

# **ISSA Proceedings 2014 ~ Historical Inquiry Into Debate Education In Early 20th Century Japan: The Case Of Intercollegiate Debates In Yūben**

*Abstract:* This paper analyzes intercollegiate debates hosted by Yūben (1910-1941), a monthly magazine specializing in oratory. From 1930 to 1935 Yūben held a total of 14 intercollegiate debates in which college students argued over such controversial topics as capital punishment. By examining the transcripts of the debates, relevant Yūben articles, and historical documents on academic debate in the United States, the paper seeks to trace the American influence on debate education in early 20th century Japan.

*Keywords:* American influence, history of debate, intercollegiate debate, modern Japan, Yūben

## *1. Introduction*

This paper aims at shedding light on the influence of American-style academic debate in early 20th century Japan by scrutinizing intercollegiate debates hosted by *Yūben* (1910-1941), a monthly magazine specializing in oratory. Despite the fact that *Yūben* was the most influential publication devoted to promoting speech and, to a lesser extent, debate in Japan at the time, very few studies have been conducted to examine its role and impact. A close analysis of *Yūben* thus offers us a new window into debate education in pre-World War II Japan and thereby provides further historical insights into argument practices in non-Western societies.

From 1930 to 1935, *Yūben* held a total of 14 intercollegiate debates in which college students were invited to argue over controversial policy topics of the day such as capital punishment and international marriage. Importantly, the debates were billed as an experiment with the debate format being widely practiced in the West back then. While the first debate was allegedly modeled on the British style,

the subsequent debates were in fact more similar to those practiced at American schools. More specifically, as opposed to the traditional (elocutionary and belles-lettristic) style of debate, the intercollegiate debates in *Yūben* emphasized research, the use of evidence, and a direct clash of arguments. Given that a similar shift from elocution to argumentation occurred in the United States around the same time, it can be surmised that contrary to popular belief, American debate practices continued to influence debate education in Japan during the 1920s and 30s. By examining the transcripts of the debates, relevant *Yūben* articles, and historical documents on academic debate in the United States, the paper seeks to trace the American influence on debate education in early 20th century Japan and to consider why *Yūben* was so eager to introduce American-style debate shortly before the breakout of the Pacific War.

## 2. *Yūben* in a historical perspective

As Aonuma, Morooka, and Senō (2013) note, “the modern Japanese forensic practice has always been under the American influence since its inception” (p. 1). It is telling that Yukichi Fukuzawa’s *Kaigiben* (*How to Hold a Conference*, 1874) and Sadamasu Ōshima[i] and Aikoku Horiguchi’s *Kagi Bempō* (*Rules on Holding an Effective Conference*, 1874), which were among the first books on Western debate in Japan, were renditions of James N. McElligott’s *the American Debater* and Luther Cushing’s *Rules of Proceeding and Debate in Deliberative Assemblies*, respectively. At the same time, the British influence was equally, if not more, noticeable in those days. For example, Kenkichi Ōi’s *Kaigi Shinan* (*Instructions for Conducting a Meeting*, 1878) and Gendō Nishimura’s *Seiyō Tōron Kihan* (*The Principles of Western Debate*, 1881) were both partial translations of Frederic Rowton’s *the Debater*.

Efforts to introduce the American and British styles of debate to Japan continued to be made in the first decade of the 20th century when Seiji Noma, founder of the major publishing house Kodansha (then named Dainihon Yūbenkai [the Great Japanese Oratorical Society]), launched *Yūben*. Published in February 1910, its inaugural issue was immediately sold out; the subsequent issues were also widely read among students, intellectuals, and politicians (Tomasi, 2004, p. 147). Rōichi Okabe (1987) elaborates on the role the magazine played in stimulating public interest in Western-style oratory:

*Every month it carried diverse articles on Western rhetorical theory and practice, many texts of speeches delivered by prominent Japanese, and translated texts of*

