

ISSA Proceedings 2014 - Evolutionary Arguments In The Birth Control Debate: Casuistic Shifting In Conservative Rhetoric

Abstract: We use dramatism to explore the birth control controversy and how it complicates conservative agent-focused arguments. Conservatives borrow from evolutionary discourse and argue that females are not agents. They are agents-minus that are irrational and subordinate to the scene. To remain loyal to underlying religious values, conservatives situationally abandon, rather than permanently stretch, their focus on the agent. This casuistic shifting enables conservatives to undermine female agency while remaining within their idealistic framework.

Keywords: argumentation, birth control, Burke, casuistic shifting, conservative rhetoric, gender, human origins, rhetoric, War on Women

1. Introduction

The United States Supreme Court recently ruled on *Burwell v Hobby Lobby* and decided on whether for-profit companies would be required to cover birth control on health insurance plans under the Affordable Care Act (ACA). Part of the argument against this mandate is that offering birth control as a preventative measure is seen as tantamount to supporting abortion and thus violates the owner's religious beliefs. Hobby Lobby founder David Green, the plaintiff in the Supreme Court case, said, "These abortion-causing pills go against our faith, and our family is now being forced to choose between following the laws of the land that we love or maintaining the religious beliefs that have made our business successful and supported our family and thousands of our employees and their families" (Rovner, 2014, para. 14).

The Supreme Court ruled that Hobby Lobby and other privately held companies claiming religious exemption do not have to cover employee birth control costs. This ruling appealed to the free exercise clause and stated that the fines levied on businesses that would not provide coverage for contraceptives would be a

“substantial burden” on business owners (Schwartz, 2014, para. 2). No matter the medical purpose for which it might be used, birth control will now become more expensive for some females whose employers can opt out of covering birth control without punitive government measures. Justice Ruth Bader Ginsberg, in her dissent, noted that females will now experience the burden of “cost barriers operated to block many women from obtaining needed care” (Ohlheiser, 2014, p. 3-4). The Supreme Court ruled that it is worse to constrain the choices of business owners (to deny birth control on religious grounds) than to constrain the ability of females (to access birth control).

In general, conservatives were in favor of the Hobby Lobby decision. But, in favoring the outcome, conservatives had to rhetorically establish the humanness of businesses and the non-humanness of females. Arguments that undermine individual agency are not often the territory of conservatives. Instead, conservative arguments about economics, political advocacy, and social issues such as gay marriage, often advocate unconstrained, individual choice. People can pull themselves up by their bootstraps, support themselves without government intervention, and choose their sexuality (Cloud, 1996; Brummett, 1979). Conservatives are more likely than liberals to use agent-focused arguments that produce responsibility and culpability for the individual without a concern for mitigating circumstances (Bloomfield & Sangalang, forthcoming). Conservative rhetoric is often linked to idealism, the power of the mind, and the unwavering support for political independence (Brock, 1990).

Birth control arguments are inherently complicated for conservatives, because they prompt a shift in rhetorical emphasis away from the agent. Glorifying the power of the female as an agent with the power to control her own body would be to support access to birth control. Some conservative rhetoric has abandoned the argumentative resource of the agent and has instead shifted to a scenic focus. Emphasizing the scene links to the ideology of materialism that undermines the power of the agent and reduces them to an agent-minus status (Brock, 1990).

This seemingly contradictory shift can be illuminated through Burke’s pentad. The pentad is a useful heuristic tool for mapping how various emphases inform arguments and ideologies. Burke (1945/1969) argued that the way people use language and the parts of the pentad they emphasize, reveal underlying loyalties to a “subtle, personal test of propriety” (p. 237). Abandoning a certain focus challenges the “common stake in some unifying attitude” of the person (Burke,

1945/1969, p. 237). Pentadic ratios are difficult to change as this change represents a large effort to adjust one's worldview (Burke, 1945/1969; Brummett 1979). Brummett (1979) argued that, "Life makes sense for most of us as we repeatedly explain experience to ourselves and others with one term or ratio" (p. 252). When new information challenges this guiding ratio, the entire framework is questioned. If the new information is accepted and incorporated, a new identity is formed by its inclusion in a new and adjusted guiding framework.

