the accusation that not jurisprudence but ideology or partisanship was responsible for the outcome. Please consider with me four respects in which this accusation was made.

12.3   Equal Protection

First, the majority opinion justified federal intervention in order to preserve equal protection of the laws. As the opinion put it, "When the state legislature vests the right to vote for President in its people, the right to vote as the legislature has prescribed is fundamental; and one source of its fundamental nature lies in the equal weight accorded to each vote and the equal dignity owed to each vote"(p. 103).[1] But the Florida recount procedures, it held, do not achieve equal protection because of "the absence of specific standards" (p. 104) to assure that the means of determining intent of the voter would be the same in each case.

No precedents were cited for this ruling. Indeed, there had been no previous case in which the equal protection principle had been applied to electoral tabulations. Diversity in election procedures had existed for many years and it was widely understood that the federal role in this matter was quite limited (Gillman 2001, p. 31). The Rehnquist court, which had eschewed judicial activism, was not likely to mark out new applications of Constitutional rights. The Rehnquist court had been particularly unwilling to invoke the equal-protection clause as a justification for federal intervention, except in cases of overt racial discrimination (Toobin 2001, p. 259). The equal-protection cases cited in the majority opinion—none of them related to voting—were ones with which the majority Justices, given their judicial ideology, probably would have disagreed. Moreover, in the earlier case of *Bush v. Palm Beach County Canvassing Board*, the Court had declined even to hear arguments alleging violations of equal protection. So the invocation by the Court in this case was suspect, given its own prior commitments.

---

[1] I am using the text of the decision reproduced in Dionne and Kristol (2001). All internal page references are to this source.

Furthermore, invoking equal protection guarantees in this case was suspect since there were even greater disparities in other aspects of vote tabulation. For example, in Florida different counties used different voting instruments. Some used punch cards, some used marksense technology (optical scanning of spaces filled in with a pencil), and a few used paper ballots or computer screens. The percentage of uncounted ballots varied among these instruments. Although he gave it little emphasis, Gore attorney David Boies developed an *a fortiori* argument. The variation in error votes among counties using different technologies was greater than that resulting from differences in manual recount standards (Gillman 2001, p. 135). If the greater variation did not violate equal protection, then certainly the lesser variation could not do so. Indeed, by this reasoning one could understand the hand recounts as a means of correcting for the equal-protection problem of varying voting technologies. But the majority held that this is not the question before the Court, thereby narrowing the context of the Florida recount procedures and permitting a ruling that is at odds with the Court's more general commitment against invoking equal protection.

Additionally, if equal protection were applicable to vote counts, its application would be far broader than just to this case. It would invalidate most disparities among states and would seem to mandate uniform national election procedures (Gillman 2001, p. 104; Dershowitz 2001, p. 82). The facts that no court had so ruled, and that any such ruling would fly in the face of Article II, Section 1 of the U.S. Constitution which gives each state the power to determine the means of selecting electors, seem to suggest that the equal-protection stand is out of place. The majority opinion tries to prevent this circumstantial *ad hominem* by circumscribing the Court's decision: "Our consideration is limited to the present circumstances, for the problem of equal protection in election processes generally presents many complexities" (p. 107). That is not only an understatement but also an attempt at blocking an *ad hominem* showing the larger implications of this decision to be at odds with the Court's own commitments.

On the other hand, limiting the decision to the present case—offering a ticket good for "this day and train only" –is at odds with the standards of jurisprudence employed by several of the majority Justices. Scalia, in particular, believed that the function of the Supreme Court in deciding a specific case was to formulate generally applicable precedents that could guide the behavior of political actors in similar circumstances (Dershowitz 2001, p. 82). On several counts, then, the invocation of equal protection is vulnerable to the circumstantial *ad hominem*.

12.4   The "Safe Harbor" Doctrine

Supposing, however, that the equal-protection standard were justified, the question of remedy invites a second *ad hominem* challenge. If Florida has ordered a recount without satisfactory standards, an obvious remedy would be to remand the case to the state with instructions to establish uniform standards and then to proceed with the recount. Justices Souter and Breyer recommend just this solution in their

dissenting opinions. But the majority opinion rejects that approach because of the lack of time. The U.S. Supreme Court decision was issued on December 12, the very date by which a state must choose its electors if it wishes to enjoy the "safe harbor" that will shield them from later challenge. Accordingly, the Court held, "That date [December 12] is upon us…Because it is evident that any recount seeking to meet the December 12 date will be unconstitutional for the reasons we have discussed [namely, the lack of equal protection guarantees], we reverse the judgment of the Supreme Court of Florida ordering a recount to proceed" (p. 108).

As Justice Ginsburg's dissent indicated, the December 12 date is not sacrosanct. The key date was January 6, when Congress was to open and determine the validity of electoral votes (p. 132). There were historical examples of valid electoral votes cast by electors chosen after December 12. In fact, in the 2000 election several states failed to meet the date and still had their votes counted. The significance of December 12 comes from the Electoral Count Act of 1887, passed in the wake of the disputed election of 1876, which held that electors chosen by that date enjoyed a "safe harbor" against Congressional challenge that their votes had not been "regularly given."

The Supreme Court majority assumed both that Florida wished to enjoy the "safe harbor" protection and that this desire trumped the desire for an accurate count. The evidence for the first assumption was that the Florida Supreme Court "has said that the legislature intended the State's electors to 'participate fully in the federal electoral process,' as provided in 3 U.S.C. §5," which includes the safe-harbor provision (p. 108). But there is no legislative history to establish that such is the case (Toobin 2001, p. 266); the U.S. Supreme Court relies on the Florida court's claim that it is interpreting the wish of the legislature. The Florida court, however, also claimed to be interpreting the wish of the legislature on other points: employing the general "intent of the voter" standard and reconciling seemingly inconsistent provisions in state law. The U.S. Supreme Court hardly deferred to Florida's interpretive authority on these matters! Only when it was convenient, because it stopped the recounts, would the U.S. Supreme Court show such deference.

As for the second assumption, that the December 12 date trumps other considerations, no authority is offered; the concurring Justices simply assert that it is so. Attempting to reconcile the Florida legislature's desire to use the "safe harbor" clause with its grant to the state courts of the ability to provide appropriate relief, the concurring Justices state that the legislature "must have meant relief that would have become final by the [December 12] cut-off date" (p. 116). There is no evidence from the legislative record to suggest that this is so.

12.5 Article II and Federalism

The third respect in which the Court invites a circumstantial *ad hominem* relates especially to the concurring opinion, which held that the Florida Supreme Court lacked the power to order recounts. On the face of it, this finding is at odds with the philosophical orientation of the Rehnquist court with regard to federalism. Time

after time, both before and after *Bush v. Gore*, the U.S. Supreme Court has protected state sovereignty from federal incursion. In particular, it had denied that it had the power to alter a state court's opinion of state law (Gillman 2001, p. 68; Kaplan 2001, p. 87). In her dissenting opinion, Justice Ginsburg alludes to this anomalous situation, writing, "Were the other members of this Court as mindful as they generally are of our system of dual sovereignty, they would affirm the judgment of the Florida Supreme Court" (1331).

In a particularly shrill critique, Dershowitz mentioned that the Rehnquist court would not even intervene to stop the execution of state prisoners whose conviction was based on a mistaken reading of constitutional law (Dershowitz 2001, p. 8). The "intent of the voter" standard, as Dershowitz claimed, precisely fit Justice Scalia's "criteria for a law or practice that should not be struck down: It is not expressly prohibited by the text of the Constitution, it bears the endorsement of many states over long period of time, and it has never previously been challenged" (Dershowitz 2001, p. 128). Perhaps for this reason, some of Governor Bush's advisers believed that they had no chance to prevail in a jurisdictional challenge (Toobin 2001, p. 49).

The concurring Justices defended their intervention by observing that this was no ordinary election but a contest for the Presidency of the United States. It was therefore governed by Article II, Section 1 of the U.S. Constitution, which gave the Florida *legislature* the power to determine the means of choosing electors, and the Florida Supreme Court had usurped that power. Moreover, it had changed the counting rules after the election was over, thereby jeopardizing the legislature's desire to take advantage of the "safe harbor" provision. In other words, a separation-of-powers error at the state level had led to a Federal Constitutional violation, creating the need for a ruling by the U.S. Supreme Court.

In their opinion, Chief Justice Rehnquist and Justices Scalia and Thomas cite several instances of alleged judicial usurpation in addition to overriding the legislature's desire to observe the "safe harbor" timetable. The court has failed to show deference to the Secretary of State and to state circuit courts, the bodies designated by the legislature to exercise discretion to conduct elections and to resolve disputes. The court has undermined the legislature's determination that certified election results have a strong presumption of legitimacy. And most fundamentally, the court has ordered a statewide manual recount of "undervote" ballots even though the statutes enacted by the legislature "cannot reasonably be thought to require the counting of improperly marked ballots" (pp. 110–14; quotation on p. 114).

The proper exercise of judgment by the Florida court, these Justices maintain, would involve deference to the legislature, the administrative agencies to which it delegated the conduct of elections, and the circuit courts. "In any election but a Presidential election," they note, "the Florida Supreme Court can give as little or as much deference to Florida's executives as it chooses, so far as Article II is concerned, and this Court would have no cause to question the court's actions" (p. 110). But a Presidential election is different; there "the clearly expressed intent of the legislature must prevail" (p. 115). Finally, the concurring opinion cites precedents in civil rights cases for overturning state court opinions that impermissibly broaden the meaning of state statutes in ways that violate guarantees in the U.S. Constitution

(p. 111). In other words, the concurring Justices tried to avert the circumstantial *ad hominem* by distinguishing between the general principle of deference to states and the specific case of a U.S. Presidential election. Dissenters simply denied that the Florida Supreme Court had changed state law or usurped any legislative power.

Curiously, some of the concurring Justices' complaints concern the protest phase of the Florida election, before official results were certified. But that was not the case at hand. With respect to the contest phase, as Gillman points out, "the state legislature explicitly gave the Florida Supreme Court the authority to rule on these sorts of cases" (Gillman 2001, p. 83). Hence a court order, such as that for statewide recounts of undervotes, was one of the solutions to election disputes authorized by the state legislature. Moreover, had the Florida legislature disagreed with the court's power to interpret election laws or with the substance of the court's interpretation, it could have modified the election laws to limit the court's power in this respect. It had not done so, even though it had changed the voting laws in other respects (Dershowitz 2001, p. 34). The Justices' professed sympathy for state sovereignty is undermined, a circumstantial *ad hominem* would suggest, by their actions implying that federalism is not the reigning principle for them if it leads to actions they do not like.

Moreover, if the principle of legislative supremacy were asserted strictly, it would discredit more than the Florida Supreme Court. The law passed by the state legislature requires that all absentee ballots arrive by 7:00 p.m. on Election Day; it contains no exception for military absentee ballots from overseas. But Florida officials in the executive branch entered into a consent decree with the U.S. Justice Department to provide for a 10-day extension for receipt of overseas ballots postmarked by Election Day. Acceptance of these late ballots was challenged in the case of *Harris v. Florida Election Canvassing Commission*, on the basis that "if it was unconstitutional for the Florida judiciary to extend a legislative deadline for when counties had to report their vote, it should also be unconstitutional for Florida's executive branch (working with the federal government) to extend a legislative deadline for the receipt of absentee ballots" (Gillman 2001, p. 138). This case was thrown out by the federal district and appellate courts, but had the Supreme Court's concurring opinion been the majority opinion, it is easy to imagine that the challenge to late absentee ballots would have been revived. The concurring Justices' seeming failure to consider fully the ramifications of overturning state sovereignty strengthens the suspicion that their commitment to federalism was trumped by their political preferences, suspicion which is the basis of a circumstantial *ad hominem.*

12.6   Intervention and Judicial Activism

There is a final respect in which the *Bush v. Gore* decision invites a circumstantial *ad hominem*, and that relates to its decision to intervene before a political process had run its course. Normally, a case would not be "ripe" for judicial review until the alleged wrong had occurred and other methods of resolution had been found lacking. It would have been more in keeping with normal procedure for the

recount to be conducted, and *then* for any challenge to be brought forward that it violated Constitutional guarantees. But in this case judgments were made in advance about a recount that had not yet occurred. Moreover, the U.S. Constitution and federal statutes assign roles for resolving electoral conflicts to the state legislatures and the U.S. Congress, but not to the Supreme Court. The legitimacy of the Court's acting in *Bush v. Gore* was called into question against the backdrop of its non-intervention norm.

The majority Justices explained their action by implying that they had no choice. In the conclusion of their opinion, they write, "None are more conscious of the vital limits on judicial authority than are the members of this Court, and none stand more in admiration of the Constitution's design to leave the selection of the President to the people, through their legislatures, and to the political sphere." They portrayed their involvement as reluctant, observing, "When contending parties invoke the process of the courts, however, it becomes our unsought responsibility to resolve the federal and constitutional issues the judicial system has been forced to confront" (p. 108). This position is in keeping with the rhetorical conventions of court decisions, particularly the norm that they are characterized as inevitable and compelled by the law, even if there actually were alternatives (Ferguson 1990). But the Court's contention is almost fatuous on its face. The Court was not forced to do anything; it could have chosen not to take the case or at least not to take it yet.

In academic and popular discussions of the case, two reasons were frequently offered for the U.S. Supreme Court's hasty involvement. One was that its action was necessary to correct the unwarranted judicial activism of the Florida Supreme Court. This line of argument was anticipated by remarks of Bush campaign officials that the Florida court had "overreached" and was trying to rewrite election laws to assure the election of Vice President Gore by any means necessary (Berke 2000, p. 269). Of course, this allegation begs the question. It assumes that the Florida Supreme Court was doing something other than exercising the power to resolve disputes that had been granted to it by the Florida legislature.

The more substantial justification for the Court's seemingly hasty intervention was that there was a transcendent interest in bringing certainty and finality to the election, and that this was something only the Supreme Court could do. On this reasoning, even if the court's action was not strictly justified on the legal arguments, it served the greater good of finally bringing the 2000 election to a close. This argument has been made forcefully by Judge Richard Posner. Acknowledging that the Court's reasoning, especially concerning equal protection, was vulnerable, he nevertheless praises the Court for breaking the deadlock (Posner 2001, pp. 151, 144). The need for finality was often stipulated by political or media leaders rather than resulting from public demand (Shogan 2001, pp. 267–68; Toobin 2001, p. 275). Although there was a sense of relief when the election finally was settled, polls consistently had shown that the public was patient and willing to wait, and that people preferred an accurate to a swift conclusion. (Of course, this view presumed that it was somehow possible to obtain a definitive, accurate answer in an election that was decided within the margin of error.)

Perhaps because the case for judicial intervention was weak in light of the Court's traditional reluctance to duck questions not yet "ripe," some speculated that intervening would hurt the Court's legitimacy, dignity, or prestige. In his dissenting opinion, Justice Stevens predicted that the credibility of judges would suffer because of the Supreme Court's unnecessary intervention (p. 121). Some commentators predicted that the Supreme Court's own cherished reputation would be tarnished (Greenhouse 2000, p. 296). So far, neither calamity has ensued, although the real test is likely to come if there is a vacancy on the Supreme Court while President Bush is in office.

12.7 Conclusions

Elsewhere I have argued that the *Bush v. Gore* decision was flawed because it depends on self-sealing arguments (Zarefsky 2002). Here my claim has been that it is flawed because it invites four circumstantial *ad hominem* attacks.[2] The Rehnquist court's general unwillingness to invoke equal protection called into question the legitimacy of its doing so in this case. Its general unwillingness to defer to the Florida Supreme Court's judgment calls into question its convenient choice to do so on the matter of the "safe harbor" deadline. Its known defense of federalism and state sovereignty renders suspect the willingness of the concurring Justices to find a violation of Article II in the recounts ordered by the Florida court. And the Court's traditional disposition not to intervene until it has to calls into question the decision to stop the manual recount before it could be completed or before Congress had a chance to evaluate the result.

In assessing this decision, I do not mean to suggest that the outcome of the election would have been different had the recount been allowed to run its course. Using statistical models, Posner has argued convincingly that the odds against definitely changing the result were great (Posner 2001, pp. 48–91). We now know that a statewide recount of undervotes most likely would not have changed the result. Ironically, a recount of both overvotes and undervotes—which neither side had proposed but which had been suggested by Bush to be necessary if *any* recounting were to be done—would have produced a Gore victory. While the recount was underway, the Florida legislature probably would have intervened to name a slate of Bush electors, as *Bush v. Gore* reaffirmed that they had a right to do (103). It is difficult to imagine Florida Governor Jeb Bush certifying the election of a Democratic slate as a result of a disputed recount. Nor, if the dispute had been thrown to the U.S. House of Representatives, in which the Republicans controlled a majority of state delegations, is it likely that the House would have elected Al Gore. I cannot imagine a different outcome to the election even though I believe

---

[2] Prosise and Smith (2001) also emphasize inconsistencies in the Court's decision, but they do not follow closely the structure of argument in the individual opinions and they do not analyze the case with reference to the circumstantial *ad hominem*.

that a slight majority of Florida voters and would-be-voters intended to cast their ballots for Gore. My concern here is not with the election outcome but with the Court's public justification for it.

How, finally, does this case deepen our understanding of the *ad hominem* argument? First, it underscores that personal character is intrinsic to argument. One cannot simplistically dismiss it as a fallacy because it is a personal attack. Second, it underscores the importance of evaluating arguments relative to their context rather than fashioning context-invariant rules in the manner of the formal logician. Third, it bears out the utility of Walton's distinction among types of *ad hominem* arguments, particularly the difference between the abusive and circumstantial forms. Fourth, however, it suggests that there is an interaction effect between these two forms of the argument. Asserting merely that the *Bush v. Gore* decision should be distrusted because the majority Justices were partisan Republicans might be seen as a fallacious use of the abusive form. But that same conclusion might be reached as a result of the circumstantial *ad hominem.* If the Court reached a result so much at odds with its own prior commitments, one legitimately might wonder why. Gillman concludes, after examining the record of all the courts involved in the 2000 election controversy, that the Justices in the Supreme Court majority "are thus the only judges involved in this election dispute who fall uniquely within the category that is most indicative of partisan politics: they made a decision that was consistent with their political preferences but inconsistent with precedent and inconsistent with what would have been predicted given their votes in other cases" (Gillman 2001, p. 189). What these writers are suggesting is that the circumstantial *ad hominem* provides the grounds for the abusive *ad hominem*, redeeming it as a reasonable argument rather than a fallacy.

Perhaps in an attempt to avoid this imputation of partisanship, the majority opinion claims that seven, not five, Justices agree that there are equal-protection violations that demand a remedy and that they disagree only as to the remedy (p. 108). Similarly, James A. Baker III, who headed the Bush legal team, objected to the characterization of the decision by the *New York Times* as a 5–4 vote. He wrote, "The court's holding that the lack of uniform standards for the recount violated the 14th Amendment guarantee of equal protection was decided on a 7-to-2 vote, with one of two Democrats joining six of seven Republicans" (Baker 2001, p. A24). But this is a misreading of the opinions of Justices Souter and Breyer. Neither believed that the U.S. Supreme Court should have taken the case or stopped the recount. Although they are concerned about equal protection, they do not acknowledge that Florida violated the 14th Amendment. Justice Souter wrote that "if this Court had allowed the State to follow the course indicated by the opinion of its own Supreme Court, it is entirely possible that there would ultimately have been no issue requiring our review" (p. 121), because the equal protection concern might have been resolved. And Justice Breyer began his dissenting opinion, "The Court was wrong to take this issue. It was wrong to grant a stay. It should now vacate that stay and permit the Florida Supreme Court to decide whether the recount should resume" (p. 132). Their unsuccessful effort to form a majority in favor of a remand to the Florida court

should not obscure the fact that Justices Souter and Breyer viewed the case in a very different light from that of the majority Justices.

Finally, this case helps us to identify the felicity conditions for the circumstantial *ad hominem.* It should allege an inconsistency between prior and current commitments, not an easily resolvable disparity between belief and action. It should preempt the response strategies discussed in this paper: denial, distinction, and transcendence. And it should function as the premise or grounds for an *ad hominem* of the abusive type.

It seems eerily anachronistic to examine this case in such detail in the aftermath of September 11, 2001. The terrorist attacks, if not the election, gave President George W. Bush all the legitimacy and approval he would need. Yet the case of *Bush v. Gore* remains important, not only because of its long-term legal implications but also because it reveals the interplay of judicial and political argument and deepens our understanding of the circumstantial *ad hominem* as a tool for argument analysis and criticism.

References

Baker III, J.A. 2001. *Bush v. Gore*: The fateful rulings. *New York Times*, July 7, p. A24.

Berke, R.L. 2000. Angry Republicans vow bitter fight. In Correspondents of the *New York Times*, *36 days: The complete chronicle of the 2000 presidential election crisis*, 268–269. New York: Times Books.

Dershowitz, A.M. 2001. *Supreme injustice: How the high court hijacked election 2000*. New York: Oxford University Press.

Dionne Jr., E.J., and W. Kristol (eds.). 2001. *Bush v. Gore: The court cases and the commentary*. Washington, DC: Brookings Institution Press.

Ferguson, R.A. 1990. The judicial opinion as literary genre. *Yale Journal of Law and the Humanities* 2: 201–219.

Gillman, H. 2001. *The votes that counted: How the court decided the 2000 presidential election*. Chicago: University of Chicago Press.

Greenhouse, L. 2000. Another kind of bitter split. In *Bush v. Gore: The court cases and the commentary*, ed. E.J. Dionne and W. Kristol, 296–299. Washington, DC: Brookings Institution.

Johnstone Jr., H.W. 1959. *Philosophy and argument*. University Park: Pennsylvania State University Press.

Kaplan, D.A. 2001. *The accidental president*. New York: William Morrow.

Posner, R.A. 2001. *Breaking the deadlock: The 2000 election, the constitution, and the courts*. Princeton: Princeton University Press.

Prosise, T.O., and C.A. Smith. 2001. The Supreme Court's ruling in *Bush v. Gore*: A rhetoric of inconsistency. *Rhetoric & Public Affairs* 4: 605–632.

Shogan, R. 2001. *Bad news: Where the press goes wrong in the making of the president*. Chicago: Ivan R. Dee.

Toobin, J. 2001. *Too close to call*. New York: Random House.

Walton, D. 1998. *Ad hominem arguments*. Tuscaloosa: University of Alabama Press.

Walton, D. 2001. Searching for the roots of the circumstantial *ad hominem. Argumentation* 15: 207–221.

Zarefsky, D. 2002. The structure of argument in *Bush v. Gore*. In *Arguing communication & culture*, ed. G.T. Goodnight, 537–545. Washington, DC: National Communication Association.

Chapter 13
Terrorism and the Argument from Ignorance

Abstract Argument from ignorance (because we do not know X is false, therefore it is true) is typically thought to be a fallacious form of argument. Yet it is precisely this argument that is used to argue that pre-emptive action should be taken against unknown but risky threats. Such an argument is a staple of discourse about terrorism, which typically involves stealth. In some cases, the argument from ignorance can be completely reasonable. This essay compares the use of the argument form by National Security Adviser Condoleezza Rice and Secretary of State Colin Powell to justify war against Iraq. Powell's approach is defended whereas Rice's is criticized.

13.1 Introduction

Both the informal logic and the rhetorical approach to argumentation studies have devoted significant attention to analysis of fallacies. From the informal logic standpoint, fallacies are unwarranted inferences from premises to conclusions; from the standpoint of rhetoric, they are cases of unjustified persuasion. From either point of view, they gain their power from their seeming resemblance to valid patterns of inference. And from the perspective of either informal logic or rhetoric, the study of fallacies is a messy affair. Unlike deduction, they are not purely errors of form but

they combine form, language, psychology, and experience. Moreover, a reasoning pattern that is faulty in some circumstances or contexts may be perfectly reasonable in others, and may be weak yet not fallacious in still others.

13.2   The Argument from Ignorance

Of particular concern here is a reasoning pattern first labeled by John Locke as the argument *ad ignorantium*, usually translated either as "appeal to ignorance" or "argument from ignorance." It is one of a category of fallacies (sometimes called the *ad-* fallacies) that have in common the appeal to irrelevant considerations in order to warrant an inference from grounds to a claim. Other examples of the category include *ad hominem, ad baculum, ad populum,* and *ad verecundium.* The argument *ad ignorantium* has two principal forms: (1) We do not know that A is false; therefore it is true, and (2) We do not know that A is true; therefore it is false.

The standard treatment of *ad ignorantium* is to regard it as a fallacy, on the basis that absence of evidence is not evidence of absence. The fact that we do not know A to be true is no more reason to conclude that it is false than that it is true. For example, Copi cites the fallacious claim, "there must be ghosts because no one has ever been able to prove there aren't any" (1953, p. 56). As another example, Jasinski cites the argument "that the lack of evidence about life on other planets–no one, after all, has proven that there is not life on other planets–is a reason to believe that life does exist on other planets" (2001, p. 244). Both of these examples involve positive conclusions, but one could equally well posit the argument that since we don't know the President's plan for the economy, he doesn't have one. The fallacy in each case is the unwarranted jump from a statement about our level of knowledge to a statement about reality.

Over the past two decades, Douglas Walton has revisited most of the *ad-* fallacies, subjecting the standard treatment to searching analysis. He has demonstrated that the reasoning patterns involved may be strong, valid but weak, or fallacious, depending on context, circumstances, and the purposes of the arguers. His work led him to formulate a pragmatic theory of fallacy (Walton 1995). In addition to this general theory, he has devoted individual book-length treatments to most of the *ad-* fallacies, including the *ad ignorantium* (Walton 1996).

Walton observes, first, that outside the field of logic this argument pattern is frequently employed in ways generally regarded as reasonable. An obvious example is the presumption of innocence in criminal law (Walton 1996, p. 48). Another is the use of default reasoning in computer science (Walton 1996, p. 20). Yet another is the use of negative proof (Walton 1996, p. 16). This refers to the failure to find something despite a thorough and systematic search. Cases such as these suggest, at the very least, that a theory of *ad ignorantium* must be more nuanced than the judgment that it is always a fallacy.

Walton then relates the argument to presumption and burden of proof, suggesting that the *ad ignorantium* voices a presumption as to what we should believe or do in

the absence of convincing evidence (Walton 1996, p. 86). The function of the argument then is to assign the burden of proof in the dispute. To speak in these terms is to introduce the context of dialogue. One enjoys presumption or shoulders a burden of proof vis-à-vis another arguer. Within a dialogue, a valid argument *ad ignorantium* is one that contributes to the goal of the dialogue.

Although he recognizes other contexts and goals, Walton is especially concerned with the critical discussion.[1] He combines van Eemeren and Grootendorst's "ten rules" with the concepts of presumption and burden of proof in assessing whether the argument from ignorance is valid. If, by the agreed time for the termination of the dialogue, the proposition at issue has not been disproved (or proved–depending on where the burden of proof lies), then it may reasonably be taken as having been proved (or disproved). This rule applies, provided that the dialogue followed the rules for a critical discussion. (For a succinct statement of these rules, although it postdates Walton, see van Eemeren et al. 2002.)

In contrast, the fallacious argument *ad ignorantium* is a premature closing of the dialogue. This occurs when superficial or perfunctory deliberation is treated as if it were thorough and systematic. One is far less justified in claiming that what is not found is not there when one has not looked very hard. Or the dialogue is closed when the conclusion is universalized, treated not as a presumption but as an unvarying truth. Seen that way, it is not an outcome of deliberation; it makes deliberation unnecessary.

Walton's principal examples of fallacious arguments *ad ignorantium* involve the early years of the Cold War. It was possible for Senator Joseph R. McCarthy to present dubious evidence of Communist sympathizers in the State Department and to have it taken seriously. Most notable for our purposes was Case 40 in McCarthy's presentation of 81 suspected Communists: "I do not have much information on this except the general statement of the agency that there is nothing in the files to disprove his Communist connections" (quoted in Walton 1996, p. 58). A case like this is fallacious for the two reasons noted above. First, the failure to disprove Communist connections was not the result of a systematic, careful effort to do so; there was no evidence in the files one way or the other. Yet it was stated as a presumption that Case 40 was a Communist. Second, the overwhelming fear of Communism and the widespread conviction that Communist subversion explained American setbacks in the Cold War universalized the proposition, setting a minimal standard for what was required to confirm it in any given case.

Walton suggests that an argument *ad ignorantium* contains an implicit conditional of the form, "If X were there, I would have found it." Then the statement of ignorance—"We have no evidence of X"–becomes the denial of the consequent, a valid deductive move leading to the conclusion, "X isn't there." So the argument resembles the valid deductive form of *modus tollens*. But of course the conditional statement itself is contextually dependent. "If there were evidence to exculpate

---

[1] Walton uses the term "critical discussion" differently from van Eemeren and Grootendorst. He regards it as one species of an actually existing dialogue whereas they regard it as a counterfactual ideal situation.

Smith of the charge of Communism, we would find it" did not carry much weight at the height of the McCarthy era, when fear of Communist subversion inspired efforts to ferret out Communists, not zeal for the defense of civil liberties.

To summarize, then, Walton demonstrates that *ad ignorantium* is not always a fallacy and that its use is governed by context. He distinguishes among different subtypes of the argument, especially focusing on the difference between dialectical and epistemic subtypes. Within the former, he relates the argument both to the concepts of presumption and burden of proof and to the construct of a critical discussion as theorized by van Eemeren and Grootendorst. He explains how the argument relies on an implicit conditional. And he discusses what contextual factors determine whether the argument will be valid or fallacious.

13.3   Public Discourse About Terrorism

Examining the argument *ad ignorantium* takes on special significance because of public discussion about terrorism. By its nature, terrorism is conducted in stealth. Responding to terrorism–and, even more, preventing it–is fraught with unknowns. A main task for argument is to determine under what circumstances action is justified in the face of ignorance. To demand conclusive proof of incipient terrorist acts prior to taking preventive measures is to cede all initiative to the terrorists, but to use "terrorism" as a rationale for whatever action one wishes to take is to make a mockery of public argument, to sacrifice civil liberties, and to lose all sense of proportion. Where to draw the line? This was the central question during deliberations leading to the adoption of the USA PATRIOT Act in the fall of 2001. Did ignorance about terrorists' intentions justify recalibrating the balance between privacy and national security in favor of the latter?

The argument from ignorance played an even more prominent role in the ensuing months. Particularly after the still-unsolved anthrax scare of 2001, the question began to be discussed: What if terrorists were able to acquire weapons of mass destruction? This could dwarf the attacks on the World Trade Center and the Pentagon in the magnitude of casualties. The likeliest supplier of such weapons would be a rogue state antagonistic to the United States. And that scenario led the Bush administration to focus on Iraq.

With the exception of occasional careless statements by Vice President Dick Cheney, officials did not suggest a link between Saddam Hussein and al-Qaeda, as some critics alleged. The administration's argument was more subtle. The premise was that September 11 had changed our frame of reference, forcing us to think more about the risks of what terrorists might do. Iraq was known to desire chemical, biological, and nuclear weapons, and also to loathe the United States. Our vulnerability was that Iraq would develop weapons of mass destruction and make them available to terrorists. Of course, no one knew whether this vulnerability would be exploited. But the risk was so great that the prudent course was to act even in the face of ignorance, either by disarming Iraq or by changing the regime.

13.3.1   Condoleezza Rice

On September 8, 2002, administration members made the rounds of the Sunday talk shows in order to raise consciousness of the threat. Perhaps the most succinct statement of the argument was from then-National Security Adviser Condoleezza Rice, who said on CNN that, while "there will always be some uncertainty about how quickly" Saddam Hussein could acquire nuclear weapons, "we don't want the smoking gun to be a mushroom cloud" (Purdum 2002, p. 1). The argument took the form:

1. We are ignorant about whether X will happen.
2. The consequences of X could be catastrophic.
3. Therefore we should do Y in order to prevent X.

This form illustrates what Walton regards as one of the basic uses of the argument from ignorance: to establish a presumption in the face of uncertainty and thereby to shift the burden of proof to the opponents of preventive action. This was the function of the Bush administration's discourse during the fall of 2002.

   Was Ms. Rice's argument reasonable, or was it fallacious? Clearly the fact that she argued from ignorance did not make her argument *ipso facto* fallacious. The danger of weapons of mass destruction is real, and sensible steps should be taken to prevent their use even if we do not know that such use is imminent. These are not grounds on which to fault Ms. Rice. Still, there is something not quite right about her argument.

