

ISSA Proceedings 2014 - Politicizing Tragedy: Third Order Strategic Maneuvering In The Response To Mass Shootings

Abstract: In 2012, the U.S. public overwhelmingly supported gun regulations. Yet, Wayne La Pierre claimed that the U.S. lacked the correct climate for meaningful discussion. In a gesture to the third-order condition of argumentation, he argued that we must first satisfy other concerns to create the proper climate for debate. We discuss whether this appeal was a legitimate maneuver or a derailment.

Keywords: affect, commitment, conviction, gun debate, political context, strategic maneuvering, third order conditions.

1. Introduction

On December 14, 2012, at around 9:35am a man “dressed in black fatigues entered the Sandy Hook Elementary in Newtown, Connecticut and perpetrated the worst shooting at a primary school in U.S. history” (Kauffman, 2012, p. A10). Adam Lanza carried three weapons including, “a semi-automatic AR-15 assault rifle made by Bushmaster and pistols” (CNN, 2014, para. 2). “Somebody’s got a gun They’re running down the hall. They’re still running, they’re still shooting Sandy Hook School, please” a trembling voice told emergence services (Susman, 2013, p. A8). In approximately 10 minutes, the shooter had discharged “as many as 100 rounds” (Kauffman, 2012, p. A10) killing 26 people including 20 children and 6 adults, and himself (Fifield, 2012, p. 5). First responders “found the hallway strewn with rifle casings, the ‘distinct smell of fired ammunition’ in the building, and children and teachers locked in closets and afraid to open the doors” (Susman, 2013, p. A8). This shooting was one of the deadliest in the United States history and it occurred within 6 months of 3 other massacres. The images of dead children, mourning parents, and a community ripped apart coupled with the accumulation of mass shootings brought the nation to a tipping point.

Gun ownership is one of the most affectively charged and political issues in the

United States (Winkler, 2011). After the shooting, a Reuters poll found support for gun control increased by eight points from 42 to 50 percent supporting the statement, “gun ownership should have strong regulations or restrictions” while a CNN poll found 62% support for bans on semi-automatic assault weapons and high capacity magazines” (O’Malley, 2012, p. 18). These changes in public opinion prompted an opening for a critical discussion on guns. Lankford (2012) reported,

Overall the frequency of these incidents in the U. S. rose dramatically, with 18 attacks occurring from 1980-1989, 54 attacks from 1990-1999, and 87 attacks from 2000-2009. Worse yet, over this time span, the number of attacks resulting in at least five fatalities more than tripled, from 6 high-fatality shootings in the 1980s to 19 high fatality shootings in the 2000s. (para. 6)

Not only had the frequency and severity of mass shootings increased enormously over 30 years, it had finally affected the most innocent among us, America’s children. The climate seemed ripe for reasoned gun reform – 91% of Americans supported universal background checks (Light, Feeney, & Kamp, 2013, para. 18; Washington Post, 2013, para. 4). Yet, a year later, no major reform had been enacted; assault weapons were not banned; high capacity magazines were not limited; and, background checks were not expanded. In fact, since Sandy Hook, gun laws have become even more lax.**[i]** In the year after Sandy Hook, “194 children ages 12 and under . . . were reported in news accounts to have died in gun accidents, homicides, and suicides” (Follman, 2013, para. 2). Perhaps more chilling Everytown For Gun Safety reported that since Sandy Hook there have been 74 shootings in schools (Chokshi, 2014, para. 1).**[ii]** What went wrong? Why did Sandy Hook fail to provide an opening for gun reform? How did the country fail so dramatically to enact legislation with such overwhelming support? And, why did public support decline so rapidly in the face of ongoing violence?

Argumentation scholars are in a prime position to answer these questions. Debate guides the legal interpretation and promotes legislation on the question of guns. In the conclusion of his history of gun regulation laws in the United States, Michael Waldman (2014) of the Brennan Center for Justice at NYU School of Law wrote,

Law students might be taught that the court is moved by powerhouse legal arguments or subtle shifts in doctrine. The National Rifle Association’s long crusade to bring its interpretation of the Constitution into the mainstream teaches

a different lesson: Constitutional change is the product of public argument and political maneuvering. (para. 4)

The evolution of legal interpretations of the Second Amendment, illustrates the importance of public debate and dialogue in shaping our culture and laws. Argumentation scholars have a duty to praise and chastise strategic maneuvers because these arguments alter the trajectory of gun laws (Hollihan, 2011).