Although this shift may seem contradictory when considering associations between conservatives and idealism, this inquiry argues that an overarching commitment to certain values can trump loyalty to argumentative resources. This temporary shift is only reflective of a deeper need to remain loyal to religious and moral ideologies. Furthermore, the brief borrowing of scenic language is not meant to remove females from responsibility. Scenic language, then, is only used as a temporary argumentative tactic as opposed to representing a stretching of the conservative framework and worldview. The rhetorical adjustment within the birth control controversy challenges the universal applicability of casuistic *stretching* and prompts further inquiry into this unique rhetorical situation. We propose the term casuistic *shifting* to reflect the only temporary incorporation of new information that does not stretch or permanently adjust a framework. Casuistic shifting serves a starting point to explore the nuances of contemporary, polarized argument where new orientations are rejected and abandoned as quickly as they are adopted.

A series of proposed laws and vitriolic statements from conservative politicians, a few of which will be discussed in further detail, have prompted the phrase, "The War on Women" (ACLU 2014; Rosenthal, 2012). This phrase represents a prominent and ongoing struggle to argue for women's rights against a changing, argumentative community. The American Civil Liberties Union (ACLU) (2014) defines the War on Women as a phrase that "describes the legislative and rhetorical attacks on women and women's rights taking place across the nation" (para. 1) In particular, many of these attacks have focused on reproductive rights and healthcare (Miller, 2012; Rosenthal, 2012), and are often associated with conservatives. While the phrase 'War on Women' gained considerable cachet in 2012, neither the idea of a War on Women nor the metaphors used in its arguments are novel; they are continuations of older struggles for women's rights (Faludi, 1991/2006; Solinger, 2005).

This inquiry employs generalized terms such as ‘conservatives’ and ‘liberals’ for the sake of simplicity, but recognizes that these are not fully generalizable labels. The terms male and female are used similarly; this is an indication of the ways in which sex is most commonly discussed in birth control discourse, rather than a reinforcement of sex or gender binaries or essentialisms. We will analyze prominent conservative statements that serve as indicators of a trend in conservative rhetoric. These exemplars are not meant to be inclusive of all conservative rhetoric, but instead highlights of an emerging pattern in the use of argumentative rhetoric.

These conservative statements will be analyzed using the metaphor of human origins. The evolution and creationism controversy encompasses themes also present in the birth control debate: the dichotomy between agent and scene, action and motion, and organism and machine. Human origins arguments mirror the inclusion or exclusion of religious influence in the creation and maintenance of human life. Creationism maps easily onto agent-focused arguments and evolution maps easily onto scene-focused ones (Bloomfield, forthcoming). This comparison helps us interrogate the difficulty in shifting between pentadic ratios and their corresponding ideologies.

2. Ratios in the human origins controversy

When forming arguments to support claims, people will draw from resources that fit within their guiding ideology and framework. Brummett (1979) argued that “ideologies motivate and guide political rhetoric and give it purpose” (p. 251). An ideology thus supplies the argumentative foundation for the creation and maintenance of a political identity. Choices made in alignment with this ideology become self-consistent because they influence future choices through the screen or filter that is created.

Preferencing certain facets of the pentad creates a ratio that determines who or what should be blamed for the performance of an act. Tonn, Endress, and Diamond (1993) and Ling (1970) argued that emphasizing a dangerous scene or a ‘wrong place, wrong time’ situation undermines the responsibility of the agent for an act. Emphasizing the agent, however, can heighten the agent’s complicity and responsibility, such as touting one’s food choices as responsible for one’s health (Bloomfield & Sangalang, 2014). Ascribed to idealism, conservatives tend to draw from the power of the agent to support conservative claims. Black (1970) argued that these associations are not arbitrary, but instead point to a “beckoning

archetype” that can be used by a critic to move between ideology and the language that embodies it (p. 199). Idealist arguments often emerge from conservatives because they support an overarching framework that syncs with the conservative ideology.