   I am reminded of a common practice in academic debate arguments of the 1970s: to suggest that any policy proposal will lead to nuclear war. The risk might be exceedingly remote: how much would revenue sharing or national health insurance exacerbate it? But if the significance of a problem is the probability of its occurrence multiplied by the magnitude of the harm, even an infinitesimal probability could justify action to ward off a catastrophic harm.

   To state the argument this way, though, is to expose its obvious flaw. It becomes an all-purpose argument, available for indiscriminate use to justify even farfetched or contradictory actions without any gradations of probative force. The very universality of the appeal renders it of little practical value in any particular case. Of course we do not want the smoking gun to be a mushroom cloud, but if anything can pose the risk, then that statement by itself does not warrant one course of action more than another.

   So the flaw in Ms. Rice's argument is not in its form but in the absence of sufficient context. How should we evaluate the claim that there is a risk of nuclear war? If the risk is based on blustering statements of intent and desire, it is less credible than if there is verified evidence of weapons development. If Iraq's nuclear capability is years away, the risk is less credible than if it is imminent. If the links between Saddam Hussein and terrorist organizations are tenuous, the risk is less credible than if they are strong and well established. In each of these respects, Ms. Rice failed to provide the contextual grounding that would justify taking the argument from ignorance seriously.

Two other difficulties with Ms. Rice's argument deserve brief mention. First, if her argument is in behalf of any specific proposal, there is no analysis to suggest that the proposal will work–that it will reduce the risk of the mushroom cloud. To state the obvious, inattention to the "stock issue" of solvency has plagued U.S. policy in Iraq almost from the day of President Bush's ill-advised "Mission Accomplished" pronouncement.

Second, like other forms of argument, the *ad ignorantium* should be tested for consistency of application. If the specter of the mushroom cloud is used to justify regime change in Iraq, then is the same argument used to justify regime change in other potential nuclear states? This was a problematic matter almost from the beginning, since President Bush identified Iraq as one of three nations in an "axis of evil," but did not threaten the other two, even though they were both farther along on the path to nuclear capability than was Iraq.

13.3.2   Colin Powell

The other example I wish to discuss, in contrast to Ms. Rice's statement, is rich in contextual considerations: the speech by Secretary of State Colin Powell to the United Nations Security Council on February 5, 2003. Secretary Powell's basic form of argument is the implicit conditional described by Walton. As Powell deploys the argument:

1. If Saddam Hussein had given up his weapons of mass destruction, we would know it.
2. We have no evidence that he has abandoned weapons of mass destruction.
3. Therefore, he still retains weapons of mass destruction.

The argument, of course, presupposes that Iraq had those weapons at some point in the past, and Powell establishes this either with data from the Iran-Iraq war of the 1980s or with intelligence data from the Persian Gulf War in 1991. He makes essentially the same argument with respect to biological, chemical, and nuclear weapons. For example, he says,

> The Iraqis have never accounted for all of the biological agents they admitted they had and we know they had. They have never accounted for all the organic material used to make them. They have not accounted for many of the weapons filled with these agents… (United Nations Security Council 2003, p. 8)

Since Iraq once had biological weapons and we don't know of their destruction, they must still exist. Concerning chemical weapons, Powell says, "We have evidence that these weapons existed. What we do not have is evidence from Iraq that they have been destroyed or where they are" (United Nations Security Council 2003, p. 10). And regarding nuclear weapons, he says, "We have no indication that Saddam Hussein has ever abandoned his nuclear weapons programme" (United Nations Security Council 2003, p. 12).

To be sure, Powell does not rely exclusively on these implicit conditionals to make his case. He presents independent evidence to establish the continued existence of the prohibited weapons, relying either on photographic surveillance or on human sources. But this evidence is often ambiguous. What gives it clarity for purposes of the speech is its congruence with the reasoning pattern of the arguments from ignorance. The two reinforce each other.

Once Secretary Powell concludes that Iraq still maintains weapons of mass destruction, he easily can define that situation as a material breach of international agreements and of Resolution 1441, thus exposing Iraq to the "serious consequences" called for in that resolution. Together with the possible link between Saddam Hussein and al-Qaeda, these facts and assumptions prompt the question, "should we take the risk that he will not someday use these weapons at a time and a place and in a manner of his choosing," and answers that the United States will not run that risk: "Leaving Saddam Hussein in possession of weapons of mass destruction for a few more months or years is not an option–not in a post-11 September world" (United Nations Security Council 2003, p. 17).

One of the most notable features of Secretary Powell's speech is the amount and range of evidence that he provides. At several places Powell calls attention to his evidence. For example, he says, "My colleagues, every statement I make today is backed up by sources. Solid sources. These are not assertions. What we are giving you are facts and conclusions based on solid intelligence" (United Nations Security Council 2003, p. 5). At another point, he says, "These are not assertions. These are facts, corroborated by many sources" (United Nations Security Council 2003, p. 7). At another, "This is evidence, not conjecture. This is true. This is all well documented" (United Nations Security Council 2003, p. 8). What these assurances convey is that Powell's arguments *ad ignorantium* are not self-sealing; they are contextually corroborated.

It now appears, of course, that Secretary Powell got it wrong. The suspected weapons of mass destruction have not been found and may never have existed. Does this mean that his argument *ad ignorantium* is fallacious? Not necessarily, since the purpose of the argument is to establish a presumption. Powell easily could argue that, despite the failure to find prohibited weapons, it still was more prudent to presume that they were there than to presume the opposite. This may be the reason that failure to find the weapons did not, by itself, erode public support for the war.

With the passage of time, Powell's evidence is not as impressive as it first had seemed. Some of the photographic and audio evidence was indeed ambiguous and was over-claimed by the Secretary. Some of the human sources were of dubious credibility but, reporting the message that the Administration preferred, were given unwarrantedly high levels of trust. The "Downing Street report" (Krugman 2005, p. A23) suggests that the administration decided early on military action to remove Saddam Hussein and shaped its (and the public's) understanding of events with that goal in mind. Moreover, even if Powell's case had held up as presented, it skirts the jurisdictional question of whether the decision for war belongs to the United States or to the Security Council. The question of jurisdiction, as much as the merits of the issue, ultimately divided the United States from several of its principal allies.

13.4   Conclusion

The point of this analysis, then, is neither to justify nor to condemn the U.S. decision for war, but to examine significant moments in public argument. Three conclusions suggest themselves. First, deliberation about terrorism and how to respond to it features the argument *ad ignorantium* prominently, because of both the secretive nature of terrorist plans and the magnitude of possible risks. Second, examining this discourse underscores Walton's finding that the *ad ignorantium* is not an inherently fallacious argument. Insofar as it establishes presumptive decision rules and assigns the burden of proof commensurate with the risks of error, it may be a perfectly reasonable argument and a prudent decision-making guide. Third, however, rooting the argument in context must itself involve the exercise of critical judgment. It is far too easy for the argument to become self-sealing if it relies on unquestioned assumptions, or if it over-claims evidence, or if it interprets sources with a predetermined goal in mind. Such a compromised argument can delude its users and its consumers alike, as may have happened in 2003. And there is little that can be done to regulate this use of the argument, since the deliberative process involves classified information and is internal to the White House. It may seem naïve to conclude with the admonition that agenda-driven Presidential administrations must practice argument criticism more forthrightly, questioning their own assumptions and challenging their own claims. But there is political self-interest in getting the argument right. President Kennedy figured that out after the Bay of Pigs and adjusted decision-making processes before he had to pay the political price. It remains to be seen whether the current falloff in support for the war in Iraq is a temporary phenomenon or whether it will trigger a change in the Bush administration's approach to argument selection and strategy.

References

Copi, I.M. 1953. *Introduction to logic*. New York: Macmillan.

Jasinski, J. 2001. *Sourcebook on rhetoric: Key concepts in contemporary rhetorical studies*. Thousand Oaks: Sage.

Krugman, P. 2005. The war president. *New York Times*, June 24, p. A23.

Purdum, T.S. 2002. Threats and responses: The administration, Bush officials say the time has come for action on Iraq. *New York Times*, September 9, pp. A1, A8.

United Nations Security Council. 2003, February 5. 4701st meeting.

van Eemeren, F.H., R. Grootendorst, and F. Snoeck Henkemans. 2002. *Argumentation: Analysis, evaluation, presentation*. Mahwah: Erlbaum.

Walton, D. 1995. *A pragmatic theory of fallacy*. Tuscaloosa: University of Alabama Press.

Walton, D. 1996. *Arguments from ignorance*. University Park: Pennsylvania State University Press.

Chapter 14
Arguing About Values: The Problem of Public Moral Argument

Abstract There is a tension between democracy, which requires acknowledgment of human fallibility, and moral principle, which individuals normally hold with certainty. Partly for this reason, it is often difficult and uncomfortable to argue about moral values in a democratic public sphere. After exploring this tension, the essay identifies levels, strategies, and tactics for arguments about values, with illustrations of each. Although individuals may hold moral principles with certainty, public discourse about values necessarily must be inconclusive.

If it is true that our scientific and medical knowledge have outpaced our ethical understanding, then even more has our ethical understanding outpaced our ability to argue effectively about moral or ethical issues. This condition is especially serious because public argument is the means by which a democratic society comes to judgment and decision about matters of controversy.

14.1 The Tension Between Democracy and Morality

An explanation of our predicament must begin with an understanding of the tension between democracy and moral argument. For a working definition of democracy, I'll use the one Abraham Lincoln put forth when he summoned Congress into

special session following the attack on Fort Sumter: "a government of the people, by the same people" (Lincoln 1861/1953b)—a phrase that prefigures the Gettysburg Address. The key idea is that, in a democracy, sovereignty resides with the people. They delegate power to their leaders, whom they expect to act on their behalf and whom they hold accountable. For the secular, sovereignty resides in the people by virtue of natural rights; for the religious, as a gift of God.

If sovereignty resides in the people, three corollaries follow (Zarefsky 2008). One is political equality. It is not that people in fact are equal in power and influence, but that decision-making authority is allocated on a per capita basis, not on the basis of wealth, race, gender, religion, heredity, or intelligence. A second corollary is majority rule. People will not all think alike, yet decisions must be made in the face of uncertainty. If each has equal access to decision-making authority, then it follows that decisions must be made by the weight of greater numbers. And the third corollary is minority rights. Even though they do not prevail, members of the minority retain their legitimacy and sovereignty, and they could become the majority another day. Democracy is like an ongoing conversation; there are no final victories.

A democratic society is grounded in the assumption of human fallibility (Thorson 1962). We commit ourselves to certain beliefs; we think we are right; but we cannot know *for sure.* This human imperfection may be the result of unfinished evolution or of original sin, but the fact is that we could be wrong. For our ideas to be widely accepted, therefore, we must rely not on their inherent truth but on the free assent of others. And when their judgment is that our ideas are wrong, society will abandon those ideas and adopt others. There are no final, absolute victories. The virtue of democracy is that it permits and encourages the correction of error.

But there is a tradition of discourse that challenges these assumptions; it is the moral voice. It traces back to the prophets of the Hebrew Bible. They did not seek the assent of their audiences, or if they did, they went about it in a very strange way. Excoriation was their mode of operations; they called listeners to account for their misdeeds and challenged them to repent lest Divine punishment be even more severe. They had no doubt that they were right. They knew *for sure* because they were not expressing their own ideas. They were merely messengers transmitting the word of God—"thus saith the Lord." The prophetic voice was not stilled when the Biblical canon was closed. Even today, some participants in moral controversies will claim absolute certainty resulting from their access to God's Word.

Democracy presumes fallibility; prophecy presumes certainty. Yet it is an even more complicated tension than that. Democracy is not a purely procedural system, and it is the prophetic voice that enables a democracy to evolve. The abolitionist movement of the nineteenth century and the civil rights movement of the twentieth century were inspired by moral appeals. The fundamental evil of slavery was that it denied the slave the dignity inherent in personhood, and it thereby degraded the dignity of the master as well. This was not a contingent proposition; the abolitionists knew it *for sure*, and decades of controversy and the circumstances of war convinced the vast majority of Americans that they were right. The civil rights movement followed the premise that we are all God's children—a premise about which its advocates were *certain*—and argued to the conclusion that racial

discrimination, with its assumption of superiority and inferiority, had no place in American life. Racism has not disappeared, but over the past 60 years we have come to accept that officially-sanctioned discrimination is wrong.

One finds the prophetic moral voice in many other controversies—in calls to extend rights and liberties, and in calls to restrict them. It has figured prominently in the movements for women's rights and, more recently, gay rights; it also has figured prominently in the movements for prohibition and for sexual abstinence before marriage. The paradox is that the prophetic voice is at odds with democracy and yet may be essential in enabling a democracy to advance.

It should not be surprising, then, that moral conflicts are particularly difficult. Nor is this anything new. One hundred fifty years ago, perhaps the greatest champion of democracy (with both an upper-case and a lower-case "d") was Stephen A. Douglas. Slavery is a complex moral issue, he said, and it is not given to us to know which side is right. So rather than legislate for or against slavery in the territories, let the decision be made by those who go there to live. When a group of Chicago clergymen chastised him for moral obtuseness, he rebuked them, insisting that they had no special authority to speak on the matter (Douglas 1854/1961). On the other hand, John Brown knew *for sure* that slavery was an evil. It was beyond doubt or argument; his conscience demanded of him existential acts, that he do what he could to purge the nation of its sins. Equally convinced, however, was William Lowndes Yancey, a Southern fire-eater who knew *for sure,* because it was in the Bible, that slavery was a positive good and therefore that Congress must act affirmatively to protect the property rights of the slaveholders by enacting a slave code for the territories. With hindsight we can say that the genius of Abraham Lincoln was that he fused the prophetic and the pragmatic. He began with the premise that slavery was wrong, just as John Brown and William Lloyd Garrison did, but unlike them he reached the prudent conclusion that it should be *contained*—a position that enabled "strange, discordant, and even hostile elements" (Lincoln 1858/1953a) to coalesce under the banner of the Republican party.

The moral issues of our own time—issues such as abortion, cloning, stem-cell research, gay marriage, and end-of-life decisions—are no less complex than the slavery issue was for our forebears. The experience of the slavery issue also suggests how we need to proceed with our own disputes. We need to argue them out, seeking the assent of our fellow human beings.

Arguing about values is difficult. Even *acknowledging* value conflicts is hard. We may avoid them because we think they don't affect us, or because we don't want to offend others, or because we don't want to pass judgment and would rather "live and let live." We don't want to *argue* about them because that seems like bickering and fighting, or because we don't want to risk exposing our beliefs to scrutiny, or because we imagine that there is no way to resolve a dispute: you have your values and I have mine, and that is that.

But if we do not engage our values in argument, we cannot make decisions democratically. We must either rely on some kind of force—the coercion of military power, the weight of authority, or the threat of reprisal—or we must settle for pure relativism, according to which no one value is preferable to any other (Booth 1974).

I may value freedom and you may value tyranny, and there is no way to choose between us. The history of the last century is littered with object lessons suggesting that we must not settle for these alternatives.

So let us attempt the task of arguing about values, engaging our moral judgments within the assumptions of a democratic society. We must recognize first that virtually all arguing about values is case-based. We will not get very far if we try to resolve our disputes in the abstract. In an essay for the President's Council on Bioethics, Adam Schulman notes that human dignity might be grounded in our higher mental capacities, or in the equality of all persons, or in individual autonomy and choice (Schulman 2008). In the abstract most of us believe in *all* of those values, and yet in a particular situation they can lead to different, even incompatible, outcomes. So we have to make value judgments by arguing for the applicability of one or another value to the specific case. This involves the ancient faculty of prudence, or what the Greeks called *phronesis,* practical wisdom. It is not conclusive, nor final, nor generalizable. The same methods and materials are available to advocates on both sides of the dispute.

14.2   How We Argue About Values

14.2.1   Levels of Argument

Arguments about values occur on two different levels. Sometimes the point of the argument is to determine that something is a value in its own right. In these cases the value is the claim to be established. The claim is defended by reasons that an audience would take to be justification for it, as well as by warrants derived from other values that the audience accepts. For example, one might defend the claim that reducing our carbon footprint is a moral obligation. Reasons might include evidence that we are depleting the world's natural resources and a warrant derived from other values might be that we have a stewardship responsibility to care for the earth. If the audience accepted the warrant and was convinced by the evidence, the combination of warrant and evidence would establish the obligation to reduce our carbon footprint. The advocate for this claim will want to use warrants that the audience is known to accept. If the warrant is not accepted, then it too will need to be established as a claim, and that would require an ancillary argument. Stewardship responsibilities, for example, could be warranted both by an appeal to justice and by their acknowledgment in the Bible. In theory, the search for warrants acceptable to the audience could produce an infinite regress, but it is highly unlikely that there will be *no* commonly accepted values. Abandoning the effort to find common values that can warrant other values should be the arguer's last resort.

A variation on this approach to arguing about values is the argument *a fortiori.* This is an argument about more and less. It suggests that the greater implies the lesser (or vice versa, as the case may be). If we have the responsibility to take care

of the earth for the sake of future generations, then even more do we have the (subsidiary) responsibility to reduce harmful pollution from carbon emissions, which is one of the threats to the future of the earth. Acceptance of the greater value should imply acceptance of the lesser value which it subsumes.

More common, however, is the second kind of value argumentation: defending a choice between or among competing values. For example, in the abstract we may value both telling the truth and showing empathy and concern for others. But we are confronted with a practical situation in which we must choose between these values. In a conversation with a friend, should we tell the person what we honestly think about his or her spouse, thereby being faithful to the value of truth-telling, or should we tell a "white lie" in order to show empathy and concern for the friend and the relationship? The answer will vary with the specific circumstances, but in any given case we must be able to argue that one value should be preferred over the other. Like this example, conflicts typically involve two values that are good in themselves but may be incompatible in a specific case, such as the conflict between liberty and equality. In principle we support both of these values, yet each recedes as we maximize the other. Sometimes there is a compromise tradeoff, but sometimes we want to argue directly for the prominence of one over the other. When that is our goal, how do we pursue it?

14.2.2 Strategies of Argument

First, we can argue that one value subsumes the other. By choosing one we actually could enhance both. For instance, the controversy over whether to undertake heroic measures to resuscitate patients believed to be terminally ill can be understood as a conflict between the values of life and the quality of life. Advocates on one side may say that valuing life is to be preferred because life is a necessary condition for the quality of life; there is no point in considering the quality of life after the patient has died. Conversely, however, one might maintain that the quality of life is precisely what makes life meaningful and distinguishes it from mere existence.

Second, we might try to establish that pursuing one value yields a comparative benefit over pursuing the other. In considering priorities for public spending, one advocate might contend that spending on education will be an investment in the future; another might reply that spending on prisons will assure our security in the present. Funds are limited and it is not possible to direct significant resources to both. Then the dispute will turn on the question of whether greater benefit is achieved by focusing on the needs of the future or of the present.

Third, we might argue for one value over another on the basis that it has a greater likelihood of attainment. If we can achieve one value while the other remains speculative, then it would seem reasonable to pursue the one that could be obtained rather than risking the loss of both. An example might be the vexing philosophical problem of whether justice should be preferred over happiness, or vice versa. One might prefer the value of justice on the grounds that it can be achieved in this

world whereas true happiness can be achieved only in the next. Alternatively, one might maintain that one should pursue happiness because it is a state of mind, subject to our own control, whereas achieving justice depends upon the actions of others as well.

Fourth, we could argue that one value is preferred over another because it is a better means to a shared goal. In this case there is agreement on the terminal value to be sought but disagreement over the instrumental values that promote it. Virtually all parents, for example, want their children to grow into mature adults, but there is considerable disagreement about the values that will lead to that goal. One advocate might defend the value of autonomy, saying that giving children latitude to make many of their own decisions will provide experience in responsible decision making that is a hallmark of maturity. Another might maintain that close supervision and direction is a better path to the goal, because the child who practices desirable behavior under parental supervision will develop a habit of it and hence will be more likely to behave appropriately on his or her own. The advocates would exchange reasons for believing that the instrumental values they support will be more likely to achieve the commonly-held terminal value.

Fifth, we might propose that one value is better supported by authoritative sources than is the other. This approach presumes that both advocates accept the authority of the source. For example, we might imagine two religious people arguing about the extent of human responsibility for the environment. The advocate who believes that this is a low priority might maintain that the world exists for human use, citing the Biblical admonition that humankind fill up the earth and subdue it. The other, who thinks that we must preserve the earth for future generations and that attending to this responsibility is a high priority, might cite the Biblical admonition to take care of the earth, claiming that we are stewards but that the earth does not belong to us. This can be a productive argument because both advocates accept the authority of the Bible. The question then is which of the competing Biblical texts more clearly applies to the case at hand. On the other hand, if one advocate regarded the Bible as a guide to conduct and the other regarded it only as an interesting narrative, then a prior argument would be needed about whether the Bible should be regarded as an authoritative source, and if not, what other source should be considered authoritative. Or if the arguers rely on different sources, each of which could lay claim to authority (based on experience, training, or previous judgment, for example), then it will be necessary to determine in the given case which source can lay the greater claim.

Sixth, we might appeal to what in rhetoric is referred to as the locus of the irreparable (Perelman and Olbrechts-Tyteca 1958/1969). This is an argument suggesting that if one choice is made (or not made, as the case may be), the consequences will be irreversible; we will be past the point of no return. The underlying assumption ordinarily is that preserving options is better than losing them. For example, an advocate might prioritize the value of energy conservation over energy use by noting that if we exhaust the earth's fossil fuels, we cannot replace them. Since we cannot know how quickly alternative fuels can be made available, it makes sense to slow the rate at which we deplete fossil fuels. On the other hand, an opposing

advocate might argue that the current use of fossil fuels is essential to sustain economic growth, and without continued economic growth we not only will be unable to meet current social needs but also will lack the capital investment necessary to develop alternative fuel technologies. For one advocate, then, the locus of the irreparable is grounds for conserving fossil fuels while for another advocate it is grounds for continuing to use them.

These six broad patterns hardly exhaust the ways in which we argue about values, but they illustrate ways for getting beyond the stalemate that results from the mere assertion of opposing value claims. They are what the ancients called *topoi,* places in the mind where one might find arguments. Since each pattern can be used on both sides of a dispute, as the examples indicate, invoking a pattern does not by itself resolve the dispute either. Rather, it opens a space for argument, in which each of the disputants attempts to convince a relevant audience that his or her value should be preferred over that of the antagonist.

14.2.3   Tactics of Argument

In the ensuing discussion, the range of supporting arguments is potentially without limit. Two types, however, loom especially large. One is the role of analogy. In attempting to show that one's own value should be favored, arguers often try to show that the situation they are discussing is basically like one in which the value unquestionably applies. The logic of the argument is like this: Value A clearly prevails in situation X (chosen because it is a paradigm case); this situation is basically like situation X; therefore, value A applies in this situation as well. The power of the analogy is that it uses a known and clear case to frame our understanding of a difficult or ambiguous case. If we see a strong resemblance between the two cases, then the rule of justice (Perelman and Olbrechts-Tyteca 1958/1969) dictates that we treat them both in the same way, by applying to the case at hand the same value that governs the paradigm case. The antebellum slavery debate in the United States illustrates the point. The status of the slave was ambiguous: was it more like that of a human being or more like that of property? Proslavery advocates often maintained that a slave was basically like any other class of property and should be treated accordingly, whereas antislavery advocates held that the slave was more like a person and therefore was entitled to personal liberty. All manner of examples from history, from other cultures, and from the Bible were used to support each analogy. Eventually, as we know, the view prevailed that the humanity of the slave trumped the status of slave as property, and once that happened, slavery became morally unacceptable.

A second type of supporting argument frequently used in these value disputes is the circumstantial *ad hominem*. In popular usage, *ad hominem* is often described as an unwarranted personal attack that diverts from the substance of the argument. As Walton (1998) has demonstrated, however, there are several different types of arguments against the person, not all of which are fallacious. A particularly potent

argument is the circumstantial *ad hominem*, which claims that a person's own behavior (or circumstance) is at odds with the value he or she espouses. The implication is that the person does not "really" hold the value and therefore that it should not carry great weight. The classic example is the chain smoker who admonishes his child not to smoke and who is met with the retort, "You can't really mean that; after all, you smoke three packs a day." There are answers to this retort, of course, such as pointing out the debilitating effects of addiction, but on its face the retort suggests that the parent does not practice what he preaches and that, for that reason, the preaching should not be taken seriously. A recent example of the circumstantial *ad hominem* involved the Supreme Court's decision in *Bush v. Gore*, which essentially settled the 2000 Presidential election (Zarefsky 2003; reprinted in this volume). Because the decision was an exercise in judicial activism by a Court which renounced judicial activism, critics alleged that it was not a principled or sincere decision but a political intervention by the Justices to assure the election of the candidate they had favored.

The reason circumstantial *ad hominem* plays a large role in value disputes is that objecting to a value, pointing out its limitations, or asserting a counter-value is often not enough to defeat the value. Values reflect world-views and the objections often presuppose a different world-view, one that the original advocate would simply dismiss. Another pre-Civil War example will illustrate the point. When Abraham Lincoln said he was opposed to slavery because it was wrong, Stephen Douglas replied that it did not matter that Lincoln thought slavery wrong; the people competent to decide that question were those who actually were going to the new territories to live there. When Douglas defended this version of "popular sovereignty," Lincoln answered that it made sense only if one did not believe slavery to be wrong, because one could not maintain coherently that a person had a right to do what was wrong. Lincoln's and Douglas's values grew out of incommensurable world-views, so each could dismiss the other's position as irrelevant (Zarefsky 1990).

In contrast, the circumstantial *ad hominem* holds that a value is not acceptable *to the person who expresses it,* because that person's actual behavior undercuts the value. Other things being equal, this realization deprives the arguer of the ability to espouse the value. For example, it is perfectly appropriate to decry prostitution, but it was not possible for former New York Governor Eliot Spitzer to do so after he was exposed as the client of a prostitute. Many people could declaim against extramarital affairs, but it was difficult for Spitzer's successor, Governor David Paterson, to do so after acknowledging that he had had affairs. And while many public officials could insist that citizens have an obligation to pay the taxes they owe, it was hard for Treasury Secretary Timothy Geithner to say so once it was revealed that he had owed taxes that were not paid until shortly before his nomination was announced.

Perhaps realizing the power of the circumstantial *ad hominem,* Lincoln and Douglas employed it freely in their famous debates. Lincoln held that Douglas did not really support popular sovereignty, since he had opposed an amendment to the Kansas-Nebraska Act that would have explicitly allowed Kansans to reject slavery via a public referendum. Douglas countered that Lincoln was not really willing to tolerate slavery where it already existed (as Lincoln repeatedly had insisted he

would do); since he said that the country must become "all one thing or all the other," he must really be an extreme abolitionist (Zarefsky 1990).

What these six general patterns (strategies) and two specific types of support (tactics) suggest is that, notwithstanding the difficulty, people do in fact argue about values and can do so productively, It follows, then, that the moral issues posed by bioethics should not be regarded as beyond the pale of public moral argument.

14.3   The Inconclusiveness of Moral Argument

From the examples, it is evident that many arguments about values are not conclusive. The very same sorts of warrants are available to advocates on any side of a dispute, and their task is to gain others' agreement that their value best fits the case. The outcome is unknown and may not be the same in each case.

In these explanations, democracy has been privileged over morality. Even the prophet, who claims to know *for sure*, ultimately must make a case that will be acceptable by others. This point of view may be readily accepted by secularists who see that the alternative is tyranny. It may be readily accepted by those whose faith traditions, like mine, hold that prophecy ceased many centuries ago, with the prophet Malachi being the last. On this view, the word of God is found not in the human voice but in sacred texts that we must struggle, with all our imperfections, to interpret. And since it is not given to us to know what they mean, *for sure*, we must recognize and respect the views of others as well as our own. This is nowhere better captured than in the Talmud, which is argumentative through and through. Human beings must decide, they cannot know for sure, so they must submit their claims and reasons to the judgment of their fellows.

But this resolution will not sit well with those of other faith traditions who believe that God continues to speak directly to us, telling us how to behave in the world. Suppose that we really did know, *for sure*, when human life begins, or what is our responsibility to the planet, or whether a particular war is a moral obligation. If we really knew *for sure*, would we be tolerant of ignorant people who did not see the light but who nevertheless challenged our judgment? Would we spare any effort to be sure that we prevailed? Would we be patient with the niceties of democratic decision making? If we knew the truth and others decided in error, would we not also be implicated in the sin of the whole?

This is the position of the prophet. Others might call him or her a fanatic, deluded perhaps, most likely presumptuous and arrogant, but most prophets have been similarly reviled. How can we maintain that even one who claims to know *for sure* should be constrained by the proceduralism of democratic society? The answer might be to observe that it is democracy that creates the conditions in which one can espouse what he or she claims to know *for sure.* Otherwise, the tyranny of the ignorant could silence the true believer, confining him or her to ineffectual martyr-dom. How religious freedom came to the United States is an interesting case in point. It did not grow out of Enlightenment political philosophy so much as out of

practical circumstance. The Great Awakening of the mid-eighteenth century led to a multiplication of religious sects, most of which thought that they knew *for sure*. But with greater numbers of sects, there was greater risk that any sect would be in the minority, subject to persecution—in the absence of some concept of religious freedom. So the norm developed: religious denominations must eschew force, winning adherents by argument instead. In return for accepting that tenet of democracy, each sect is free to make its case and appeal for believers. Isn't this preferable to a holy war in which one might be on the losing side?

The answer to the prophet's claim to override democracy can be made in the form of a circumstantial *ad hominem*, maintaining that a person's claims are inconsistent with his or her own circumstances. Consider the case of North Carolina's distinguished Senator Sam Ervin, who in the early 1970s chaired the Senate committee investigating Watergate. Ervin related the experience of a late-night caller from Kentucky who told the Senator that he had personal revelations from the Lord and asked that he be called as the Watergate committee's first witness, as the Almighty Lord instructed. Ervin "advised him I hated to disobey the Almighty's instruction, and we'd be delighted to welcome the Almighty as the lead-off witness, but we couldn't permit the informant to enact the role because he didn't know anything about Watergate except what the Almighty had told him and somebody might object to his testimony because it was hearsay" (Ervin 1980; Zarefsky 1987). If the caller had direct access to God, as he claimed, then surely he could invite God to testify before Ervin's committee. His inability to do so called into question whether he really had direct access to the Almighty. (Of course, in this case Ervin's Kentucky caller would not find this funny. He knew, *for sure*, that God had spoken to him. If he was reviled and scorned, he was in good company; so too were the prophets of old.)

Even in ancient times, however, there were true prophets and false prophets, and only in the fullness of time could people know which was which. Individuals hear the call of conscience in different voices, and they trace it to different sources. But in a democratic society, moral authority comes from the ability to make arguments, grounded both in moral principle and in the circumstances of a specific case, and to gain the assent of one's fellows. The tension between democracy and morality is thereby both persistent and productive.

References

Booth, W.C. 1974. *Modern dogma and the rhetoric of assent*. Notre Dame: University of Notre Dame Press.

Douglas, S.A. 1961. Letter to twenty-five Chicago clergymen. In *The letters of Stephen A. Douglas*, ed. R.L. Johannsen, 300–322. Urbana: University of Illinois Press. (Originally written in 1854.)

Ervin, S. 1980. *The whole truth: The Watergate controversy*. New York: Random House.

Lincoln, A. 1953a. "A house divided": Speech at Springfield, Illinois. In *The collected works of Abraham Lincoln*, vol. 2, ed. R.L. Basler, 461–469. New Brunswick: Rutgers University Press. (Originally delivered in 1858.)

Lincoln, A. 1953b. Message to Congress in special session. In *The collected works of Abraham Lincoln,* vol. 4, ed. R.L. Basler, 421–441. New Brunswick: Rutgers University Press. (Originally delivered in 1861.)

Perelman, Ch., and L. Olbrechts-Tyteca. 1969. *The New Rhetoric: A Treatise on Argumentation*. Trans. J. Wilkinson and P. Weaver. Notre Dame: University of Notre Dame Press. (Originally published in French in 1958.)

Schulman, A. 2008. Bioethics and the question of human dignity. In *Human dignity and bioethics: Essays commissioned by the President's council on bioethics*, 3–18. Washington, DC: U.S. Government Printing Office.

Thorson, T.L. 1962. *The logic of democracy*. New York: Holt, Rinehart, and Winston.

Walton, D. 1998. *Ad hominem arguments*. Tuscaloosa: University of Alabama Press.