*speeches of British and American orators. This monthly magazine was instrumental in nurturing the seed of Western rhetoric on Japanese soil at the turn of the century and in promulgating learning and knowledge of the Western world to the enlightenment-conscious people of the late Meiji and early Taisho era (1912-1926). (p. 37)*

Although Okabe's article is highly informative especially for non-Japanese readers, it is not without problems. One shortcoming is its failure to separate speech from debate. While it is true that "[t]he *Yūben* magazine, especially during its first six years of publication, was instrumental in introducing American public address to Japanese cross-nationally" (Okabe, 1987, p. 49), articles on debate were few and far between in its early issues. Hence it is not clear if and how much *Yūben* sought to promote debate activities in those days. Although *Yūben* carried out written debate competitions (*daikenshō tōronkai*) twice for a brief period of time, they were not actual debates but a selection of readers' opinions for and against pre-announced topics such as strengthening Japan's naval forces. Moreover, while *Yūben* had frequently organized or sponsored speech meetings and oratorical contests since 1914 (Tomasi, 2004, p. 147), it had not been until 1930 that it began to hold a debate event.

Seen in this light, the novelty of the intercollegiate debates, which are the focus of this paper, stands out. Two years prior to the first intercollegiate debate, Tadashi Kiyosawa (1928) reported on Japan's first international oratorical contest between University of Oregon debaters and Japanese students. Interestingly, the University of Oregon students visited Japan as part of the world debate tour and initially challenged Japanese students to debate. However, it turned out that they did not engage in any debates during their five-day stay in Japan (Harper, 2003, p. 90) because the Japanese students were not ready to debate in English and proposed an oratorical contest instead. For Kiyosawa (1928), their reluctance to debate was hardly surprising, but still disappointing as it attested to the lack of debate education in Japan:

Although rare in Japan, this thing called debate is very popular among university students in the United States. Just like they compete for a championship in baseball, [universities] oftentimes send teams (composed of three members) of students with intelligence and argument skills to debate on a particular issue for a victory. What the University of Oregon students proposed was a debate meeting like this. **[ii]** (p. 105)

Given that Kiyosawa was a regular contributor to *Yūben* and would judge several debates a few years later, he might have affected *Yūben's* decision to be firmly committed to debate.

### 3. *Intercollegiate debates in Yūben*

*Yūben* held its first intercollegiate debate on June 11, 1930 at the Tokyo Imperial University Young Buddhist Association's Hall. The transcript of the debate appeared in the August issue. Students from Waseda University, Keio University, and Tokyo Imperial University constituted two mixed teams and debated the proposition "Could a war between Japan and the United States break out?" Along with the college debaters, several distinguished guests including a politician and a naval officer partook in the debate as commentators.

The debate began with a speech by the affirmative team. Each speech was followed by an open forum (or cross-examination) in which not only the opposing team but also the audience were allowed to ask questions. The members of each team alternated giving speeches; the last two speakers, however, both represented the affirmative side, which means only two debaters out of the six took the negative position. Presumably the participants in the first debate were given leeway to choose their own preferred side and that *Yūben* was not able to find a third student willing to argue against the topic.

It took three more years after this first debate until *Yūben* finally undertook to hold intercollegiate debates on a regular basis. We are not exactly sure why it took so long, but it can be speculated that the first debate was deemed far from satisfactory as encapsulated in Etsujirō Uehara's following scathing post-debate comment: "Overall, I must say that none of the six persons speaking on this topic gave it thorough consideration" ("Nichibei," 1930, p. 46). Along a similar line, a *Yūben* editor provided an explanation for the three-year hiatus at the beginning of the second debate:

*Many teachers have advised us to hold a debate meeting in Yūben for some time; and we had also felt the need to do that. But as we had been thinking about holding a debate in a place like an auditorium, we had been a little reluctant. Besides, if we were going to launch [an event like this], we wanted to serialize it so that it would last for quite a long period. [So we asked ourselves:] "Are we capable of it when we are so busy editing the magazine every month?," "could our debate set a good example for [members of] oratorical societies many of which*

currently conduct debates in uproar?," "debaters may need more experience and audiences may need more training in order to conduct a debate worth publishing in the magazine? These questions and concerns have kept us from carrying out [a debate] until today. ("Jisatsu," 1933, pp. 27-28)

Following the second debate on suicide in September 1933, the magazine held a total of 13 intercollegiate debates almost every month until March 1935.