Part of this ideology is informed by the conservative origin narrative or cosmology. O’Leary (1994) argued that a group’s cosmology creates proper definitions for the elements of the pentad (p. 25). Creationism and evolution are cosmologies that reflect emphases on the agent and the scene, respectively (Bloomfield, forthcoming). A belief in creationism, or that humans were created in their present form through supernatural intervention, emphasizes the individual as divinely inspired and in the image of a deity. People act and control their environment, which was created for them by God to inhabit, conquer, and use. Human life is inscribed with ultimate culpability for situations and actions. Conservative rhetoric tends to pull from this religious origin story, and conservatives are the party most strongly associated with religious values, the Moral Majority, and religious followers (Domke & Coe, 2010).

Liberal arguments tend to draw from the scene, emphasize mitigating circumstances, and support assistance to others. Burke (1945/1969) argued that individuals are reduced to an agent-minus status where they are never completely removed from their ability to act, but they are heavily or overwhelming influenced by their environment, circumstances, and scene. The agent-minus is not a rational being that weighs choices or has a purpose; the agent-minus instead merely reacts to stimulus and responds to its environment.

Although conservatives share the same pentadic emphases and argumentative framework of creationists, they abandon those idealist arguments in the birth control controversy. To remain faithful to the power of the agent that guides their view of economics or government intervention would be to support female autonomy. For many conservatives, this violates an underlying religious and moral framework that requires female abstinence and chastity. Idealist arguments would require conservatives to emphasize the rationality, autonomy, and decision-making power of females over their environments and bodies. This is a possibility that conservatives are trying to avoid and thus cannot draw from their traditional argument resources. Instead, they borrow from evolutionary language that emphasizes the scene. Females are transformed from being purposefully created and empowered individuals that are capable of rational decision making to being

agents-minus. Conservatives and the government, then, must protect females by making decisions for them.

Conservatives primarily rely on metaphor to construct the female as a non-agent or agent-minus. To more fully explore these metaphors, prominent conservative statements will be analyzed. These metaphors attack and undermine the character of females and their ability to make decisions about their bodies. They work by changing the female body from being classified as a human to two other non-human states. Females are constructed into animals or machines. If females are not humans, then they do not have agent status and are not complicit in the agent:act ideology typical of conservative rhetoric. "Rhetoric," Burke (1945/1969) argued, "stands at the boundaries of contradictions" and explores how definitions, meanings, and symbols are negotiated (p. 19). These two conservative redefinitions of female as agent-minus reconstruct the notion of what it means to be female, what females are capable of doing, and whether they can be considered public and political figures capable of decision making.

3. Females as agent-minus

In the narrative of evolution, the scene is the controlling pentadic aspect. An animal's environment determines its action and ultimately, whether it will live or die. The animal itself does not evolve, but simply responds to its environment, irrationally, and only with the purpose to survive in order to pass on its genes. The physical environment, the presence or absence of food and predators, and changes in group dynamics affect the animal's mortality more than the animal itself. This emphasis gives the scene control of the evolutionary process, which makes evolution purposeless, thoughtless, and random. Creationism, however, imparts intelligence and control to the mind over the environment to make rational and purposeful decisions. Humans can interact with and change their environment.

The language of motion, animality, and evolution has been applied to females seeking birth control. One aspect of animality is the inability to choose or restrict sexual partners. In an evolutionary world that is motivated by the proliferation of offspring, the urge to procreate is a driving force. The 'libido' of animals is focused only towards quantity and frequency with the purpose of procreation. These themes of animal-like sexuality emerged in conservative pundit Rush Limbaugh's response to Sandra Fluke's request for birth control subsidies at a Congressional hearing. Limbaugh called her a "slut" 78 times, mimicking the

quantity and frequency of irrational sex: “She’s having so much sex she can’t afford the contraception” (Limbaugh, quoted in Mirkinson, 2012, para. 6). This statement reduced Fluke, and all females, to their uncontrollable sexual libidos and positioned them as only interested in casual sex. The adoption of evolutionary language reduced females to animals that are powerless to their sexual appetites to the point of fiscal irresponsibility.

Limbaugh’s comment echoes older arguments about birth control. With the introduction of reliable hormonal birth control methods in the 1960s, females became seen as “seriously deficient choice makers” at fault for any “unintended pregnancies [because of their] ‘laziness, stupidity and reluctance’” (Solinger, 2005, p. 170). Single women, women of color, and poor women were seen as especially irresponsible and unlikely to make rational reproductive choices. Often, the only acceptable use of birth control is when *males* have the decision-making power.