Zarefsky, D. 1987. Fulbright and Ervin: Southern Senators with national appeal. In *A new diversity in contemporary southern rhetoric*, ed. C.M. Logue and H. Dorgan, 114–165. Baton Rouge: Louisiana State University Press.

Zarefsky, D. 1990. *Lincoln, Douglas, and slavery: In the crucible of public debate*. Chicago: University of Chicago Press.

Zarefsky, D. 2003. Felicity conditions for the circumstantial *ad hominem*: The case of Bush v. Gore. In *Anyone who has a view: Theoretical contributions to the study of argumentation*, ed. F.H. van Eemeren, J.A. Blair, C.A. Willard, and A.F. Snoeck Henkemans, 297–308. Dordrecht: Kluwer. (Reprinted in this volume, Chap. 12.)

Zarefsky, D. 2008. Two faces of democratic rhetoric. In *Rhetoric and democracy: Pedagogical and political practices*, ed. T.F. McDorman and D.M. Timmerman, 115–137. East Lansing: Michigan State University Press.

Chapter 15
The Appeal for Transcendence: A Possible Response to Cases of Deep Disagreement

Abstract Argumentation theory emphasizes that agreement at some level is a prerequisite for meaningful disagreement. But what about disagreements that are so profound and go so deeply that the advocates find no basis for underlying agreement? In those cases there may be no dialectical or logical means to resolve the impasse. But rhetorical resolutions may be available if audiences can be convinced to perceive the argument in a new way. This essay identifies four pairs of rhetorical moves—inconsistency, packaging, time, and shifting the ground—that might be employed, and then develops two extended examples: one involving Lyndon Johnson's arguments for federal aid to education, which concluded successfully; and one on my own arguments about abortion, which ended in failure.

15.1 The Emphasis on Agreement

It is almost a truism in argumentation studies that productive disagreement must be grounded in agreement. Shared understandings of the goal, shared commitment to particular procedures, and shared adherence to basic truth-claims are thought to be necessary in order for arguers to engage each other rather than to talk past each other. Among the many writers who offer some version of this postulate are Perelman and Olbrechts-Tyteca (1969, p. 65), who say, "The unfolding as well as the starting point of the argumentation presuppose indeed the agreement of the audience. … from start to finish, analysis of argumentation is concerned with what

is supposed to be accepted by the audience." In a similar vein, Ehninger (1958, p. 28) wrote, "Debate is not a species of conflict but of co-operation. Debaters … co-operate in the process of submitting a proposition to rigorous tests. … They believe … not so firmly that they are unwilling to put their convictions to a severe test and to abide by the decision of another concerning them." These underlying beliefs about purpose and mode of procedure are agreed to by all disputants. Brockriede (1975, p. 182), identifying indicators of argumentation, includes among them "a frame of reference shared optimally." Argument is pointless, he suggests, if two people share too much in their underlying presuppositions, but it is impossible if they share too little. And MacIntyre (1984, p. 8) notes the impossibility of reasoning with one another when there are no shared standards to undergird rational talk. These are only four representative examples.

It is not hard to see why there would be so much agreement on the need for agreement. First, as Aristotle acknowledged, we do not argue about matters that are certain. But claims that are not self-evident must be evaluated by reference to some standards to determine whether they are strong or weak, better or worse. Second, though, neither the foundationalism of traditional philosophy nor the universal standards of formal logic and mathematics encompasses ordinary argumentation. So consensus of the arguers about standards becomes the substitute for formal validity.

15.2   Deep Disagreement

But what happens when this underlying stratum of agreement is, or is thought to be, lacking? Then any claim advanced by one arguer can be challenged by the other, in a potentially infinite regress, because there is no point at which the interlocutor, by virtue of his or her own prior commitments, is obligated to accept any standpoint. This state of affairs was first characterized by Robert J. Fogelin (1985) as *deep disagreement.* Each arguer's claims are based on assumptions that the other arguer rejects. Deep disagreement is the limiting condition at which argumentation becomes impossible. Most discussions of deep disagreement assume that it is a relatively rare occurrence that hardly denies the utility of argumentation for enabling ordinary arguers to resolve their disagreements peacefully. And because many discussions of argumentation presume a dialogue framework, deep disagreement is often dismissed as if it had no serious consequences beyond the immediate dialogue participants.

Both of these assumptions are dubious: the first because of the growth of fundamentalism and the second because deep disagreement has been found politically useful. The past generation has seen the increased appeal of fundamentalism within many of the world's major religious traditions—ultra-Orthodox Judaism, evangelical Christianity, and radical Islam. Fundamentalism rejects the modernist assumption of human fallibility and the resulting tolerance of diverse viewpoints. Fundamentalists believe that it is possible to know God's will for sure. God has made it clear, and the Divine Word can be read and understood by

anyone willing to try. Deviation from God's word in order to demonstrate tolerance to misguided others is not only unnecessary but perverse, implicating the righteous in the sins of the godless.

Because of the conflict between fundamentalism and modernism (or, even more so, postmodernism), many disagreements are understood by one side in moral and religious terms and by the other in pragmatic and secular terms. This is true not only with respect to matters of personal identity and rights, such as abortion, feminism, and gay rights, but increasingly to issues ranging from taxation and fiscal policy, to protection of the environment, to theories of criminal justice and penology. Even when shorn of an obviously religious dimension, public discussions of health care, economic stimulus, and financial regulation seem with increasing frequency to devolve very quickly to bedrock assumptions about the rights of the individual and the role of the state, assumptions on which agreement seems impossible. So advocates on either side of these issues talk increasingly to the like-minded, and the belief that argumentation can be used productively to resolve differences is hollowed out and withers. The difficulty may be more pronounced in the U.S. because of the greater influence of fundamentalism there. Yet from what I read about the immigration issue, the economic integration of the EU, and the question of whether religion has a public role, it seems that Europe is moving in the same direction.

The second assumption also is questionable. If deep disagreement is politically useful, it may affect all who are interested in the policy that is at issue. This has happened in the United States particularly over the past 20 years. The minority party often has seen more advantage in simply opposing the administration in power than in working cooperatively to solve problems. They have behaved as if the two parties were in a state of deep disagreement, and this produces an impasse in public deliberation. Issues will be unsolved or will be settled by numbers, money, or force, rather than by reasoned discourse.

If anything, this tendency has become more pronounced since the election of Barack Obama. Republicans in the Senate and House of Representatives have voted almost unanimously against most of the president's initiatives, delaying or obstructing their passage and making it necessary for Obama to make old-fashioned political deals to hold the Democrats together. This may not be a true case of deep disagreement, although it is argued as if it were. When Obama has incorporated into his legislation initiatives that Republicans previously had supported, they have changed stance and voted against them. They have portrayed Obama's center-left positions as "socialism" and have seen the contest as one between extending the reach of government and protecting the liberty of the people—ostensibly a sharp clash between incompatible world-views. The Obama administration has not been the unique object of such partisan division, although it does seem to be more extensive and systematic than under either George W. Bush or Bill Clinton.

If deep disagreement is prevalent and consequential, then argumentation studies should pay more attention to it. Nearly a decade ago, Nola Heidlebaugh (2001, p. xi) explored these concerns in depth. As she posed the question, "Without consensus on standards of reason, how can we have good public argument? And without the eloquence and enriched conversation of good public argument,

how can we reason together in order to reach consensus on the issues before us?" These questions give argumentation scholars an interest in exploring means to surmount deep disagreement and get deliberation back on a productive track.

15.3   Incommensurability: End or Beginning of Analysis?

Heidlebaugh (2001) observes that in a case of deep disagreement, the competing positions are incommensurable. They cannot be compared because they do not rely on the same rule-based way of making and legitimizing judgments. But if incommensurability makes further discussion impossible for the logician, she says, for the rhetorician the fun is just beginning. One or more of the arguers must find a way to transcend the deadlock and pursue the argument on another basis. As Heidlebaugh (2001, p. 74) describes it, "the rhetor has to find something to say that will aid in solving a particular problem perceived by the rhetor." Incommensurability is not something to be "cured" but a situation calling for practical wisdom. The arguer's task is to discover "a particular vantage point from which new similarities and differences emerge," because doing so "places value on discovering new things to say" (Heidlebaugh 2001, p. 128). Although Heidlebaugh combs the tradition of classical rhetoric and claims that commonplaces, topics, and *stasis* offer resources for the task of invention, she does not identify particular strategies of transcendence. I would like to do that now, by way of speculation based in experience and in the analysis of case studies.

15.4   Possibilities for Overcoming Deep Disagreement

I group these possible strategies in pairs under the headings of inconsistency, packaging, time, and changing the ground. Each of these moves reflects the assumption that advancing one's own claim in an ordinary manner will be unproductive in breaking the impasse because it is not commensurable with the other's standpoint. One must think in different ways about the clash between standpoints.

15.4.1   *Inconsistency: Hypocrisy and the Circumstantial* *Ad Hominem*

The first two moves attempt to get inside the opponent's frame of reference and discredit it on grounds of inconsistency. They rely on the law of non-contradiction, that a soundly reasoned claim cannot be at odds with itself.

The charge of *hypocrisy* is that the advocate now maintains a position that is inconsistent with one he or she has maintained previously. In the absence of any

explanation for the change, the reasonable implication is that the advocate is being hypocritical and represents only expediency, not principle.

In early 2010, some leading Republicans in the U.S. opposed more government funding to stimulate the economy because it would add to an already large budget deficit and swell the national debt. Many of the same Republicans, however, had voted for even larger deficits during the Bush administration, to support the costs of the war in Iraq or the prescription drug benefit for senior citizens, or as a consequence of tax cuts that were enacted without comparable spending reductions. A Democrat might respond to the Republican complaints about deficit spending as follows:

1. You are bothered by the deficit now.
2. But you were not bothered by it when your party was in power.
3. [There is no apparent explanation for the change in your position.]
4. Therefore you are a hypocrite. Your concern is not with the deficit but just political expediency. You just want to insulate yourself from the Tea Party supporters and to shore up your political base.
5. Therefore your argument is not sustained by any principle and should be rejected.
6. Since your standpoint cannot satisfy the consistency test and your standard is in conflict with mine, my standpoint prevails by the process of elimination.

Not all of these steps will be articulated explicitly, but these are the steps in the move. My standpoint is advanced not by my supporting it with additional reasons but by my demonstration that yours cannot withstand the test of consistency.

Of course, this strategic move is vulnerable. It depends on the unstated assumption that there is no apparent explanation for the change in position. People generally do not knowingly maintain inconsistent positions that will open them to the charge of hypocrisy, so the opponent will work hard to distinguish between the positions. It may be that deficit spending is justified for national security but not for economic stimulus. Or perhaps it is all right if it stimulated the economy by putting more money in individuals' hands but not if it involves government spending. Or maybe it is acceptable if targeted to senior citizens but not if it supports the general population. Any of these explanations would need support, of course, but the burden of proof would be light precisely because we assume that advocates generally do not advance hypocritical claims.

Related to the charge of hypocrisy is the *circumstantial ad hominem.* This is not a personal attack on the opponent's character. Rather, it is an assertion that the adversary's expressed standpoints are at odds with his or her own behavior in a specific situation. On the commonplace belief that "actions speak louder than words," the inference is that one's actions reveal one's true commitments far more than do one's words (Walton 1998, pp. 2–6, 108–112). So the standpoint fails because it cannot be supported by the arguer's own actions. Since my standpoint is the alternative to yours, mine prevails, again through residues. Johnstone (1959) has gone so far as to suggest that all valid philosophical argumentation is of this type.

Suppose that A is a lawyer for whom protection of civil liberties is a prominent value. A spoke out against the efforts during the Bush administration to expand the

president's powers in response to terrorism, believing that these measures unduly violated individuals' rights to privacy. Yet A accepts an invitation to argue before the Supreme Court in defense of those expanded powers when the Obama administration seeks to retain them. "You must not really be committed to civil liberties," a critic alleges, "when you abandon that commitment for a chance to appear before the Supreme Court to defend President Obama." A's actions reveal his true commitment—to the Obama administration or to his personal desire to appear before the Supreme Court—and discredit A's professed commitment to civil liberties. That position having lost, the alternative position prevails by elimination: A thinks that defense of the nation against terrorists outweighs protection of civil liberties, at least with regard to the case at hand—the hierarchy that A's interlocutor is trying to discredit.

As in the hypocrisy example, the opponent's likely response will be to distinguish between the two situations, placing statements and actions on two different planes. He or she might oppose new restrictions on civil liberties and yet maintain that removal of existing restrictions would convey to other nations the impression that the U.S. was weak. Or the opponent might want to keep the current restrictions because of trust that Obama will use them judiciously and as a last resort, trust that was lacking with respect to President Bush. If the adversary can succeed in distinguishing between the situation in which one made commitments and the situation in which one is called to the test, then the circumstantial *ad hominem* will lose its force and the perception of deep disagreement will be maintained. Alternatively, the opponent might claim that he or she is just doing the job of a lawyer, seeing that each client receives the strongest possible defense.

15.4.2   Packaging: Incorporation and Subsumption

A second pair of strategies has to do with packaging arguments. One is *incorporation*, in which an advocate includes incommensurable arguments (and the proposals that accompany them) into a larger package. The success of this strategy depends upon a perception by both advocates that simply perpetuating the impasse is intolerable. Neither advocate is willing to concede but neither is willing to prolong the stalemate. The Obama administration attempted this approach in fashioning its health-care bill, when it incorporated some Republican proposals, such as "tort reform" to curtail lawsuits for malpractice. Obama's supporters did not concede their own standpoints about the causes of health-care costs—indeed they maintained that "tort reform" would address only a very small part of the problem—but they included some degree of "tort reform" in the bill so that Republicans could act consistently with their professed principles and still support health care reform.

This effort clearly failed, and the failure exposes the difficulty with the strategy of incorporation. Both advocates must desire to overcome the impasse. In this case, passage of health-care legislation was not an important priority for the Republican

opponents unless it could be passed on their own terms. Even though tort reform was part of the bill, they did not have enough incentive to swallow other elements of the bill that they found objectionable. Some actually preferred to vote against the bill while others, noting that the administration wanted desperately to get a bill passed, could hold out to see whether their hard-line stance would yield even more concessions.

Related to incorporation is *subsumption*, a strategy which seeks to subsume both of the irreconcilable standpoints within a larger frame. One advocate initiates the move, inviting the other to cooperate. The standard form of the argument would be something like this:

7. Our positions X and Y appear to be incommensurable.
8. If you support X, you should support Z because it will advance the cause of X.
9. If I support Y, I should support Z because it will advance the cause of Y.
10. So we can subsume the disagreement about X and Y under our agreement on Z.

The difference between incorporation and subsumption is that incorporation aims only to overcome the impasse in arguments whereas subsumption also aims to develop positive identification with the common term Z.

The abortion controversy offers an interesting example of an attempt at subsumption. The controversy between "pro-life" and "pro-choice" quickly reaches an impasse; the competing standpoints reflect incommensurable world-views and differ on such basic questions as whether we are in control of our own bodies. But arguers may be willing to subsume these differences under the question, How can we best prevent unwanted pregnancies? Both sides have an interest in this question, because it will reduce the circumstances under which the moral dilemma of abortion presents itself. As a practical matter, it might work.

Then again, the phrase "as a practical matter" is a warning signal. The dispute between "pro-life" and "pro-choice" does not take place on the ground of practicality but as a matter of principle. One can imagine the dispute playing out almost the same way regardless of whether the two sides support a program to reduce unwanted pregnancies. Either side could accept the reduction of unwarranted pregnancies as well and good, taking that benefit off the table, and then immediately revert to its standpoint rooted in incommensurable principles and world-views.

Incorporation and subsumption can be combined. A famous example is the U.S. Senate debate over the Compromise of 1850, originally presented as an omnibus bill to resolve all outstanding disputes over slavery. Incompatible goals were somewhat incorporated into a package, but these individual actions were subsumed under the rubric of finality. Those on either side could see the appeal of settling the controversy, regarding every square inch of U.S. territory, once and for all. Both political parties committed themselves in their 1852 election platforms to the Compromise of 1850 as the final resolution of the controversy. Yet the compromise was vulnerable. Over time each side could (and ultimately did) think it gave up more than it gained, suffering a raw deal. This is approximately what happened during the years leading to the American Civil War.

15.4.3   Time: Exhaustion and Urgency

The third pair of strategic moves deploy time and timing as a way to break the argumentative impasse. One such move is the appeal to *exhaustion*. Cases of deep disagreement can remain in an impasse for some time. Eventually, one party may decide that the duration of the controversy has become disproportionate to its importance and try to entice the other to move on. The original disputants may even have passed from the scene, and their successors may be less disposed to carry on the fight. Or time may have passed the controversy by as the consequences of either participant's position have diminished. Or the impasse may itself become uncomfortable because "life's too short" to obsess over it. For any of these reasons, one party may try to convince the other that the time has come, not necessarily to resolve the deep disagreement but at least to set it aside and move on.

Something like this attitude motivated the late Israeli Prime Minister Yitzhak Rabin in the early 1990s to make overtures toward peace negotiations with the Palestinians. Bitter enmity over the years had exacted a terrible toll. The Palestinians had not become Israel's friends, but as Rabin pointedly noted, one does not need to make peace with one's friends.

Like some of the other moves, the pitfall of this one is that it depends upon a mutual state of exhaustion. The party making the argument must convince the other to feel the same way. Otherwise one arguer may see the other's appeal to exhaustion as a confession of weakness. If the non-exhausted party will just hold on, the other may lose heart and give up the fight. This is about what happened in the case of the Vietnam war.

More often than appealing to exhaustion, though, advocates will appeal to *urgency* caused by a crisis in order to get beyond a deep disagreement. The suggestion is that while deep disagreement is a luxury to be tolerated during normal times, we cannot afford it now; time is of the essence and the severity of the situation demands a prompt response.

During the fall of 2008, the U.S. financial system was threatened with implosion, with major repercussions likely around the world. To avert disaster, the Bush administration advocated massive infusions of cash and loan guarantees in order to restore confidence in the U.S. economy. These proposed "bailouts" were castigated by many in Bush's own party who were convinced of the resilience of an unaided free market. Even President Bush acknowledged that he was uncomfortable with the measures he was proposing and that in normal times he would not suggest them. But the belief that a major crisis was looming required him to set his ideological commitments aside. Not so for many Republicans in the House of Representatives.

Not prepared to accept that the U.S. faced financial meltdown, they initially defeated the proposed bailout. Only when the stock market plunged in response did they reassess their position and pass a modified version of the bailout bill.

Recognizing a state of affairs as a crisis is in the eye of the beholder. If one party holds out and refuses to regard the situation as a crisis, the argument from crisis will be ineffective and perhaps even counterproductive. On the other hand, the

perception of a situation as a crisis is a powerful impetus to action. This perhaps is the reason that White House Chief of Staff Rahm Emanuel reportedly said, "never let a crisis go to waste."

15.4.4   Changing the Ground: Interfield Borrowing and Frame-Shifting

The final pair of moves may be the most ambitious in that they focus on shifting the ground on which the deep disagreement takes place. One such move is what Willard (1983, pp. 267–270) called *interfield borrowing*. Willard observes that argument fields have distinctive standards of evidence and modes of reasoning, but also observes that many disputes cannot be assigned uniquely to a particular field. Euthanasia, for instance, is both a scientific and a moral issue, but scientists and moralists will be likely to see the question differently. Deep disagreement will result unless one set of advocates is willing—for the sake of the argument—to invoke the other field's standards for the purpose of defeating the adversary on his own terms. With respect to accounting for human origins, for example, moralists might "borrow" the scientific understanding of evolution and then attempt on scientific grounds to reduce evolution to the status of an unproved theory. Or, conversely, the scientist may take on the persona of a moralist in order to contend that a Biblical account of creation is not at odds with judgments regarding evolution.

The point of "borrowing" from another field is to put both sides of the argument onto the same plane and then to discredit the "other" field on its own terms. But the borrower never will be as knowledgeable as the person who genuinely occupies the field from which the advocate borrows. The second party can find reasons that the borrowing is not genuine or fair, or allege that the borrower has a stereotyped and limited notion of the other party's field.

The other strategic move related to changing the argumentative ground is *frame-shifting*, in which one party will seek to move the argument from one context or frame of reference to another. The famous Lincoln-Douglas debates of 1858 offer an interesting example. The central issue was whether it was right or wrong to permit slavery to spread into new territories. Lincoln believed that it was wrong because slavery itself was wrong and it made no sense to say that it was right to expand what was wrong. His standpoint was defended with a substantive moral argument (Zarefsky 1990). But for Douglas the real question was who should decide whether slavery was right or wrong. It was a complex moral question on which good people disagreed, and he did not presume to make the decision for the people who actually would go to the territories and live with the results. Accordingly, he championed "popular sovereignty" and his standpoint was buttressed by a procedural argument. The substantive and procedural positions were incommensurable. This may be why arguments about the morality of extending slavery occupied such a small portion of the debate time. Instead the two candidates disputed about, among other things,

what the nation's founders would have done about the issue if they were alive. The candidates thus shifted the debate from a moral frame to a historical one. Here there could be shared standards, because both men venerated the founding fathers and both believed that their insight could inform present deliberations. And there could be argument, because the question could not be answered conclusively. The founders never were confronted with the question at hand, so one would need to infer their likely position from statements made and actions taken on other topics over the years.

Frame-shifting was helpful to the Lincoln-Douglas debates because both candidates could accept the surrogate frame, each believing that it worked to his advantage. But this is not always the case. The advocate who tries to shift the frame of reference might encounter resistance. For example, Lincoln or Douglas could have insisted that historical speculation was an irrelevant distraction from the issues of the moment. Or the candidates might have experienced deep disagreement about what was the relevant historical evidence or whether it was being understood correctly.

15.5   Two Case Studies

It should be noticed that each of these eight strategies for moving beyond deep disagreement is an available option with probative force but that none is assured of success. Like all rhetorical moves, they must be adapted to the particular situation. Sometimes an advocate will be able to show that they fit well and sometimes another advocate will succeed in showing them to be inapplicable. This will be clear from two brief case studies, one a success and the other a failure.

15.5.1   *Johnson on Education*

In the U.S., elementary and secondary education traditionally has been seen as a responsibility of state and local governments and of the private sector. While there have been some exceptions, such as federal subsidies for schools located near military bases that add to their enrollment, general federal aid to education did not become government policy until the 1960s even though a majority of legislators and of the population supported it. Part of the reason was that supporters were divided on the question of whether federal aid should be extended to religious schools. Some said that to do so would be to dissolve the separation between church and state, creating an establishment of religion in violation of the U.S. Constitution. Were such a provision in the aid to education bill, they would oppose the legislation, even though they supported federal aid to education in principle. But it was no solution simply to keep religious schools out of the bill, because other legislators were convinced that omitting them would be discriminatory, denying equal protection of the laws to those families who sought a religious education for their children.

Their tax money would be used to support education but they would be unable to receive the benefit. This, some legislators said, was interference with the free exercise of religion—also a violation of the U.S. Constitution. Meanwhile, the minority who opposed federal aid to education under any circumstances hardly needed to defend their standpoint since supporters of federal aid were in deep disagreement over a subsidiary question.

So matters stood at an impasse until the ascendancy of Lyndon Johnson to the presidency of the United States. Johnson successfully engaged in frame-shifting. He urged that the matter be seen not as aid to either secular or religious schools, but to children (Dallek 1998, p. 197). His proposal involved aid formulas that were based on the number of children in a jurisdiction whose families had incomes below the poverty line. Figuratively, the children would take the aid to whatever school they attended. In practice, schools acted as agents for the children, applying for aid based on their number of qualifying children. This reformulation of the issue, shifting the frame, satisfied both groups of supporters who previously were at an impasse. Both sides could view the reformulated proposal as consistent with their strongly held convictions.

15.5.2 Zarefsky on Abortion

My second case study has a less salutary result, particularly since it involves me. Some years ago I produced an audio- and videocourse on argumentation for commercial sale (Zarefsky 2005). In one of the early lectures I made the point that argumentation presumes uncertainty because there is no need to dispute matters that we know for sure. One of my examples was that there was no way to know for sure when human life began; I said that this was a major reason that the abortion controversy was so intractable.

Some time later I received a group of nearly identical letters from several home-schooled teenagers in Minnesota. The letters took strong exception to my statement that there was no way to know when human life began. Of course there is, they replied. Everyone knows that human life begins at conception; it says so in the Bible. They quoted what they thought were applicable Biblical verses. So abortion is murder, they told me. Some people apparently believe that it is acceptable for society and the government to condone murder of the unborn. That's why there is a controversy, they said.

I could have ignored these letters, but I wanted to recognize their serious and respectful tone. So I wrote the students back. I tried interfield borrowing—specifically, to use the Bible, their source of privileged evidence—to argue that the origin of human life was uncertain. I quoted passages from Exodus saying that if a man struck a pregnant woman and she died, the man would be punished for murder. If the woman lived but miscarried, there was a lesser penalty limited to monetary damages. The fetus was valued less than a living person. Here was evidence, I said, that challenged their view that the Bible regarded abortion as murder. My goal, remember, was not to deny their

claim outright but only to argue that its status was uncertain, because the point at which human (as distinct from animal) life began was itself uncertain. It seemed like a relatively weak burden of proof and I thought I had shouldered it.

I was surprised when I received a reply not from the students but from their teacher. She thanked me for writing to the students but complained that I was misleading them. Her translation of the Exodus text distinguished between the expulsion of a live fetus and the death of the fetus in the womb. She said that monetary penalties applied in one case but capital punishment was warranted in the other. Since my translation did not make this distinction, she said, it was erroneous if not fraudulent, and for the sake of my own enlightenment I should obtain a better text and recant my heresy. She prayed for my soul. (I note in passing that she did not ask or seem to care what my text was.)

I am not a sophisticated Biblical scholar, but I think the problem here is that the original Hebrew verb is ambiguous with respect to whether the fetus is expelled alive or dead. I have some reason to think that my translation was more authoritative than hers, since it reflects usage conventions at the time the Biblical text was redacted. But all I was trying to establish was that the matter was uncertain and hence a fit and necessary subject for argument.

At this point I abandoned the discussion. My correspondent's attack on my source without ever knowing what it was suggested to me that her world-view would brook no uncertainty. Counter-evidence would be dismissed in advance so that the argument was self-sealing. This was a case of fundamentalism vs. modernism. My position depended at its root on uncertainty; hers on certainty; and there seemed no way to bridge the two. My effort at interfield borrowing was unsuccessful because in her view I could not establish my bona fides within her field.

Now perhaps I did the wrong thing. Maybe I should have tried harder, whether by defending my choice of text, or trying to find a passage in her own translation that worked against her claim, or perhaps even looking for different ground than the authority of the Bible. But I thought such efforts would be futile, I had other things to do, and so I left the discussion agreeing to disagree. I would not change the statement in my lecture that when human life began was uncertain, and she would not abandon her conviction that this statement in my lecture was inaccurate. Remaining at an impasse was a harmless outcome for an interpersonal dialogue between two individuals. As I have suggested above, though, it is not so innocuous when multiplied many times over and when it affects social policy as well as individual judgment.

15.6   Conclusion

In models of dialogical argument, the outcomes generally affect only the individual arguers. In models of rhetorical argument, however, there is a third party, an audience that is affected by the exchange. As Schmitt (2010, p. 10) recently wrote, "The consequences of this apocalyptic rhetoric and all-or-nothing politics fall on

the rest of us when government can't act." The audience is ill served by continued deep disagreement. Its demand to advance the discussion can put external pressure on the disputants to overcome their impasse. Currently in the U.S., audience dissatisfaction with stalemated political argument is widespread. But it is manifested in an unsophisticated and, in my view, unhelpful way: as largely indiscriminate right-wing populism symbolized by the Tea Party and its demands to "take our government back." It has unleashed a widespread prejudice against incumbent office-holders and a political discourse in which inexperience is exalted as a virtue. This popular prejudice of the moment stymies efforts to work collaboratively for compromise solutions, because that represents consorting with the enemy. And fear of being accused of such treachery further deepens the sense of fundamental disagreement between the dominant U.S. political parties. But there is a sizeable if underrepresented middle ground consisting of people who also are unhappy with the current impasse but who are unwilling to yield to the oversimplification and further polarization exemplified by Tea Party supporters. They are the ones who must be aroused to demand that our political discourse move past the polarization of deep disagreement to recover the tradition of deliberation through public argument. Some of the strategic moves I've discussed here, if skillfully executed, might be means to accomplish that goal. At least they are places to start.

References

Brockriede, W. 1975. Where is argument? *Argumentation and Advocacy* 9: 179–182.

Dallek, R. 1998. *Flawed giant: Lyndon Johnson and his times, 1961–1973*. New York: Oxford University Press.

Ehninger, D. 1958. Debating as critical deliberation. *Southern Communication Journal* 24: 22–30.

Fogelin, R.J. 1985. The logic of deep disagreements. *Informal Logic* 7: 1–8.

Heidlebaugh, N.J. 2001. *Judgment, rhetoric, and the problem of incommensurability: Recalling practical wisdom*. Columbia: University of South Carolina Press.

Johnstone Jr., H.W. 1959. *Philosophy and argument*. University Park: Pennsylvania State University Press.

MacIntyre, A. 1984. *After virtue*, 2nd ed. Notre Dame: University of Notre Dame Press.

Perelman, Ch., and L. Olbrechts-Tyteca. 1969. *The New Rhetoric: A Treatise on Argumentation*. Trans. J. Wilkinson and P. Weaver. Notre Dame: University of Notre Dame Press. (Originally published in French in 1958.)

Schmitt, M. 2010. Boring politics, please. *The American Prospect* 21(6): 10.

Walton, D. 1998. *Ad hominem arguments*. Tuscaloosa: University of Alabama Press.

Willard, C.A. 1983. *Argumentation and the social grounds of knowledge*. Tuscaloosa: University of Alabama Press.

Zarefsky, D. 1990. *Lincoln, Douglas, and slavery: In the crucible of public debate*. Chicago: University of Chicago Press.

Zarefsky, D. 2005. *Argumentation: The study of effective reasoning.* Chantilly: The Teaching Company. [Audio and video.]

Part IV
Analyses of Rhetorical Argumentation

Chapter 16
Conspiracy Arguments in the Lincoln-Douglas Debates

Abstract The Lincoln-Douglas debates of 1858 prominently feature conspiracy arguments—allegations that one's political opponent is part of a plot to bring about a loathsome result. After contextualizing the debates, the essay examines the major conspiracy arguments, ranging from the charge that Lincoln was plotting to convert both Whig and Democratic parties to abolitionism, to the charge that Douglas was seeking to spread slavery all over the country. The evidence from the debates is drawn upon to consider under what circumstances conspiracy charges become credible and what techniques of argumentation are employed to produce that result.

16.1   Introduction

The conspiracy argument is a staple of American politics. From colonial times to the present, rhetors have accused their opponents of participating in a group secretly plotting to deceive the people in order to bring about a loathsome result (Davis 1971). Usually this argument is quickly dismissed except by its true believers; the public regards the alleged plot as a fantasy in the minds of deluded advocates (Goodnight and Poulakos 1981). Occasionally, however, the arguments are taken seriously, are advanced by moderates as well as extremists, and command widespread adherence. The claim that President Kennedy's assassination was the work of a conspiracy is a contemporary example of an argument which has passed beyond the bounds of fantasy and, indeed, has become conventional wisdom.

This essay is designed to address two questions: Under what social circumstances do conspiracy allegations become sufficiently believable that they are used by moderates as well as extremists? And what techniques of argumentation help to make the conspiracy charge credible? The first question directs attention to the *macro* level of context and social situation; the second, to the *micro* structure of individual arguments. These questions will be pursued through an extensive case study, the famous Lincoln-Douglas debates of 1858.

The Lincoln-Douglas debates might seem an unlikely place to search for specimens of conspiracy argument. In our national folklore, these encounters have become the exemplar of public political debate, masterpieces of statesmanship, eloquence, and argument from high moral principle. The facts are quite different. Inspection of the debates suggests that the conspiracy argument is the predominant argumentative pattern; at least five separate conspiracy claims were advanced during the seven joint appearances.[1] This fact does not discredit the debates, though it implies that the strength of Lincoln and Douglas lay more in tactical choice than in the sources of arguments. Rather, it suggests that the Lincoln-Douglas debates provide a clear case—perhaps the paradigm case—of "mainstreaming" the conspiracy argument. In voicing and embellishing charges made by more radical politicians during the l850s Lincoln and Douglas make the conspiracy claims plausible.

