

ISSA Proceedings 2006 - The Duties Of Advocacy: Argumentation Under Conditions Of Disparity, Asymmetry, And Difference



Traditionally, an advocate is one called to the aid of another (Tasker, 1926, pp. 139-140). A friend or member of the family, who does not have the standing or resources necessary to speak, may be in need of intervention or representation. A professional analyzes a case and makes a recommendation to a client who must evaluate, respond, and choose. A cause whose time has come may demand support or opposition by virtue of interests threatened. In all these situations, “one who pleads, intercedes, or speaks for, or in behalf of, another” is an advocate (Advocate, 1991, p. 194). Such arguers “adopt a stance, advance a cause, and attempt to produce the result in behalf of an interest of a person, group or cause” (Cohen, 2004, p. 9).

The deployment of reasons on behalf of another is one of the oldest forms of human communication. The most celebrated case is found in forensic oratory at the bar of justice. In this respect, “advocacy is one of the most ancient and honorable of all callings” (Timberlake, 1922, p. 25). Yet, the act of communicative intervention itself may be even more ancient than representation in adversarial proceedings. In Homer’s *Odyssey*, intervention is coupled to the “plaint,” “an audible expression of sorrow, lamentation, grieving,” constituting a request for recognition which an interlocutor may grant or withhold (Plaint, 1991, p. 956). Advocates become involved to interpret a distressed situation, promise to make it right, or exploit the confusion. In the trials of Odysseus, Homer wrote of arguments poetically, and thus scripted cultural performances of collective memory and lessons for generations of advocates in the making (Goodnight, 2003).

If the practices of advocacy reach far back (Advocate, 1911, 241-242), its contemporary scope is likewise broad. Elias Cohen observes, “The techniques of

advocacy cut a wide swath. Modes include jawboning, demagoguery, rhetoric, mass communication, and traditional public relations; publications in mass media, trade, and scholarly materials; formal legal proceedings, formal representation of individuals and groups, and formal surrogate decision-making. There are virtually no limits to the breadth or narrowness of the cause in time, space, or intended effects" (2004, p. 9). The duties of advocacy variously are situated in the enterprises of argument (Dewatripont and Tirole, 1999, pp. 25-31); yet, all forms of advocacy argumentation exhibit the characteristic qualities of the act: intervention, reason-gathering, argument-making, contention, and risk in the outcome.

In contemporary theory, advocacy inquiry plays a subordinate role. For instance, Douglas Walton has characterized debate – a paradigmatic case of advocacy – as occupying a half-way house between a quarrel and a dialogue (1989, p. 4). The point is well-taken. Advocates do hit opponents with their best shots, while expecting judges to be convinced by the modesty of their positions. All advocacy, it seems, is argumentation that runs into communication predicaments – as in the case of the dueling expectations of debaters. Unlike in dialogues, the expectations, standing, and resources of advocacy contests are rarely normatively equal, transparent, or distributed without contention. Yet, the sometimes revered and sometimes make-do, situated, contingent constructions of practice shape the ways individuals, groups, and nations learn how to argue. Further, across time, movements arise to reform social practices and to create – through advocacy – more reasonable understanding of argument. Inquiry into practice-establishing argumentation should yield an understanding of the traditions of argumentation and the futures it faces. Thus, I join with Charlotte Jørgenson who holds that "debate should not be perceived as second-rate critical discussion" (1998, p. 431), and so turn to independent critical inquiry into advocacy practice. To liberate advocacy from the half-way house of dialogue, we may start by imagining two distinct worlds, depicted early on by Cicero (1913, pp. 138-140): the scene of interlocutors engaged in dialogue, conversation, or reflective thinking, and the places where debaters are called upon to make a plea, engage in dispute, or construct a publicly defensible judgment.

Argument in a world of interlocutors. Strangers at a social gather to exchange opinions, partners engage in open, reflective encounter, or alter sits ego sit down for a critical discussion. In each of these cases, the duties of argumentation are

connected with the freedom to present issues, the responsibilities to partake in equal exchange, making oneself available for open critical discussion, and the telos of coming to an informed agreement – where only the force of the better argument will do. Here, argumentation is effective reasoning, not reasoning to affect; thus, to be worthy of recognition, an interlocutor must be willing to support reasons with evidence, warrants with backing, and claims with precise qualifiers linked to reservations open for inspection. The normative assumptions of critical thinking, informal logic, pragma-dialectics, or communicative reason alike imagine argumentation to be regulated by reciprocity, reflexivity, sincerity, and a freedom to assert and reply (van Eemeren, Grootendorst & Snoek Henkemans, 1996, pp. 163-188, pp. 213-312; Habermas, 1981, pp.1-45).

Argument in a world of advocates. Imagine taking up a position when called into a private quarrel, a public debate, a professional case, or a spiritual cause. Contention is already underway among interested parties. One's own freedom to exchange views openly cannot be presupposed because the standing of an arguer's intervention is from the outset under question and must be defended. The advocate is free neither to pick issues nor to change positions easily. Like a dialogue partner, the intentions of a rival are to give one an education – of sorts, but a rival in a dispute is not likely to be open, disclosive, or even agreeable. The best one can hope is that a common set of procedures may regulate norms of discussion. A mix of formal codes and customary practices govern the construction and development of reasons; but, interpretation, application, and situations vary enormously. In the act of arguing, claims multiply, and the manner of conducting debate itself may become as controversial as initial contentions at hand. Further, what were reasonable precedents or expectations for a judgment in one case may or may not serve to validate reasoning in another; yet, time is limited and choice urgent. In the end a decision may be reached, but even if everyone is satisfied with the process, interlocutors will undoubtedly disagree and may dispute the outcome at another time. As Peter Houtlosser and Frans van Eemeren (2002) might agree, argument in an advocacy world is all strategic maneuvering all the time.