Conservative arguments that are for birth control under specific circumstances similarly frame females as animals who cannot rationally decide for themselves. Unlike sex outside of marriage, sex within marriage is seen by a conditionally pro-birth control contingent of Catholics as being “noble” rather than something that is “perform[ed] blindly and instinctively” (Foss, 1983, p. 35). Sex within marriage is a choice and human action rather than an animal motion; for this reason, married couples should be able to choose contraception since this is a way of exercising their God-given free will. Notably, however, any decision that could be construed from a Catholic viewpoint as an acceptable use of birth control is only capable of being made in conjunction with a male. While obviously this sub-group of Catholics is not representative of all conservatives, nor does this take into account non-married and non-heteronormative couples, it illustrates how males are the ultimate decision makers and actors, while females are reduced to mere animals and movers.

Females are also framed as non-human machines. On August 20th, 2012, Representative Todd Akin (R-MO) said, “It seems to be, first of all, from what I understand from doctors, it’s really rare. If it’s a legitimate rape, the female body has ways to try to shut the whole thing down” (Moore, 2012, para. 3). Akin’s comment became an exemplar of a lack of public knowledge about birth control, the female body, and rape. The thinking, feeling, and acting organism was replaced with the motion of a machine that can ‘shut down’ harmful processes.

The symbolic system of language was replaced with 0s and 1s, and the mind was separated from the robotic body. Faced with a 'legitimate rape,' the body simply reacts and performs motion. Machines cannot think and are only programmed. More recently, Akin defended his controversial 'legitimate rape' comment, claiming that he was referring to the connection between stress and fertilization (Marcotte, 2014). This comment framed the female body as a machine that is programmed to perform in certain ways, for example:

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if (rape) {  
pregnancy=shut down from stress;  
} else {  
pregnancy= blessing;  
}
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This code constructs females as producing output that is the natural consequence of input they receive, rather than emerging from rational thought.

The metaphor of females as non-human agents-minus focuses on motion instead of action. Action, for Burke (1945/1969), is the performance of motion inscribed with symbolic purpose. Only rational agents (or humans) can perform action because they are the only animals with symbol systems capable of commenting on their existence. If females are animals or machines, then they are non-communicative and devoid of language. Females, subsequently, do not have the symbolic capabilities that males have and are therefore silenced, even in debates where the discussion is about the agency of their own bodies. Females cannot form arguments, justify themselves, or be capable of verbal or physical action.

Females were silenced in the precipitating events to Limbaugh's comments. The 2012 Congressional hearings on birth control included panels composed entirely of males, and Fluke was initially denied as a potential participant. The female gender is a defining identity, whereas males can be fully human and only descriptively male in their status as political participants (Ray, 2007). Conservative arguments construct females as non-human animals and machines, who only occupy agent-minus status. Akin's legitimate rape comment argued that females are incapable of deciding whether they were raped or not. Females may say they were raped but they lack the symbolic capabilities to decide this, leaving only their bodies' motion and response to genetic input as acceptable proof. Females are stripped of their rational decision-making power because they are re-

framed as sexualized animals and irrational machines.

4. *Casuistic shifting*

Casuistic stretching is a foundational Burkean concept that helps critics interrogate worldviews, how they change, and the arguments they construct. Applying casuistic stretching to the birth control controversy, however, misrepresents the incorporation of scene in conservative arguments. The concept of stretching assumes that the scene will remain a part of the conservative worldview. It is, of course, impossible to completely separate the aspects of the pentad (Burke, 1945/1969). However, for conservatives to abandon a focus on the agent and idealism would be to sacrifice their very identity. The focus on the scene, therefore, can only be temporary if the conservative party is to remain intact. This is, in part, why conservatives must emphasize the scene to justify their stance on birth control; they are also bound to their emphasis on religious and moral values. To remain true to anti-choice rhetoric is also to deny rational decision-making power to females, resulting in a necessary shift in argument strategy. The ideology still remains unchallenged and is returned to in order to justify the overall conservative position on issues.