In this essay, we examine the critical discussion between President Barack Obama and Wayne LaPierre of the National Rifle Association (NRA). We utilize a framework of strategic maneuvering to examine the Sandy Hook inspired debate to evaluate how well arguers can balance commitments to the procedures for reasonable resolution of a disagreement with the desire to have their standpoint accepted (van Eemeren, 2010). Frans van Eemeren (2010) identified three types of maneuvers:

1. topical potential,
2. audience adaptation, and
3. presentational devices that an arguer can use in the service of their standpoint.

But, if an arguer privileges a commitment to their standpoint over the norms of a critical discussion, then they derail the conversation. We argue that LaPierre overcame the commitments of 91% of Americans, because he more effectively intensified his audience's convictions through strategic maneuvering and derailment. LaPierre's appeal to the anxiety-ridden context of the critical discussion enabled him to position guns as a necessary condition to freedom. The fear that children's safety and freedom is at risk, affectively charges the debate in his favour. Even if Obama won the most commitments, his followers suffered an intensity deficit. Commitments do not always translate into action. If an arguer is able to modulate the intensity of beliefs, then they are likely to prompt action.

2. Strategic maneuvering around the third order conditions of argumentation

For a critical discussion to occur, three conditions must be satisfied. The first-order condition of a critical discussion is the procedure for resolving differences of opinion – the code of conduct for arguers. The second-order conditions are the attitudinal requirements necessary for a critical discussion to occur. This is the process of reconciling commitments to a standpoint with commitments to the process of critical discussion (Hicks and Eckstein, 2012; Hicks, 2007; Mitchell,

2010). The third-order conditions of argument are the “external conditions” that must be satisfied for a critical discussion to occur (van Eemeren and Grootendorf, 2004; van Eemeren, 2010; Hicks and Eckstein, 2012). Darrin Hicks and Justin Eckstein (2012) elaborated three components to third-order condition of argumentation:

1. there must be “a social and political environment” that supports critical discussion mediating disagreement;
2. a culture of “freedom, autonomy, and equality” is necessary to use critical discussion to resolve conflicts; and finally,
3. there are affective conditions, such as conviction, risk, trust, required to facilitate critical discussion (pp. 333-334).

If these conditions are not met, then a critical discussion cannot function properly. For instance, if a debate happens in a political context that does not allow the free and open exchange of ideas, then it would be difficult to reasonably test a proposition.

In the aftermath of Sandy Hook, President Barack Obama and Wayne LaPierre leveraged different parts of the conditions to advocate their propositions. For Obama, the aftermath of Sandy Hook provided the ideal opportunity to pass “common sense” gun reforms, because the majority of Americans were mourning the loss of children. In contrast, LaPierre argued that affective conditions were not appropriate for a critical discussion because the populace was too sad to make a reasonable judgment. He also claimed that a critical discussion would violate the cultural norm of equity because it would unfairly distribute risk.

Obama’s argument was that Sandy Hook offered Congress a kairotic moment to pass gun regulations – even calling his White Paper “Now is the Time.” It had almost been 20 years since *The Brady Handgun Violence Prevention Act* and *Violent Crime Control and Law Enforcement Act* were signed into law. These two pieces of legislation represented the last time any bill intending to curb gun violence could muster the votes to pass. Yet, the succession of mass shootings in Oak Creek, Wisconsin; Clackamas, Oregon; Aurora, Colorado; and Newtown, Connecticut over a 12-month time span drew into relief the problem of gun violence. Each shooting evoked a mixture of sadness and fear, sparked a dialogue, and shifted the democratic consensus on gun control. Obama said,

Over these past five days, the discussion has re-emerged as to what we might do not only to deter mass shootings in the future, but to reduce the epidemic of gun violence that plagues this country every single day. And it's encouraging that people of all different backgrounds and beliefs and political persuasions have been willing to challenge some old assumptions and change some long-standing positions. (Obama, 2012, para. 3)

Above all, Obama reconfigured the Sandy Hook massacre as the context to mobilize a broader campaign against gun violence. The national outrage following the Sandy Hook shooting unsettled commitments, providing law makers an ideal moment to pass legislation. Obama leveraged the population's sentiments to advance his standpoint for comprehensive gun control measures. He hoped that the nation's grief could be translated into meaningful reform.