Table 1: Intercollegiate debates held in Yūben from 1930 to 1935

Propositions	The Affirmative	The Negative	Issues
1. Could a war between Japan and the United States break out?	Waseda, Keio, Tokyo Imperial Universities	Waseda, Keio, Tokyo Imperial Universities	Vol. 21 No. 8
2. For or against suicide?	Meiji University	Toyo University	Vol. 24 No. 9
3. Rustic civilization or urban civilization?	Nihon University	Senshu University	Vol. 24 No. 10
4. Should temples be allowed to possess private property?	Komazawa University	Rissho University	Vol. 24 No. 11
5. For or against the death penalty?	Hosei University	Rikkyo University	Vol. 24 No. 12
6. Party politics should be rejected.	Tokyo Imperial University	Waseda University	Vol. 25 No. 3
7. The block economy should be strengthened.	Meiji University	Keio University	Vol. 25 No. 4
8. Should women be allowed to work outside?	Aoyama Gakuin University	Takushoku University	Vol. 25 No. 5
9. Would a war advance culture?	Meiji Gakuin University	Daito Bunka Gakuin University	Vol. 25 No. 8
10. Popular literature or pure literature?	Waseda University	Keio University	Vol. 25 No. 9
11. Is the current enthusiasm for sports excessive?	Toyo University	Senshu University	Vol. 25 No. 11
12. International marriage	Nihon University	Rikkyo University	Vol. 25

should be rejected.			No. 12
13. Birth control should be practiced.	Chuo University	Hosei University	Vol. 26 No. 1
14. The summer vacation should be abolished.	Tokyo University of Agriculture	Takushoku University	Vol. 26 No. 3

Table 1: Intercollegiate debates held in Yūben from 1930 to 1935

Table 1 shows the propositions used in the debates, the universities students represented, their sides, and the issues in which the transcripts appeared. Most debates took place in a conference room. No visitors were allowed to attend the debates except for the last four in which a small number of students were admitted.

Two judges were invited to adjudicate each debate; In most cases one of them was an expert on the topic and the other was someone well versed in Western-style oratory. For example, in the eighth debate on women and work, Fusae Ichikawa, an eminent advocate for women's rights, served as a judge. No judges, however, were asked to cast a vote; instead, their primary role was to provide commentary on the debates. Some judges even gave advice in the middle of the debate, which signals that more emphasis was put on education than competition

in *Yūben's* debates.

Another distinctive feature of *Yūben's* intercollegiate debates was that they were regulated by fairly strict procedures. Except for the first debate each team consisted of five members and was assigned to a particular position. As for the format, although there were some variations, a debate typically proceeded as follows. In the first phase the negative team opened a debate with their ten-minute speech followed by the affirmative speech of the same length. There was a recess between the first and second phases. The second phase was called *jiyū tōgi*, or free discussion/debate, in which the affirmative and the negative engaged in a back-and-forth exchange of arguments. Although each student was given 5 minutes to present his views, at least in the early debates, few seemed to have adhered to the time limit. Some debaters spoke overtime; some others did not make any arguments but asked questions to the opponents.