Despite the use of metaphors that question the agent-status of females, conservatives have tried to brand themselves as the party for females. Former Republican presidential nominee Mike Huckabee said:

Our party stands for the recognition of the equality of women and the capacity of women. That's not a war on them. It's a war for them. If the Democrats want to insult the women of America by making them believe that they are helpless without Uncle Sugar coming in and providing for them a prescription each month for birth control because they cannot control their libido or their reproductive system without the help of the government, then so be it. (Blake, 2014, para. 2 & 4)

Huckabee claimed that the conservative party is actually in support of the 'capacity' of females. This capacity does not extend to the ability to decide about health, however, illustrating an important nexus of the agent- and scene- focus. Although ascribing females non-agent status through the repetitive use of metaphors, Huckabee still stands by the idealist ideology. He asserts that females are equal and capable and argues that it is the *Democrats* that undermine their abilities. His quotation reframes the situation so that the government is providing

birth control as a crutch for the uncontrollable, sexual urges of females. What this reveals, however, is that Huckabee believes that the urges of females are irrational and uncontrollable; it is because of the Democratic Party's evil that females cannot control themselves. At first, his words can seem like they bolster females' agent-status, but they still embrace the scenic focus on female irrationality. This quotation represents the subtle shift back and forth between agent and scene.

While claiming to stand for the "equality of women and the capacity of women," Huckabee is actually denying females agent status. They are portrayed as vulnerable to the Democrat's arguments. The supposed scene of "Uncle Sugar" handing out birth control pills is acknowledged, but females are ultimately to blame for their inability to control themselves. While the scene is what is "making them believe that they are helpless," it is not what is ultimately at fault; females choosing to believe this is. In other words, females become the agents responsible for the current situation in regards to birth control. They are agents who are simply making the wrong decisions, rather than non-agents or agent-minuses who are scenically reduced into being incapable of rational decision making.

Another example of casuistic shifting comes from the recent National Right to Life Convention. Conservative radio host and speaker Joy Pinto argued that the 'real' War on Women was not attacks on birth control but was instead birth control itself. According to Pinto, women have "bit the apple" and "believed the lie" that it is acceptable and not immoral to use contraception. While Pinto acknowledged scenic elements such as the culture and institutions that promote the "lie" of birth control, blame is laid on women. Importantly, Pinto's use of the phrase "bit the apple" (an allusion to the Biblical story of Eve's temptation with the Tree of Knowledge and humanity's subsequent fall from grace) is an important indicator of a casuistic stretch rather than a casuistic shift. Ultimately, blame still falls on women, who are incapable of making rational choices. According to both the temptation of Eve and Pinto's account of birth control, females who seek information and equality, whether from the Tree of Knowledge or from birth control, are at fault for the moral degradation of the world today.

Conservative rhetoric puts females' agent status in flux. It is simultaneously trumpeted, undermined, forgotten, overshadowed, and blamed in the birth control controversy. These mixed messages work as a rhetorical strategy themselves by appealing to various frameworks and their views of the female. They all unite in

their support of anti-choice policies but interpret the role of females differently. Conservatives have rhetorically re-defined how females should be considered in terms of their actions, beliefs, and attitudes. This re-definition crosses ideological lines strategically to polarize the birth control controversy. Casuistic shifting is an important contribution to interrogating the polarized nexus of the current controversy. The need to appeal to fringe opinions and the center's wavering disloyalty has created new argument strategies that purposefully isolate one segment of the voting population.

It is not clear, however, that this strategy is isolating the female vote. Though the gender gap in voting has increased in recent elections ("Gender Gap," 2012), there has also been an increase in visibility of conservative females that oppose the feminist movement. They are working to redefine what it means to be female and advocate for female issues. Hosts on *Fox & Friends* discussed rebranding feminism so that it more closely aligns the female role with traditional biblical views. Guest Gina Loudon, owner of the conservative site *PolitiChicks*, argued that the new feminists:

want less government in their lives, they want to make their own decisions, they want freedom to choose for their children and their families. That's what women really want. And they also want real men. We love real men. (Taibi, 2014, para. 6)

This new phase of 'updating' feminism focuses on equating the struggle for female empowerment with what is actually a reduction of female choice. Similar to Huckabee, the host connects female choice with conservative policies. This trumpeting of agency, however, is only allowed by choosing conservative, traditional, and role-related (e.g., wives and mothers) aspects of being female.