Obama explained that the majority of Americans are now in favour of "common sense" gun reforms, such as universal background checks, banning weapons of war, and funding more gun violence research. "The Majority" and "Most Americans" operated as a refrain to frame his policy initiative. For instance, he proclaimed,

A majority of Americans support banning the sale of military-style assault weapons. A majority of Americans support banning the sale of high-capacity ammunition clips. A majority of Americans support laws requiring background checks before all gun purchases so that criminals can't take advantage of legal loopholes. (Obama, 2012, para. 8)

The tripartite repetition of "the majority," what the Romans would call *repetitio*, was used to promote his standpoint. According to Jean-François Augoyard and Henry Torgue (2005), "the principle role of repetition seems to reside in the offering of marks for the organization of a complex message" (p.93). The positing and return of a term, or a set of terms, connects the words together sonically into a rhythm. Rhythm has long been a tool of memory, helping pre-literate cultures transmit information across vast times and distances (Ong, 1989). Even today, we see the mnemonic power of repetition through the ubiquitous earworm - those little jingles that get stuck in your head. Yet, rhythm does more than convey information, it imbues a message with feeling. Different speeds, pitches, and arrangements modulate listeners' moods, inflecting how they interpret content (Augoyard & Torgue, 2005). Put simply, repetition is a presentational device that

modulates the reception of a message (Eckstein, 2014). For each of his proposals, he had the full support of the American public. Like other rhetors, this appeal to “the majority” was a presentational device indicating if everyone else is doing it, then you should too.

In the context of political deliberation, consensus also signals a political mandate to act. It pressures congress into acting with their constituents desires. If a policy has enough support, then a law should be passed. The only thing that could stop legislation from passing, Obama warned, is the power of special interest groups working behind the scenes to thwart legislation. Even 70 percent of members in the National Rifle Association favoured background checks, Obama claimed. This bit of reluctant authority buttressed Obama’s argument that his plan aligned with the interest of the population. Thus, if you are not in “the majority,” Obama argued, then you are allied with special interest groups that favour profits over people. Obama implored citizens to call members of congress and ask them “what’s more important – doing whatever it takes to get a [sic] A grade from the gun lobby that funds their campaigns, or giving parents some peace of mind when they drop their child off for first grade?” (Obama, 2013, para. 31). This bifurcated the audience into either for or against gun control. It foreclosed the middle space of abstention and forced people to pick a side. And, if they chose to oppose gun control, then, by implication, they opposed the democratic will of the people.

This created a difficult situation for LaPierre and the NRA, because any argument offered could be characterized as undemocratic. To circumvent this rhetorical situation, LaPierre shifted the debate away from the political context to the sentimental and cultural conditions of the critical discussion. Even if the political conditions favoured political actions, the affective and cultural conditions eclipsed that mandate. By appealing to the other conditions accompanying the critical discussion, LaPierre could offer reasons to suspend dialogue in favour of arming the teachers.

In response to the Obama administration’s claims, LaPierre first pivoted the affective conditions of the critical discussion. He scorned the Obama administration for instrumentalizing victims of the Sandy Hook massacre to advance a political agenda. For him, the immediate aftermath of a tragedy was a sacrosanct space demanding respect and reverence. LaPierre proclaimed, “Out of respect for the families and until the facts are known, the NRA has refrained from comment. While some have tried to exploit tragedy for political gain, we have

remained respectably silent” (LaPierre, 2012, para. 2-3). Quite simply, he argued that people were not in the right frame of mind to rationally evaluate policy proposals – the population was grief stricken and did not possess the proper faculties to adjudicate deliberative matters. Just as it would be unreasonable to hold anyone to a decision made under duress, people should not be forced to legislate policy when they’re overcome with emotion. Instead, the populace should have deferred the discussion until sadness subsided and everyone could confront the question of gun violence rationally. Underwriting this assumption is the belief that rational policy should be quarantined from emotion. If policy lasts forever, it should not be grounded in a fleeting feeling or sentiment. So, even if Obama had the political mandate to pass gun regulation, this precedent was disqualified because it did not meet the affective conditions required for reasoned dialogue.