This paper addresses argumentation in the latter world. The essay is premised on the assumption that practices of argument enact, *and* sometimes alter substantively, conventions of reasoning, communication norms, and standards of validity. All acts of advocacy put into play current understandings of the norms

and rules of argument. The pressures within a particular dispute always put at risk state of the art conventions against the development of alternative understandings and strategies. Epoch-making disputes are debates where the challenges of intervention into human affairs are brought to a reflective discussion, the problematics of communication debated, and the domain of what counts as reasonable put to the test. The address visits some of these moments, secular disputes in the public sphere from the classical world, Enlightenment, Modernity, and our current time of Globalization. The aim is to explore advocacy's agonistic traditions as legacies of the classical world, but also to illustrate how cultural projects in the public sphere, from the Enlightenment forward have changed ideas about the social and political practices of reason. Specifically, I contend:

1. The Enlightenment attempted to rectify issues of standing to offset disparities of position among advocates.
2. Modern movements worked to mitigate asymmetries in power where a side in a social dispute typically had all the risks and few of the resources to determine interests.
3. Globalization prompts change by generation patterns of argumentation in new and different configurations. The reading is meant to open a field of study into argumentation by sketching select cultural, social and political projects. The standpoint taken is that of critical appreciation of practice within the secular sphere.

1. Classical World

Classical advocacy is recorded in the histories, plays, philosophies, proceedings, and rhetoric, primarily from the Greek and Roman worlds. Advocacy episodes, practices, and criticism form the base of humanities, and the dramas of advocates who engage in public contest has been rediscovered across generations since the Renaissance. The classical world created a sense of advocacy as a personal contest or struggle among citizens in the public sphere (Kennedy, 1968, p. 419).

1.1 Greece: Among ancient Greeks, it was not customary for the advocate to actually plead the cause of his client in court. Yet, speech writers would help level the playing field. Isocrates received 20 talents or \$18,000 a speech. The advocate was expected to address a public cause, rather than argue to condemn or support a special interest (Yunis, 1996, p. 10). "In the Athenian ekklesia the speakers did not speak on behalf of, or for or in place of someone" or a party. Yet, we are told

the Greeks were “masters of the art of advocacy,” as Aristotle reminds us that the orators in pushing a particular public decision created “political life as a theatre of endless struggle between the oligarchs (who never disappeared) and the demos” (Urbinati, 1999, p. 9; 2000).

The single most famous moment of advocacy is Pericles funeral oration, a paradigm that stands as “a definitive document in the history of political communication” (Yunis, 1996, p. 82). Three points are central to understanding the duties of classical advocacy.

First, Pericles begins the speech with a predicament he faces in praising the Athenian dead: “the friend who is familiar with every fact of the story may think that some point has not been set forth with that fullness which he wishes and knows it to deserve; on the other, he who is a stranger to the matter may be led by envy to suspect exaggeration if he hears anything above his own nature” (Thucydides, 2006). To intercede and give meaning to the lives lost in battle risks saying too little or too much, and so Pericles’ argument acknowledges the difficulties of making reasonable a situation requiring intercession, making meaningful human grief, and so positions himself with the audience in creating an occasion for argument.

Second, the main issue of the speech equates the sacrifice of the soldiers with the values of the community, and it is the special quality of the community that renders the death worthwhile and understandable. The claim supports Pericles’ own imperial policy of course, and requests-by suggestion – the citizens’ tacit support, if not their outright emulation of the dead soldiers’ sacrifices. In this sense, a direct claim of advocacy underwrites an indirect claim, the words of praise for others that can be spoken, while the indirect claim – that death in the pursuit of his own policies is worthwhile – cannot be addressed by Pericles without circumspection.

Third, in order to deal with complex communication, advocacy argument is a creature of blended forms; in this case blending encomium – words of praise – with deliberation, justifications for policy. At the other end of the register is vituperation and policy rejection. The conditions of validity in a mixed form require balancing demands to provide, perhaps a formally imperfect. but an overall fitting treatment of complementary reasons. Blended forms are contingent, paradigmatic creations that may be modeled, varied, or changed over time.

The duty of an advocate, judging from the performance of Pericles, is to deploy argument that

1. situates the act of intervention into discussion by addressing the predicaments of communication,
 2. works together public resolutions that may be openly discussed with claims more difficult to address directly, and
 3. constructs argument with blended forms, assembling a new model from recognizable cultural conventions to suit the unique obligations of circumstances.
- Greek advocacy was known for placing these complex demands in balance.

1.2 Rome. The change from republic to empire in ancient Rome was accompanied by evolving complexities of advocacy practice. Henry John Roby describes the court:

For the accused, indeed for all involved, character was under question, and reputations were at stake. For the patron-client of the republic, it was the question of whether and to what extent would the patrician stand up for his ward, the patriarch for his clan, and friend for his fellow. Advocacy was personal and public. Accusations deserved defense in situations of necessity where there was no standing [for] a women or child, to succor where an accused was unable to self represent, to equalizing the playing field where the accuser was talented, determined, and ruthless. (1902, p. 407).

For the empire, the sense of pleading as a personal duty was “institutionalized and regulated, but the contest could be no less dangerous for politics and prosecution, charges and cases were linked into opposing social networks questing for power.” James May concludes that “in the hands of a rhetorically skillful advocate, particularly one endowed with a very strong personality, the rhetoric of advocacy can be an extraordinarily powerful weapon” (1981, p. 308). Argument was a double-edged sword.

The Roman world refined advocacy into a defined practice, a site where social reality is constructed and contested, case by case. The arguers did not occupy the pro-con dual position of speaker-audience or dialogue partners. Rather, a triadic relationship among pleader, adversary, and judge defined the flow of exchange. Quintilian observes that the *exordium*, or beginning of a speech, was the crucial place where an arguer would begin a narrative that positioned parties (himself included) to the dispute in the unfolding debate. Characteristically, each position is fraught with predicaments in creating a reasonable position.

(1) *The act of intervention, to take a stance*: The question that is foremost in advocacy discourse is the stance which authorizes an intervention through argument into the case and proceedings. If an advocate speaks as a friend, the stance may be discounted as special pleading; or as a professional, indifferent technique. According to Quintilian, the act of intervention is best positioned as a response to a duty, of being called to intercede (1921, p. 11). The duty may be family affiliation, professional obligation, or citizen vigilance. Indeed, the history of advocacy in Rome moves from defining reasonable intervention from moral duty to sanctioning professional representation, with each case having its own somewhat unique requirements and possibilities.