What follows is a brief explanation of the circumstances of the debates, an exposition of the major conspiracy arguments, and some inferences about how and why this form of argument becomes credible. Since the evidence is limited to one series of debates, the broader inferences are necessarily speculative. Nevertheless, several general principles should suggest themselves.

16.2   The Debates in Context

The issue of slavery in the territories, seemingly settled when both parties accepted the Compromise of 1850, was revived in January, 1854 when Douglas, as chairman of the Senate Committee on Territories, introduced a bill to organize the Nebraska and Kansas territories without regard to the question of slavery. That question would be settled according to the wishes of the people living there—illustrating Douglas' cherished principle of popular sovereignty. Since Kansas and Nebraska were part of the Missouri Compromise area north of 36°30′, they previously had been guaranteed to be free; Douglas' move at least raised the possibility that they would become slave. Douglas was not motivated by any desire to expand slavery; his interest was in organizing the territory as quickly as possible so that his preferred route for the impending transcontinental railroad would have a better chance.

Passage of the Kansas-Nebraska Act stimulated the rapid settlement of the territories, especially Kansas where slavery had the better chance. It also inspired the formation of anti-Nebraska parties, which by 1856 had become the Republican

---

[1] References to the text of the debates are from the Angle (1958) edition.

party. The Republicans struck a middle course between slavery and abolition by opposing the extension of slavery to new territories while not disturbing the peculiar institution where it already existed. This stance was in opposition to Douglas' proclamation that he "don't care" whether slavery was voted down or up, a position required by the logic of the popular sovereignty principle.

In the *Dred Scott* case, the Supreme Court in 1857 invalidated the Missouri Compromise on the grounds that, since slavery was a national property right protected by the Constitution, Congress had no authority to outlaw the institution in any territory. This decision seemingly dealt a death blow to *both* the Republicans' no-extension creed and to Douglas' theory of popular sovereignty. Republicans opposed the decision and pledged to reverse it, but Douglas tried to reconcile *Dred Scott* with popular sovereignty. He asserted that the Court merely recognized an abstract right of an owner to take slave property into a territory. That abstraction meant nothing in the absence of "friendly local legislation" to protect the property right, and each territory still retained the option of whether or not to pass such local laws.

Meanwhile, Douglas saw how popular sovereignty could be perverted when a clearly unrepresentative, though legal, Kansas constitutional convention voted to seek admission to the Union as a slave state. The Buchanan Administration supported this Lecompton constitution (named after the town where it was drafted) but Douglas, breaking with Buchanan on the issue, denounced the document as a fraud. Suddenly Douglas appeared more attractive to his erstwhile enemies, the Republicans, and there was even talk of running him as a "fusion" candidate for re-election when his term ended in 1858. Several aspiring Republicans, including Lincoln, were alarmed at this development and sought to portray Douglas in stark contrast to Republican principles. Distinguishing Douglas from the Republican party was a principal goal of Lincoln's "House Divided" speech (Leff 1983). Lincoln secured the nomination as the party's "first, last, and only" choice for the Senate seat.

As the campaign began, Lincoln, taking advantage of Douglas' crowds, appeared at the end of the incumbent's speech to make one of his own. In part to avoid that annoyance, Douglas agreed to a series of joint appearances—one in each Congressional district, except for the two in which both already had spoken. The debates began in mid-August in Ottawa and concluded 2 months later in Alton. One candidate opened with a 1-h speech, the other followed with a 90-min rebuttal, and the first then had a 30-min rejoinder. The order of speaking alternated from one debate to the next. The seven debates were dominated by the conspiracy argument.

16.3   The Conspiracy Arguments

16.3.1   The Plot to Abolitionize the Whigs

In the opening speech of the first debate, Douglas charged that Lincoln, along with Senator Lyman Trumbull, had plotted to convert the two major Illinois parties to abolitionism by uniting antislavery Whigs and Democrats under the

Republican banner. Lincoln was to get the Senate seat vacated in 1854 and Trumbull would have Douglas' seat in 1858. But Trumbull had welshed on the bargain. He held back some abolitionist votes from Lincoln in 1854, forcing the Old Line Whigs to vote for himself if they were to have an abolitionist Senator. Now, to hold the new abolitionist coalition together, he must support Lincoln. Not unreasonably, Douglas continued, Lincoln was distrustful of Trumbull and needed some "bond" for reassurance. For this reason, the incumbent said, the Republican Party took the unusual step of declaring in advance that Lincoln was their "first, last, and only choice" for the Senate seat. The impact of Douglas' charge, of course, was that Lincoln was a closet abolitionist, and abolitionism was not a respectable political program in 1858.

Douglas' evidence for the conspiracy charge consisted in large part of a statement by James H. Matheny, who Douglas claimed to be "Lincoln's special friend" (p. 105), and a recitation of parts of the 1854 Republican state platform which seemed to support abolitionism. That the plot to convert the parties was secret was inferred from the fact that Lincoln, a Republican, would not "come out and say that he is now in favor of each one of" the planks in the 1854 platform (p. 106). Douglas then propounded interrogatories intended to put Lincoln on the spot: did he now stand pledged, as he did in 1854, for the repeal of the fugitive slave law, against the admission of any more alone slave states into the union, and so on?

Lincoln responded to this conspiracy charge by denying it, arguing that it could not be proved, and then placing the burden of proof on Douglas. In his reply at Ottawa, he stated, "I have the means of *knowing* about that; Judge Douglas cannot have; and I know there is no substance to it whatever." Yet he added, "Now I have no means of totally disproving such charges as this…. A man cannot prove a negative, but he has a right to claim that when a man makes an affirmative charge, he must offer some proof to show the truth of what he says" (p. 115). Presumably in response to this demand for proof, Douglas quoted Matheny directly. Yet Lincoln merely enveloped Matheny's statement with his same basic response: Just as Douglas had no proof for the claim, Matheny had no proof either. "My own opinion," Lincoln said, "is that Matheny did do some such immoral thing as to tell a story that he knew nothing about" (pp. 206–207).[2] Hence Lincoln's response could be self-sealing: the conspiracy could be proved only by testimony, yet Lincoln could impeach any testimony by claiming that the witness had no direct evidence or did not know what he was talking about.[3]

---

[2] Lincoln also questioned the authenticity of the document from which Douglas read. Elsewhere in the debates, he charged that a document Douglas had alleged to be the 1854 Republican platform was fraudulent. If that document was bogus, perhaps this one was as well.

[3] Curiously, although Lincoln was trying to impeach Matheny's credibility, he did not answer Douglas's claim that Matheny was "Mr. Lincoln's especial confidential friend for the last twenty years" (p. 196).

16.3.2   *The Plot to Discredit Lincoln*

At Galesburg in the fifth debate, Lincoln alleged that the 1854 platform from which Douglas had read was fraudulent, that Douglas knew it to be so, and that Douglas was involved in a plot to misrepresent the platform and thereby to besmirch the character and reputation of Lincoln and other Republicans. Lincoln charged that the resolutions indeed had been inserted into the *Illinois State Register* (the source from which Douglas had read them) by the editor, Charles H. Lanphier, but they were bogus. "A fraud—an absolute forgery was committed," Lincoln charged, "and the perpeturation of it was traced to the three—Lanphier, [Thomas L.] Harris, and Douglas" (p. 305).

It was fraud, Lincoln concluded, because Lanphier's paper contained a portion of the *real* proceedings of the 1854 convention. So the writer of the article must have had the genuine resolutions passed by the convention, but he "purposely threw out the genuine resolutions…and fraudulently substituted the others." The motive was to defeat the Republican Congressional candidate, Richard Yates, by making him appear to be supporting an extremist platform, and to elect Harris in his place. This objective having been achieved, the trio made further use of the fraudulent argument: "It has been clung to and played out again and again as an exceedingly high trump by this blessed trio" (p. 306).

Lincoln employed sign reasoning to connect Douglas to this plot. Although Douglas promised to investigate the matter, he has made no report. Since he would stand to gain by clearing himself, his silence is a sign that he is implicated. Moreover, if Douglas were innocent he should be angry at Lanphier for embarrassing him as he read the bogus platform. But he "manifests no surprise" and "makes no complaint of Lanphier." The three are "just as cozy" now as before. "Now all this is very natural," Lincoln noted, "if they are all alike guilty in that fraud, and it is very unnatural if any one of them is innocent" (pp. 306–307).

When answering this charge, Douglas—unlike Lincoln—did not try to renounce the burden of proof. He first reminded his audience that he already had acknowledged his error in claiming that the platform from which he read had been adopted by the Republican convention at Springfield. Indeed, he had corrected the error even before Lincoln had pointed it out, thereby proving himself an honorable man (p. 337). In contrast, Douglas pleaded, "when [Lincoln] makes a false charge he sticks to it, and never corrects it" (p. 338). Moreover, Lincoln's complaint really was an objection only to the "spot" where the resolutions were adopted (Springfield or Rockford),[4] not to what they said or the Republican support they enjoyed.

Lincoln contested these replies. He denied that Douglas had been magnanimous in freely acknowledging error. Rather, as Lincoln put it, "When the newspapers of

---

[4] The use of the word "spot" recalls to the audience: Lincoln's advocacy during the Mexican War of the so-called "spot resolutions," demanding that President Polk identify the spot of American soil on which American blood had been shed—the reason the President gave to justify the war. By the late 1850s the Mexican War was regarded as something of a noble cause, so Douglas is ridiculing Lincoln for his earlier opposition to it.

our side had discovered and published it, and put it beyond his power to deny it, then he came forward and made a virtue of necessity by acknowledging it." Lincoln also denied that the only issue between him and the incumbent was the spot where the resolutions had been adopted. Instead, it was the difference between "holding a man responsible for an act which he *has not* done, and holding him responsible for an act that he *has* done" (p. 359).

16.3.3   The Plot to Make Slavery National

If Douglas believed that Lincoln was a closet abolitionist, the challenger charged that the incumbent was a co-conspirator in a plot to make slavery legal everywhere—in the states as well as in the territories, in the North as well as the South. The means would be a second *Dred Scott* decision which would apply to the states the principles which the 1857 ruling laid out for the territories.

Lincoln appeared to hedge this charge through indirection. As in the "House Divided" speech, he told a story of four men—conveniently named Stephen, Roger, Franklin, and James[5]—who were building a frame house. If all the pieces fit together, with a single piece missing and the frame exactly fitted to bring that piece in, then "we feel it impossible not to believe that Stephen and Franklin, and Roger and James, all understood one another from the beginning, and all worked upon a common plan or draft drawn before the first lick was struck" (p. 121).

Lincoln had two different approaches to link Douglas with this conspiracy. One portrayed him as its perhaps unwitting tool; the other, as an active agent. The first argument depended on the premise that public sentiment was essential to the execution of Supreme Court decisions. "In this and like communities," Lincoln said, "public sentiment is everything." Douglas, as "a man of vast influence," had a great role in shaping public sentiment. And Douglas had maintained that the *Dred Scott* decision should be respected, not because of its merits but simply because it had been propounded by the Court. As Lincoln caricatured, "not that he judges at all of its merits, but because a decision of the Court is to him a '*Thus saith the Lord*'" (p. 128). If the people accepted this reasoning, they would be uncritical of Supreme Court decisions and therefore quiescent. Into the breach caused by public indifference the Supreme Court would step at a propitious time with *Dred Scott II*. And Douglas would be powerless to oppose that decision because "committing himself unreservedly to this decision, *commits him to the next one* just as firmly as this." It too will be a "thus saith the Lord" (p. 129).

But Lincoln went further: he professed to find, in Douglas' construction of the 1854 Kansas-Nebraska Act, the niches deliberately created to accommodate such a Supreme Court decision. During the Senate debate in 1854, Chase of Ohio had proposed an amendment which would permit the people of a territory to exclude slavery if they wished. Douglas, as Chairman of the Committee on Territories, had

---

[5] The first names of Senator Douglas, Chief Justice Taney, and Presidents Pierce and Buchanan.

voted the amendment down and caused it to be defeated. Since the Chase amendment only made explicit a part of Douglas' popular-sovereignty theory, what could have been Douglas' motive for objecting—if not to create an opening for the *first Dred Scott* decision? And there was a second niche as well. The Kansas-Nebraska Act contained a clause disavowing the intent "to legislate slavery into any territory or state." Why include the reference to *states* in a bill dealing with territorial organization, if not to clear the way for *Dred Scott II*?

When Douglas introduced a conspiracy charge, Lincoln insisted that the burden of proof was on the affirmative claim. When the charge was his own, he took a different tack. Acknowledging that he did not *know* the charge to be true, but saying he *believed* it on the basis that he had explained, he challenged Douglas to *disprove* the conspiracy charge. "If I have reasoned to a false conclusion," Lincoln said, "it is the vocation of an able debater to show by argument that I have wandered to an erroneous conclusion" (p. 124). Moreover, Lincoln denied the absolute authority of the Supreme Court. It had not been granted by Jefferson or Jackson, nor apparently by Douglas himself! Earlier in his career Douglas, objecting to a decision by the Illinois Supreme Court, had supported a bill to overturn that decision by packing the court—and not only that, Douglas himself was one of the new judges; "it was in this precisely that he got his title of judge" (p. 129). This anecdote, often repeated, provided the challenger with fun at the incumbent's expense.

This time Douglas tried to throw the burden of proof back to Lincoln. As he put it "I am not green enough to let him make a charge which he acknowledges he does not know to be true, and then take up my time in answering it, when I know it to be false and nobody else knows it to be true." Instead of disproving Lincoln's claim, he would "say that it is a lie, and let him prove it if he can" (p. 135). Douglas then offered an alternative explanation for his vote against the Chase amendment: since Chase refused to modify his amendment to allow the territories to permit as well as to exclude slavery, simple fairness dictated that the amendment be defeated. The presence of the words "or state" in the Kansas-Nebraska Act was also easily explained. Far from anticipating a second *Dred Scott* decision, this language was inserted to defeat the abolitionist proposal that there be no more new slave states even if the people want them (p. 136).

Douglas then turned to the figurative accusation that he, Chief Justice Taney, and Presidents Pierce and Buchanan were engaged in conspiracy. Lincoln must have meant that the conspirators were active at the time of the Kansas-Nebraska Act. But that charge clearly was false. Buchanan was not in the country; he was Ambassador to the Court of St. James. The *Dred Scott* case—the supposed object of the conspirators—was not even before the Supreme Court. "As to President Pierce," Douglas went on, "his character as a man of integrity and honor is enough to vindicate him from such a charge, and as to myself, I pronounce the charge an infamous lie…." (p. 169).

This conspiracy claim was not discussed during the third or fourth debate, but it reappeared in the debates at Galesburg and Quincy, with new supporting arguments. Chief among these was a syllogism Lincoln offered at Galesburg to show how easily the logic of the *Dred Scott* decision could be applied to *Dred Scott II*. From the premises that state laws cannot destroy rights affirmed in the Constitution and that

the Constitution (via the *Dred Scott* decision) affirms the right of property in slaves, he concluded that state laws cannot destroy the right of property in slaves. Since it all followed "logically," the second *Dred Scott* decision was hardly the preposterous notion Douglas made it out to be. The only thing needed for *Dred Scott II* was a supportive public climate, and that was being provided "most ingeniously and powerfully" by Douglas, not only by his appealing for support for *Dred Scott* on the grounds of the Court's authority, but also by his trying to strip the slavery question of its moral dimension, claiming that he "don't care whether slavery is voted up or voted down" (pp. 308–310).

Perhaps tiring of Lincoln's continued allusions to the purely hypothetical *Dred Scott II*, Douglas overplayed his hand. He went so far as to say, "Mr. Lincoln knows that there is not a member of the Supreme Court who holds that doctrine; he knows that every one of them, as shown by their opinions, holds the reverse." He then went on to surmise that, since this was so, Lincoln's only purpose in maligning the court must be "to destroy public confidence in the highest judicial tribunal on earth" (p. 319)— at least implicitly offering a conspiracy charge of his own.

But Douglas had gone too far. It was quite possible that the Justices would have opposed a "*Dred Scott II*," but they did *not* say so in their opinions. As was customary, the *Dred Scott* decision made *no* comment about purely hypothetical cases which were not before the Court. Lincoln exploited his adversary's mistake. He brandished a copy of the *Dred Scott* decision and said, "I will thank Judge Douglas to lay his finger upon the place in the entire opinions of the court where any one of them 'says the contrary'" (p. 329). When Douglas was unable to do so the credibility of his whole position was weakened. He repeated at Quincy that, as far as prohibiting a state from excluding slavery, "there was not a man possessing any brains in America, lawyer or not, who ever dreamed that such a thing could be done." (p. 345). But Lincoln reminded the audience that Douglas, having consumed his hour and a half of speaking time, had still been unable to find a reference in the *Dred Scott* decision disavowing a *Dred Scott II*, and concluded, "he has not ventured to try to sustain his assertion. *He never will.*" (p. 355).

In addition to suggesting that Lincoln's theory was preposterous, Douglas argued that the consequences of Lincoln's position were pernicious. He was attempting to undermine the authority of the Supreme Court as the final arbiter of judicial questions. The alternative would be anarchy or rule by mob. At Quincy Douglas asked a series of rhetorical questions: "By what tribunal will he reverse [the *Dred Scott* decision]? Will he appeal to a mob? Does he intend to appeal to violence, to lynch law? Will he stir up strife and rebellion in the land and overthrow the court by violence?" (p. 344). Unless Lincoln could indicate how he would reverse the decision, then discussion of its merits or demerits was moot since it was, after all, the law of the land.

Lincoln, however, insisted that the use of political pressure to overturn adverse court decisions was hardly a novel proposition, reminding his listeners that Douglas himself had used the exact same approach with the Illinois state courts. Referring to this record, Lincoln ended discussion with a *tu quoque*: "I know of no man in the state of Illinois who ought to know so well about *how much* villainy it takes to oppose a decision of the Supreme Court, as our honorable friends, Stephen A. Douglas" (p. 355).

16.3.4   The Plot to Exploit Federal Patronage

Two other conspiracy arguments received brief attention. At Galesburg, Douglas charged that Lincoln and the Republicans were in cahoots with Federal office holders (Buchanan Democrats) in order to defeat Douglas. Since Douglas had broken with Buchanan over the Lecompton constitution, the Administration had indeed considered purging him; there was no love lost between the Illinois Senator and the "Buchaneers." Although Lincoln's position on Lecompton was the same as his own, Douglas charged that Republicans and Buchaneers had submerged their differences in order to drive him from office. Specifically, the incumbent charged that Lincoln was receiving aid from office holders "who are using their influence and the patronage of the government against me in revenge for my having defeated the Lecompton constitution." Without this aid from administration hacks, Douglas averred, Lincoln "has no hope on earth, and has never dreamed that he had a chance of success." Douglas asked the Republicans present what they thought "of a political organization that will try to make an unholy and unnatural combination with its professed foes to beat a man merely because he has done right" (pp. 289–290).[6]

Lincoln must have been amused. He admitted, "I have no objection to the division in the Judge's party," but added, "He got it up himself." The popular-sovereignty doctrine and the Lecompton constitution had produced the split, not anything that Lincoln had said or done. He put the burden of proof on Douglas to produce evidence "that I have in any way promoted that division." He then reminded the audience that in 1856 Democrats had been delighted to see the Republicans divided between Fremont and Fillmore. What the Democrats felt then, the Republicans feel now, but "this is all there is of it" (pp. 304–305).

16.3.5   The Plot to Deny Kansas a Referendum

In the Charleston debate, Lincoln elaborated and defended Senator Lyman Trumbull's argument that Douglas had been party to a plot to prevent the Kansas constitution from being submitted for vote by the people. The original bill for territorial organization provided that the constitution be approved by popular vote, but Douglas and other Senators removed this provision and inserted instead a clause *preventing* a referendum. To be sure, this new clause was subsequently stricken, but still Douglas had inserted it. And unless his object was to deprive the people of Kansas of a fair election, what did he put it in for?

In order to show that no other explanation for Douglas' behavior was plausible, Lincoln spent much time refuting the incumbent's earlier claims about this topic.

---

[6] The postmaster at Galesburg was cited as an example of an official who had been struck down merely for supporting Douglas. As the incumbent put it, Buchanan had suspended "the axe of decapitation … over every man in office in Illinois."

For example, Douglas had said that the Kansas bill was similar to other acts for territorial organization. Not so, replied Lincoln: other acts had been silent on the matter of a referendum, but there was no other case in which such a clause had been first inserted and then removed. Likewise, Douglas had said that he actually had struck out the clause to which Trumbull had objected, but that did not deny Lincoln's contention that he had inserted it in the first place. Finally, Douglas had alleged that Trumbull "forges his evidence from beginning to end, and by falsifying the record he endeavors to bolster up his false charge" (p. 243). But the hard evidence, Lincoln says, denies Douglas: copies of the bill before and after it was considered in committee, and quotations from the *Congressional Globe*.

Douglas' reply was selective and lacking in depth. He began by accusing Lincoln of trivializing the debate by introducing a matter unrelated to current public policy and 2 years old at that.[7] Then he turned to the substantive arguments. Territorial bills usually do not specify that there will be a referendum, so the original clause in the bill was superfluous and its removal innocuous. In committee it had been commonly assumed that of course there would be a referendum. If there was a conspiracy, then every previous President who had supported a bill for territorial organization was likewise implicated. The original bill had required a referendum only on a land grant, not on the entire constitution. Trumbull knew the clause was missing at the time the bill was passed. Douglas finally struck out the clause preventing elections and substituted an amendment permitting them.

For the most part, these arguments already had been anticipated and refuted. Lincoln did respond to Douglas' attacks on Trumbull's character, noting that nothing in the charge depends on Trumbull's veracity; the evidence is independent. To Douglas' assertion that the only submission required was of a land grant, Lincoln answered that this was merely quibbling: the land grant was to be ratified at the election for adoption of the constitution, and how could that be done if no such election were held? Finally, Lincoln repeated his answers to Douglas' claim that Trumbull's charges were forged. Referring to the individual pieces of testimony, Lincoln noted, "*Not one of them has he shown to be a forgery*," and then asked, "if each of the pieces of testimony is true, *how is it possible that the whole is a falsehood?*" (p. 273).

16.4   Inferences and Implications

From this description of the situation and analysis of the texts, several more general propositions can be offered in response to the two questions posed at the outset: Under what circumstances do conspiracy arguments become the property of moderates as well as extremists? What techniques of argumentation help to make the conspiracy charge credible? Although derived from a single case study, these propositions furnish a basis for comparative studies and further mapping of the genre of conspiracy argument.

---

[7] Douglas, however, had previously introduced the question of Lincoln's Mexican War record—equally irrelevant and 10 years old.

16.4.1   Legitimation of the Conspiracy Argument

1. *Conspiracy arguments become widely accepted when they explain an otherwise ambiguous evil*. In the most thorough rhetorical study on the genre of conspiracy arguments, Creps (1980) contends that this form of argument functions to resolve the paradox of evil in a presumably good society. By locating the cause of evil in a plot, the argument removes the guilt from the community at large. When there is a simpler explanation for evil, conspiracy claims will not get a widespread hearing. It is far easier to explain the attack on Pearl Harbor by reference to faulty intelligence than to a conspiracy in Washington to drag the nation into war. But sometimes the evil is not clear-cut. It may have persisted for generations, or it may have been so sudden and instantaneous that it escaped accurate reporting, or the whole society may be implicated in it, or it may be an intangible evil. The sudden renewal of slavery agitation in the mid-1850s and, indeed, the persistence of slavery in a nation dedicated to freedom, fit many of these conditions. In circumstances such as these, one might reasonably surmise that a society's tolerance for ambiguity weakens. The conspiracy claim provides a convenient alternative to living with uncertainty. It identifies agents (usually outsiders) who have a clear motive to afflict society, and it sets out the means by which they are doing so. The argument thereby provides clear targets for resentment, reproach, or punitive action, so that society by thwarting the nefarious plot might halt the ambiguous but definitely evil influence.

2. *Conspiracy arguments become widely accepted when they explain a pattern of anomalies*. Perfect order and logic never reign in any society; some situations always seem anomalous. Normally these difficult-to-explain events are simply accepted as "noise" in the system, and attempts to give them greater significance are dismissed. But when a large number of such events occurs, and the anomalies seem to have a pattern, the search for an explanation intensifies. The general appeal of a conspiracy argument derives from its ability to explain paradox and incongruity. Given surface plausibility, the conspiracy argument's "theory" of events is almost self-sealing. It is virtually impossible to disprove, and even discrepant evidence can be explained easily as the work of the clever conspirator who is trying to cover his tracks.

In the case of the Lincoln-Douglas debates, the conspiracy argument does make sense out of an otherwise confusing array of anomalous circumstances. It shows Democrats why the Republicans would depart from custom and proclaim Lincoln their "first, last, and only choice" rather than leaving the choice to the legislature. It explains why Lincoln would deny his role in the 1854 Republican platform when the "facts" showed otherwise. It would explain why Lincoln presumably took a hard-line abolitionist stance in northern Illinois but softened his position as he went south. On the other side, the conspiracy charge explains for Republicans why Douglas would not report the results of his "investigation" in Springfield even when he could clear his name by doing so. It shows why Douglas would insert a clause into the bill for the admission of Kansas and then remove it again. It explains why Douglas would object to the explicit acknowledgment of a power which he conceded was implicit. Whether the conspiracy argument functions in a similar vein in other contexts is worthy of exploration.

3. *Conspiracy arguments become generally accepted when polarizing positions helps to resolve ambiguity*. In a sense, this proposition is a subset of the second, but it calls attention to the function of the conspiracy argument in inducing polarization. A situation which requires choice, yet in which the alternatives are not very different, produces uncertainty and confusion. The conspiracy argument responds to this situation by asserting that things are not really what they seem, because an apparently innocuous opponent is in reality a participant in a devious plot. Hence the argument transforms the situation into one presenting a clear-cut choice of alternatives. The conspiracy argument goes beyond more general forms of challenging an opponent's *ethos* because of its focus on what is *secret* as a basis for inducing polarization.

The polarizing function of the conspiracy argument can be seen clearly in the Lincoln-Douglas debates. In practical terms, the positions of the two men were nearly identical. Even if Lincoln had triumphed, slavery would not have been abolished anywhere it then existed. Even if Douglas won, "popular sovereignty" was unlikely to result in any new slave territories. Kansas, where the prospects seem greatest, had just rejected the Lecompton constitution by a margin of eight to one. And *both* candidates subscribed to the popular sovereignty principle as it applied to new *states*. But neither candidate could take comfort in the similarity of positions, because it offered voters no clear basis for the choice of one rather than the other. Republicans, in particular, were fearful of an effort to portray Douglas as a "fusion" candidate, the best instrument available for accomplishing their own purposes. The conspiracy argument functions to *create* fundamental differences between candidates by suggesting that the apparent similarity in views is only the tip of the iceberg. The legitimacy of the conspiracy claim may stem partly from the "useful" work done by the argument in forcing a wedge between apparently similar positions and thereby requiring of the people a real choice.

4. *Conspiracy arguments become generally accepted in times of social strain*. These are times when it is hard to get a clear picture of the world. Previously shared norms are questioned, life is difficult, and the signs are not clear. The conspiracy argument offers a measure of reassurance. It is alarming to think that a secret cabal is afoot, but some stability is provided by the belief that one knows what is going on, can make sense of difficult and complex phenomena, and hence can be on one's guard. We know that the late 1850s were a time of great uncertainty and stress, and this fact may help to explain why the Lincoln-Douglas debates focused not so much on the major issue dividing the people as on charges that the opponent was a party to nefarious plots. In a similar vein, Creps (1980) observes that the conspiracy arguments which justified the Palmer raids gained legitimacy in the period of disillusionment and stress immediately following World War I and that the conspiracy theories of the Kennedy assassination gained credence amidst the social turmoil of the 1960s. The charge of an international Communist conspiracy was plausible in the hothouse atmosphere of the late 1940s and early 1950s but less so as tensions subsided. This proposition offers some hope of explaining the ebb and flow of the conspiracy argument in public affairs, but it must be noted that the key concept of social strain is intuitive and as yet basically undefined.

16.4.2   *Dynamics of the Conspiracy Argument*

The four previous propositions imply that the credibility of the conspiracy argument is governed by external events. But not completely so: external events furnish arguers with a context, with possible premises, and with "the facts," but then the arguers make choices about how to use these materials in constructing arguments. These choices may enhance or retard the perceived strength of the conspiracy claim. Again, the analysis of the Lincoln-Douglas debates suggests propositions of more general scope.

1. *Successful conspiracy arguments shift the burden of proof to one's opponent while minimizing one's own burdens.* By conventional standards of proof, a conspiracy charge is virtually impossible to prove. By its nature, it deals with acts committed in secret, to achieve a purpose usually known only through inference. But the charge is also virtually impossible to disprove. Of course, one cannot prove a negative; moreover, acts or events which seem to challenge the existence of the conspiracy can be reinterpreted as the work of clever conspirators to conceal their true intentions. Since the argument can be neither proved nor disproved, who "wins" will likely depend upon who shoulders the burden of proof. If it is the proponent of the conspiracy claim, then the claim is less likely to be convincing than would be the case if it were the opponent's burden to *deny* the claim. Consequently, much of the argumentation is the attempt by both parties to claim presumption and to force the burden of proof onto the antagonist.

The Lincoln-Douglas debates illustrate this jockeying for presumption. When *attacking* a conspiracy claim, either man was likely to insist that "he who asserts must prove." But when *offering* a claim, either man would present his evidence and reasoning and then defy the opponent to disprove the claim. Which advocate succeeds will depend both on what arguments he marshals in support of his claim to presumption and on how sensitive his opponent is to the importance of the claim.

2. *Motives are most persuasively proved by residues.* Like many other argument patterns, conspiracy charges depend upon an analysis of motives. The argument will not be persuasive unless the alleged conspirator is shown to have had a motive for participating in the plot. The Lincoln-Douglas debates reflect a contrast between two quite different ways to establish motive.

Douglas explicitly identified Lincoln's motive as selfish desire for office. That impulse, the incumbent alleged, led his challenger both to ally with Federal office holders and to conspire to convert the Whigs to abolitionism. By contrast, Lincoln usually argued motives by residues. For example, he asked what motive Douglas would have for defeating the Chase amendment if he were *not* part of a conspiracy, or why he wrote the Kansas-Nebraska Act as he did if he did *not* anticipate a future *Dred Scott* decision.

Strategic considerations suggest the superiority of arguing motive by residues. First, the audience has participated in considering and rejecting other plausible accounts of motive. Listeners should be more inclined to accept the proffered motive since they (along with the speaker) have ruled out all other possibilities. Second,

this form of argument saddles the opponent with the need to find some new alternative explanation and render it persuasive. (Of course, the person arguing from residues must be able to defeat any and all other interpretations, but the self-sealing nature of the conspiracy argument means that alternative possibilities often can be reinterpreted to fit within the framework of a conspiratorial design.) Third, the initial advocate may be able to "poison the wells" by pre-emptively discrediting other likely explanations of motive, increasing the odds that the motive argued by residues will emerge persuasive.

3. *Inferences are a more persuasive form of evidence than documents*. At first glance, one might think that documentary texts, as primary source materials, would be the most incontrovertible form of evidence. But, as Clark (1982) observed, texts "do not speak; they must be spoken for." In other words, the power of a document depends upon the context in which it is placed, and contexts can be chosen by the arguers themselves. Moreover, one debater can effectively dismiss a document by redefining its context. On the other hand, the debate itself furnishes the context for inferences; one cannot object to the context without impugning the reasoning and judgment of the audience.

The contrast between documents and inferences is plain in the Lincoln-Douglas debates. Although both men used various types of evidence, Douglas tended more to produce documents and Lincoln resorted more to inferences. Douglas quoted from Matheny's speech, from the *Illinois State Register*, from the Washington *Union*, and from the Toombs Bill. Lincoln, drawing his inferences from Douglas' actions or inactions, reinterpreted ambiguous or even seemingly trivial events to make them fit into a larger pattern. Interestingly, neither man really came to grips with the other's pattern of support. Lincoln dismissed Douglas' documents by contending that the writers were not qualified to speak or that they themselves had no evidence. Douglas dismissed Lincoln's inferences as speculation and conjecture unsupported by any evidence. He denounced the charges as lies and waited for Lincoln to prove them.