Instead of “trying to score political points,” LaPierre advocated immediately securing our schools. LaPierre’s strategic maneuver to define the topical potential as school safety allowed him to leverage the problem of security as a necessary condition that must be satisfied before debate could occur. If security was deferred for any period of time, the public risked another tragedy. He explained,

Before Congress reconvenes, before we engage in any lengthy debate over legislation, regulation, or anything else, as soon as our kids return to school after the holiday break, we need to have every single school in America immediately deploy a protection program proven to work and by that I mean armed security. Right now today every school in the United States should plan meetings with parents, school administrators, teachers, local authorities and draw upon every resource that’s out there and available to erect a cordon of protection around our kids right now. (LaPierre, 2012, para. 36)

LaPierre used the timing of his speech to his advantage. If he was right that there was another copycat killer waiting in the wings, and Congress was in recess, they had no power to address the problem before another possible shooting. Securitizing the schools would have addressed school safety immediately.

The claim that another killer could strike works through double conditional reasoning. Brian Massumi (2010) explained, “the affect-driven logic of the would-have/could-have is what discursively ensures that the actual facts will always remain an open case, for all preemptive intents and purposes. It is what saves

threat from having to materialize as a clear and present danger – or even an emergent danger – in order to command action” (p. 55). That is, conditional logic attenuates the burden of proof onto the speaker, because the mere fact an event could happen is sufficient to justify action. For example, LaPierre asked, “Does anybody really believe that the next Adam Lanza isn’t planning his attack on a school, he’s already identified at this very moment?” (LaPierre, 2012, para. 18). Each step in the conditional removes the burden of evidence – the fact that there could be another killer does not prove there is another killer. And, the ascription that such a person would kill presupposes a level of intentionality that is difficult to prove. Each conflation of the conditional for reasonable, amplifies uncertainty and infuses it with fear. It is irrelevant what the actual conditions of the debate are; the conditional potential a threat materializes is sufficient to prompt feelings of dread and fear. The threat feels “so superlatively real that it translates into a felt certainty about the world, even in the absence of other grounding for it in the observable world. The assertion has the felt certainty of a gut feeling” (Massumi, 2010, p.55). This sort of pre-emptive logic justifies the use of pre-emptive measures to prevent another school shooting. The fact is that a double conditional statement means it is always a looming threat, never resolved. So, even if another Lanza never materialized, he still *could*. As a result, LaPierre used fear to intensify his followers’ commitments to guns.

Additionally, LaPierre’s arguments were buttressed by the fact that Congress was on break making the prospect of any solution abstract and uncertain. Hence, any sort of critical discussion about guns was inappropriate because it unfairly distributed risk onto the bodies of students – it was the children that were at risk while the nation decided the best way to protect them. As LaPierre pointed out numerous times in the speech, Obama and Congress had the time to discuss and think about guns, because they had the privilege of being protected by guns. As a result, LaPierre’s arguments constructed guns as a necessary component of the third-order conditions of argumentation. If everyone was not adequately protected with guns, then deliberation could not occur.

3. Conclusion

Multiple polls taken after Obama’s January address found that at least 91% of Americans were in favour of universal background checks (CBS News, 2013, para. 1; Saad, 2013, para. 1; Quinnipiac University, 2013, para. 1). This would appear to be a win for the Obama administration because most Americans signalled a

commitment to gun control. Yet, nothing was done. Why? The answer resides in the difference between commitment and conviction. Although commitments and conviction are related, they are not synonymous. Commitments are discursive statements of acceptance or rejection of a proposition; and convictions are the attachments underwriting beliefs (Hicks, 2007; Godden, 2010). While it is possible to extract a discursive concession from an opponent, it does not translate into an attitude change. Hence, even though Obama won the most commitments, LaPierre won the battle for conviction. The lack of any significant gun reform in the wake of Newtown demonstrates “the power of a determined, passionate minority to overcome the half-hearted, unfocused wishes of a majority” (*Economist*, 2013, para. 6). Indeed, Obama may have attracted numerous supporters, but not nearly as many with as much vigour as the NRA. LaPierre’s constellation of propositions simply resonated with his followers, putting Obama at an affective disadvantage.