(2) *The confrontation of a rival, to dispute a case*: Dealing with a rival is no less daunting. The advocate has to decide whether to refute an opponent's claims on the merits alone, or to question the very act of attacking the cause or client on behalf of whom he intervenes. The advocate may depersonalize the dispute by sticking to the case at hand, or move toward vituperation by expanding the range of issues to the motives of an opponent and the impropriety of the attack itself. To ignore the arguments of the rival may show disdain, but also be interpreted as cowardice; similarly, there may be strategic value in counterattacking the opponent, but such arguments may divert from the strength of the case. Questions of politics as well as experience weigh into every decision.

(3) *The convictions of a judge, to make the argument*: A judge presents no fewer dilemmas than the rival. A favorable judge is promising, but even a friend may fish-tale from a normal position simply because he wants to appear fair. Even attorneys who have a great reputation can presume no guarantee of success for there is a "natural prejudice in favor of those who are struggling against difficulties, and a scrupulous judge is always specially ready to listen to an advocate whom he does not suspect to have designs on his integrity" (1921, p. 11). The dilemma arises in each case whether to flatter and encourage the judge in order to gain favor, or to threaten a judge or jury with the ill will of the Roman people, while hinting at accusations of bribery, in order to discipline the decision.

For the Romans, advocacy is a positioning of argument that pits intercessor, rival, and judge in a series of communication predicaments surrounding a case (Kennedy, 1968, p. 433; Cicero, 1920, *De Inventione*, pp. 41-51). The choice of a line of argument is always risky business. As discourses flows and influences the decisions of participants to evolve positions, the pressures of debating expand the

issues, matters at stake, and disagreements – even if argument continues. Cicero speaks of an advocate facing “that terror, that dread” which arises in being drawn into pleading a cause. (1930, p. 125; See Powell & Paterson, 2004; Fantham, 2004). In the contest among intercessor, prosecutor, and decision-maker, the proliferation of issues always creates at least some indeterminacy of what really is at stake. “*Quae res ea est?*” Cicero asks rhetorically in his famous speech *Pro Roscio Amerino*, “What is the real reason?” (1930, p. 127).

Advocacy situations put the standing of the arguers and institutions, *dignitas*, in jeopardy, as well as put serious consequences, *gravitas*, on to the table. However treacherous the domain of advocacy may be, it is better than its alternative: sheer violence. “In every free nation, and most of all in communities which have attained the enjoyment of peace and tranquility, the [art of oratory] has always flourished,” Cicero extols. “Humans do not have to act on impulse, but alone of creation can put thought into word and decide (1948, p. 23).” Then he adds, “What too is so indispensable as to have always in your grasp weapons you can defend yourself, or challenge the wicked man, or when provoked take your revenge” (1948, p. 25). If at times, argument was only a preliminary to politics by more direct means, disputation could at least might function as a break on unbridled assertions of power.

Whether one emulates the Greek legacy of balance and cleverness or the Roman penchant for moral propriety and political confrontation, the agonistic traditions constitute a powerful legacy. The contest of reasons is embedded still in contemporary norms encompassing human relations, social institutions, human understanding, and politics. For instance, the uses of argument often are held to be a test of character: we expect that in any case, the better person, with the better reasons should prevail; and if not, injustices are never closed to skeptical treatment or open debate. Yet, advocacy has moved beyond the political and moral contests of dynastic politics. When neo-classical thinking is renewed, the social practices of argumentation are coupled with progressively more open, democratic vistas of social change. The very idea of what is reasonable has been tested and expands across the discourses of Enlightenment, Modernity, and Globalization.

2. *Enlightenment*

The Enlightenment transformed advocacy structures. Religious, educational, and social institutions slowly and selectively were changed to fit a new sense of

human rights and human progress. The recovery of neo-classical thinking about advocacy and its aims was important in this project. The powers and prerogatives, checks and balances of emergent democracies, for example, were meant to restrain tyranny through the pressures of counter-veiling argumentation within the state. According to Chevenix, the rise of nations reflect the strivings to turn the exigencies of geography, structures of government, and memories of a people into practices consonant with ancient, yet newly forming national character (1832, pp. 365-366). In the span of Enlightenment, the self-understanding of advocacy traditions itself unfolded within democratic norms through:

1. the strivings of national character,
2. education outfitted for democratic cultures, and
3. social movements that extended Enlightenment thinking by reforming the very standing of advocacy practice itself.

Advocacy and myths of national origin and character go hand and hand. Across many Enlightenment projects, the rise of nations was imagined as unique, progressive, and reaching different potentials of “civilization” (Guerard, 1934, p. 2). In the United States, national character was thought to be unfolding as public spiritedness, a nascent public sphere, where argument blossomed. Alex De Tocqueville writes of his travels with a mail coach across a virginal, frontier America. “Day and night we passed with great rapidity along roads, which were scarcely marked out through immense forests.” Only abandoned shacks and lonely cabins interrupt the journey.

Nothing can be more miserable than these isolated dwellings. The traveler who approaches one of them towards nightfall sees the clicker of the hearth flame through the chinks in the walls; and at night, if the wind rises, he hears the roof of boughs shake to and fro in the midst of the great forest trees. Who would not suppose that this poor hut is the asylum of rudeness and ignorance? Yet no sort of comparison can be drawn between the pioneer and the dwelling that shelters him. Everything about him is primitive and wild, but he is himself the results of the labor and experience of eighteen centuries. He wears the dress and speaks the language to the cities; he is acquainted with the past, curious about the future, and ready for argument about the present....” (1831, p. 317)

De Tocqueville is disappointed that the American he meets is not exactly conversant with French politics, but when questioned about his own politics, the backwoodsman’s thoughts are clear and precise; “with the Bible, the axe, and some newspapers” and a sense of argumentation the pioneer makes his way into

the wilderness. "It is difficult to imagine the rapidity with which thought circulates in these deserts," de Tocqueville concludes (1831, p. 318).

In 18th century America, the study of argument arose out of the classical tradition, which constitutional founders believed useful in structuring the republic, and was inflected in its colleges and universities as a national discourse. The 1797 *Columbian Orator* was an advocacy handbook filled with dialogues, speeches, poems, plays, controversies; voices of young and old, native Americans, slaves, English officers, women to foster the discourse of a national imaginary. The handbook with updates persisted nearly until the civil war (Bingham, 1998). The advocacy tradition was recreated as a guide to practice blending classical advice with practical situations in James J. McElligott's *The American Debater* where advocacy takes on the plurality of forms required in public life and civil society. Today the debater "may be in a village meeting, discussing the expedience of making a road or building a bridge; tomorrow in a convention, arguing the propriety" [of constitutional change]. Now he is busy among the friends of education ... now in a synod, or council, or convocation, exchanging counsels on matters of high religious concernment; and now, again, perchance in Congress, debating questions of law, or tariff, or revenue, of treaties, of peace, of war, and I know not what all" (1859, p. 20). The uses of argument for a pluralistic society spurred a tradition of argumentation and debate pedagogical texts continuous through the 21st century. This tradition traveled, too; McElligott's text was adopted in early modern Japan (Branham, 1994).