But Douglas faced an additional problem. As with any enthymeme, the audience participated along with Lincoln in reasoning through his inferences. Not only was active participation likely to incline the audience toward Lincoln's conclusions, but when Douglas derided Lincoln's reasoning as preposterous, he was criticizing the audience as well. His own documents, meanwhile, were more passive forms of evidence. As listeners reasoned through with Lincoln to his conclusions, they were developing the materials with which to discredit or dismiss the incumbent's documentary evidence.

4. *Counter-charges are the most effective responses to a conspiracy argument*. When a rhetor alleges the existence of a conspiracy, there seem to be three basic ways an opponent may respond: deny it outright, offer an alternative account of the events which allegedly prove the existence of the plot, or make a counter-charge that one's opponent is really the conspirator. The first of these approaches seems effective only if coupled with successful shifting of the burden of proof onto one's adversary. Otherwise it is merely an attempt to balance one's word against the array of evidence, and one hardly would be a competent witness in support of one's own case. The second approach, offering an alternative explanation, is effective to some

degree, particularly in response to tenuous inferences. It is harder to sustain in reply to documentary evidence, for the predictable result is that the authenticity of the documents rather than their interpretation becomes the central point at issue. But more effective than either of these approaches is the counter-claim, the *tu quoque*. Since the accused conspirator cannot absolutely disprove the existence of a plot, what better response than to make the same charge against one's accuser, saddling him with the same difficulties? If both charges are reasonable, one can at least hope for a wash. Douglas alluded to several conspiracies in the course of his response to Lincoln, but for the most part these counter-claims were not developed thoroughly. Lincoln's most obvious use of this response was to charge forgery of the 1854 Republican platform in reply to Douglas' charge that this platform was the work of a conspiracy to abolitionize the Whigs.

16.5   Conclusion

These eight principles, suggested by an analysis of the conspiracy argumentation in the Lincoln-Douglas debates, should have wider application. Certainly they should be tested in other cases in which the argument is featured. Beyond helping to understand the genre of conspiracy arguments, though, this essay should help to illuminate the Lincoln-Douglas debates themselves. On most of the extracted principles, Lincoln is seen to have outperformed Douglas in the encounters of 1858. But this analysis tells us something about the *nature* of Lincoln's genius. It was not as a statesman or idealist that he bested Douglas, folklore to the contrary notwithstanding. Rather, his achievement was strategic and tactical, reflecting an intuitive understanding of how political arguments involving moral questions are discussed in the public sphere. Those are valuable skills and the Lincoln-Douglas debates can be justly acclaimed for the tactical skills they reveal rather than being seen falsely as the epitome of eloquence and statesmanship—a standard compared to which any other case of political debate is bound to fail.

References

Angle, P.M. (ed.). 1958. *Created equal? The complete Lincoln-Douglas debates of 1858*. Chicago: University of Chicago Press.

Clark, E.C. 1982. Argument and historical analysis. In *Advances in argumentation theory and research*, ed. J.R. Cox and C.A. Willard, 298–317. Carbondale: Southern Illinois University Press.

Creps III, E.G. 1980. The conspiracy argument as rhetorical genre. Ph.D. dissertation, Northwestern University.

Davis, D.B. (ed.). 1971. *The fear of conspiracy: Images of un-American subversion from the revolution to the present*. Ithaca: Cornell University Press.

Goodnight, G.T., and J. Poulakos. 1981. Conspiracy rhetoric: From pragmatism to fantasy in public discourse. *Western Journal of Speech Communication* 45: 299–316.

Leff, M.C. 1983. Rhetorical timing in Lincoln's "House Divided" speech. Van Zelst lecture in communication, Northwestern University.

Chapter 17
Turning Points in the Galesburg Debate

Abstract Galesburg, the fifth of the Lincoln-Douglas debates of 1858, marked a strategic turning point in the series, when the momentum of the debates shifted from Stephen A. Douglas to Abraham Lincoln. Lincoln established a lead on the argument about the hypothetical *Dred Scott II* future Supreme Court decision, the moral argument about slavery, the argument about the 1854 Republican platform, and in the use of refutation strategies. He would build upon these gains in the remaining debates, while Douglas's position would remain constant. The essay illustrates how critics can examine the rhetorical dynamics of a political debate.

17.1 Introduction

By the time Abraham Lincoln and Stephen Douglas debated in Galesburg, their campaign for the U.S. Senate already had been underway for nearly 4 months. That was highly unusual, since U.S. Senators were chosen by the state legislature, which itself would not be elected until November. But the Republicans, fearful that their supporters might defect to Douglas after he had broken with President James Buchanan over the Lecompton constitution, or perhaps even fearful that Douglas might become a Republican, resolved at their state convention on June 16 that Lincoln was their "first and only choice" for the Senate seat. Congress was still in session at the time, so Douglas did not return to Illinois until July 9, when he gave a speech in Chicago attacking the "house divided" doctrine Lincoln had promulgated at the Republican convention and effectively opening his own campaign. From then

until Election Day, Illinoisans would be treated to speeches, parades, broadsides, and rallies in support of each candidate.

Douglas was by far the better known, so Lincoln did what underdogs often do. He trailed the front-runner, announcing to the assembled crowds after Douglas had spoken that if they would return after dinner, or perhaps the next day, he would be happy to share *his* views on the issues of the day. This tactic invited ridicule, including the suggestion that if Lincoln really wanted to attract crowds, he could join one of the "circuses and menageries" making its way across the state (Zarefsky 1990, p. 48). Hoping to change the momentum of the campaign, Lincoln waited until Douglas had announced his schedule of speaking appearances and then challenged the incumbent to a series of approximately 50 debates. Douglas had no great desire to debate, but the norm of the old frontier still was potent: if you were challenged to a debate and you refused, that was a sign that you were not up to the demands of the office (Heckman 1966, p. 54; Zarefsky 1990, p. 50 [citing *Chicago Press and Tribune*, July 26, 1858]). So Douglas offered a counterproposal: seven debates, one in each Congressional district save Chicago and Springfield, where both men had spoken already. Douglas named the dates and places for the encounters, in order to minimize the disruption of his own schedule. After some quibbling about the details, Lincoln agreed to Douglas's proposal.

17.2   The Road to Galesburg

Two debates had taken place in August and two in September. In order, they were held at Ottawa, Freeport, Jonesboro, and Charleston. Douglas opened at Ottawa, alleging that Lincoln was part of a plot to convert both Whig and Democratic parties to abolitionism and citing as evidence what he claimed was the 1854 platform of the state Republican party. He then propounded to Lincoln a series of questions seeking to tie him to this platform. Moreover, he suggested that the "house divided" doctrine was at odds with the views of the founding fathers. Lincoln's strategy was not so well formed. He denied that he was engaged in an abolition conspiracy and, to prove what his views in 1854 really were, he spent a long time reading an excerpt from the speech he delivered at Peoria in that year. He moved from topic to topic without apparent plan, he ended his speech with 15 min remaining, and for the most part he avoided answering Douglas's questions, saying that he would not recognize Douglas's right to "catechize" him unless he could pose a similar number of questions in turn. It seemed almost as if he was unnerved by the prospect of confronting the incumbent face-to-face. Although his partisans in the press and elsewhere claimed that he had vanquished the Little Giant, Lincoln was advised by party leaders to step up the tempo of the attack in the second debate, at Freeport (Zarefsky 1990, p. 56).

That is just what Lincoln did. He dispatched Douglas's queries with yes-or-no answers, responding exactly to the question, usually about whether he was "pledged" to some particular statement that Douglas read from the purported Republican state platform. He followed with brief elaboration of some of his answers. Having replied

to Douglas, he claimed the right to put forward an equal number of questions, although so far he only had four. The second of them became the stuff of legend, prompting Douglas to articulate the Freeport doctrine, according to which a territory effectively could prevent slavery, notwithstanding the *Dred Scott* decision.[1] But more political damage was done to Douglas by the third question, when Lincoln asked directly whether Douglas would support a second *Dred Scott* decision holding that no state could prevent slavery. Lincoln then extended his Ottawa arguments about the 1854 resolutions and repeated the charge that Douglas was part of "a conspiracy to make slavery perpetual and national" (p. 145).[2] He offered as additional "evidence" Douglas's work in the Senate to defeat an amendment to the Kansas-Nebraska Act offered by Salmon P. Chase that explicitly would permit a territory to exclude slavery.

When Douglas's turn came, he answered Lincoln's questions, although he complained that they were prompted only by curiosity, not by any official platform. He dismissed the third question, expressing amazement that Lincoln would ask it and insisting that the question was moot because the Supreme Court never would do such a thing as prevent a state from outlawing slavery. He renewed his charge that Lincoln was plotting to abolitionize both major parties, defended his use of the 1854 platform, and attacked the "House Divided" theory as a transgression against the legacy of the founding fathers. Neither man clearly prevailed in this debate, but Lincoln at least had arrested the momentum Douglas had established at Ottawa.

Douglas's stated reason for posing his initial questions to Lincoln was to get him on the record, so that the Little Giant could "trot him down to Egypt and put the same questions to him." Jonesboro, site of the third debate, was in the far southern part of the state, known as "Egypt." Unlike the first two debates, the audience was heavily Democratic. Douglas repeated his allegations from Ottawa that Lincoln was working to abolitionize both parties. He observed that Republicans went by different names in different parts of the state. Douglas contrasted this evasiveness with his own ability to proclaim the same principles in every part of the state, North, South, East, and West.

Lincoln, however, did not simply roll over. He insisted on his own view that the founders deliberately had placed slavery on the path to ultimate extinction. Only that, he believed, would put an end to proslavery agitation. He elaborated on some of his positions from previous debates and added a new interrogatory: If slaveholders in the territories requested legislation from Congress to protect their rights of property, should Congress accede to this request? Douglas answered this new question by saying that it contradicted the principle of non-interference in state and territorial matters. Again the outcome was not decisive, but Douglas may have made a comeback from Freeport.

---

[1] Legend has it that Lincoln asked this question, knowing that Douglas would answer in a way that might win him the Senate seat but would cost him the presidency. Virtually every element of this widely held belief is false, as demonstrated by Fehrenbacher (1961).

[2] Quotations from the debates are taken from Angle (1991).

Finally, there was the debate in Charleston. Goaded by accusations that he favored racial equality, Lincoln devoted the first several minutes of his speech to a denial of these accusations; the remainder, to the charge that Douglas conspired to deny Kansans the opportunity to vote on the proposed Toombs bill. This bill, considered but never passed by Congress, would have established a procedure by which Kansas might apply for admission as a state. Lincoln charged that Douglas, while allegedly supporting popular sovereignty, removed from the bill a clause that would have called for the proposed state constitution to be ratified by referendum. Douglas, not quite sure how to handle this, noted the irrelevance of the argument to the current campaign and then proceeded to defend himself against the charge. While this debate did not advance discussion about the issues of the day, it did at least raise serious questions about Douglas's sincerity and honesty—which was an important Republican goal (Guelzo 2008, pp. 201–202).

The first four debates, then, did not put either candidate in a commanding position. One might "score" Ottawa and Jonesboro for Douglas, Freeport and Charleston for Lincoln, but in no case decisively. It has been noted, most recently by Allen Guelzo, that the last three debates turned much more clearly for Lincoln (Guelzo 2008, p. 290). Various reasons can be offered about *why* this was so, ranging from Lincoln's greater stamina to Douglas's failure to think through the second-order effects of his argumentative choices. The remainder of this essay explores *how* it was so, by paying close attention to the Galesburg debate. There were four ways in which this debate marked a turning point for Lincoln and that were not matched by similar advances on Douglas's part. Galesburg, then, was the debate in which the two men's trajectories diverged, with Lincoln carrying his arguments forward and Douglas falling back on the defensive.

17.3 Four Key Turning Points

17.3.1 *The Hypothetical* "Dred Scott" II

The first of Lincoln's turning points involved his treatment of "*Dred Scott II*," the hypothetical forthcoming case in which the Supreme Court would nationalize slavery by holding that no state could exclude it.[3] This was the direction in which, in the "House Divided" speech, Lincoln had suggested the country was now tending, and the imagined Court case was the means by which it would happen. But how would we get there? In "House Divided," Lincoln intimated that there was a conspiracy involving

---

[3] The actual *Dred Scott* case of 1857 had held, in part, that no *territory* could exclude slavery because doing so violated the Fifth Amendment's protection against deprivation of property without due process of law. Territories were under federal jurisdiction, but the protections of the Bill of Rights had not yet been applied to the states. The authoritative treatment of the case is Fehrenbacher (1978).

Douglas, Presidents Pierce and Buchanan, and Chief Justice Roger B. Taney, actively working to produce this result. Douglas's role was to pronounce that he "don't care" whether slavery was voted down or up (Angle 1991, p. 8). Because "public sentiment is everything," as Lincoln said in the Ottawa debate (p. 128), Douglas's persistent advocacy of a neutral stance would render the public quiescent. And then into the breach would come the Supreme Court with a second *Dred Scott* decision. Douglas largely ignored this charge, deeming it farfetched—which it was. But the *purpose* for which Lincoln made the allegation was important. To avert the risk that Republicans might defect to Douglas or that uncommitted Whigs might see little difference between the candidates, Lincoln needed to create great distance between them. He could not do so by positioning *himself* as more extreme, since he was contending for the votes of moderate ex-Whigs. Instead he would be helped by portraying *Douglas* as an extremist advocating national slavery (which the Whigs opposed) and leaving himself in command of the middle ground. But this could be accomplished only if the conspiracy was credible.

Hedging his bets, Lincoln developed additional challenges to Douglas's sincerity. Most notably, in the Charleston debate, he devoted virtually all of his opening speech to the claim that Douglas, while overtly proclaiming his commitment to popular sovereignty, was secretly acting to undermine it. This allegation might rally Republicans, but at a cost. At the very least, the argument was complex and required time to develop, dependent on sustained audience attention and displacing other arguments that could have been advanced instead. Beyond that, the claim itself was questionable and, to say the least, open to challenge. Douglas insisted that the offending clause was removed because it was redundant; he pointed out that a similar clause was put back into the bill later; and the matter was moot in any case because the bill had failed to pass. Furthermore, Douglas could contend plausibly that the whole matter was in the past and a diversion from the urgent issues of the day. Perhaps for this reason, the "Toombs bill" charge that occupied so much time at Charleston received almost no attention in subsequent debates.[4]

At Galesburg, Lincoln hit upon a stronger way to develop the argument. Instead of deriving "*Dred Scott II* from the workings of an active conspiracy, he made it the conclusion of a syllogism:

Nothing in the constitution or laws of any state can destroy a right distinctly and expressly affirmed in the Constitution of the United States.
The right of property in a slave is distinctly and expressly affirmed in the Constitution of the United States.
Therefore, nothing in the constitution or laws of any state can destroy the right of property in a slave. (p. 308)

The major premise was a restatement of the Constitution's supremacy clause and the minor premise stated the clear implication of the 1857 *Dred Scott* decision.

---

[4]A discussion of the details of the "Toombs bill" argument can be found in Zarefsky (1990, pp. 97–103).

Grant the two premises and the conclusion follows necessarily. Lincoln rejected the argument because he did not grant the minor premise. But, he said, Douglas *did*, since he endorsed the *Dred Scott* decision. That being the case, he would be compelled to endorse the conclusion and hence to acquiesce in the future decision when it came. His refusal to answer Lincoln's third interrogatory at Freeport, far from showing the question farfetched, merely indicated his own evasiveness.

The advantage of the syllogistic form of the argument was twofold. First, it avoided the tenuous causal link of the conspiracy narrative. The stark simplicity of the syllogism made it clear and easy to grasp. Second, it did not require the assumption of motive on Douglas's part. The force of the argument depended not on the devious plotting of conspirators but on the force of logical necessity. On this reading, Douglas's support for the real *Dred Scott* decision committed him to the support of the hypothetical future decision whether he liked it or not. This accomplished Lincoln's purpose just as well as the conspiracy argument, because a supporter of national slavery, regardless of how he reached that position, would hardly be attractive to the moderate ex-Whigs.

17.3.2   *The Moral Argument*

The second respect in which Galesburg marked a turning point for Lincoln involved his use of the moral argument. Notably, the first four debates were almost devoid of attention to this argument, with the sole exception of Lincoln's brief reference at Ottawa to Henry Clay's belief that contending that the Negro was not included in the Declaration of Independence was "blowing out the moral lights around us" (p. 130). The moral argument, of course, was the heart of the objection to popular sovereignty: the most powerful reason not to permit people to choose slavery if they wanted it was that slavery was wrong. But the argument was volatile: how could one condemn slavery as immoral yet not support abolition? And since abolition was a politically extreme program, championed only by those widely thought to be cranks and fanatics, for Lincoln to be seen as an abolitionist would be political suicide. (Not surprisingly, Douglas devoted much of *his* time to the charge that Lincoln was a closet abolitionist who was conspiring to convert both major political parties to that goal.) The question for Lincoln was how he could raise the moral issue while hewing to his own position that containment, rather than abolition, was the remedy. So it is understandable that he largely steered clear of the moral question in the first four debates. For Douglas, of course, his chief principle was majority rule, and the fact that Lincoln might think slavery wrong did not trump the right of the people to decide whether it was right or wrong. For him, the morality of slavery itself was simply not an issue. His commitment was to the procedure of self-determination by those directly affected, exercised through majority rule.

So long as the moral question was kept off the table, then, Douglas was the beneficiary. But could Lincoln find a way to advance the issue without traveling down the slippery slope that would lead him to abolitionism?

At Galesburg, he figured out how to negotiate this dilemma. If the Whigs were opposed to abolition, they also believed—at least in a general sense—that slavery was wrong. They were troubled by their conviction that it was evil, but they did not know how to remove it. Still, being an evil, it should be removed—in God's good time, when Divine inspiration might enable wiser men to discern how it could be done. If Lincoln could "define" Douglas as standing outside *this* set of beliefs, then the incumbent rather than the challenger would emerge as the extremist. Far from being pushed into the abolitionist camp, Lincoln would retain possession of the middle ground.

Accordingly, Lincoln cited as a deficiency in Douglas's position that it altogether excluded the moral dimension. Responding to Douglas's pronouncement that he was opposed to making odious distinctions between free and slave states, Lincoln agreed that he was, too. But, he said, Douglas was "not in favor of making any distinction between slavery and liberty … consequently every sentiment he utters discards the idea that there is anything wrong in slavery" (p. 303). This, of course, was the logical consequence of Douglas's strong commitment to proceduralism. It was Lincoln's contribution at Galesburg to suggest that moral neutrality was the dark side of popular sovereignty. The fact that Lincoln acknowledged the Whigs' antislavery conviction meant that his view of morality was more compatible with theirs, even though he championed containment rather than the morally pure course of abolition.

Having alluded to the moral argument in this way, Lincoln later in the speech repeated his Ottawa reference to Henry Clay. It was Clay's view, he maintained, that colonization "had a tendency to the ultimate emancipation of the slaves" and that anyone who would repress that tendency must "blot out the moral lights around us" (p. 311). Douglas's professed indifference to whether slavery might be introduced into a territory made sense only if he did *not* believe in ultimate emancipation. Once again, Lincoln implies that his advocacy of containment aligns with the moral values of the Whigs who constituted the election's swing voters. This brief mention at Galesburg is an opening wedge for an argument that is developed more fully in the debates at Quincy and Alton.

17.3.3 The 1854 Republican Platform

The treatment of the alleged 1854 Republican state platform represented a third turning point for Lincoln. Stated simply, he turned the tables on Douglas and thereby took over the argument. At Ottawa Douglas had cited these resolutions as proof of Lincoln's conspiracy to convert the two major political parties to abolitionism. When Lincoln protested that he was not at the convention referred to, Douglas relayed that he had obtained his information from Charles H. Lanphier, a Springfield newspaper editor. Douglas promised that when he was next in Springfield he would look into the matter and provide a report. This was probably a throwaway line intended to get the subject off the table so Douglas could refocus on other topics.

In any event, weeks went by without any report from Douglas, and Lincoln began at Galesburg to notice this omission. "I presume that [Douglas] has made the investigation," Lincoln said, "and, so far as I know, he has made no report of the result" (p. 305). Insisting that Douglas's erroneous use of the resolutions constituted fraud, Lincoln asked who might have committed the act. There were only three possibilities: Douglas, Lanphier, and Congressman Thomas L. Harris. If Douglas were not in on the plot, Lincoln reasoned, then he should be upset with Harris and Lanphier for putting him in the embarrassing position of reading from an erroneous document. But no:

> He makes no complaint of Lanphier who must have known it to be a fraud from the beginning. He, Lanphier, and Harris are just as cozy now, and just as active in the concoction of new schemes as they were before the general discovery of this fraud. Now all this is very natural if they are all alike guilty in that fraud, and it is very unnatural if any one of them is innocent. (pp. 306–07)

In this way, Lincoln utterly transformed the issue of the 1854 resolutions. Rather than constituting evidence of Lincoln's secret abolitionism, they now were evidence of Douglas's plotting to commit fraud. One of the major elements in Douglas's original rhetorical arsenal had been taken over by Lincoln instead. It should not be surprising, then, that Douglas would get little mileage from his repetition of the conspiracy charge in the remaining debates.

17.3.4   Refutation Strategies

Lincoln's adroit turning of the tables against Douglas suggests the fourth way in which the Galesburg debate was a turning point. He was much readier to respond to Douglas's charges, and he employed a variety of refutation strategies. Although he noted at the beginning of his speech that Douglas was not saying much new, Lincoln left few of the incumbent's remarks untouched by his response.

For example, Lincoln twice used *tu quoque* arguments against Douglas. This form of argument absolves one of criticism by pointing out that the critic himself or herself is guilty of the same charge. In one case, Douglas had used as an argument against the Republicans that their party went by different names in different parts of the state. He thought that this proved that they had no consistent principle. But Lincoln was quick to observe that, in one of the very same counties that Douglas cited, he too was forced to appear under a label other than "Democrat" (p. 288). Moreover, while Douglas was known in 1856 as a National Democrat he would no longer use that label because it was understood to refer to supporters of James Buchanan. So, if changing one's political label was proof of perfidious sectionalism, Douglas was guilty of it too. And even now, Lincoln said, "by the rule of nationality he is himself fast becoming sectional … his speeches would not go as current now south of the Ohio River as they have formerly gone there" (p. 301). The effect of the *tu quoque* response is to moot the original charge by neutralizing its impact. The upshot of Lincoln's refutation is that a sectionalist appeal is not a valid basis on

which to judge the soundness of a party's political principles—which was Lincoln's position in the first place.

Another common technique of refutation is *reductio ad absurdum*, taking an argument to its logical conclusion, showing that it leads to an absurd result, and concluding therefore that the argument's premise should be rejected. Lincoln uses this device on at least two occasions. After putting forward his syllogism, he caricatures Douglas's unwillingness to enter into a discussion of the merits of the *Dred Scott* decision. The Little Giant had said repeatedly that adherence was due the decision because it came from the highest court in the land. As Lincoln told the story, Douglas "swells himself up" and exalts the Supreme Court, even though his own political hero Andrew Jackson and even Douglas himself had argued differently in earlier years. He adheres to the decision, "not as being right on the merits … but as being absolutely obligatory upon every one simply because of the source from whence it comes …" (p. 310). This standard leads to the conclusion that Douglas must accept any further Supreme Court decision, whatever it might be—even if it is *Dred Scott II*. Lincoln's principal point, of course, is that one should not commit blindly to follow Supreme Court decisions. But if Douglas wants to carry his standard all the way out to the end of the line, that would be all right too. Douglas's only remaining defense was that the Supreme Court never would do such a thing as to promulgate a *Dred Scott II*, and in his Galesburg rejoinder he overstated his claim by asserting that the Justices said as much in the *Dred Scott* decision itself. In the Quincy debate, Lincoln will challenge Douglas to find this reference in the decision and will gloat when he of course is unable to do so.

The other notable use of the *reductio ad absurdum* is Lincoln's response to Douglas's being in favor of adding territory to the United States without regard to its effect on the slavery question, Carry *that* to its logical conclusion, Lincoln says, and "the next thing will be a grab for the territory of poor Mexico, an invasion of the rich lands of South America, then the adjoining islands will follow …" and in each case the decision regarding slavery, following the popular sovereignty principle, "is to be left to the people of those countries for settlement." This will create a problem for Douglas, because he "has a great horror for mongrels, and I understand that the people of Mexico are most decidedly a race of mongrels" (p. 312). Leaving aside the racism within Lincoln's joking response, he is trying to suggest that Douglas's principles, carried out, are in conflict with each other: popular sovereignty conflicts with Douglas's belief that our government exists "on the white basis." What the *reductio ad absurdum* accomplishes is that we ought not to be committed blindly to the acquisition of new territory—which, again, was Lincoln's position in the first place.

Lincoln sometimes used the simplest and most direct means of refutation: explicitly denying the opponent's argument. When Douglas charged that Lincoln took different positions in different parts of the state, Lincoln denied it. He realized that the debates were accessible to a public that would read his speeches both north and south. He said, "I have not supposed, and do not now suppose, that there is any conflict whatever between them" (p. 299), and proceeded to explain how that would be so. For another example, when Douglas alleged that the Kansas-Nebraska Act

incorporated the general principles of the Compromise of 1850, Lincoln reviewed the historical background of the 1850 compromise and then maintained "that there was nothing of the principle of the Nebraska Bill in the Compromise of 1850 at all – nothing whatever" (p. 302).

Several of these examples of refutation also suggest that Lincoln freely employed humor in response to Douglas. Perhaps the most obvious use of humor came in response to Douglas's complaint that Lincoln and Buchanan were in cahoots to defeat him because he had stood for his principles in opposing the Lecompton constitution. Lincoln had fun with this, employing understatement to skewer Douglas. "I have said upon a former occasion," he began, "and I do not choose to suppress it now, that I have no objection to the division in the Judge's party. He got it up himself. It was all his and their work … I defy the Judge to show any evidence that I have in any way promoted that division, unless he insists on being a witness himself in merely saying so" (p. 304). Well-directed humor is a double-edged sword. It enhances Lincoln's credibility by not making him seem petty or mean, while at the same time it adds force to the substance of his refutation since the disagreement cannot be chalked up to petulance. Lincoln's free and easy use of humor at Galesburg contrasts with his demeanor in some of the earlier debates, particularly Ottawa, where he spent his time largely reading from his own earlier speeches or repeating exactly points that he had made before.

17.3.5   Summary

In sum, then, four aspects of the debate text show how the Galesburg debate was a turning point for Lincoln: using a logical syllogism instead of a conspiracy narrative to set in motion the hypothetical future "*Dred Scott II*" decision, opening a wedge for the moral argument by noting that Douglas's position unacceptably required a stance of moral neutrality regarding slavery, turning the tables on Douglas regarding the alleged 1854 Republican resolutions, so that the argument benefited the challenger rather than the incumbent, and freely employing a wide range of techniques of refutation. With these rhetorical adjustments, Lincoln was able to break out of the relative equilibrium of the first four debates and generate the momentum that would sustain him through the Quincy debate and even the anticlimactic encounter at Alton.

17.4   Douglas's Failure

But what of Douglas? In a much less positive way, Galesburg marked a turning point for him as well. With very few exceptions, this was the debate where he ran out of steam and largely repeated earlier claims as if they had not been responded

to in the meanwhile. At the beginning of his rejoinder he tried to make this consistency into a virtue. When Lincoln noted that much of Douglas's speech had "previously been delivered and put in print" (p. 297) and hence was not new, the Little Giant interpreted Lincoln as criticizing him because his speech "was in substance what I have said everywhere else in the state" and replied, "I wish I could say the same of his speech" (p. 314). But this was not humor and it did not inspire laughter. It was what we today would call a "gotcha" line and did not enhance Douglas's position. For the most part his arguments were repetitive and desultory.

For example, much of his opening speech was spent in self-defense of his opposition to the Lecompton constitution and to complaints that postmasters and other federal office holders were campaigning against him because of his opposition to the English Bill. Since there was no disagreement between him and Lincoln on these topics, one wonders why Douglas would spend debate time in this way. He appeared to be more concerned with defending himself against *Buchanan* than against Lincoln. As Guelzo has reminded us, Buchanan posed a serious threat to Douglas, notwithstanding that in the end he did not do much damage (Guelzo 2008, pp. 66, 68, 136). Douglas revealed the source of his concern when he said that Lincoln "has no hope on earth, and has never dreamed that he had a chance of success, were it not for the aid he is receiving from federal office holders, who are using their influence and the patronage of the government against me in revenge for my having defeated the Lecompton constitution" (p. 289). Douglas was right to be concerned, but not to devote this debate to the expression of his concern. It was an unproductive use of his time; it placed him on the defensive; and it invited the humorous response from Lincoln described earlier.

Douglas also devoted a major part of his speech to the charge that the Republican party was sectional, both in the sense that it garnered little support in the South and in the sense that it went by different names within Illinois. This was an elaboration of an argument he had made earlier in the debates. But he never established the critical assumption that the soundness of one's position depended upon one's being able to advocate it everywhere, and he invited the *tu quoque* response that he was rapidly becoming sectional himself.

Otherwise, Douglas spent his time repeating earlier claims: that the government was made on the white basis, that each state must decide for itself what privileges can be extended to African Americans, and that a territory effectively can prohibit slavery if it wishes, even in the face of the *Dred Scott* decision. Lincoln had responded to these contentions in earlier debates, but Douglas rehashed them as if they had not been answered already. Even in his rejoinder he repeated earlier arguments, except to express his personal indignation that Lincoln might accuse him of fraud in the matter of the 1854 resolutions. "I always spoke of him in words of respect," Douglas said, "and in return he has sought, and is now seeking, to divert public attention from the enormity of his revolutionary principles by impeaching men's sincerity and integrity, and inviting personal quarrels" (p. 317). The problem was that in his indignation Douglas neglected either to share the results of his promised investigation or to explain why he had failed to investigate.

Douglas's other new argument in the rejoinder would backfire on him. It was the previously-noted assertion that the Supreme Court Justices themselves had disavowed any possibility of a hypothetical "*Dred Scott II*": "Mr. Lincoln knows that there is not a member of the Supreme Court who holds that doctrine; he knows that every one of them, as shown by their opinions, holds the reverse" (p. 319). Of course, the Justices in *Dred Scott* had expressed no opinion on the matter; they typically do not comment about hypothetical cases not currently before them. Douglas may have let his anger and frustration get the better of him, but he set a trap that Lincoln would spring at Quincy. Lincoln presented him with a copy of the *Dred Scott* decision, asked him to identify the passage to which he had referred, and gloated that Douglas was unable to do so.

17.5 Conclusion

In short, then, while the Galesburg debate enabled Lincoln to advance his arguments (Burlingame 2008, 1, p. 553), building momentum that would carry him through the remaining debates. Douglas did not carry his arguments forward in a constructive way, and instead fell back on the defensive. The Galesburg debate marked a turning point for both men, but in opposite directions.

Why then did Lincoln not win the election? First of all, it is very likely that he would have won a statewide popular vote, if that had been the means of electing Senators. But even so, it is worth remembering that the debates were not the entirety of the campaign. During the 3 weeks between October 15 and November 6, there were allegations of imminent vote fraud, and there was the damage caused by the release of Senator John J. Crittenden's letter endorsing Douglas, which raised again the specter of Lincoln's really being an abolitionist.[5] To say this, however, is not to deny that Lincoln ended the campaign in a very strong position. And what set him on that position was the set of rhetorical choices he made that constituted turning points at Galesburg.

References

Angle, P.M. (ed.). 1991. *The complete Lincoln-Douglas debates of 1858*. Chicago: University of Chicago Press.
Burlingame, M. 2008. *Abraham Lincoln: A life*. Baltimore: Johns Hopkins University Press.
Fehrenbacher, D.E. 1961. Lincoln, Douglas, and the "Freeport Question". *American Historical Review* 66: 599–617.

---

[5] This was particularly serious because Crittenden was widely regarded as the political descendant of Henry Clay.

Fehrenbacher, D.E. 1978. *The Dred Scott case: Its significance in American law and politics*. New York: Oxford University Press.

Guelzo, A.C. 2008. *Lincoln and Douglas: The debates that defined America*. New York: Simon and Schuster.

Heckman, R.A. 1966. The Lincoln-Douglas debates: A case study in stump speaking. *Civil War History* 12: 54–66.

Zarefsky, D. 1990. *Lincoln, Douglas, and slavery: In the crucible of public debate*. Chicago: University of Chicago Press.