In the confrontation stage of a critical discussion, interlocutors strategically maneuver to define the nature of the disagreement advantageously. The Obama administration advocated that Sandy Hook was another iteration of a broader gun violence epidemic. If they won this proposition, then the critical discussion would gravitate towards the question of gun control. It also allowed Obama to circumvent gun rights discourse by demonstrating that guns inflict tangible harm. Conversely, the NRA posited that Sandy Hook was evidence of the dangerous world we live in. If the critical discussion changed to security, then the NRA could move the debate back to gun rights and to each person’s right to protect their loved ones. Concurrently, both sides maneuvered around the third order conditions of the critical discussion. For Obama, the wake of the shooting provided him with a democratic mandate and a kairotic moment to pass gun control laws. For LaPierre, the conditions of the debate were unfair because they exploited grief and would leave children vulnerable to another attack.

To evaluate strategic manoeuvres that occur in the confrontation stage, Andone (2012) offered three “soundness conditions” that must be satisfied for a move to be legitimate. First, a move must facilitate the progression of the critical discussion. If any strategic maneuver impedes this progression, then it is a derailment. Second, each reason should relate to antecedent reasons and maneuvers. Reasons offered that are not germane to the dialogic exchange risk muddling the discussion and distract from the reasonable resolution of

disagreement. Third, maneuvers must be easily apprehended by both parties as relevant to the critical discussion. This rule, Andone noted, functions to exclude the tactical deployment of unclear language to confuse the critical discussion. If any of these conditions are not satisfied, then an arguer is shirking their commitment to the procedures of critical discussion.

Obama's use of the Sandy Hook shooting to advocate gun reform was reasonable because:

1. it propelled the critical discussion;
2. it was relevant to gun violence and
3. it was a clear presentation of his standpoint. If we don't discuss problems of public concern when they arise, then when is the appropriate time?

If we apply LaPierre's accusation that politicizing tragedy was a derailment to other contexts, it does not make sense. For example, the decision to make sex offenders' information public (to enact Megan's Laws) in the wake of Megan Kanka's grisly murder was not met with accusations of politicizing a tragedy. Just the opposite, the passage of the laws was deemed appropriate and reasonable. As Arthur Chu (2014) recently remarked in the wake of the Santa Barbara, CA mass shooting, "The only reason to talk about tragedy . . . is to try and prevent bad things from happening in the future" (para. 38). LaPierre's appeal to not politicize a tragedy was a strategic maneuver - if the NRA could defer the debate long enough, then the affective residue of the tragedy would subside and the audience might be more receptive to his standpoint. As a result, both commitments and convictions in support of gun reform would wane. Yet, LaPierre's claim was not quite a derailment. He represented Obama's position as exploiting a tragedy, inviting him perhaps to clarify his proposition to agree with LaPierre that we should have a conversation about the "less politicized" school safety. Thus, LaPierre's maneuver was also reasonable because it attempted to progress the critical discussion, albeit toward the problem space of school safety.

However, LaPierre's injunction to suspend the critical discussion and immediately adopt his proposition was a derailment. Although there are some incidents where a critical discussion may not be the most appropriate course of action because of an impending danger, his use of the double conditional logic posited an open ended threat that justified the permanent suspension of critical discussion. Indeed, the call for suspension of deliberation in the face of an ongoing systemic

threat was a derailment. The notion that guns preserve the conditions for democracy is a common refrain from the gun lobby. As the Economist (2013) retrospective on Sandy Hook pointed out,

Attend gun rallies, watch speeches or interview politicians, and it could not be clearer that the single most potent message of the pro-gun lobby revolves around tyranny, and the idea that American patriots need to be armed to prevent the government from snuffing out their liberties. The second amendment's right to bear arms, in this telling, underpins all other rights, and any move to qualify that right amounts to evidence of a liberticide government at work. (para. 18)

This sort of logic acts as a rhetorical trump card to end critical discussions. If guns are a prerequisite to freedom, then they become codified within the third-order condition of argumentation. This imbues the topic of gun control with an affective intensity that is difficult to surmount with reasoned discussion. In short, it renders guns sacrosanct.