Advocacy was more than the discourse of nation or the honing of talent for civil society, however. Enlightenment views fueled a trajectory of reason toward universal emancipation. The legacy of the Enlightenment found its way into social movements that challenged the disparities of standing between full-citizens enabled to vote and speak in the public sphere and those who could not vote and were accorded no voice. As of old, advocacy was a contest of argument, but there was something else, too. In slave narratives, citizens could read of the lives of slaves who could read, reason, and think, make sense and make choices of their surroundings (Douglas, 1845). The particular act of advocacy performed an argument with universal implications, giving witness to the falseness of bigotry that had ruled out the reasons of human beings by asserting self-limiting qualities to a group (Foster, 1979). So, too, women such as Elizabeth Cady Stanton took to the public podium as advocates of extending standing to argue in the public

sphere through granting suffrage. For Stanton, the reason to accord universal recognition of the right to advocacy was the solitude of self. It is the individual alone who in interior deliberation bears the consequences of decision. The widest latitude of “self-dependence, self-protection, self-support” are necessary to cope with nature and the social world “fitting every human soul for independent action” which includes above all experience and judgment in making self-determinations (Stanton, 1892, p. 248).

John Stuart Mill formulated the case for emancipation in relation to argumentation as well as any one. “All our recent constitutional reforms, and the whole creed of reformers, are grounded on the fact that suffrage is needed for self-protection.” Just as Cicero detected reluctance bordering on dread to advocate a cause, so Mill detects that even well-intentioned people with the power to represent are reluctant to intervene into problems of others, and may not have the experience to recognize the gravity of the injustice or harm involved. “The remedy is plain,” he told a cheering audience at Bristol in January of 1871, “put women in the position which will make their interest the ruler’s own interest.” Only then can it be assured that interests are addressed “by real arguments, addressed to their own reason, by people who can enter into their way of looking at the subjects in which they are concerned” (1988, p. 66). The outcome of granting standing is not a particular policy; but, through enfranchisement the public sphere is broadened, as classes formally consigned to a privatized world take on possibilities of public power. Full citizenship in a democratic public sphere is a norm of government with advocacy as an inalienable right to standing for purposes of self-defense at its core.

3. *Modernity*

Suffrage offers the standing of citizenship, which situates advocacy as a matter of right and duty in questions of common interest. While formal equality is crucial, it does not offset asymmetries of power among individuals or social groups. An asymmetry in argument is where advocacy arrangements are such that one party need acknowledge no burden of proof for its claims, while the other never manages to meet expectations of proof in a satisfactory way, notwithstanding the merits of the case. Put differently, one group takes all the winnings and the other all the risk in a partnership where it would make more sense to share risks and benefits in a cooperative arrangement.

Social advocacy is a discourse of modernity and it is characterized by struggle to

create social change in the interests of mitigating systematic material and other inequalities. Social argument emerged from the combination of moral and scientific normative practices and epistemic efforts, and is embedded in a restricted, but powerful urban imagination. Modern thinking has created a legacy of institutional relationships that invests advocacy (1) in achieving citizen competence, and (2) in struggles for the renewal and reform of public institution.

The road to social advocacy during the industrial revolution was prepared by the literary public sphere (Habermas, 1991). Fiction offer a realm where the abuses of factory-town England could be translated into the sentimental plots of families and friends who endured hardships under the petty tyrannies of middle management. The transfer of fiction to reality was accomplished by burgeoning social sciences. Scholars measured the spread of disease, crime, and threats to family life in the new science of epidemiology, gathered data through survey as Charles Booth's estimations of poverty in London (1968), and deployed new technologies of communication, such as the camera, to render evidence vivid and undeniably real in "studies that seek to measure social problems, heighten public awareness of them, and recommend possible solutions" (Gilbert, p. 101). "To fix social ills, reforms would begin with children," featuring a style of advocacy that combined sentimental tugs with scientific fact (Hawes, 1991, p. 38). Other causes soon followed. Slum housing, poor health, hunger and labor were the targets of advocates, whose findings were fed to the press; and, the clamor gave rise to efforts in the university to develop new policies (Mann, 1963, p. 1). State reform was targeted by informal groups of associations seeking the establishment of public institutions to meet social needs. These civil society associations were "essential not only in protecting minority viewpoints but in creating 'the occasion for a diverse participation in public discourse', a quality De Tocqueville (1840) earlier recognized as distinguishing American civil society" (Cox & McCloskey, 1996, p. 273).

Social advocacy merged with progressive reform movements and the "terms of politics changed for ever [through] bitter political struggle and momentous social change" (Stears, 2002, p. 1). Argumentation in this realm, advanced by the press, paradoxically had an Aristotelian proclivity to avoid extremes and cultivate citizen virtue, while calling attention to dire human circumstances with graphic, emotional headlines. Advocacy acts as an engine of social change, rather than an individualistic *agon*, because the design of the progressives was to fit urban scene with its many different uprooted ethnic populations into a venue of citizen

participation in well-run, prosperous city landscapes. The aim of progressivism was to advance of democratic practices generally and serves the polity at large (Hofstadter, 1955).

The formula of advocacy case-making was repeated across many social issues: A harm is discovered, described, measured, and rendered vivid. A public is awoken that was unaware. The harm festering in one of the city's byways is morally outrageous in itself, but worse if left untended can spread to safer more secure parts of the city. An assembly of state regulators, professional experts, and civil society volunteers are engaged, through public discussion and debate, to respond to the social problem – that is ameliorated over time.

Progressives exuded “confidence in man's collective ability to reorder his environment and reshape his destiny” through shaping the national state to meet “social and economic as well as political needs” (Ekirch, 1974, p. 6). Such public argument is powerful because it couples the ethos of science to the legitimacy of competent public administration. On the other hand, progressive advocacy is sometimes undermined by populist anger at social inequities (real or alleged) and limited by fundamentalist fears of pollution that would be brought on by civic participation (Douglas & Wildavsky, 1983). Nevertheless, the legacy of modern advocacy has created an enduring world of public institutions and systems.