Chapter 18
Presidential Rhetoric and the Power of Definition

Abstract This essay responds to the claim that presidential rhetoric has little effect. It addresses three questions: (1) How do we understand the nature of presidential rhetoric and its effects? (2) What does presidential rhetoric do? (3) How do we know? From the perspective of the humanities, rhetoric is a complex transaction among speakers or writers, audiences, and critics. Effects are better understood as invitations to respond. A key function of presidential rhetoric is to define social reality, and this power to define is a significant presidential resource. Eight case studies explore how presidents from George Washington to George W. Bush have relied on rhetorical definition.

18.1   Introduction

Presidential rhetoric is studied from the perspectives of both the social sciences and the humanities. From a humanistic perspective, scholars are concerned with the uniqueness of exemplary vases as well as with recurrent patterns, and they seek insight and appreciative understanding more than prediction and control. I study presidential rhetoric in the beliefs that it increasingly is what the presidency is about and that it makes a difference.

These assumptions are directly challenged by the results of George Edwards' extensive research program. In his most recent book, Edwards observes that, although "{engaging} in a prominent campaign for the public's support" has emerged in modern times as the president's "core strategy for governing," still

"presidents usually fail in their efforts to move the public to support them and their policies" (Edwards 2003, p. ix). Edwards is particularly bedeviled by the paradox that, whereas people generally assume that presidential rhetoric makes a difference, "very few studies focus directly on the effect of presidential leadership of opinion…." (Edwards 2003, p. 26).

Edwards' findings are consistent with the "limited effects" model that has characterized media research for the past 50 years. Whereas people earlier had been concerned that mass media were like a hypodermic needle with which audiences were injected with strong doses of propaganda, the empirical research generally found that mediated messages had little effect at all—so long as one understood "effect" in terms of measurable changes in the audience's beliefs or attitudes (Schudson 2003, p. 19). And yet few would argue seriously that mediated messages make *no* difference, just as few would say that about the specific case of presidential rhetoric. So Edwards' conclusion remains paradoxical.

The research agenda described here attempts, at least in a small way, to move past this paradox and to contribute to answering these questions: (1) How do we understand the nature of presidential rhetoric and its effects? (2) What does presidential rhetoric do? (3) How do we know?

18.2   Understanding Rhetoric and Its Effects

Both terms—"presidential rhetoric" and "effect"—are often understood too narrowly: "presidential rhetoric" as public speeches and "effect" as quantitatively measurable changes in indices of people's attitudes or beliefs. These conceptions reflect an overly simplistic understanding of the process of communication and the nature of rhetorical transactions.

Complicating our understanding of presidential rhetoric is the fact that rhetoric is both a type of evidence available for use by scholars in any discipline, and a field of study in its own right. Social scientists, for example, can draw on presidential speeches as data. They may regard them as independent variables and measure their consequences for opinion and attitude change. Not surprisingly, they may not find any. Why? First, we know from communication research that attitudes are seldom changed on the basis of a single message. Second, replacement of an attitude or opinion with another is only one kind of attitude change. Reinforcement of one's initial position, modification in the salience of a belief or attitude, changes in perception of what other beliefs or attitudes are related to the one at hand, or differences in interpretation of what the belief or attitude means are all examples of other types of change. And third, the focus on the message-audience relationship--looking for the effects of messages on audiences—is only one dimension of a rhetorical transaction, and not always the most helpful or informative. In particular, it tends to reduce the message to a verbal text and then to treat the text as a "black box," rather than seeing its dynamics as interesting and worthy of analysis in their own right.

The field of rhetorical studies, by and large, makes different ontological assumptions and relies on a more complex view of the rhetorical transaction. It emphasizes contingency and choice rather than predictability and control. According to this view, the rhetor (speaker or writer) makes choices, with an audience in mind, about the best way to achieve his or her goals in the context of a specific situation (Bitzer 1968). Those choices—about such matters as argument selection, framing, phrasing, evidence, organization, and style, as well as about staging, choreography, and other aspects of the presidential performance—are embodied in the text that the rhetor composes and the context in which it is delivered. An audience, also influenced by context, perceives this text, interprets it, participates thereby in determining what it means, and is affected by it.

On this reading, there are at least three different dimensions of a rhetorical transaction that may be of scholarly interest. One is the previously mentioned relationship between messages and audiences, and it is largely an empirical matter. Another is the relationship between rhetor and text, which could be approached as a historical matter, exploring archival and other resources in an attempt to discern what the author was thinking and what rhetorical choices he or she knowingly made, and why. Alternatively, one might argue that the rhetor's motives are embedded in the text itself and one might employ modes of inquiry ranging from content analysis to psychoanalysis in an attempt to reveal those motives or choices.

Finally, one might take the text itself as the point of departure, analogous to a work of literary or visual art. (Again, "the text" refers not only to the words the president speaks but to the entirety of the presidential performance. For example, the fact that a State of the Union address is delivered to a joint session of Congress, with the president appearing before a giant U.S. flag in the chamber of the House of Representatives, is as much a part of his speech as are the words he speaks.) In this last case, the key relationship is between the text and the rhetorical critic, who uses different reading strategies to reveal levels of meaning or significance in the text. This is a process of speculative reconstruction of the text, informed by the critic's insight into the text's possibilities.

A brief example might make these three difficult perspectives clearer. Consider President George W. Bush's speech to a joint session of Congress on September 20, 2001. He pronounced war on terrorist organizations of global reach and issued an ultimatum to nations that might harbor terrorists. The first approach, studying message-audience relationships, would ask whether, after the speech, public opinion changed on such matters as support for military action against Afghanistan or the president's overall performance in office. The second approach, examining speaker-message relationships, would study the development of the message, asking such questions as how involved the president was in writing the speech or why the principal writer put God in the text, choosing between freedom and fear—or it might infer the president's world view from his use of the binary that nations either support us or support the terrorists. The third approach, unpacking the text, might observe the open-ended characterization of terrorism and note that the label of "terrorism" could be used similarly by leaders of other nations with reference to their foes, so that the text offers a potentially dangerous invitation for unwanted "copycat" activities by other nations.

Our understanding of presidential rhetoric should not be limited to just one of these perspectives. Rhetoric is not only an alleged cause of shifts in audience attitudes. It is also a reflection of a president's values and world view. And it is also a work of practical art, often richly layered and multivocal, that calls for interpretation.

The picture, though, is messier even than this. The distinctions among "historical," "literary," and "empirical" perspectives are often blurred by rhetorical scholars themselves. They employ causal language and thereby suggest empirical claims when they really do not mean to make causal arguments but have other dimensions of rhetoric in mind. This conceptual sloppiness invites the rejoinder, especially from social scientists, that the rhetorician is making claims unencumbered by evidence, and therefore that no effect can be attributed to presidential rhetoric. A number of rhetorical scholars, myself included, listened uncomfortably as George Edwards offered just such a critique in 1995 (Edwards 1996). His point is well taken. But the remedy is not for rhetorical critics to morph into empirical social scientists, but rather for them to be more precise about what they are claiming and to eschew misleading causal language when it does not fit.

Again, an example may help to illustrate. Suppose a student of President Bush's September 20 address argues that the speech will cause other leaders to repress dissidents while claiming to be cracking down against terrorists. As a causal proposition, that is highly unlikely, because it attributes incredible agency to the words of the U.S. president and implies that other leaders lack their own decision-making calculus. In any event, it is impossible to prove: How in the world could one control all extraneous factors? The rhetorical critic, we may assume, is not so stupid as to blunder into these traps. It is more likely that the critic really means to say something else. The statement about what the text "causes" actually says something more like this: The September 20 speech justifies a strong response to terrorism, but it leaves terrorism largely undefined. Reasoning by analogy, it is not hard to imagine another leaders, besieged by intense foreign opposition or domestic dissent, characterizing that opposition as terrorism and responding the same way as the president of the United States. One perhaps could say that the text "invites" this reading (meaning that a reasonable person plausibly might see it that way) or that a perceptive reader might see this possibility in the text. But this is quite a different matter from saying that the president's rhetoric *causes* copycat responses by others. This example is typical of presidential rhetoric in that it is far more likely to suggest possibilities and to issue invitations than it is to determine outcomes.

There are yet other complications to explore. Aristotle defined rhetoric as the faculty of discovering the available means of persuasion in the given case. Those last four words emphasize that rhetoric is situational; it is grounded in particulars and resists easy generalization. Unpacking a text, probing its dimensions and possibilities, helps the scholar to understand better the richness of a very specific situation that already has passed and will not return in exactly the same way. But if every rhetorical moment is altogether unique, then our assessments are highly idiosyncratic and have no generalizability. The solution to this conundrum is to acknowledge that, while no two situations are exactly alike, patterns of rhetorical choice do tend to repeat across situations with the same central characteristics.

This need not imply a formal set of genres or archetypes,[1] but it does suggest that rhetorical masterpieces can be studied in the same way that great works of literature are studied: with an eye both to offering new perspective on the case at hand and to suggesting broader principles that will help to explain rhetorical practice more generally.

Finally, who is the audience for presidential rhetoric? This is not as simple a question as it might seem. Although the essence of the public presidency is the assumption of direct presidential appeals for popular support, we know that even presidents have difficulty gaining a mass audience (Edwards 2003, pp. 187–217). Especially in the contemporary era, the primary audience for presidents often is other politicians or the media. The strategies of "going public" may be designed largely to influence the media, for example.[2] The assumption is that media response is important in its own right and that, through such devices as framing, media "translate" presidential messages and influence how they are understood by ordinary citizens.

18.3 Presidential Definition

What has been done so far is to create a space for refreshed understanding of rhetoric but not yet to fill it with conceptual content. Let me therefore advance a claim about what presidential rhetoric does: It defines political reality.

The key assumption I make is that characterizations of social reality are not "given"; they are chosen from among multiple possibilities and hence always could have been otherwise. Whatever characterization prevails will depend on choices made by political actors. People participate actively in shaping and giving meaning to their environment, and they do so primarily by means of naming situations within it. Naming a situation provides the basis for understanding it and determining the appropriate response (Schiappa 2003). Because of his prominent political position and his access to the means of communication, the president, by defining a situation, might be able to shape the context in which events or proposals are viewed by the public. Of course, not all presidential attempts at definition evoke a positive public response, and one test of the effectiveness of presidential definitions is to find evidence of such resonance (Zarefsky 1986, pp. 1–11).

To choose a definition is, in effect, to plead a cause, as if one were advancing a claim and offering support for it. But no explicit claim is offered and no support is provided. The presidential definition is stipulated, offered as if were natural and uncontroversial rather than chosen and contestable. President Bush simply identified the estate tax as the "death tax," for example, or called intact dilation and

---

[1] Some scholars, however, such as Campbell and Jamieson (1990) *have* tried to identify genres of presidential rhetoric, while others, such as Hart (1987), explore patterns at the micro-level of presidential discourse.

[2] For a strong example of a presidential message for which the media were the target audience, see Turner (1985).

extraction "partial-birth abortion," or pronounced that rolling back future tax cuts for the wealthy was really a tax increase. One could argue that each of these definitions is right or wrong, but the point is that, in defining the situation, the president makes no explicit argument.

Each of these brief examples illustrates how there are interests at stake in how a situation is framed. The definition of the situation affects what counts as data for or against a proposal, highlights certain elements of the situation for use in arguments and obscures others, influences whether people will notice the situation and how they will handle it, describes causes and identifies remedies, and invites moral judgments about circumstances or individuals (Zarefsky 1998; Cox 1981; Entman 1993; Schiappa 2003; Schudson 2003). Accordingly, presidential definition resembles what William Riker calls heresthetic: "the art of structuring the world so you can win" (Riker 1986, p. ix). Whether the art is practiced consciously or instinctively does not matter. It can be conscious, as when presidential candidates try to "define" their opponents, or instinctive, as when a president gives voice to what may be unexamined ideological commitments.

Inspection of numerous case studies suggests several means by which presidents exercise their power of definition. One is to create associations with other terms, expanding the meaning of a term to cover the new case at hand. September 11 was defined as "war" by linking it to the specific attributes of that term that were indisputably present in the situation, thereby extending the reach of the term. The argument is one of analogy, yet no explicit analogy was voiced.

Second, a situation can be defined by dissociation (Perelman and Olbrechts-Tyteca 1969). This consists of breaking a concept into parts in order to identify one's proposal with the more favored part. One prefers the spirit of the law over the letter, the real over the apparent, practice over theory, and so on. When President Kennedy identified his arms control programs with "real peace," not just the temporary absence of military conflict, he was engaged in a dissociation. The concept of "peace" was taken apart and reconstructed.

Third, a situation can be defined by identifying it with one or more *condensation symbols* (Sapir 1934). These are symbols which designate no clear referent but "condense" a host of different meanings and connotations that otherwise might diverge. They are particularly useful in defining an ambiguous situation because people can highlight different aspects of the symbol yet reach the same conclusion. For example, President Clinton's approach to the budget surpluses of the late 1990s was "Save Social Security first." Saving Social Security is a theme with positive resonance, even though people mean different things by it. The symbol of saving this cherished program gathers support from among people who may have different reasons for offering it and who may mean different things by it. The power of the definition is its ability to condense divergent emotional reactions.

Fourth, presidents can rely on frame shifting, postulating a different frame of reference from the one in which the subject normally is viewed. The effect is that people see the thing "in a different light" and their attitudes about it therefore change. Riker, in fact, suggests that "most of the great shifts of political life result from introducing a new dimension" (Riker 1986, p. 151). President Bush employed

frame shifting in his *ex post facto* justification for the 2003 war in Iraq. When no weapons of mass destruction were found, he invited listeners to see the war from the perspective of the benefits of eliminating a tyrant, even though that had not been the original justification, rather than from the frame of protecting the United States and other nations against the risk of biological, chemical, or nuclear weapons.

These four approaches undoubtedly do not exhaust the types and means of rhetorical definition. Part of the reason for amassing data on specific cases is that it is a way to broaden awareness and deepen understanding of the resources available to presidents as they engage in public persuasion.

18.4 Eight Case Studies

Several cases of presidential use of the power to define will help to show how this rhetorical power can be used to alter public conceptions of political reality, thereby shifting the ground—though not always in the president's favor.

18.4.1 *Washington and the Whisky Rebellion*

When enforcement of an excise tax on whisky triggered taxpayers' protest in western Pennsylvania in 1794, George Washington interpreted these events within the frame of Shays's rebellion in Massachusetts 8 years before. To the president, the protest was not a case of intimidation and violence at the local level, to be met by the law enforcement authorities, but a fundamental challenge to the authority of the national government under the Constitution. Defining the situation in this way, Washington deemed it important to convey the message that the new government would not be cowed by threats to it or to him. Accordingly, he issued a request for militia volunteers to go to western Pennsylvania to quell the disturbance. When they found no menace in the West, the president interpreted this as evidence of the deterrent power of federal force. These definitional moves helped him to make his point, but he then over-reacted in his 1794 Annual Message, claiming the process to have been caused by the pro-French democratic societies. The resulting criticism served to topple Washington from the pedestal of nonpartisanship, so that he was seen as a Hamiltonian Federalist and was publicly vilified by Republicans during the last years of his term (Slaughter 1986; Miller 1960).

18.4.2 *Jackson and the Election as Mandate*

Until 1832, presidential elections were understood as a process for selecting the man who would be most capable to administer the Executive Branch. They chose

the office holder but not his policies. Near the end of his first term, however, Andrew Jackson was the target of National Republicans in Congress who sought to embarrass him by voting to recharter the Bank of the United States (which he opposed) 4 years before its charter was to expire. Jackson vetoed the Bank bill and, in an emotional message to Congress, called on voters to sustain his action in the coming presidential election. He was indeed reelected, although it is likely that this result was independent of the Bank issue (Remini 1967). Nevertheless, Jackson defined his reelection as a mandate to get rid of the Bank (Zarefsky 2002; Ellis and Kirk 1998). He said, "Whatever may be the opinions of others, the president considers his reelection as a decision of the people against the bank…. He was sustained by a just people, and he desires to evince his gratitude by carrying into effect their decision so far as it depends upon him" (Richardson 1897, vol. 3, p. 7), and he engineered the Bank's collapse by ordering a withdrawal of government deposits. From then on, winning candidates often interpreted their election—no matter how ambiguous the circumstances—as a mandate for particular actions. John Tyler did so in 1844, defining Polk's election as a mandate for the immediate annexation of Texas. Abraham Lincoln did so in 1860, citing the election results to justify his refusal to engage in last-ditch compromise moves to avert the secession crisis. Grover Cleveland did so in 1892, viewing the election results as a mandate to abandon silver in favor of the gold standard. Warren G. Harding did so in 1920, defining the results as a mandate to stay out of the League of Nations. Lyndon Johnson did so in 1964, understanding the results as a mandate for the enactment of Medicare. Ronald Reagan did so in 1980, finding in the results a mandate for substantial tax cuts. George W. Bush did so in 2000, viewing his election, albeit disputed, as a mandate to enact the Republicans' conservative platform rather than moderate measures in the name of national unity.

18.4.3   Lincoln and Civil War Aims

Abraham Lincoln accepted civil war in order to preserve the Union by demonstrating the impossibility of secession. Although personally opposed to slavery, he insisted that he had no power to alter it where it already existed. For this reason he was willing even to see a constitutional amendment that would have protected slavery in the southern states in perpetuity. The war was about the integrity of the Union, not about slavery. But Lincoln, like most of his countrymen, had not expected a long and protracted war. As Union losses continued to mount with no end to the struggle in sight, it became harder to rally support and to inspire sacrifice for the sake of the *status quo ante*. Moreover, restoration of the Union was a morally neutral principle, unlikely to deter Britain and France from recognizing the Confederacy as a legitimate government, perhaps even intervening on its behalf.

In a series of rhetorical moves during 1862, Lincoln gradually redefined the aims of the war. He did not abandon his commitment to colonization of freed blacks as the optimal policy, but in his 1862 Annual Message he began to suggest that the

opposition to emancipation was based on arguments that were "imaginary, if not sometimes malicious" (Lincoln 1862/1953; Zarefsky 2000). He issued the Emancipation Proclamation, which was carefully drawn to apply only to areas that were in rebellion—or, in other words, to the areas where he had no power to enforce it. By doing so, he was able to define emancipation not as a new objective but as a means to preserve the Union—by inducing slaves in rebellious states to desert their masters and enlist in the Union army, by dissuading Britain and France from intervention, and by arousing Northerners to sacrifice for the sake of a moral good. He was able to bypass challenges to his authority through defining a radical change in policy as continuity, as merely a means to achieve the already established goal.

18.4.4 Franklin Roosevelt and the Nature of Liberalism

Traditionally, liberalism had been understood as implying minimal government intervention in the life of the individual. Government had no role to play in economic development or social welfare; individuals would fend for themselves in the race of life. Franklin D. Roosevelt effectively redefined liberalism as meaning just the opposite. In speeches during the 1932 campaign and in his actions thereafter, he did so by arguing that individual freedom was threatened by the consolidated power of big business. Individuals could not bargain freely in the marketplace when power relations were so unbalanced. Accordingly, protecting individual freedom required establishing a countervailing power to offset the weight of big business, and this function would be performed by big government. It is hard to remember, but before Presidents Reagan and Bush redefined liberalism once again, the view of an activist government was often positive, because it had the energy to improve the human condition. Even republican Presidents Eisenhower and Nixon felt constrained not to dismantle the major programs of the New Deal and its progeny. In this way, major government programs achieved a national consensus even though they were understood as programs of liberal reform. Defining the new as a means to achieve the old, Roosevelt transformed the political landscape for nearly half a century (Milkis 1998; Brinkley 1998; Foner 1998).

18.4.5 Lyndon Johnson and War on Poverty

Lyndon Johnson entered the presidency needing quickly to demonstrate his liberal credentials to a public that did not yet know him very well. Meeting with his economic advisers, he learned that John F Kennedy had been thinking about an antipoverty initiative as part of his legislative program. Johnson, believing that an antipoverty effort was the natural successor to the New Deal, signed on at once. He announced his commitment in the 1964 State of the Union message, proclaiming that "this administration, here and now, declares unconditional war on poverty."

The war metaphor was chosen deliberately. Johnson indicated, in the belief that it would rally the people and mobilize support (Johnson 1971, p. 74). These were important goals, particularly because the antipoverty legislation was proposed in response to no public groundswell and in the face of skepticism about whether poverty ever could be cured. The metaphor was not just a rhetorical flourish; it framed the new initiative in a favorable way. It partook of the habits of thought that characterized the crisis presidency under the impact of the Cold War. Simply put, a crisis (such as war) rearranges the rhetorical ground. The urgency of the situation requires quick response and establishes a presumption in favor of action. There is no time to consider carefully all the arguments and objections that might arise during peacetime. So debate is truncated, Congress gives its blessing without much understanding of the details, and the president takes on the persona of the commander-in-chief. These moves all gave Johnson advantages he would not have had under conditions of normal politics. They hastened the adoption of the War on Poverty—although they also would create problems for its subsequent implementation.

18.4.6   Lyndon Johnson and Affirmative Action

In a speech at Howard University in 1965, Johnson effectively redefined "equal opportunity" to embrace equal outcomes, not just equal chances. He did so by analogy to a foot race, saying, "You do not take a person who, for years, has been hobbled by chain, liberate him, bring him to the starting line of a race, saying 'you are free to compete with all the others,' and still justly believe you have been completely fair" (Johnson 1966). He distinguished between apparent and real equality of opportunity, the former represented by bringing the contestants to the same starting line and the latter by compensation for disadvantages suffered by any of the contestants. The goal, the president proclaimed, was "not just equality as a right and a theory but equality as a fact and a result." Johnson was engaging in dissociation—taking a concept that presumably has a single, clear meaning, dividing it into separate aspects one more favorable than the other, and equating the antagonist's position with the dispreferred term and one's own with the preferred term.

I do not mean to suggest that Lyndon Johnson would have endorsed every idea subsequently developed under the rubric of affirmative action. He most likely was thinking of compensatory education and training, not numerical goals or quotas. The point, however, is that his redefinition of "equal opportunity" created the rhetorical space that made affirmative action possible, by identifying a new policy concept with an established and accepted value (Zarefsky 1980).

18.4.7   Reagan and the Safety Net

Ronald Reagan also employed dissociation. He sought to reduce welfare programs without seeming heartless. He described isolated but egregious cases of welfare

fraud, distinguished the perpetrators from the "truly needy," and claimed that his reforms would maintain a "safety net" for the truly needy without squandering public resources on ne'er-do-wells who did not deserve it. Reagan took the previously unitary category of "needy" and divided it in two, maintaining his popularity even as he challenged welfare programs. He had effectively redefined the nature of welfare (Zarefsky et al. 1984).

18.4.8   George W. Bush and the War on Terror

The final example returns to the metaphor of war, as it was deployed in response to the terrorist attacks of September 11, 2001. President Bush instantly and instinctively reacted to news of the attack by saying simply, "We are at war." He employed the same definition of the situation in his September 20 speech and he has maintained it ever since. Only in his 2004 State of the Union address did he find it necessary even to respond to unnamed critics who, he said, contested this definition of the situation. But calling the terrorist attacks "war" is hardly self-evident. They had some of the attributes normally associated with war: Attacks were launched and lives were lost. But they lacked other characteristics: The attack was not military; it did not come from a nation state; no country declared war on us, nor did we any other nation. Yet defining the situation as war helped to clarify what responses were appropriate: national unity, quick response without debate or deliberation, rallying around the president, overt displays of patriotism and national pride. All of these responses were evoked by President Bush's characterization of the nature of the terrorism attacks (Zarefsky 2004).

18.4.9   Summary

These eight examples come mostly from cases examined in my own research. They illustrate what is involved in the use of the presidential power of definition through the performance of presidential rhetoric. This activity often makes a difference. To be sure, however, not all cases of presidential definition are successful in shaping public understanding of a situation. Though he tried, President Carter was unable to enlist the imagery of war on behalf of his energy program, just as President Reagan was unable to change public understanding of the MX missile by his choice to refer to it as the "Peacekeeper." In the current environment,[3] President Bush is having mixed results with his attempt to define failure to extend temporary tax cuts as tax increases. We need to know more about whether there are factors consistently associated with successful or unsuccessful exercise of the power of presidential definition.

------

[3] The essay was written in 2004.

Public opinion polls and other empirical surveys of audience response are not likely to measure the effectiveness of presidential definitions, because the definition affects the whole frame of reference within which the question is discussed. Caught up in the shifting frame, people are likely to see it as natural reality rather than the product of rhetorical choice. (Few on September 11 questioned whether we were really at war; only later did it become clear that this was a rhetorical reconstruction.) Truly significant outcomes of presidential rhetoric may pass unnoticed until long after the fact.

18.5   How Do We Know?

How then do we know what presidential rhetoric does? At least a few possibilities suggest themselves. One is to see how widely the presidential definition is picked up and used by others. We know, for example, that the military metaphor in the War on Poverty gave rise to numerous collateral metaphors: enlisting for the duration, field generals, weapons and ammunition, victories and defeats (Zarefsky 1986, pp. 28–29). We know that the metaphor was adopted widely and used by others in their discourse. Similarly, we know that the application of the war metaphor to the terrorist attacks found immediate and widespread acceptance. In cases such as these, it seems plausible to suggest that presidential definition has altered the rhetorical landscape by changing the terms in which people think about an issue. In short, we might examine the diffusion of rhetorical constructions, what Ernest Bormann in a different context has called the phenomenon of "chaining out" of a metaphor or image (Bormann 1972).[4]

More generally, perhaps the appropriate test is that of the historically sensitive researcher who gathers evidence, conducts thought experiments, and advances arguments. Evidence of presidential definition can be found in the texts of public statements, the audio and video records of presidential performance, comments by the president or his aides about his purposes, and the informed speculation of commentators. Evidence about shifts in public understanding include the repetition and chaining out of the definition as discussed above. Thought experiments involve careful questions about counterfactuals. Does it seem reasonable, for instance, that general public understanding of liberalism is different since the New Deal from what it was before? If so, is the shift consistent with Roosevelt's own redefinition? Can one imagine the shift in understanding taking place in the absence of presidential redefinition? Is there any more persuasive explanation for the shift than the hypothesized presidential definition? These questions cannot be answered conclusively, or even at the .05 level of confidence; they are productive of arguments, which are assessed through the exercise of judgment. Because judgment is the object of

---

[4] But see Mohrmann (1982) for a critical view of the assumptions and procedures underlying this approach.

rhetoric, rhetorical scholars should be comfortable with this approach. It might enrich the understanding of political scientists as well.

Taken together, then, the issues raised here suggest a full research agenda. It includes refining our understanding of how rhetorical definition is performed, examining many more cases of presidential redefinition, searching for factors associated with success or failure, and specifying how we know that frames of reference have been modified. This agenda of research tasks should contribute to the larger goal of moving beyond the impasse in the extant literature and being able to answer the question, "What does presidential rhetoric do?"

References

Bitzer, L.F. 1968. The rhetorical situation. *Philosophy & Rhetoric* 1: 1–14.

Bormann, E.G. 1972. Fantasy and rhetorical vision: The rhetorical criticism of social reality. *Quarterly Journal of Speech* 58(November): 396–407.

Brinkley, A. 1998. *Liberalism and its discontents*. Cambridge: Harvard University Press.

Campbell, K.K., and K.H. Jamieson. 1990. *Deeds done in words: Presidential rhetoric and the genres of governance*. Chicago: University of Chicago Press.

Cox, J.R. 1981. Argument and the 'definition of the situation'. *Central States Speech Journal* 32: 197–205.

Edwards, G.C. 1996. Presidential rhetoric: What difference does it make? In *Beyond the rhetorical presidency*, ed. M.J. Medhurst, 199–217. College Station: Texas A&M University Press.

Edwards III, G.C. 2003. *On deaf ears: The limits of the bully pulpit*. New Haven: Yale University Press.

Ellis, R.J., and S. Kirk. 1998. Jefferson, Jackson, and the origins of the presidential mandate. In *Speaking to the people: The rhetorical presidency in historical perspective*, ed. R.J. Ellis, 35–65. Amherst: University of Massachusetts Press.

Entman, R.M. 1993. Framing: Toward clarification of a fractured paradigm. *Journal of Communication* 43: 51–58. Autumn.

Foner, E. 1998. *The story of American freedom*. New York: Knopf.

Hart, R.P. 1987. *The sound of leadership: Presidential communication in the modern age*. Chicago: University of Chicago Press.

Johnson, L.B. 1966. *Commencement address at Howard University: "To fulfill these rights"*. *Public papers of the presidents: Lyndon B. Johnson, 1965*, vol. 2, 635–640. Washington, DC: U.S. Government Printing Office.

Johnson, L.B. 1971. *The vantage point: Perspectives of the presidency, 1963–1969*. New York: Holt, Rinehart and Winston.

Lincoln, A. 1862/1953. Annual message to Congress. In *Collected works of Abraham Lincoln*, vol. 5, ed. P. Roy, 518–537. New Brunswick: Rutgers University Press.

Milkis, S.M. 1998. Franklin D. Roosevelt, progressivism, and the limits of popular leadership. In *Speaking to the people: The rhetorical presidency in historical perspective*, ed. R.J. Ellis, 182–210. Amherst: University of Massachusetts Press.

Miller, J.C. 1960. *The federalist era, 1789–1801*. New York: Harper and Row.

Mohrmann, G.P. 1982. An essay on fantasy theme criticism. *Quarterly Journal of Speech* 68(May): 109–132.

Perelman, Ch., and L. Olbrechts-Tyteca. 1969. *The new rhetoric: A treatise on argumentation*. Trans. J. Wilkinson and P. Weaver. Notre Dame: University of Notre Dame Press. (Originally published in French in 1958.)

Remini, R.V. 1967. *Andrew Jackson and the Bank war*. New York: Norton.

Richardson, J.D. (Ed.). 1897. *A compilation of messages and papers of the presidents, 1789–1897*, 10 vols. Washington, DC: U.S. Government Printing Office.

Riker, W.H. 1986. *The art of political manipulation*. New Haven: Yale University Press.

Sapir, E. 1934. Symbolism. In *Encyclopaedia of the social sciences*, ed. E.R.A. Seligman. New York: Macmillan.

Schiappa, A.E. 2003. *Defining reality*. Carbondale: Southern Illinois University Press.

Schudson, M. 2003. *The sociology of news*. New York: Norton.

Slaughter, T.P. 1986. *The whiskey rebellion: Frontier epilogue to the American revolution*. New York: Oxford University Press.

Turner, K.J. 1985. *Lyndon Johnson's dual war: Vietnam and the press*. Chicago: University of Chicago Press.

Zarefsky, D. 1980. Lyndon Johnson redefines "equal opportunity": The beginnings of affirmative action. *Central States Speech Journal* 31: 85–94.

Zarefsky, D. 1986. *President Johnson's war on poverty: Rhetoric and history*. Tuscaloosa: University of Alabama Press.

Zarefsky, D. 1998. Definitions. In *Argument in a time of change: Definitions, frameworks, and critiques*, ed. J.F. Klumpp, 1–11. Washington, DC: National Communication Association. (Reprinted in this volume, Chap. 10.)

Zarefsky, D. 2000. Lincoln's 1862 annual message: A paradigm of rhetorical leadership. *Rhetoric & Public Affairs* 3: 5–14.

Zarefsky, D. 2002. The presidency has always been a place for rhetorical leadership. In *The presidency and rhetorical leadership*, ed. L.G. Dorsey, 20–41. College Station: Texas A&M University Press.

Zarefsky, D. 2004. George W. Bush discovers rhetoric: September 20, 2001 and the U.S. response to terrorism. In *The ethos of rhetoric*, ed. M.J. Hyde, 136–155. Columbia: University of South Carolina Press.

Zarefsky, D., C. Miller-Tutzauer, and F.E. Tutzauer. 1984. Reagan's safety net for the truly needy: The rhetorical uses of definition. *Central States Speech Journal* 35: 113–119.

Chapter 19
The Impasse of the Liberal Argument: Speculation on American Politics in the Late 1960s

Abstract Arguments for liberal policies, strong during the early and middle 1960s, had reached an impasse by the end of the decade. They had developed an *ad hominem* character, leading to conclusions that their proponents could not accept. This progression is illustrated with respect to civil rights, the welfare state, and foreign policy. In each case, the liberal was stymied between the argument of the radical and that of the conservative. An approach to overcoming the impasse is sketched briefly, and a coda brings the article up to date in 2013.