Fundamentally, reform was blocked after Sandy Hook because LaPierre's supporters demonstrated greater conviction than the majority of the public who stated commitment to common sense gun reforms but stayed home demonstrating little or no conviction in support of reforms. The group Moms Demand Action For Gun Sense In America (Moms Demand Action) suggested that gun reforms were blocked because the NRA was a vocal minority demonstrating high levels of conviction. Heather Whaley, a member of Moms Demand Action in Connecticut, posted a picture of a tally sheet from a legislative hearing on facebook. She wrote,

Often people ask me . . . why the NRA is able to block efforts at common sense reform. Just after the shooting at Sandy Hook Elementary School, I testified in front of the CT State Legislature. The room was packed with NRA members . . . Because there were so few of us on the other side, one of the guys who worked in the legislative office building showed me this tally sheet. On the left is a mark for every person who had called in opposed to any reform to our gun laws. Those calling in asking for change are marked on the right. Keep in mind this was in CT about a month after the shooting in Sandy Hook. That's why our gun laws are the way they are. (Green, personal communication, June 26, 2014)

The photo of the tally sheet shows approximately 850 tally marks on the left indicating NRA supporters who took the time to call their representative opposing

reforms. It shows only three tally marks on the right indicating members of the public calling to support reforms. So what strategy can Obama pursue in the future to secure legal reforms? We contend that Obama and others in favour of reform must shift argumentative strategies to energize smaller populations who can demonstrate greater conviction in support of gun reforms. Winning the debate in a public speech is not enough. Argumentation must inculcate conviction to have any hope of creating change. Without such conviction, supporters will remain apathetic and will not demonstrate their conviction to elected representatives. Groups like Moms Demand Action, founded by Shannon Watts after Newtown, have proven that sufficient conviction can spark reforms. Among numerous campaigns that borrow from NRA strategies, Sarah Jane Green, a member of Moms Demand Action in North Carolina, stated that the group successfully lobbied several national chains including Starbucks, Chipotle, Jack in the Box, Sonic, and Chili's to ban guns on their premises (personal communication, June 26, 2014).**[iii]** Until those who support reform can instil sufficient conviction in their followers, there cannot be legislative change. Obama and others supporting reforms must craft arguments that inspire followers to demonstrate conviction through phone calls to representatives, letters, postcards, demonstrations, and other strategies. In the current climate, gun reforms only have a chance if those with greater conviction act. As the NRA has proven, even when only 9% of the public supports your position, sufficient demonstration of conviction can block congressional action. President Obama needs to find strategies to increase the conviction of supporters who can act in effective ways to limit guns (e.g. asking individual businesses to ban guns, conducting social media campaigns, staging demonstrations, grading representatives on their gun reform positions, etc.). Only by building a coalition of such activists can Obama hope to implement widely popular legal reforms.

NOTES

- i.** For example, Georgia just passed an open carry law that allows citizens to openly carry their guns anywhere.
- ii.** This number is not without controversy – the 74 school shootings is based on defining a school shooting as an incident involving a gun in an education settings. Gun rights advocates take issue with this definition and argue a school shooting only occurs if a shooter came with the intent of killing lots of people. Thus, when an individual comes to a campus with the specific purpose of killing a particular individual, it does not count as a school shooting. For more over this definitional

debate see Binder, M. (2014, June 20). Gun nuts' infuriating craze: Why they want to redefine 'school shooting. Salon.com
http://www.salon.com/2014/06/20/gun_nuts_bizarre_new_craze_trying_to_change_definition_of_school_shootings/

iii. One potential benefit of these strategies is that they bait gun rights extremists into directly revealing derailment strategies including threats of violence regularly used by gun rights supporters. For instance, the successes of Moms Demand Action have drawn rhetorical demonstrations of misogynistic violence against women from gun supporters and direct threats targeted at those demonstrating for change. Making such rhetorically violent derailments visible may be a step in undermining the credibility of gun rights extremists. See: Alec MacGillis. (December, 2, 2013). Gun lovers are attacking Newtown activists with violent, misogynistic messages. The New Republic.
<http://www.newrepublic.com/article/115790/gun-control-moms-face-misogynistic-violent-online-harassment>; and, Mark Follman. (May 15, 2014), Spitting, stalking, rape threats: How gun extremists target women. Mother Jones.
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