Modern advocacy continues to be fought out in the realm of social reform, as spokespersons for the disadvantages intervene through argument into the welfare state (Freddolino, Moxley, & Hyduk, 2004; Lens 2005). Such advocacy institutions range across the full spectrum of education, social welfare and civil society concerns. Further, public institutions that are the result of these interventions themselves may become corrupted, self-serving and pursuing interests that enhance their power and wealth. Thus the practices of education, medicine, welfare, transportation and legal institutions precipitate public debate. Yet, even when institutions work well, the provider-client relationship within institutions create asymmetries. Experts hold power over clients. Doctors are busy and expensive, patients are sick and needy, for instance. To rectify imbalances in deliberative relationships, movements arise that support new communication rules, duties, and training. Informed Consent is lately been accorded the status of a right in the medical field (Goodnight, 2006).

In the modern world, asymmetries of power are woven into advocacy arrangements across key institutions. Asymmetries of knowledge and authority are not in themselves unreasonable, since it may be useful to trust an expert,

rather than to take time to achieve equal knowledge of an issue. However, since outcomes of probable choices based on state of the art knowledge are contingent, there is a risk to any exchange. Too much authority lodged with expertise risks a public that may become angry, confused, and unable to respond appropriately to recommendations; too much catering to public trends risks weakening institutional practices and standards. Communicative competence is on the line every time doctor and patient, lawyer and client, engineer and community, psychiatrist and therapist engage in an advocacy encounter. Practices remain turbulent.

So far my analysis has been largely historical. History is additive, of course, so advocacy customs in places and cases still features agonistic engagement of debate as a trial of character, where standing is crucial to secure rights for self-representation, and where social causes course through civil society to reform public institutions, regulate policy, and lend support to the underprivileged. Yet, advocacy practices typically are refreshed and change with each generation. Presently global corporations and states display ever-expanding “advocacy” practices to defend their own interests (Schuetz 1990; Heath & Nelson, 1985). Rapidly developing technologies of exchange and communications carry, transform, and combine markets, institutions, public relations, advertising, and critical practices in new ways across the globe. Controversies follow on a grand scale.

4. Globalization

The rights of citizens and the practices of social advocacy now enter into new predicaments. Citizen advocacy depends upon a connection between cause and effects at the local and national level; yet as the Karen Mundy and Lynn Murphy report, the “centers of power” are increasingly “beyond national boundaries, while forms of democratic participation and societal compromise remain territorially grounded increasingly in increasingly hollowed out welfare states” (1991, p.88). The age of globalization heralds radically new political configurations and the decline of the state (Strange, 1996, p. 73; Rosenau, 1997, p.353).

The same communication and transportation technologies that accelerated the conditions of globalization at the end of the Cold War have become available to advocates who think globally about “environment, women’s rights, human rights, Third-World debt and globalization” itself. Thus, global advocacy networks assemble (Keck & Sikkink 1998, 1999). Ethan Nadelmann describes these NGO

activists as “transnational moral entrepreneurs” who “specifically target normative change by framing problems in terms of “cosmopolitan values” rather than “state interest.” “The goal of TANs [transnational advocacy networks] is not just to influence outcomes, but to change the terms of the debate, substituting unacceptable positions with more inclusive, democratic normative structures,” he concludes (Klotz, 2002, 53). The 1990s appeared to be near achieving a “political globalism” underwritten by expanding transnational, cosmopolitan social and environmental projects (Wapner, 1996; Polletta, 1999). The arguments of these cosmopolitan advocates were to be hurled quickly around the globe by new communication technologies.

The question remains, however, whether international advocacy of the digital age offers new argument practices. Groups in the 1990s did take extensive advantage of speedy, widespread media in holding international conferences on women, human rights, and the environment. Just as the modern mail system had extended the power of social movements in the 18th and 19th century, so new communications made a leap in efficient communication. Messages were delivered in hours or minutes, rather than weeks or days. Yet, global communications appear to act as something more than a supplement to traditional social movement message-making. New, global media wages argument by assembling differences. Consider a few illustrations.

The first TAN herself was probably Princess Diana who was a center of pro and con argument – first within the British tabloid press and then worldwide (Maslin, 2004). Yet, at the same time she managed to link her beautiful appearance, and I would say spirit, to the deformities of bodies by being seen with the victims of landmines. Her act of intervention and adoption of a global cause resulted in a blended popularity that sustained public voyeurism into Windsor life while offering glimpses of response to a man-made plague (McGuigan 2000). In a contemporary version of this blending, the stunning Angelina Jolie gives interviews where she knowledgeably advocates alleviation of the suffering in Africa, even while television ‘journalists’ ask about her husband, Brad Pitt – and the baby.

Another peculiar case Kathryn Olson and I (1994) studied: the influence of international networks through analysis of fur. In the 1990s, a novel a style of argument drifted from Europe to North America working to turn fashion to cruelty, high style to low taste. Anti-fur advocates mixed questions of lifeworld choices and public visibility, untraditionally. Subsequent anxieties promoted over

animal use and rights had no single solution, no focal point of contention, apart from the negative: stop wearing it, and think. Similarly, in the last few years convict diamonds have become a center of advocacy where a splashy gift is turned to a stigma, as the costs to Africa of the diamond trade are assessed (Campbell 2002). Controversy over “conflict commodities” seeks to curb “dangerous appetites” without affirming specific propositional claims driving human rights groups (Tam, 2004, p. 704).

Finally, advocacy strategies find their own encounters with contention across the networked world. *The Patagonian Toothfish*, which is apparently as homely as it is tasty, became the cause of flagging environmentalist who redenominated this denizen of the deep in the 1990s as the *Chilean Sea Bass*. The fish is back, and New York chefs are in the news for their refusal to serve up one culinary creation. Pirates are at fault, it seems. The other side of the debate is well represented on the *Web*, however, by recipe sites that guarantee a *Bass* fish dish as sizzling, mouthwatering, and extra-tasty. In the colorful world of global advocacy, the glamorous and obscene exchange places, as accepted conduct is put under the stress of objection, and contention is lifted out of disciplined forums and put up for accidental display and encounter.