This essay (without the coda) originally was presented at the 1983 NCA/AFA Summer Conference on Argumentation at Alta, Utah. It is reprinted from *Argument in Transition: Proceedings from the Third Summer Conference on Argumentation* (D. Zarefsky, M.O. Sillars, & J. Rhodes, Ed.) (pp. 365–379), and is reprinted by permission of the National Communication Association.

19.1 Introduction

"In America in 1968," wrote Theodore H. White, "folk-wisdom not only ran out of solutions, it ran out of common standards of judgment…. It was as if a master hand had descended and confused the tongues of Americans, made a Babel of their words so that when one group spoke the other could not understand its language" (White 1970, p. 518). White was referring to a state of deadlock resulting from the loss of a common vision of national purpose or goals. Although some writers pick an earlier critical date,[1] it is clear that the liberal coalition built by Franklin D. Roosevelt in the 1930s had come apart by the time Lyndon Johnson declined to run for re-election in 1968.

---

[1] For example, Herbert S. Parmet maintains that the integrity of the Roosevelt coalition already had been eroded by 1945 (Parmet 1976).

Simple economics explains part of the change. The great post-war prosperity had brought more and more of the ranks of labor and the previously disadvantaged into the middle class. With the shift in socioeconomic status came a shift in ideological moorings as well: Where you stand truly *did* depend on where you sit. The growing middle class was more concerned about protecting its own newly-won security than it was about opening the gates of opportunity to those who still were left behind. How else could one explain the popularity of George Wallace in predominantly liberal, urban Northern states in 1964 or his threat to take traditionally Democratic votes as an independent Presidential candidate in 1968? How else to explain the pervasive appeal during the late 1960s of what came to be called the "social issue," on which liberals were particularly vulnerable?

But economics alone cannot explain the deadlock of American liberalism. Another part of the answer is that the traditional twentieth-century liberal argument also had reached an impasse. I wish to explore this contention, drawing primarily on two theoretical constructs. One is Farrell's explanation of the diachronic dimension of argument. As he explains in "Knowledge in Time" (Farrell 1982, p. 128), arguments not only relate premises and conclusions at a given moment, but they also are historically situated and evolve in context. Any argumentative utterance has what Farrell calls a "redoubling" character: responding to the exigence of the moment yet also anticipating how the argument will develop later so that the utterance might be viewed retrospectively as appropriate.

The other theoretical position on which I wish to draw is Henry Johnstone's concept of the argument *ad hominem* (Johnstone 1959, pp. 73–80). Briefly, Johnstone holds that this form, far from being a fallacious argument, is the only valid form of philosophical argument. Philosophical disputes cannot be settled through appeal to external evidence, because the disputants will view that evidence through the lenses of different presuppositions. Hence validity depends on an argument addressed to the person, showing that his or her premises would lead to a conclusion which he or she would find contradictory or otherwise unacceptable. It is not some external notion of validity, then, but the participants' individual judgment, which causes an argument to be set aside and another one tried in its place.

The thesis which I hope to develop is that over time, during the 1960s, the fundamental tenets of the liberal argument became *arguments ad hominem*. Gradually at first, then at an accelerating pace, liberals began to reject the conclusions to which their own premises seemed to lead. Moreover, the acceleration of this process during the late 1960s so stunned liberals that they lacked alternative arguments to those which were deposed. The result was to leave the liberal argument in an impasse from which it may yet await rescue.

I shall approach this thesis in four parts: an exposition of the major tenets of the twentieth-century liberal argument, a discussion of how these tenets had developed into arguments *ad hominem* by the late 1960s, a view of the resulting impasse, and some speculation about how the deadlock might be broken.

19.2   The Liberal Argument

Though there are some similarities, it is obvious that twentieth-century liberalism differs from its nineteenth-century predecessor in significant respects. Chief among these is the view of government. Unlike his or her forbears, the contemporary liberal does not view government and the individual as inherently at odds. Government is seen basically as a benign influence which can do two key things. It can counter the power of organized business and labor interests, responding to the "interdependence into which individuals and groups of individuals have been thrown in modern society" (Girvetz 1963, p. 253). And it can serve as guarantor of a wider range of individual rights than the eighteenth or nineteenth century recognized, including "the right to security from the economic hazards of illness, accident, old age; the right to employment of a kind commensurate with one's abilities and to a training which will prepare one for such employment" (Girvetz 1963, p. 291). Government was a benign force for change, but—consistent with the liberal tradition—change must occur through orderly processes and not by confrontation or revolution. The means were as important as the ends.

Second, modern liberalism assumed the importance of economic growth. If growth were to cease, what would follow would be a war between groups and sections for distribution of a pie of fixed size. In contrast, growth allowed the pie to be enlarged. Then the incremental economic resources could be allocated in favor of the disadvantaged, gradually improving their station without worsening the conditions of those relatively well off. The poor could gain without strain to the rich. The sustained economic growth of the 1960s, therefore, made the times propitious for the liberal agenda. Conversely, as Girvetz acknowledges, prior to that decade "any drastic increase of the resources allotted to public purposes [the liberal agenda] could not have been accomplished without either reducing the private comforts of the dominant middle and upper income groups or eroding the economic base of their power" (Girvetz 1963, p. 369). The clear implication here is that the liberal agenda is achieved only at the sufferance of those relatively well off. Their consent depended on a situation which was not zero-sum: gains to the public interest could not come at their own personal sacrifice.

Third, twentieth-century liberals sought to direct the dividends resulting from economic growth in order to meet the needs of the disadvantaged, to achieve greater equality in the distribution of income and wealth, and to provide needed public works and investments. They therefore called for a shift in investment from the private sector to the public.[2] This theme, of course, is encapsulated in the notion of a limited Welfare State, which began to take form during the 1930s and which was sustained or expanded by subsequent Presidents regardless of party.

---

[2] The outstanding example of such a call is Galbraith (1958), which, perhaps because of its title (*The Affluent Society*) was widely misinterpreted as an encomium to American prosperity.

Fourth, liberals were fundamentally optimistic about American society and culture. The order was presumed to be good, and the great moral and ethical question was how to include in a good society those who were excluded from it. Nowhere was this position more clearly drawn than on the issue of civil rights. The liberal view was that racial segregation was inherently wrong and that blacks should have the same legal protections and opportunities as whites. That the integration of blacks into the presumably good American society would represent the final objective of the civil rights movement was simply assumed. Advocacy which suggested that the system itself was flawed—such as James Baldwin's plaintive "who wants to be integrated into a burning house?"—was not well received by liberals before the mid-1960s.

Last, liberals tended to view foreign policy from the same perspective as domestic affairs. The aim of government was to improve the lot of mankind, and that goal was valid both at home and abroad. So the 1950s and 1960s liberals, who today (1983) seem so conservative, saw a duty for the United States to use its influence to achieve a better world. They disdained *realpolitik* or the notion that there were limits to what we could do. In this respect they carried forward a traditional American attitude: that our nation was uniquely blessed by Providence and destined to play a role in the world, that our moral superiority over other nations gave us the power to make things happen by saying that we wished it so, and that when liberal principles were at stake it was sinful not to exert our influence, evil not even to try.

These five principles—benign government, economic growth, a limited Welfare State, an assumption of a morally good order into which people needed to be assimilated, and a readiness to exert ourselves in international affairs—marked out the liberal argument from the early 1930s to the mid-1960s. What happened then to cause each of these arguments to spin out against itself? What led the liberal argument to an impasse?

19.3   Liberal Arguments Become *Ad Hominem*

19.3.1   *Civil Rights*

Civil rights offered perhaps the clearest case of the liberal argument gone sour. In an effort to open the good society to blacks who had been excluded from its benefits, black leaders and white liberals together mounted a moral crusade. Making allowances for the delays which are inevitable in politics, it appeared that the cause would prevail. Strong support for the civil rights demonstrations of the early 1960s and the passage of the Civil Rights Act of 1964 and Voting Rights Act of 1965 were encouraging signs. Then, as Parmet describes it, "Just as faith in the ability of a democratic society to respond to its obvious inequities seemed to be reaching its height, however, different sounds were coming from new black leadership, both North and South" (Parmet 1976, p. 232).

In retrospect it is not hard to explain what happened. The strong moral appeal of the civil rights movement had aroused the hopes of the nation's blacks, raising expectations faster than they could be fulfilled. Against the promise of racial equality, present deprivation was judged by a new calculus of values. What previously had been endured as inevitable now was abhorred as unjust. Relative deprivation was heightened. Since moderate reform had failed to achieve what now were urgent goals, a more militant posture was called for. As blacks became more militant, they judged liberal reforms to be inherently inadequate. The Civil Rights Commission reported in 1967 that, at its hearings around the nation, blacks expressed their sense of disillusionment with all levels of government and with the white community in general, and that they questioned the sincerity of the nation's commitment to racial progress (U.S. Civil Rights Commission 1967, p. 81). Very few whites escaped suspicion: In particular, the white liberal stood accused of hypocrisy. He advocated measures for the benefit of blacks, but exerted himself only so much as was necessary to gain black votes without antagonizing whites (Soskin 1967, p. 208).[3] But only measures which redistributed power, and which thereby provoked opposition from whites, really could achieve racial justice. This belief also made blacks progressively less sensitive to pleas for gradualism, which was, of course, the only pace of social change to which most whites could be expected to accede and the pace encouraged by the liberal's respect for orderly procedure.

So the liberal stood in a tenuous position. He had become used to the opposition or racist and reactionary whites. But now he also witnessed antagonism from those he intended to benefit! Under such circumstances it was easy for the liberal to conclude that blacks were ungrateful for all that had been done for them,[4] and hence to withdraw from the struggle. Such a move, of course, only strengthened blacks' perception that liberals were hypocrites after all. Increasingly, blacks viewed the white liberal as threatening the realization of social justice while the white liberal saw blacks as threatening social stability.

It was a most unfortunate coincidence that the advent of black militancy occurred at the same time as the riots of the mid-1960s, for in the public mind the two became linked. Certainly the riots posed a clear threat to orderly processes of change; therefore, as Tomlinson suggests, the dominant white reaction—shared by liberals—was the "riots cannot be tolerated," reflecting the belief that no just cause could be advanced by such unjust means (Tomlinson 1969, p. 232). Yet the aftermath of the riots placed liberals in a real dilemma: how to sympathize with the basic grievances of the voters while making clear that riots had no place in America? The liberal was seriously constrained. When calling for the importance of order, he always could be outflanked by the conservative for whom "law and order" was almost an incantation. Meanwhile, calls for massive government aid to redress the problems of the

---

[3] For earlier statements of this theme, see Glazer and Moynihan (1963) and Silberman (1964). These complaints, in turn, are strikingly similar to those put forward by Alinsky (1946).

[4] For example, President Lyndon Johnson's first reaction upon learning of the riots was that blacks were ungrateful for the efforts of his Administration (see Kearns 1976). Upon further reflection, Johnson concluded that black grievances were justified.

ghetto rang hollow since it was thought that previous Federal efforts had met only with ingratitude. As House Appropriations Committee Chairman George Mahon said in 1967, "The more we have appropriated for the [urban] programs the more violence we have," suggesting instead that it might be more appropriate for the government to stress "discipline, self-respect, and law and order enforced at the local level" ("Riots Held Peril" 1967, p. 17).

The liberal's discomfiture was epitomized by President Johnson's silence in the wake of the Report from the Kerner Commission in February of 1968. The report described American society as racist and called for massive increases in government aid to the urban ghettoes. But the riots had eroded support even among liberals for such a venture; Johnson clearly lacked the political support for the measures advocated in the Kerner report. Besides, he was distressed that the accomplishments of his own programs had not been given more credit. At the same time, though, he could not denounce the report or imply that his own appointees had not done good work. In the face of this dilemma, Johnson chose to make *no* public statement, but that response also was seen as defensive and therefore unacceptable (Zarefsky 1983; Fogelson 1971).

By the late 1960s, in short, there was no satisfactory avenue for the liberal argument—not the moral appeals of earlier years, which blacks now found patronizing; not the emphasis on orderly change, which rang of hypocrisy; not the call for massive aid, which was tainted by the riots; not a reversal of position, which would have denied the liberal's original sympathies; and not the "benign neglect" urged by Daniel Patrick Moynihan, which would have implied unconcern. Over time, the liberal argument had worked itself into an *ad hominem*, in which it led to results unacceptable to its own advocates.

19.3.2   The Welfare State

Much the same progression can be seen in the argument for the Welfare State. This position always was somewhat equivocal: the Welfare State received support so long as it was relatively painless and arguably successful in achieving its goals. It was financed not so much at the expense of the private sector as out of the "fiscal dividend" accompanying economic growth. Moreover, the Welfare State could not be adopted under its own name, for it smacked of socialism, which remained a powerful devil term. So the appeals for public spending typically were couched in terms of buttressing free enterprise by correcting for the problems it left behind—a kind of "fine tuning" of the economy. And public spending often was described as an investment that would bring greater returns in the long run, whether through greater productivity, increased tax revenues, or lower costs for unemployment insurance. Finally, the scope of the welfare programs often was small, so that the nation was always behind in accomplishing the liberal's objectives.

In the mid-1960s, Johnson attempted to harness these traditional appeals, ranging from the moral imperative to prudent management, to obtain a firmer national

commitment in support of these social programs. As with the case of civil rights, expectations were raised in the early, heady optimism of the Great Society. The story of the inability of the Johnson social programs to satisfy these expectations, and the subsequent retrenchment of the programs, has been told elsewhere (Zarefsky 1977, 1979). What may be worth noting, however, is the manner in which the Welfare State and the civil rights issue became joined.

It began with the desire to prove that the social programs were successful, a necessary step if the Administration were to justify their retention or increased funding. Since Congressional appropriations were made on an annual basis, time was of the essence: it was important to be able to show results quickly. So a decision was made early on to target these programs in the areas where there was the greatest concentration of potential beneficiaries—the ghettoes of the major cities. There, of course, most residents were black. Several of the Johnson social programs consequently came to be widely perceived as intended for blacks. Moynihan (1968), for example, described the War on Poverty as a means by which the Federal Government could devise measures to aid urban blacks without having to specify that such was their intent. But the perception that these were programs for blacks led to a decline in the support they received from whites—including those whites who might be beneficiaries of the program. For example, in a supplemental study for the Kerner commission, the researchers found far smaller percentages of whites than of blacks who concluded that the antipoverty program was "doing a good job" (Campbell and Schuman 1968, p. 41).

When the riots occurred, it was easy to argue that the Johnson social programs had been the cause, since they had raised black expectations to an unrealistic level and then produced frustration when the goals could not be met. In 1966, House Minority Leader Gerald Ford found part of the blame for the riots in the Administration's promising more than it could deliver to ghetto blacks. In 1968, the Republican Coordinating Committee found little doubt "that the repetition of irresponsible promises and political slogans by the Administration" was a primary cause ("Humphrey's Stand Criticized" 1966, p. 9; Jones 1968, pp. 1, 18). Allegations such as these put liberals on the defensive. It was hard to refute the claim that there was *some* connection between the programs and the riots, particularly since one of the earlier arguments in behalf of the programs was that they were the antidote to riots (Zarefsky 1983, pp. 63–64). The linkage left liberals seriously vulnerable, not only because white America massively rejected the riots as unconscionable but also because they were incompatible with the liberal's own commitment to orderly social change. The argument had led to its own negation. Parmet finds it not surprising, then, that "the politics of the so-called white backlash began to enter the vocabulary, completely transcending partisan lines," and concludes, "A specific victim of the backlash was the poverty program itself" (Parmet 1976, p. 242).

Interestingly, however, there is another side to the story. In an oft-quoted passage, Moynihan noted, "Ideologically the American public is conservative; in practice it is liberal" (Moynihan 1973, pp. 316–317). Those public programs which were able to transcend argument and controversy flourished, notwithstanding the immobilization of the liberal argument. No better example can be found than

Medicare, which—although mired in controversy for decades—quickly gained consensual support following its adoption in 1965. Its parent program, Social Security, likewise enjoyed widespread approval. Even the Nixon Administration, while proclaiming that "we are approaching the limits of what government alone can do" (Nixon 1970, p. 2). agreed to maintain and even expand these programs, including the probably mistaken indexing of Social Security benefits in 1972.

In retrospect, two major features distinguish Medicare and Social Security from the public programs which stymied the liberal argument. First, they did not require annual appropriations. Once in place, they drew on their own sources of funding. (Not until the 1980s did funding for these programs become controversial, and then the discussion was almost entirely on the level of how to find the funds rather than whether to keep the programs.) Second, they were potentially universal in their benefits. Not everyone lives in a ghetto, suffers from poor nutrition, or is in need of retraining, but old age is the great equalizer. So long as virtually everyone stood to benefit from a program, its support was likely to continue. The lesson was not lost on so staunch a supporter of the Welfare State as Hubert Humphrey. Although speaking about civil rights, his remarks had much broader application. When the civil-rights papers at the Johnson Library were opened to scholars in 1972, Humphrey remarked that no longer was legislation for the special benefit of one segment of the population politically viable. He warned against demanding "a special break" for blacks as opposed to across-the-board economic gains for all ("Come All Ye Faithful" 1972, p. 22). While the liberal argument always had championed economic gains for all, it had not previously viewed targeted programs as the antithesis of that objective.

Even the gains for all which supposedly resulted from economic growth came into question by the late 1960s. It was not so much that growth came to be viewed as an unqualified evil, but that it was seen less as an unqualified good. Two developments encouraged this shift. First, there was a growing self-consciousness among liberals that the Gross National Product was value-neutral. It added in the value of military weapons and the value of consumer goods without distinction. It neglected the unmeasurable side effects of growth. By the late 1960s, many liberals were taking up the traditionally conservative call for conservation—rephrased as protection of the environment or maintenance of ecological balance. Not until the 1970s would we encounter the argument that "less is more" nor the concern for toxic wastes which today dominates our attention. But we did encounter the beginnings of a "limits to growth" argument, and we often encountered them from liberals—who previously had depended on economic growth as the vehicle for achievement of their agenda.

Second, an unqualified concern for growth fostered growth that was not "real"— it was checked by inflation. Loath to impose a tax increase in 1966, for both economic and political reasons, the Johnson Administration permitted the onset of inflation from which we are only now in the early 1980s—perhaps—recovering. Inflation not only limited the *real* rate of growth but, more importantly, eroded middle-class support for the array of liberal programs which economic growth was to have made possible. It was a convenient argument that public programs, though

beneficial, simply could not be afforded at such a perilous time. It was equally convenient to argue, then as now, that it was government spending on domestic programs which *caused* the inflation by pushing the federal deficit beyond some presumably acceptable level. Summarizing the effect of several of these factors, Parmet noted, "The coincidence of rising costs, disenchanting both business and labor, plus the white backlash all combined as a reaction against both the Great Society's assumptions and the president's leadership" (Parmet 1976, p. 244).

19.3.3 Foreign Policy

Discussing the effects of inflation invites attention to one of its principal causes—increased spending for the war in Vietnam. It is no news to state that Vietnam undermined the liberal consensus on foreign policy which had been sustained since the end of World War II. But it did so in two quite distinct ways which combined to seriously fragment the Democratic Party between 1968 and 1976.

First, many liberals hewed to the postwar consensus, according to which Vietnam truly was a "noble cause." Just as one had a responsibility to remake American society for the better, so this obligation extended around the world. It dictated an activist foreign policy dedicated to "pay any price, bear any burden" for the containment of communism, since communism posed such a serious threat to the freedom and dignity of the individual. Notwithstanding President Johnson's protestations, it was *not* politically possible to sustain both guns and butter. Liberals who continued to support the war had little choice but to accept a scaling back or postponement of their domestic objectives. They would be ensnared by the argument that greater domestic spending, while possibly desirable, was simply unaffordable in wartime. In order to sustain one element of the liberal position they had to deny another. The shifts in public opinion on the war left these liberals increasingly alienated from their own base, and their position was essentially repudiated by the Democratic Party in 1972.

On the other hand, liberals who began to oppose the war often did so on the basis that the war was inconsistent with liberal values. Contrary to Johnson's surmise (Kearns 1976, p. 316), it was not just that they were frustrated by the length of the war or deluded by Communist propaganda. Rather, they saw our policy riddled with contradictions. We opposed communism because of its threat to human freedom, yet supported a repressive government in South Vietnam. We aspired to a better life for the Vietnamese peasant, yet bombed civilians and military personnel indiscriminately. We claimed to support the principle of self-determination although we had violated it in 1956. We contended, in effect, that the conquest of North Vietnam was more important to American survival than the conquest of poverty at home. These contradictions became too great to bear and could be resolved only by repudiating the foreign-policy consensus. Once again, one element of the liberal tradition was set against another. But not only that: the liberal who opposed the war also opposed important Democratic constituencies, especially labor. Although he is referring

specifically to protest on the campuses, Parmet's conclusion is pertinent here: "What perhaps was dawning very slowly among liberal intellectuals was the pronounced movement of the bulk of organized labor in America toward an establishment mentality, which not only supported the war but deeply resented, even hated, the privileged collegiate youth's criticism of American values" (Parmet 1976, p. 252).

In either case, then, Vietnam exposed contradictions in the liberal argument and divided the liberal constituency against itself. The result was the evolution of an argument in which the conclusion was not compatible with all of the original premises.

It hardly need be added that this cluster of problems greatly undermined belief in the ability, if not the good intentions, of government. For some, it was a conviction that government was out of control. Murray Edelman has written that one of a leader's great symbolic resources is appearing able to cope with problems, almost regardless of the course of action he pursues. "The clue to what is politically effective," he writes, "is to be found not so much in verifiable good or bad effects flowing from political acts as in whether the incumbent can continue indefinitely to convey an impression of knowing what is to be done" (Edelman 1964, p. 76). From this perspective, the worst situation is immobility, such that a leader is unable or unwilling to act. But, because of the dilemmas noted here, that was the situation confronting the United States in the late 1960s. It could be remedied, some thought, by changing leaders. This line of thought was not unlike that pursued by many liberals in 1980 who voted for Ronald Reagan out of the conviction that Jimmy Carter was ineffective or incompetent and hence that anything would be better.

For others, faith in government was eroded because the problems seemed so vast. One trend during the 1960s was the growing tendency to see problems as systemically related rather than isolated. Problems were not so much as ills in their own right as symptoms of a deeper social malady. That view, however, required mindboggling changes in society and culture in order to overcome what previously had been regarded as exclusively political problems. Against a backdrop of such magnitude, it was not surprising that liberals would lack confidence "that the problems plaguing the nation were within the competence of any single part or individual" (Parmet 1976, p. 310). Having said that, however, what response was available to the liberal except numbness, reflecting almost a state of impending apocalypse?

19.4   The Resulting Impasse

Liberals were not silent in the late 1960s, to be sure, but the evolving *ad hominem* nature of their traditional argument left them on the defensive and severely constrained in argumentative resources. Fragmentation was the paramount problem with which they had to deal, and two responses were predominant. One was to find unity in the past and to evoke those memories. The litany of Democratic Presidents was frequently recited, as were the claims that the Democrats were the "party with a heart," the "party of the people," or the "party that cared about the little guy"

(Parmet 1976, p. 2). In his 1968 acceptance address, Hubert Humphrey attempted to make a virtue of the dissension at the convention. He claimed, "that revolution is in the proud tradition of our party," and proceeded to recite names and quotations of Franklin D. Roosevelt, Harry S. Truman, Adlai Stevenson, John F. Kennedy, and Lyndon B. Johnson (Humphrey 1968). Campaigning that fall, Humphrey transformed the difference between himself and Richard Nixon into a historical difference between their respective parties: "Now, our Republican friends have fought every piece of social legislation that has benefited this country…. You just name it, and I'll guarantee you that you will have found a majority of them in Congress against it…. The Democrats have been responsible for every piece of constructive legislation that has passed in these last thirty-five years…." (White 1970, p. 446). There is nothing unusual about this sort of electioneering, of course. But what is notable about 1968 is the degree to which Humphrey was forced to rely on it. As White notes, "Humphrey had no central theme that one could discern." Without one "there remained only tactics—of which the chief was to goad Nixon into anger or blunder, and force him to debate publicly." But, White maintains, this tactic was accompanied by "only the vaguest kind of strategy—for the strategy of the Democrats, from beginning to end, was to recapture the Democrats" (White 1970, pp. 424–425). Exactly—and the way to surmount the present state of division was to select campaign appeals so as to take the audience back to another time, when the party had been united and clear in purpose.

The other response to the liberal's deadlock was to construct carefully balanced appeals, playing the values of one interest or segment against those of another. Richard Weaver probably would have regarded the balance as "artless" (Weaver 1953, p. 124), but it acknowledged that there was no contemporary basis for a unifying appeal. The difficulty is that the carefully contrived balance may not be sustained. Again, the 1968 Presidential campaign furnishes a good case study.

One of Humphrey's short-lived appeals was a call for "order and justice." The "order" side of that argument could not hope to compete with Nixon and Wallace, both of whom had made "law and order" a centerpiece of the political platform. Humphrey could always be outflanked on that score. But the use of the term "order" caused many *others* to perceive the Vice-President's commitment to "justice" as less than total and hence not worth taking seriously. In like manner, on Vietnam Humphrey combined support for Johnson's policy with the admonition that "the policies of tomorrow need not be limited by the policies of yesterday" (Humphrey 1968, p. 707). Once again, though, Humphrey evoked antagonism from both sides. Antiwar protesters could not stomach the Vice-President's defense of Lyndon Johnson, and the President's staunchest supporters were aghast to learn that the candidate was even contemplating a change from their man's policy. The "artless" balances, then, encountered difficulties: they did not serve as a rallying point for the public resolution of a great moral dilemma.

It is possible that using Humphrey as the example may be unfair. He was faithful to the liberal cause, but he also was faithful to his President, and the combination of these two loyalties eventually did him in. Perhaps, had the candidate not been tied to the Administration—Robert Kennedy, for instance—the albatross of

defending Lyndon Johnson might have been much lighter and the candidate could be free to talk about his own programs and goals. Perhaps so, but any coalition Kennedy or someone else might have assembled would be likely at best to draw on his own personal appeal. The analogy might have been to 1948, when liberals reconciled themselves to the Democratic Party as a better alternative than Thomas Dewey, Henry Wallace, or Strom Thurmond. But the reconciliation, if any, probably would have been short-lived, since there were really significant differences among supporters of the liberal argument, and this expedient unity only postponed confronting them.

19.5   Breaking the Deadlock?

We are currently seeing what may be the first steps by liberals to extricate themselves from their own morass. I refer to such recent appeals as the call for a nuclear freeze and the jockeying for possession of the education issue. Interestingly, both of these examples recognize that the traditional liberal position had collapsed under the weight of its own paradoxes, yet draw on those paradoxes to define a new liberal tradition.[5]

For example, the nuclear freeze reconciles the liberal's activist foreign policy with the restraint implicit in a world in which there are limits to what we can do: America will take an active role, but will take it on behalf of a demilitarized foreign policy. Likewise, the education issue takes an interesting twist of the traditional argument in behalf of growth. How to reconcile that position with the growing recognition that growth is not a *prima facie* good? By viewing education as an investment enabling us to become more productive in the high technology enterprises that are thought to be the "wave of the future." These are the enterprises that, supposedly, will provide intelligent and balanced growth in the economy in the years ahead.

It is too soon to tell whether either of these appeals will overcome the malaise which has affected American liberalism since the late 1960s. The President may well succeed in ridiculing the freeze issue and co-opting the education issue. Nevertheless, these two examples illustrate the general means by which an argumentative impasse may be overcome. It never is really resolved, but the argument is shifted to another level. Even if similar themes predominate, they do so with a difference in emphasis. Whoever is able to find a way around the *ad hominem* by shifting the argument to a new level is likely to be able to control the subsequent discussion. And, for the political culture as a whole, the "end run" which overcomes the impasse of the liberal argument bears out Farrell's position that arguments evolve and develop over time, and gain force as a rhetorical rather than logical form.

---

[5] For a discussion of the rhetorical uses of paradox, see Hyde (1979).

19.6   Coda, 2013

The words above were written in the early 1980s, when the liberal argument was troubled, it seemed, by failure to have transcended the impasse of the late 1960s, but when means for doing so seemed readily available. The heyday of Ronald Reagan was imagined as a momentary swing of the pendulum that might soon be reversed, just as there had been oscillations in political culture throughout the history of the United States.

What I did not foresee was that the impasse of the late 1960s not only would produce a narrow political victory for Richard Nixon but also would lead to a major change in U.S. politics and culture that survives almost 50 years later. The political center has moved significantly rightward and the liberal positions of the 1960s have become even more marginalized—discredited, even, as object lessons of the failures of "big government." The category of liberal Republicans, people such as Jacob Javits, Nelson Rockefeller, Clifford Case, and Kenneth Keating, has been emptied as a resurgent Republican party has been dominated by the South and West. The moderate conservatives of an earlier day, such as Kansas Senator Robert Dole, are seen today as the left wing of the party, and even Ronald Reagan might not be comfortable in today's Republican party.

Even the word "liberal" has been demonized, as it was by George H. W. Bush in the 1988 Presidential campaign with great effectiveness, and Democrats tilting to the left have taken to calling themselves "progressives" instead. The aspirations of the 1960s for widespread social change stimulated by government have been abandoned or largely attenuated. Jimmy Carter, elected president in 1976, was one of the more conservative Democrats on most issues except race. Bill Clinton in 1996 proclaimed in his State of the Union message that "the era of big government is over," and Barack Obama, elected in 2008, hoped to get past the stalemates of the 1960s and usher in a new era of post-partisanship. Although his efforts were stymied, even the articulation of this goal speaks volumes about the bankruptcy of 1960s liberalism. And his signature domestic achievement, the Affordable Care Act of 2010, eschews a "single-payer" system under which health care is paid for by the government. In favor of a market-based system relying on private insurance companies that was put forward as a Republican alternative to the Clinton proposals of the 1990s. Even so, Republican opposition has been intense and nearly unanimous, imagining "Obamacare" as government takeover of medicine and insisting that its difficulties prove the failure of "big government."

In an era in which liberalism is often imagined to be synonymous with socialism and in which it dare not speak its own name, anticipating a revival of the liberal argument of the 1960s is most likely a pipe dream. But the present polarized state of U.S. politics is, for most Americans, not an acceptable alternative. Moving beyond the toxic discourse of the present requires the same rhetorical maneuver that was needed but often not found in the late 1960s: reframing the state of affairs, thereby moving discourse to a different plane. Viewing social policies as investments, emphasizing values of community as well as of individualism, reinterpreting American exceptionalism as

challenge rather than privilege, and stressing our responsibilities to the future, are rhetorical themes that have had some measure of success but have yet to be developed robustly enough to offer promise of reorienting American politics and discourse.

References

Alinsky, S. 1946. *Reveille for radicals*. Chicago: University of Chicago Press.

Campbell, A., and H. Schuman. 1968. *Racial attitudes in fifteen American cities: Supplemental studies for the National Advisory Commission on Civil Disorders*. Washington, DC: U.S. Government Printing Office.

Come All Ye Faithful. 1972. *Newsweek*, December 25, p. 22.

Edelman, M. 1964. *The symbolic uses of politics*. Urbana: University of Illinois Press.

Farrell, T.B. 1982. Knowledge in time: Toward an extension of rhetorical form. In *Advances in argumentation theory and research*, ed. J.R. Cox and C.A. Willard, 123–153. Carbondale: Southern Illinois University Press.

Fogelson, R.M. 1971. *Violence as protest: A study of riots and ghettos*. Garden City: Doubleday.

Galbraith, J.K. 1958. *The affluent society*. Boston: Houghton Mifflin.

Girvetz, H.K. 1963. *The evolution of liberalism*. New York: Collier.

Glazer, N., and D.P. Moynihan. 1963. *Beyond the melting pot*. Cambridge, MA: MIT Press.

Humphrey, H.H. 1968. Acceptance speech: Candidate for president. *Vital Speeches of the Day*, September 15, 34: 706–709.

Humphrey's Stand Criticized by Ford. 1966. *New York Times*, July 23, p. 9.

Hyde, M.J. 1979. Paradox: The evolution of a figure of rhetoric. In *Rhetoric 78: Proceedings of theory of rhetoric, an interdisciplinary conference*, ed. R.L. Brown Jr. and M. Steinmann Jr., 201–225. Minneapolis: University of Minnesota.

Johnstone Jr., H.W. 1959. *Philosophy and argument*. University Park: Pennsylvania State University Press.

Jones, D.R. 1968. G.O.P. links riots to Johnson policy. *New York Times,* June 3, pp. 1, 38.