Not only were *Yūben's* intercollegiate debates regulated by fairly strict rules, but the debaters were also encouraged to undertake research and engage in evidence-based argumentation. Until then, two types of debate had been predominant in Japan: "*gijitai* (parliamentary debate type) and *benrontai* (oratorical debate type)" (Okabe, 2002, p. 284). As the name suggests, the former was a simulation of the procedure of a national assembly. The most popular form of *gijitai* debate among students was *gikkokai* (mock parliament). In a mock parliament students were split into the ruling party and the opposition party and conducted a spirited debate over a particular policy. With the chairperson's permission, a student orator was able to speak multiple times in one debate. As with British debating unions, mock parliaments "were meant to give training not just in performing public speeches, but in the very practise of government of the time through the learning of rules and procedures" (Haapala, 2012, p. 31). Therefore students were more interested in debating the question than learning argument skills through debate. The *benrontai* debate, on the other hand, divided students not into two parties (or teams) but into two opposite positions. Neither was the number of speakers or the length of speeches predetermined. Instead, all who wished to speak were allowed to take the podium and speak back and forth between the two sides until the chairperson called it a day. Also, students participating in the oratorical type of debate cared more about excellence in oral performance than the quality of arguments.

In contrast to these traditional styles, *Yūben's* intercollegiate debates encouraged

the logical cohesion of arguments among the team members. For example, Toyohiko Kagawa, chair of the second debate, advised both teams to work as “one organic unity” and maintain consistency throughout the debate (“Jisatsu,” 1933, p. 29). The importance of research was constantly underscored as well. For example, after the second debate Kagawa suggested that the students use more statistics to buttress their points (“Jisatsu,” 1933, p. 41). Kiyosawa echoed the same point after the fifth debate on the death penalty, suggesting that three important components of debate were logic, material, and delivery (“Shikei,” 1933, p. 79). All in all, emphasis on teamwork, reasoning, and research distinguished *Yūben’s* debates from the conventional ones. Importantly, as elaborated in the next two sections, this was a deliberate attempt on *Yūben’s* part to transplant a new form of debate in Japanese soil.

#### 4. *American influence*

At the beginning of the first debate, Kinzō Gorai, chair of the debate, stressed its “academic” nature in contradistinction with the mock parliament:

*This debate is a purely academic debate. There are various ways to conduct mock parliaments, but they are sort of imitations of the Diet in that [participants] were split into political parties and played the roles of ministers. Consequently, they could devolve into bad practices such as imitating violent behaviors in the Diet. It is imperative that future debate meetings use the purely academic form of debate, the one adopted at Cambridge and Oxford in Great Britain. (“Nichibei,” 1930, p. 31)*

We can only speculate on why Gorai stated that the debate adopted the Oxford and Cambridge style. We are also unsure why the negative team started the debate. One possibility is that he may have had in mind an international debate between Harvard and Oxford in October 1922, for a rather extensive article on the debate appeared in the March 1925 issue of *Yūben*. As Noboru Tanigawa (1925), then a graduate student at Harvard, reported, the British and American teams debated the proposition “the U.S. should join immediately the League of Nations.” Notably, the debate began with a speech by the negative side (Harvard). Another possible reason is the use of an open forum, which was arguably peculiar to the British system of debating back then. Yet another reason is the adoption of a popular vote system, another characteristic of the British style (Moore, 1992, p. 56). Although the audiences did not actually cast a vote due to time constraints, it was announced that a decision would rest on audience votes.

While the first debate was allegedly modeled on the Oxford and Cambridge style, the subsequent debates more closely resembled the American-style debate. Among others, they were team debates with the length and order of each speech predetermined. In addition, the second through last debates emphasized research and teamwork, which also signaled that they were indebted more to the American style of debate. Baird (1923) spells out the differences between the American and British styles in the early 20th century:

*With little or no reference to his colleague he [the British debater] gives his individual argument, usually some fifteen minutes long. If he persists, no bell shuts him off.... He follows no formal brief, reproduces no carefully wrought manuscript.... [T]he British system is a judgeless, open forum, parliamentary discussion rather than a competitive sport... In his purpose, style, and delivery the Oxford collegian thus differs sharply from the conventional American debater. (p. 216)*