In each case, argumentation departs from standards of informal logic; neither meeting standards of relevance, support of a single claim, or points entered into contention directly. Yet, controversies swirl. It appears that argument performs on the *Web* what Charles Willard has prompted us to search for all these years, a culture of dissensus (1996). Different interests in celebrity and policy blend, opposition multiplies without affirming claims, and a deliberative space open accidentally from the delivery of a search engine. Controversies flow and exchange as inventive expressions of difference. *Web* combinations of circulating assertions, associations, disputes and denials invite rethinking traditional forms, fora, customs, or practices of exchange or interaction.

Advocacy is making arguments with difference, but for some the *Web* – however vast – is but another utilitarian challenge for control, rationalization, and use. Cyberadvocacy, venture capitalist wager, is but a brave new world to capture and colonize. Stella Harrison of the Juno group reports: “Everyday it appears we see some new innovation – computers are smaller, easier to handle, less expensive, in price, and constantly providing increased capacity.” Globalization moves beyond modernity by virtue of disgorging an “information surplus,” she says (2001, p. 624). The entry costs of advocacy have gone down, as mass access to new

technologies have gone up. Whereas the Net did create a digital divide, mass distribution of cheap cell phone technology to the developing world promises to mitigate the information gap. Across the globe advertising agencies and public relations firms are in a horse race to be the first feed on the new social networks convened by technology uses. Yet, adjustment is unpredictable; this year's gotta-have it gadget often becomes last year's eight track tape. New communications have a near talismanic quality for the private sphere, however; yet, it remains unclear what the organizing principles of advocacy for virtual space will be.

James Klumpp, Thomas Hollihan and Patricia Riley were among the first to recognize the compelling and unique qualities of the cybersphere for argumentation, as they observed that the mix of network movements, international organizations, and new communication technologies create novel networked economies of contention and resistance (2001, p. 579). Others now deploy socio-biological metaphors to describe viral nets of influence and the survival of the fittest contesting memes (Dawkins, 1989; Blackmore, 1999). It may be too early to parse the spaces of virtual advocacy by root metaphors, however. Patterns of exchange are too complex, too chaotic, and evolving too rapidly. Still, styles of argument are emerging.

At one level, arguments spread and mutate across the *Internet* much like the murmurs of rumor, gossip and the crowd (Levy & Nail, 1993). *Web* argumentation, commonly, is shallow and self-elaborating; the circulation of pictures, texts, and self-assembling claims spread across subscription lists, bulletin boards, and chain-letters. Every one receives such daily messages, by the millions. Note also that mass media and interactive sites stylistically now begin to resemble and mirror one another, even as simulations, reality, and fictions exchange places.

At another, communities form counterfactual discussions where institutional advocacy structures themselves are put under pressure by criticism. Just as TANS attacked the indifference of the state, so BLOGS undermine the hegemony of mass mediated corporate news by breaking open to critique the methods by which stories are selected, framed, and argued (Blogosphere, n.d.; Technocrati, n.d.). Like the devil's advocate in cannon law, bloggers argue day by day, story by story, against popularizing myths for restoration of competence, impartiality, and responsibility in public opinion. The consequences for advocacy are mixed.

Advocates were upbeat, for a time. Between *Web* capacity to circulate information and globalized mass media content, *Nikke's* unconscionable exploitation of child

labor would be made public (Sellnow & Brand, 2001). The indifference of governments to genocide in abandoned post colonial territories would be seen, daily. With September 11, 2001, however, these expectations crashed. At least some global advocacy networks have a serious negative side, it seems.

Thus, a contest over what will become prevailing uses of advocacy on the Web swirls across the globe. Sites like *openDemocracy.com* herald a new “digital commons” where you can tour the multi-ethnic performances of public culture served up a riot of images from the rain forest, carnivale, and street samba heavens – sound, visuals, and symbols subversive of up-tight, rule-governed deliberations; at other URLs link researchers in Amsterdam and Los Angeles to where Web offerings make states more responsive, and citizens more *Web* service dependent; and on a third variety of sites, disturbing acts of brutality circulate unevenly and for undetermined reasons across national and international spaces. Sales, surveillance, and censorship thus contest with hacker-cultures, open source software, and online communities, as the technologies of connection and diversion swarm across boundaries and mutate avenues of participation. The future grows uncertain.

One thing is abundantly clear, however. There is a renaissance of advocacy underway. Modern mass media propaganda, advertising and entertainment are being superseded by the revival of the forms of communicative interaction and the renewal of the practices of agonistic intervention. New communication technologies have often given rise to novel advocacy practices, and we are in the midst of a communications revolution. The inventiveness of new networks, the blended forms that fuse picture, graphics, and tropes together, the speed of circulation and commentary, inventive methods of aggregation, measurement, and gamed simulations – all these are trajectories of expanding advocacy worlds. Yet, the world has not been born anew.

It turns out that the disappearance of the state was a premature announcement (Bob, 2001, p. 311; Johnston & Laxer, 2003, p. 39, p. 80). The sentiments of universal declarations do not translate well into peace-keepers between factions on the ground (Belloni 2001). Yet raised expectations of human rights have given rise to contestations over ethnic identity. Presently, cosmopolitan ideas, urban movements, and fundamentalist demands collide across the globe, and new rounds of constitutive national debates emerge. Thus, diaspora politics and pan-nationalisms meet with forces of integration and dispersion at home. Advocacy struggles for ending disparity among citizens, mitigating asymmetries of power, and accommodating difference spread. Understanding the predicaments of

national debates in a globalizing world is a key challenge for our own, 21st century, globally-networked, argumentation community.