Kearns, D. 1976. *Lyndon Johnson and the American dream*. New York: New American Library.

Moynihan, D.P. 1968. The professors and the poor. *Commentary* 46(August): 19–28.

Moynihan, D.P. 1973. *The politics of a guaranteed income*. New York: Random House.

Nixon, R.M. 1970. Inaugural address, January 20, 1969. In *Public papers of the Presidents: Richard M. Nixon, 1969*, 1–2. Washington, DC: U.S. Government Printing Office.

Parmet, H.S. 1976. *The Democrats: The years after FDR*. New York: Oxford University Press.

Riots Held Peril to Poverty Drive. 1967. *New York Times*, August 1, p. 17.

Silberman, C.E. 1964. *Crisis in black and white*. New York: Random House.

Soskin, W.F. 1967. Riots, ghettos, and the "Negro revolt". In *Employment, race, and poverty*, ed. A.M. Ross and H. Hill, 205–233. New York: Harcourt, Brace, & World.

Tomlinson, T.M. 1969. The development of a riot ideology among American Negroes. In *Racial violence in the United States*, ed. A.D. Grimshaw, 226–235. Chicago: Aldine.

U.S. Civil Rights Commission. 1967. *A time to listen, a time to act: Voices from the ghettos of the nation's cities*. Washington, DC: U.S. Government Printing Office.

Weaver, R.M. 1953. *The ethics of rhetoric*. Chicago: Regnery.

White, T.H. 1970. *The making of the president 1968*. New York: Pocket Books.

Zarefsky, D. 1977. President Johnson's war on poverty: The rhetoric of three "establishment" movements. *Communication Monographs* 44: 352–373.

Zarefsky, D. 1979. The Great Society as a rhetorical proposition. *Quarterly Journal of Speech* 65: 364–378.

Zarefsky, D. 1983. Civil rights and civil conflict: Presidential communication in crisis. *Central States Speech Journal* 34: 59–66.

Chapter 20
Pragma-Dialectical Analysis of Rhetorical Texts: The Case of Barack Obama in Cairo
with Dima Mohammed

Abstract The theory of pragma-dialectics has been developed largely with respect to dialectical argumentation, with dialogue between two interlocutors as a model. Rhetorical argument is significantly different, in that it is heterogeneous, large, and non-interactive. If the tools of pragma-dialectics can also be applied to the analysis of rhetorical texts, then the potential reach of the theory is broadened considerably. This possibility is explored through examination of U.S. President Barack Obama's speech in Cairo in 2009. Special attention is given to audience commitments, standpoint analysis, and strategic maneuvering. Results suggest that pragma-dialectics can be applied to rhetorical texts, although it is not always the most efficient or productive approach.

This essay originally appeared in *Keeping in touch with pragma-dialectics*, a *festschrift* to Frans van Eemeren upon his retirement (E. Feteris, B. Garssen, and F. Snoeck Henkemans, Ed.) (pp. 89–102), published in 2011. It is reprinted by permission of John Benjamins Publishing Company.

20.1 The Analytical Problem

Over the course of 30 years, Frans van Eemeren and his colleagues have articulated the pragma-dialectical perspective on argumentation (van Eemeren and Grootendorst 2004). The most comprehensive extant theory of argumentation, pragma-dialectics accounts for situations in which people seek to resolve disagreements through reasoned discourse, beginning with commitments they share (Walton and Krabbe 1995) and working toward a mutually satisfactory conclusion. It does so first by reconstructing ordinary-language statements into a dialectical structure that clarifies the relationships between standpoints an arguer defends and the challenges to those

standpoints, as well as the relationship between an arguer's principal and supporting standpoints. Pragma-dialectics then evaluates the moves in the argumentative encounter by reference to the rules that should govern a critical discussion. A critical discussion is not an empirical case of argumentation but a normative ideal, although its norms are endorsed in large measure by actual arguers.

Pragma-dialectics examines interactive arguments, those in which (usually) two arguers advance, defend, and challenge standpoints in a sequential fashion, through which their moves can be identified and scrutinized. And the analysis assumes that the arguers' goal is to resolve disagreements in a reasoned manner. Neither of these assumptions, of course, is a universal characteristic of argumentation. Some arguments have persuasion of another arguer as the principal goal, whereas others seek to test hypotheses, to discover one's own beliefs, to advance or to undermine a personal relationship, to impress another person with one's own reasoning ability, or even to argue for arguing's own sake. Likewise, many arguments are not sequential in nature. They may be embodied in a written text, public speech, or visual artifact that the audience takes in all at once, so that the argument as presented is fully developed and in final form. Moreover, whereas in a dialogue the participants function consecutively as arguer and as audience, in many situations these roles are far more specialized. Audience members may receive the argument and evaluate it as a whole, without contributing—at least directly—to its production. Whereas the commitments of dialogue partners either are known in advance or can be probed through the steps in the exchange, in many situations an audience's commitments can only be assumed or guessed at. Since audiences are seldom homogeneous, different members may have different starting points; it is difficult to know what the commitments of a heterogeneous audience are. And to make matters even more complicated, an arguer often addresses multiple audiences simultaneously. A member of parliament, for example, may direct his or her comments nominally to the presiding officer and his or her colleagues while actually intending them for the member's constituents who will read them in the newspaper or hear them on television. Or a president or prime minister might deliver to a domestic audience a message that really is intended to alert other nations to a change in its foreign policy. Whether the argument should be evaluated in relation to the addressed or to the intended audience is often unclear.

These difficulties and others are sometimes cited as weaknesses in the pragma-dialectics project. But it is not appropriate to indict the approach for failing to accomplish what it never set out to do in the first place. Nor is it the case, for that matter, that pragma-dialectics has been confined exclusively to dialogue encounters. Interesting analyses have been conducted, for example, of arguments in newspaper advertisements (advertorials), of parliamentary debates, and of formal speeches (van Eemeren and Garssen 2009; van Eemeren and Houtlosser 1999). It may be the case that while the dialogue is the paradigm case of argument within this framework, aspects of pragma-dialectics may have wider reach and applicability than its designers had in mind initially. The more recent introduction of strategic maneuvering into the pragma-dialectical perspective enhances this possibility (van Eemeren and Houtlosser 2002; van Eemeren 2010). That is the proposition we wish to examine here. Specifically, we

wish to explore the applicability of pragma-dialectics to rhetorical argumentation by analyzing a prototypical example of what is considered a rhetorical text using the pragma-dialectical concept of strategic maneuvering.

The significance of applying pragma-dialectical approaches to rhetorical texts is that it calls into question the long-standing opposition between dialectic and rhetoric. The goal of the former often is thought to be belief; of the latter, action. Dialectic is about truth whereas rhetoric is about persuasion. Dialectic involves questions and answers; rhetoric, a discursive presentation. In dialectic, communication and influence are bidirectional; in rhetoric, they proceed only from the speaker to the audience. In recent years, however, more attention has been given to the similarities between dialectic and rhetoric as audience-based, nonformal modes of reasoning. This perspective is enhanced by demonstrating that an analytical method intended for one may also be of use for the other.

Rhetorical scholars sometimes are accused of dwelling entirely in individual case studies, so it perhaps is appropriate that we explore the applicability of pragma-dialectics to rhetoric by considering a specific case. We have selected for this purpose U.S. President Barack Obama's speech at Cairo University in June 2009. It is a complex rhetorical event involving multiple messages and audiences. If pragma-dialectics can help to account for a message this complex, then *a fortiori* it should be able to do so for simpler cases.

20.2   The Case Study: Obama in Cairo, June 2009

During his campaign for the presidency, Obama had maintained that among the many unfortunate consequences of the conduct of the war on terror and especially of the war in Iraq was the fraying of relationships between the United States and the Muslim world. Too many Americans, he believed, stereotyped all Muslims as radical fanatics, and too many Muslims held dangerously stereotypical views of all Americans. As a result, it was difficult to achieve even the minimal level of understanding and trust on which national and global security depended. To focus attention on this problem, Obama pledged that if elected, he would deliver a major speech in a Muslim nation during his first year in office. The purpose of the speech would be to call attention to the question of the U.S. relationship with the Muslim world and to put specific issues on the agenda for public discussion.

After extensive deliberation, the White House selected Cairo as the venue. As it happened, the speech was one of several that Obama delivered overseas during 2009 in which he tried to recalibrate the role of the U.S. in the world. He consistently emphasized partnerships rather than hierarchies and called for multilateral rather than unilateral actions. He acknowledged past mistakes on the part of the United States even as he pointed to mistakes by others. He frequently identified the interests of the American people with those of people in other lands and argued that the common interests of humanity transcended the differences among peoples (Zarefsky 2014).

The Cairo speech fits clearly within this pattern (Obama 2009). Titled "Remarks by the President on a New Beginning," the speech acknowledges that "the relationship between Islam and the West includes centuries of coexistence and cooperation," but goes on to identify as sources of current tension the legacy of colonialism, the Cold War, and "the sweeping change brought by modernity and globalization." Terrorists exploited these tensions on September 11, 2001, breeding reciprocal fear and mistrust. Consequently, he warns, we should not expect too much of a single speech, but we must commit to make a new start, in the "belief that the interests we share as human beings are far more powerful than the forces that drive us apart."

Accordingly, Obama pays homage to the constructive role of Islam in U.S. culture and history and proclaims it his duty "to fight against negative stereotypes of Islam wherever they appear." But this proclamation immediately creates a reciprocal obligation: "Just as Muslims do not fit a crude stereotype, America is not the crude stereotype of a self-interested empire." He takes pride in a series of American achievements and especially in the freedoms America affords to everyone, including Muslims. He concludes that "America holds within her the truth that regardless of race, religion, or station in life, all of us share common aspirations—to live in peace and security; to get an education and to work with dignity; to love our families, our communities, and our God." These, Obama asserts, are universal aspirations. Moreover, in the interconnected world of the twenty-first century, we are all affected by events in distant lands. Policymaking, therefore, should proceed from the premises of common humanity and global interdependence rather than from the history of antagonistic nations, tribes, and religions "subjugating one another in pursuit of their own interests."

Obama then applies this perspective to a series of issues that "we must finally confront together": violent extremism in all its forms; the relationships among Israelis, Palestinians, and the Arab world; halting the spread of nuclear weapons and reducing the world's nuclear stockpiles; the promotion of democracy around the world; religious freedom, women's rights and economic development and opportunity. Within each of these topics Obama articulates the view of the U.S. and universalizes it by deriving it from principles he maintains apply to all people. Thus American beliefs and aspirations are contained within broader frameworks to which all people should resonate. Together we should move to address these common concerns, guided by the words of the Holy Bible, the Talmud, and the Koran. In an echo of Lyndon Johnson, Obama asserted, "We have the power to make the world we seek, but only if we have the courage to make a new beginning." And in an echo of John F. Kennedy's Inaugural Address, he admonished his listeners that "God's vision…must be our work here on Earth."

20.3   Analysis

The summary of the speech above is the foundation for our pragma-dialectical analysis. In order, we shall highlight the audiences and their commitments, reconstruct the arguments to reveal the standpoints and their relationships and discuss

the strategic function of particular argumentative moves using the concept of strategic maneuvering.

20.3.1   Audiences and Their Commitments

Conducting a pragma-dialectical analysis of a rhetorical text requires imagining the audience as a dialogue partner with the speaker. The audience's cognitive processing of the message and response to it are treated as if they were moves in a dialogue, and the audience is envisioned as if it were a single person (Walton 2007). But as van Eemeren (2010) acknowledges, audiences are seldom homogeneous, they are rather often "composite," consisting of heterogeneous groups of people who differ in their backgrounds and positions (pp. 109–110).[1] When an argumentative text addresses a composite audience, the situation is viewed as if the arguer were in dialogue simultaneously with multiple different interlocutors. The rhetor must be able, in effect, to imagine the entirety of the dialogue in advance, crafting the message as if it were anticipating the dialogue moves of the audience and seeking to influence the audience's final judgments.

Obama's audience in the Cairo speech was clearly composite. The speech's formal audience was the "Muslim world," to which Obama referred as if it were a homogeneous entity. Most of his discussion, however, is specific to Arab Muslims, or even more particularly to Muslims of the Middle East. There is no mention of the concern of Northern African Muslims or of the Pashtun rebellion in Pakistan and Afghanistan, for example. It appears that Obama wants his audience to be seen more broadly than the specific issues he raises would suggest.

Another audience, most likely, is domestic. U.S. Muslims had been largely ignored during the 2008 election campaign. Obama did not set foot into a mosque, and he treated the false rumor that he himself was a Muslim as a "smear." Yet Obama did not wish to alienate U.S. Muslims. The emphasis throughout his career and campaign was to define the U.S. political community as inclusive rather than exclusive. He did not wish to alienate any religious or ethnic community or to place it outside the mainstream.

Meanwhile, many Americans not of the Muslim faith held views of Muslims that were overly influenced by the radical Islam professed by the terrorists of September 11, 2001. There was evidence of increased prejudice and discrimination against Muslims. This too was unacceptable to Obama, both because it was morally unjustified and because it ran counter to his goal of emphasizing the pluralism of the American community. It was necessary therefore to "coach" many Americans to see their Muslim neighbors in a more constructive light.

---

[1] Within what counts as a composite audience, van Eemeren makes a distinction between mixed audiences, in which the audience is heterogeneous with respect to the starting points of its members, and multiple audiences, in which the audience is heterogeneous with respect to the positions its members adopt (van Eemeren 2010, p. 110).

Yet a third audience for Obama was other nations of the world. These included especially Israelis, who saw themselves to be constantly under a security threat but whose violent relationship with the Palestinians threatened to undercut the ability of the U.S. to be both a strong supporter of Israel and an honest broker for peace in the region. The audience also included nations of Western Europe who were encountering an increased Muslim population in ways less constructive than Obama would wish.

Each of these audiences began with different assumptions and commitments, but Obama saw a common flaw in them: they were stereotypical. They generalized to large populations from unrepresentative cases and were overdetermined in their assumptions about the viewpoints and motivations of their adversaries. What they lacked was the willingness to acknowledge that they might be wrong, the openness to alternative viewpoints, the ability to empathize with others of different views, and the preference for the pragmatic over the ideological. These were the commitments that Obama would seek to change, but he would be unable to succeed if he did not at least implicitly acknowledge them and make them the starting points for his discourse. In seeking to modify or reverse these commitments, Obama took advantage of other commitments that he attributed to his audiences: frustration with the stalemated state of affairs, willingness to challenge assumptions, refusal to be perceived as closed-minded, and willingness to extend to the new U.S. president a large degree of goodwill.

20.3.2   Reconstructing the Discourse: Standpoint Analysis

As the title of the speech suggests, Obama makes a case for new beginnings in the relationship between the U.S. and the Muslims around the world. He argues that *it is time for new beginnings between the U.S. and the Muslim world* and supports this main standpoint by means of arguments that relate to the seven issues that are currently sources of tension: extremism; the relationships among Israelis, Palestinians, and the Arab world; nuclear weapons, democracy; religious freedom, women's rights and modernity. He seeks a partnership based on mutual interests and mutual respect between the U.S. and Muslims. As he draws the guidelines of his administration's Middle East policy in relation to each of these issues, Obama points out characteristics of the current relationship that make the situation not satisfactory, he acknowledges the challenges facing the partnership he promotes as an alternative and asserts that this partnership is feasible in spite of these challenges. He also sketches the advantages that would be gained from it, mainly the resolution of the problems at the source of tension and getting closer to the world the U.S. and the Muslims seek. Obama's argumentation in support of his main standpoint follows the following structure:

1   It is time for new beginnings between the U.S. and the Muslim world
1.1   The current relationship between the U.S. and Muslims is not satisfactory
1.2a   A partnership based on mutual interests and mutual respect between the U.S. and Muslims will be fruitful
1.2b   A partnership based on mutual interests and mutual respect between the U.S. and Muslims is feasible in spite of the challenges

The argument about the current relationship can support the standpoint independently of the other two arguments. After all, it is enough that one accepts that *the current relationship is not satisfactory* in order to accept that it *is time for new beginnings between the U.S. and the Muslim world*. While taken together the arguments about the fruitfulness and the feasibility of a partnership based on mutual interests and mutual respect can provide independent support for the standpoint, none of them can provide independent support for the standpoint on its own. The two arguments need to be taken together. In order to accept that it is time for a new relationship between the U.S. and the Muslim world one needs to accept both that the new relationship proposed is feasible and that it is fruitful.

Each of the three main arguments above is further supported by sub-arguments that relate to the seven issues constituting sources of tension. In supporting the sub-standpoint that *the current relationship between the U.S. and Muslims is not satisfactory*, Obama argues that

1.1   The current relationship between the U.S. and Muslims is not satisfactory
1.1.1 The current relationship is not satisfactory in what concerns the confrontation of violent extremism
1.1.2 The current relationship is not satisfactory in what concerns addressing the situation between Israelis, Palestinians and the Arab world
1.1.3 The current relationship is not satisfactory in what concerns addressing the rights and responsibilities of nations on nuclear weapons
1.1.4 The current relationship is not satisfactory in what concerns realizing the promise of democracy
1.1.5 The current relationship is not satisfactory in addressing the issue of religious freedom
1.1.6 The current relationship is not satisfactory in addressing women's rights
1.1.7 The current relationship is not satisfactory in what concerns benefiting from economic development and opportunity

Each of the sub-arguments can, on its own, provide enough support for the sub-standpoint and therefore warrant the main standpoint. For example, if one accepts that *the current relationship is not satisfactory in what concerns addressing the issue of religious freedom*, one accepts that *the current relationship between the U.S. and Muslims is not satisfactory* and therefore accepts that *it is time for new beginnings between the U.S. and the Muslim world*.

Similarly, in supporting the sub-standpoint that *a partnership based on mutual interests and mutual respect between the U.S. and Muslims will be fruitful*, Obama presents arguments that are related to the seven problematic issues and each of which can support the sub-standpoint independently. Obama argues that

1.2a   A partnership based on mutual interests and mutual respect between the U.S. and Muslims will be fruitful
1.2a.1 A partnership will be fruitful for confronting violent extremism
1.2a.2 A partnership will be fruitful for addressing the situation between Israelis, Palestinians and the Arab world
1.2a.3 A partnership will be fruitful for addressing the rights and responsibilities of nations on nuclear weapons

1.2a.4 A partnership will be fruitful for realizing the promise of democracy
1.2a.5 A partnership will be fruitful for addressing the issue of religious freedom
1.2a.6 A partnership will be fruitful for achieving equality for women
1.2a.7 A partnership will be fruitful for benefiting from economic development and opportunity

And in supporting the sub-standpoint that *a partnership based on mutual interests and mutual respect between the U.S. and Muslims is feasible in spite of the challenges*, he argues that

1.2b   A partnership based on mutual interests and mutual respect between the U.S. and Muslims is feasible in spite of the challenges
1.2b.1   A partnership in confronting violent extremism is feasible in spite of the challenges
1.2b.2   A partnership in addressing the situation between Israelis, Palestinians and the Arab world is feasible in spite of the challenges
1.2b.3   A partnership in addressing the rights and responsibilities of nations on nuclear weapons is feasible in spite of the challenges
1.2b.4   A partnership in realizing the promise of democracy is feasible in spite of the challenges
1.2b.5   A partnership in addressing the issue of religious freedom is feasible in spite of the challenges
1.2b.6   A partnership in achieving equality for women is feasible in spite of the challenges
1.2b.7   A partnership in benefiting from economic development and opportunity is feasible in spite of the challenges

The reconstruction of Obama's argumentation demonstrates how skillfully the speech is crafted to appeal to a variety of audiences. The resort to multiple argumentation,[2] as van Eemeren observes, is a strategic choice when addressing a composite audience (2010, p. 110). Acceptance of *either* sub-standpoint 1.1 (the current relationship between the U.S. and the Muslim world is not satisfactory) *or* sub-standpoints 1.2a and 1.2b (a partnership based on mutual interests and mutual respect between the U.S. and the Muslims is both fruitful and feasible in spite of the challenges) would be sufficient to warrant the acceptance of the main standpoint (it is time for new beginnings between the U.S. and the Muslim world). Furthermore, acceptance of the line of arguments that relates to any of the issues addressed would be sufficient to warrant the standpoint. Consequently, different segments of Obama's complex audience could reason via different paths to acceptance of the same main standpoint. For example, while someone who is concerned about the relationship

---

[2] In their textbook, van Eemeren et al. (2002) distinguish among three argument structures: multiple, coordinative, and subordinative arguments (pp. 63–78). Multiple arguments contribute to the standpoint independently of one another. Therefore, there are many points of possible connection. This structure should be especially attractive to Obama because it provides a heterogeneous audience with many different routes to acceptance of the standpoint. The analysis makes clear why this is a good choice under the circumstances.

between Israelis and Palestinians will be convinced that *it is time for new beginnings between the U.S. and the Muslim world* because he accepts that *the current relationship is not satisfactory in what concerns addressing the situation between Israelis, Palestinians and the Arab world*, someone else, who is concerned about nuclear ambitions might be convinced of the same standpoint because she accepts that *a partnership based on mutual interests and mutual respect will be fruitful for addressing the rights and responsibilities of nations on nuclear weapons* and that such *a partnership is feasible in spite of the challenges*.

For Obama, every step in the argument is important—not because it is logically necessary in order to secure standpoint 1, but because it elucidates a different aspect of the U.S. relationship with the Muslim world. In the speech, Obama announces his administration's position regarding matters of the U.S. foreign policy in the Middle East and argues in support of these positions. In the next section, we shall show how it is especially when Obama argues in support of his administration's policies that the complexity of the audience addressed becomes apparent.

20.3.3 Strategic Maneuvering

When van Eemeren and Houtlosser introduced the concept of strategic maneuvering, they greatly enhanced the potential for application of pragma-dialectics to rhetorical discourse. Strategic maneuvering recognizes that the parties to an argument not only want to resolve the disagreement but to resolve it in their favor. While meeting their dialectical obligations—to respond to the other party, to carry the argument forward, and so on—they can make choices which will strengthen or weaken their chances of prevailing. The major concern of rhetorical discourse is persuasion, influencing an audience to accept the standpoint put forward. Therefore, rhetoric reflects the results of numerous strategic judgments; strategic maneuvering is essential to it.

Without necessarily meaning to be exhaustive, van Eemeren and Houtlosser identify three general parameters for strategic maneuvering: arguers maneuver in their topical selection, audience adaptation, and presentational devices. Each of the parameters is evident in Obama's Cairo speech. The following analysis will focus on the arguments that relate to the relationship between Israelis, Palestinians and the Arab world as examples of those strategic maneuvers that help Obama to defend his administration's foreign policy while sustaining the standpoint that *it is time for new beginnings between the U.S. and the Muslim world*.

While the overall structure of Obama's speech (as discussed in the previous section) sheds light on how the standpoint that *it is time for new beginnings between the U.S. and Muslims* is defended, a closer analysis of the argumentation in the speech reveals that Obama is also defending the terms of the partnership he promotes as a new beginning between the U.S and Muslims. He does so mainly by defending the positions of the U.S. administration as terms of this partnership. Given that disagreement over the standpoint that calls for new beginnings is in fact quite unlikely

(after all, Muslims around the world are already convinced that it is time for new beginnings between them and the U.S.), it is not surprising that defending the controversial terms of the partnership promoted is more important for Obama than defending the already accepted claim that it is time for new beginnings.

In many parts of his speech, the arguments that Obama advances support implicit standpoints in which certain positions of his administration are advocated. These arguments usually defend the position by asserting that such a position would make the promoted partnership feasible and/or fruitful. For example, in what concerns the relationship between Israelis, Palestinians and the Arab world, Obama announces that the U.S. considers legitimate the aspirations of both people in states of their own. In supporting this position, he argues that such a position is instrumental for achieving peace between Israelis and Palestinians. The choice of this line of argument to defend the administration's position is a clear case of a strategic topical selection. Unlike other arguments that could justify the position that *it is necessary to recognize the legitimacy of the aspirations of both people in states of their own*, the argument about peace has the highest chance of success. This is the case, especially in view of the composite audience that the speech addresses. Unlike the argument about peace, other lines of defense would not be successful in convincing a group in the audience without alienating the other. For example, an argument that supports the administration's position by asserting the necessity to recognize the Palestinians' right to return to the lands out of which they were driven in 1948 would have been very appealing to an audience of Palestinians but not without alienating an audience of Israelis. An audience of Palestinians considers the recognition of the right of return necessary for a fair resolution to the Palestinian Israeli conflict and would have accepted Obama's position about recognizing the aspirations of both people had this position been supported by this argument. However, an audience of Israelis sees the Palestinians' right of return as a threat to the Jewish nature of their state and are most likely to reject the position announced had it been supported by an argument that recognizes the Palestinians' right of return. In a similar way, an argument about the necessity of accepting the facts on the ground would have appealed to Israelis but alienated Palestinians. Israelis, whose expanded state has become a fact on the ground, are more likely to accept the position than the Palestinians whose aspiration in a state of their own is often threatened by the facts on the ground imposed by Israel. Unlike the argument about the recognition of the Palestinians' right of return and that of the necessity of accepting facts on the ground, the argument that *recognizing the aspirations of both Palestinians and Israelis is instrumental for achieving peace between the two people* appeals to both audiences.

The argument about peace between Palestinians and Israelis does not only justify a key position that the Obama administration adopts in what concerns the Israeli Palestinian conflict. The argument about peace plays a role also in supporting the sub-standpoint that asserts the fruitfulness of the partnership promoted for addressing the situation between Israelis, Palestinians and the Arab world, and it lends support to the main standpoint that calls for new beginnings between the U.S. and Muslims consequently. By presenting the recognition of the right of both

Israelis and Palestinians in states of their own as a term of the partnership promoted, Obama argues that *the partnership will be fruitful for addressing the situation between Israelis, Palestinians and the Arab world (1.2a.2)* because the U.S. position as part of it, namely that the U.S. recognizes the legitimacy of the aspirations of both Palestinians and Israelis is instrumental for achieving peace between the two people.

A further examination of the strategic maneuvers Obama employs in defending his administration's positions reveals the complexity of the audience he addresses. Some of these maneuvers cannot be seen as strategic unless audiences other than the one addressed by standpoint (1) are also taken into account. While some positions, such as *the situation for the Palestinian people is intolerable* and *the United States does not accept the legitimacy of continued Israeli settlements*, are clearly effective in convincing Middle Eastern Muslims that the partnership that the U.S. is proposing is fruitful, other positions, such as *the bond between the U.S. and Israel is unbreakable* and *Palestinians must abandon violence before negotiations can begin*, do not seem to be effective with this particular audience. Arguments about the intolerability of the situation for the Palestinians and the illegitimacy of continued settlements draw from the commitments of the audience of Middle Eastern Muslims. By relying on them in his line of defense, Obama maneuvers strategically by adapting to this particular audience. Arguments that defend a strong bond between the U.S. and Israel and call for the necessity for Palestinians to abandon violence draw from commitments that cannot be considered to be assumed by an audience of Middle Eastern Muslims. In fact, the positions advocated in these arguments will most probably be counterproductive in addressing Muslims especially because they rely on the commitments of an audience of Israelis. Taking into account this group of the audience, the choice becomes a clear case of strategic maneuvering by adapting to the audience demand: the argument is strategically adapted to appeal to an audience of Israelis in an effort to gain at least their acquiescence to the standpoints that appeal to Muslims.

Furthermore, taking the audience of Israelis into account is necessary to reveal the strategic maneuver in referring to the acts of Palestinians as violence. This choice of presentational device cannot be a strategic choice if Obama is attempting to convince Muslims around the world to join the partnership he promotes. Obama is certainly aware that the majority of Muslims, especially Middle Eastern Muslims, view the acts of Palestinians to which he refers as acts of legitimate resistance against the Israeli military occupation of Palestinian lands. This choice of the term used to present the acts of Palestinians alienates this audience and makes less convincing to them the argument that the partnership promoted is fruitful. The choice of term is however very opportune if an audience of Israelis is the target. Obama's choice reassures this audience that he is faithful to their concerns about security. This reassurance might be necessary for Obama not to alienate the Israelis who see some of his other positions to reflect an unprecedented affinity with Palestinians' aspirations. They need to have some of their own commitments recognized by Obama as real, especially if Obama wishes to reconcile them to making significant concessions to the Palestinians.

While convincing Muslims that it is time for new beginnings in their relationship with the U.S. is important in Obama's speech, the defense of the terms of these new beginnings is often more important. Despite the fact that the argument structure is multiple, the convincingness of the general standpoint 1.1 may depend on the details of the cases to which it is linked. As the analysis of Obama's strategic maneuvering above shows, as Obama defends the terms of this relationship, he does not only address the audience of Muslims which is immediately involved in the new relationship, but he also addresses an audience of Israelis, who will be affected by this new relationship and who will be less likely to resist change if they find the proposed terms of the relationship acceptable. Given that the speech was considered by many as an announcement of the new administration's foreign policy towards the Middle East, it becomes evident that Obama cannot but address this audience too.

20.4   Conclusion

As the above analysis indicates, Barack Obama's June 4, 2009 speech at Cairo University can be analyzed using the approach and tools of pragma-dialectics. Doing so reconstructs the logic of Obama's argument and helps to make clear how he deals with the need to address multiple audiences simultaneously.

This is not to suggest that pragma-dialectics is necessarily the best tool to use for analyzing Obama's speech. Like any analytical instrument, it emphasizes certain features of the text and obscures others. Nor does every aspect of pragma-dialectics lend itself well to this analysis. For example, mapping the sequences of dialogue moves is not practical in a situation without overt dialogue and when all the audience moves are attributed to it in advance by the arguer.

Still, demonstrating the applicability of pragma-dialectical analysis to rhetorical argumentation is hardly trivial. As this example indicates, focusing on commitments (analogous to the opening stage in a dialogue) identifies the different starting points that members of a heterogeneous audience bring to the speech and makes clear the necessity for the speaker to respond in the same speech to these differing commitments. The emphasis on reconstructing argumentative discourse into the standpoint and the support for it makes very clear the interrelationship among substandpoints and whether the burden of proof is made easier or more difficult by the pattern by which the standpoint is justified. And the emphasis on strategic maneuvering highlights the delicacy of the situation and the importance of very specific choices of topic selection, presentational choice, and response to audience demand in order to be able to resolve the dispute in the arguer's own favor.

In short, then, applying pragma-dialectics to rhetorical argumentation suggests that an analytical framework Frans van Eemeren and his colleagues developed for argumentation modeled on the critical discussion may in fact be broadly applicable to argumentation in general.

References

Obama, B. 2009. *Remarks by the President on a new beginning*. Available at 00.

van Eemeren, F.H. 2010. *Strategic maneuvering in argumentative discourse*. Amsterdam/ Philadelphia: John Benjamins Publishing Company.

van Eemeren, F.H., and B.J. Garssen. 2009. Strategic maneuvering with argument schemes in the European parliament. In *Proceedings of the OSSA conference 2009* [CD-ROM]. Windsor: University of Windsor.

van Eemeren, F.H., and R. Grootendorst. 2004. *A systematic theory of argumentation. The pragma-dialectical approach*. Cambridge: Cambridge University Press.

van Eemeren, F.H., and P. Houtlosser. 1999. William the Silent's argumentative discourse. In *Proceedings of the fourth conference of the International Society for the Study of Argumentation*, ed. F.H. van Eemeren, R. Grootendorst, J.A. Blair, and C.A. Willard, 168–171. Amsterdam: Sic Sat.

van Eemeren, F.H., and P. Houtlosser. 2002. And always the twain shall meet. In *Dialectic and rhetoric: The warp and woof of argumentation analysis*, ed. F.H. van Eemeren and P. Houtlosser, 3–11. Dordrecht: Kluwer.

van Eemeren, F.H., R. Grootendorst, and A.F. Snoeck Henkemans. 2002. *Argumentation: Analysis, evaluation, presentation*. Mahwah: Lawrence Erlbaum Associates, Inc.

Walton, D.N. 2007. *Media argumentation: Dialectic, persuasion, and rhetoric*. New York: Cambridge University Press.

Walton, D.N., and E.C. Krabbe. 1995. *Commitment in dialogue: Basic concepts of interpersonal reasoning*. Albany: State University of New York Press.

Zarefsky, D. 2014. The U.S. and the world: The rhetorical dimensions of Obama's foreign policy. In *The rhetoric of heroic expectations: Establishing the Obama presidency*, ed. J.R. Mercieca and J. Vaughn. College Station: Texas A&M University Press.