What these examples share in common is the casuistic shift from agent to scene to hyper agent. These shifts are temporary and contingent on the needs of a particular argument. Where a casuistic stretch is a move to a new framework, a casuistic *shift* is simply a short-term visit. From the standard conservative starting point of an agent-focused framework, the shift is made to scenic language so as to attribute females with agent-minus status. Almost immediately, however, a turn is made which makes females *hyper*-agents, responsible for creating that same scene to which they were previously described as being vulnerable. The offering of choice and agency comes with the baggage of pre-determined decisions in order for females to be 'real' women. The traditional idealist

approach to arguments, therefore, is inherently laden with removing agent-status from females. This shift is not applied to other arguments nor does it undermine their ability to claim the language of the agent. The shift, instead, represents a temporary strategy to appeal to certain segments of the population that ascribe to the importance of the agent and hold immense and unshakeable loyalties to anti-choice policies.

Faludi (1996/2001) argued that there is a repeating historical pattern of a retaliation against women whenever there is a perceived gain in women's rights, which could, in part explain the perceived need for such an argumentation strategy. In the 1980s and 90s, this backlash took the form of adopting much of the language of female empowerment but using it to promote conceptions of women and femininity that ran counter to the message of the 1970s feminist movement. For example, media accounts often portrayed women who tried to 'have it all' as being unsatisfied and depressed, instead finding themselves happier and more fulfilled when they stayed at home to take care of their house, husband, and children.

Conservative arguments against birth control follow much of this same pattern. In an effort to counteract made by the advent of hormonal birth control and its argumentative sphere, conservatives adopt the language of that argumentative sphere (i.e., they make the casuistic shift to a more agent-focused argumentative track, allowing that females can have agency). Once they have reversed the gains they see as harmful, however, they quickly shift away from that tactic and return to their original underlying pentadic framework. In other words, changing conservative arguments about birth control do not represent a change in ideology, but rather a desire to return to an earlier time and reverse changes in the world that have already occurred.

5. Conclusion

When she read about the 2012 Congressional birth control hearings, Senator Patty Murray remarked that attending the hearing:

was like stepping into a time machine and going back 50 years. It's a picture that says a thousand words, and it's one that most women thought was left behind when pictures only came in black and white. (quoted in Miller, 2012)

While obviously things have changed in that time, the fact is that so many of the

arguments and the metaphors that undermine women remain. Strides have been made in areas of equality, but the birth control controversy illuminates the ongoing struggle to consider females as capable of rational decision making. Females are very much still second-class citizens; institutional structures, similar to racial ones (Cloud, 1996), serve as obstacles to their realization and consideration as political beings. The birth control controversy provides evidence for the continuing rhetorical problems of women's rights and female advocacy. Furthermore, this controversy illuminates an important intersection of argumentation, rhetoric, and women's studies that echoes long-standing gender divides in America.

Conservative rhetoric makes use of an argumentative strategy that undermines the agent-status of women despite conservatives' idealist ideology. They adopt evolutionary language and a scenic focus to compare females to animals and machines. In doing so, they empower other agents, such as the government, to restrict their choices to manageable, moral, and rational options. Conservatives do not casuistically stretch their idealism to include the scene permanently. Instead, evolutionary language is used only to displace the female as a rational decision maker while simultaneously blaming her for those irrationalities.

The War on Women serves as one example of a casuistic shift in conservative arguments. Evolutionary language is adopted so as to frame the issue scenically; women are attacked as being irrational and thus incapable of being agents. There may be other instances where such a temporary argument strategy results in a shift in ideology rather than a stretch. In this case, however, casuistic stretching allows us to better account for the apparent rhetorical inconsistencies in conservative rhetoric. The Hobby Lobby decision has reignited the attention paid to religious and conservative argumentative strategies in regards to the birth control controversy, which is an ongoing nexus of deliberation that engages politics, sexuality, health, gender, and religion. In this deliberation, conservatives have attempted to lay new deliberative grounds instead of highlighting the power of the agent as is their traditional strategy, both responding and contributing to political polarization. This argumentative shift illuminates contemporary rhetorical strategies and how they incorporate issues of agency and agent-status in issues of gender.

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