REFERENCES

- Advocate. (1911). In *The encyclopaedia britannica* (11th ed.) (Vol. 1. pp 241-242). New York: Encyclopaedia Britannica, Inc.
- Advocate. (1991). In A. H. Murry, H. Bradley, W. A. Craigie, and C. T. Onions (Eds.), *The oxford english dictionary* (2nd ed) (Vol. 1, p. 194). Oxford: Clarendon Press.
- Bingham, C. (1998). *The Columbian orator: containing a variety of original and selected pieces together with rules, which are calculated to improve youth and others, in the ornamental and using art of eloquence*. New York: New York UP. (Original work published in 1797)
- Belloni, R. (2001). "Civil society and peacebuilding in Bosnia and Herzegovina," *Journal of Peace Research*, 38, 163-180.
- Blackmore, S. J. (1999). *The meme machine*. Oxford: Oxford UP.
- Blogosphere. (n.d.). *Wikipedia*. Retrieved July 22, 2006, from <http://en.wikipedia.org/wiki/Blogosphere>.
- Bob Boles, C. (2001). Marketing rebellion: insurgent groups, international media, and NGO support. *International Politics*, 38, 311-334.
- Booth, C. (1967). *Charles Booth's London: a portrait of the poor at the turn of the century, drawn from his life and labour of the people of London*. New York: Pantheon.
- Branham, J. (1994). Debate and dissent in late Tokugama and Meiji Japan. *Argumentation and Advocacy*, 30, 1. Retrieved July 21, 2006, from Questia database.
- Campbell, G. (2002). *Blood diamonds: tracing the deadly path of the world's most precious stones*. Boulder. CO: Westview Press.
- Chenevix, R. (1832). *An essay upon national character* (Vol. 1). London: James Duncan, Pater Noster-Row.
- Cicero, M. T. (1913). *Cicero: De Officiis*. T. E. Page & W.H.D. Rouse (Eds.). W. Miller (Trans.). London: William Heinemann.
- Cicero, M. T. (1949). *De inventione. De optimo genere oratorum. Topica*. H. M. Hubbell (Trans.). Cambridge, MA: Harvard UP.
- Cicero, M. T. (1948). *Cicero: De Oratore I, II*. (Vol. 1). T. E. Page, E. Capps, W. H. D. Rouse, L. A. Post & E. H. Warmington (Eds.).E. W. Sutton (Trans.). Cambridge, MA: Harvard UP.

- Cicero, M. T. (1930). The speech in defence of Sextus Roscius of Ameria In T. E. Page, E. Capps, and W. H. D. Rouse (Eds.), J. H. Freese (Trans.). *Cicero: The Speeches with an English translation: Pro Publio Quinctio; Pro Sexto Roscio Amerino; Pro Quinto Roscio Comoedo; De Lege Agaria* II.6 (pp. 122-265). London: William Heinemann.
- Cohen, E. S. (2004). Advocacy and advocates: definitions and ethical dimensions. *Generations*, 28, 9-16.
- Cox, J. R., & McCloskey, M. (1996). Advocacy and the Istook amendment: efforts to restrict the civic speech of nonprofit organizations in the 104th Congress, *Journal of Applied Communication Research*, 24, 273-291.
- de Tocqueville, A. (1945). In F. Bowen (Ed.), Henry Reeve (Trans.). *Democracy in America by Alexis De Tocqueville* (Vol 1.) New York: Alfred A. Knopf. (Original work published 1841)
- Dawkins, R. (1989). *The selfish gene*. Oxford: Oxford UP.
- Dewatripont, M & Tirole, J. (1999). Advocates. *Journal of Political Economy*, 107, 1-36.
- Douglas, F. D. (1997). *Narrative of the life of Frederick Douglas*. Retrieved July 19, 2006, from Berkeley Digital Library (Original work published 1845)
- Douglas, M., & Wildavsky, D. (1983). *Risk and culture: An essay on the selection and detection of environmental dangers*. Berkeley, CA: University of California Press.
- Ekirch, Arthur A., Jr. (1974). *Progressivism in America: A study of the era from Theodore Roosevelt to Woodrow Wilson*. New York: Franklin Watts.
- Fantham, E. (2004). *The Roman world of Cicero's De Oratore*. Oxford: Oxford UP.
- Freddolino, , P. P, Moxley, D. P., & Hyduk, C. A differential model of advocacy in social work practice. *Families in Society*, 85, 119-128.
- Foster, F. S. (1979). *Witnessing slavery: The development of ante-bellum slave narratives*. Greenwood Press.
- Goodnight, G. T. (2003). The wiles of deliberation: protodeliberation and heroic prudence in Homer's Odyssey. In F. H. van Eemeren, J. A. Blair, C. A. Willard, and A. F. Snoeck Henkemans (Eds.), *Anyone who has a view: Theoretical contributions to the study of argumentation* (pp. 283-296). Dordrecht: Kluwer Academic Publishers.
- Goodnight, G. T. (2006). When reasons matter most: pragma-dialects and the problem of informed consent. In P. Houtlosser and A. van Rees (Eds.), *Considering pragma-dialectics* (pp. 74-87). Mahwah, NJ, Lawrence Erlbaum
- Guerard, A. (1934). Herder's spiritual heritage: nationalism, romanticism,

- democracy. *Annals of the American Academy of Political and Social Science*, 174, 1-8.
- Habermas, J. (1991). *The structural transformation of the public sphere* (T. Berger, Trans.). Cambridge: MIT Press. (Original work published in 1962 as *Strukturwandel der Öffentlichkeit*)
- Habermas, J. (1981). *The theory of communication action* (Vol. 1). (T. McCarthy, Trans.). Boston: Beacon Press.
- Harrison, S. A. (2001, August 1). The internet, cyberadvocacy, and citizen communication. *Vital Speeches of the Day*, 624-626.
- Hawes, J. M. (1991). *The children's rights movement: A history of advocacy and protection*. Boston: Twayne Publishers.
- Heath, R. L. & Nelson, R. A. (1985). *Issues management: Corporate policymaking in an information society*. Thousand Oaks, CA: Sage Publications.
- Hofstadter, R. (1955). *The age of reform: from Bryan to F.D.R.* New York: Alfred A. Knopf. pp. 185-212
- Johnston, J. & Laxer, G. (2003). Solidarity in the age of globalization: Lessons from the anti-MAI and Zapatista struggles. *Theory and Society*, 32, 39-91.
- Jørgensen, C. (1998). Public debate – an act of hostility? *Argumentation*, 12, 431-443.
- Keck M. E., & Sikkink, K. (1999). Transnational advocacy networks in international and regional politics. *International Social Sciences Journal*, 159, 89-101.
- Keck, M. E. & Sikkink, K. (1998). *Activists beyond borders: advocacy networks in international politics*. Ithaca: Cornell UP.
- Kennedy, G. (1968). The rhetoric of advocacy in Greece and Rome. *The American Journal of Philology*, 89, 419-436.
- Klotz, A. (2002). Transnational activism and global transformations: the Anti-Apartheid and abolitionist experiences. *European Journal of International Relations*, 8, 49-76
- Klumpp, J., Hollihan, T., & Riley, P. (2001). Globalizing argument theory. In G. Thomas Goodnight (Ed.). *Arguing communication and culture: Proceedings of the 12th SCA/NCA conference on argumentation* (pp. 578-587). Washington, D.C: National Communication Association.
- Lens, V. (2005). Advocacy and argumentation in the public arena: a guide for social workers. *Social Work*, 50, 231-238.
- Levy, D. A. & Nail, P. R. Contagion: a theoretic and empirical review and reconceptualization. *Genetic, Social, and General Psychology Monographs*, 119.

Retrieved July 21, 2006, from Questia database.

Mann, A. (Ed.). (1963). *The progressive era: Liberal renaissance or liberal failure?* New York: Holt, Rinehart and Winston.

Maslin, S. (2004). *Mine action after Diana: Progress in the struggle against landmines*. London: Pluto Press.

May, J. (1981). The rhetoric of advocacy and patronclient identification: variation on a theme. *The American Journal of Philology*, 102, 308-315.

McElligott, J. N. (1855/1859). *The American debater: Being a plain exposition of the principles and practice of public debate* (3rd ed.). Chicago: S. C. Griggs & Col.

McGuigan, J. (2000). British identity and 'the people's princess.' *Sociological Review*, 48, 1-17

Mill, J. S. (1988). Women's suffrage [3] 12 January 1871. In J. M. Robson and B. L. Kinzer (Eds.), *Public and parliamentary speeches by John Stuart Mill July 1869-March 1873* (pp. 402-409). Toronto: University of Toronto Press.

Mundy, K. & Murphy, L. (2001). Transnational advocacy, global civil society? Emerging evidence from the field of education. *Comparative Education Review*, 45, 85-126.

Olson, K.M. & Goodnight, G. T. (1994). Entanglements of consumption, cruelty, privacy, and fashion. *Quarterly Journal of Speech*, 80, 249-276.

Plaint. (1991). In A. H. Murry, H. Bradley, W. A. Craigie, and C. T. Onions (Eds.), *The Oxford English Dictionary* (2nd ed) (Vol. 11, p. 956). Oxford: Clarendon Press.

Polletta, F. (1999). Activists beyond borders: advocacy networks in international politics. *Contemporary Sociology*, 28, 96-97.

Powell, J, & Paterson, J. (Eds.). (2004). *Cicero the advocate*. Oxford: Oxford UP.

Quintilian (1921). *The institutio oratoria of Quintilian*. Book IV, 1, 6 (Vol. 2). E. Capps, T. E. Page & W. H. D. Rouse (Eds.). H. E. Butler (Trans.). Cambridge, MA: Loeb.

Roby, H. J. (1902). *Roman private law in the times of Cicero and of the Antonines*. (Vol. II). Cambridge: Cambridge UP.

Rosenau, J. N. (1997). *Along domestic-foreign frontier: exploring governance in a turbulent world*. Cambridge: Cambridge UP.

Schuetz, J. (1990). Corporate advocacy as argumentation. In R. Trapp & J. Schuetz (Eds.), *Perspectives on argumentation: Essays in honor of Wayne Brockriede* (pp. 272-284). Prospect Heights, IL: Waveland Press.

Stanton, E. C. (1981). Stanton, 'The Solitude of Self,' January 18, 1892. In E. C. Dubois (Ed.), *Elizabeth Cady Stanton-Susan B. Anthony, correspondence, writings, speeches* (pp. 247-254). New York: Schocken Books.

- Stears, M. (2002). *Progressives, pluralists, and the problems of the state*. Oxford: Oxford University Press.
- Strange, S. (1996). *The retreat of the state: the diffusion of power in the world economy*. Cambridge: Cambridge UP.
- Sellnow, T. L. & Brand, J. D. (2001). Establishing the structure of reality for an industry: model and anti-model arguments as advocacy in Nike's crisis communication. *Journal of Applied Communication Research*, 29, 278-295.
- Tam, I. J. (2004). Dangerous appetites: human rights activism and conflict commodities. *Human Rights Quarterly*, 26, 687-704.
- Tasker, J. G. T. (1926). *Advocate*. In James Hastings (Ed.), *Encyclopaedia of Religion and Ethics* (Vol. 1, pp. 139-140). New York: Charles Scribner's Sons.
- Technocrati. (n.d.). *Wikipedia*. Retrieved July 22, 2006, from <http://en.wikipedia.org/wiki/Technocrati>.
- Timberlake, E. W., Jr. (1922). Origin and development of advocacy as a profession. *Virginia Law Review*, 9, 25-40.
- Urbinati, N. (1999, October 11). *Rhetoric and representation: the politics of advocacy*. Political Theory Workshop, University of Chicago. Retrieved July 19, 2006, from ptw.uchicago.edu/urbinati99.pdf
- Urbinati, N. (2000). Representation as advocacy: a study of democratic deliberation. *Political Theory*, 28, 758-786.
- Thucydides. (2006). *History of the Peloponnesian war*. R. Crawley (Trans.). Retrieved July 20, 2006, from <http://classics.mit.edu/Thucydides/pelopwar.2.second.html> (Original work 431 B. C. E.)
- Van Eemeren, F. H., Grootendorst, R., Schoeck Henkemans, F. (1996). *Fundamentals of argumentation theory: a handbook of historical backgrounds and contemporary developments*. Mahwah, NJ: Lawrence Erlbaum.
- Van Eemeren, F. H. & Houtlosser, P. (2002). Strategic maneuvering with the burden of proof. *Advances in pragma-dialectics* (pp. 13-28). Amsterdam: Sic Sat Press.
- Walton, D. N. (1989). *Informal logic: a handbook for critical argumentation*. Cambridge: Cambridge UP.
- Wapner, P. (1996). *Environmental activism and world civic politics*. Albany: State University of New York Press.
- Willard, C. A. (1996). *Liberalism and the problem of knowledge: a new rhetoric for modern democracy*. Chicago: University of Chicago Press.
- Yunis, H. (1996). *Taming democracy: models of political rhetoric in classical*

Athens. Ithaca: Cornell UP.