This does not mean, however, that *Yūben's* debate format was identical to the American one. For one thing, five persons constituted a team in *Yūben's* debates, whereas two- or three-person team debates were common at American schools during this period (O'Neil & McBurney, 1932; Nicholas, 1936). For another, *Yūben's* debates initially consisted of opening speeches and free discussion without any rebuttals. Unfortunately, we don't have any conclusive evidence to explain these discrepancies. What we do know is that frequent references were made to the American policy debate format in *Yūben*. For instance, speaking from his own debating experience at Western Seattle High School, Toshī Endō (1927) wrote that two or three speakers made up a team and each was given 10 minutes for constructive work and three minutes for rebuttal (p. 268). Similarly, when asked about the proper team size at a round-table discussion *Yūben* organized in 1934, Kiyosawa replied: "In the United States each university chooses three representatives and each [speaker] is given 20 minutes to speak in turn" ("Tōronnetsu," 1934, p. 133). When further asked if there was any four- or five-person debate format, Kiyosawa answered "rarely. The format is fixed... In a three-person debate, the first speakers introduce their arguments, the second engage in refutation, and the last summarize [the debate]" ("Tōronnetsu," 1934, p. 133).

The debates became a little more Americanized from the 12th debate with the introduction of rebuttal speeches. More specifically, while each team was still



composed of five members, the third phase was added in which both sides were given opportunities to summarize the debate. This indicates that continuous efforts had been made to improve the structure of a debate. Unfortunately, the 14th debate on summer vacation, which appeared in the March 1935 issue, became the last debate. The magazine itself went defunct in 1941, the year Japan declared a war against the United States.

##### 5. *Reconceptualizing the concept of eloquence (Yūben)*

What can be extrapolated from the above account of the intercollegiate debates is an attempt on *Yūben's* part to reformulate the concept of eloquence by shifting its emphasis from elocution and elegant use of language to reasoning and plainness of speech. Interestingly, the English word 'debate' (more precisely, the English-based loanword '*dibēto*') was used instead of its Japanese translation (*tōron*) to distinguish the form of debate *Yūben* promoted from the conventional ones. It is well known that Fukuzawa translated debate and speech as *tōron* and *enzetsu* to promulgate Western-style oral discourse in the 1870s; here the process was reversed to reclaim the values of debate in early 20th century Japan. For example, at the start of the second debate Kagawa encouraged both teams to prize "the virtue of debatemanship" and refrain from ad hominem attacks and ridicule ("*Jisatsu*," 1933, p. 29). Along the same line, Kiyosawa (1933) defended his use of the word '*dibēto*' by asserting:

*Some may say that it is better to use a Japanese word rather than an overly-westernized katakana word like debate [dibēto]. But debate is a common word around the world and it is not worth the effort to translate it into Japanese. (p. 142)*

Implicit in Kagawa, Kiyosawa, and other *dibēto* proponents' argument is their dissatisfaction with the ways debates were conducted in schools and society at the time. The following comment by Totsudō Katō, chair and judge of the fourth debate, is illustrative of this point:

*Debate in our country has been so chaotic now. This is no more evident than in the Imperial Diet. I hope you will conduct [this] new form of debate with firm determination that it will [help to] rectify this problem and form the basis for a future style of debating in Japan. ("Jiin," 1933, p.100).*

Then why did *Yūben* seek to redefine the concept of eloquence in the 1920s and 30s? To answer this question, one must recognize that the popularity of oratory

was rapidly waning during this period. For instance, members of the Third Higher School's oratorical society dropped by more than two-thirds (from over 60 to less than 20) within 4 years between 1926 and 1930 (Inoue, 2001, p. 95). Similarly, according to a survey conducted by Himeji High School Alumni Association in 1931, only 1 out of 152 respondents chose *Yūben* as their favorite magazine (Inoue, 1999, p. 90). In short, eloquence (*yūben*), which used to be considered a passport to success, was generally perceived as anachronistic by the late 1920s (Inoue, 2002, p. 81).

Table 2: *Yūben* articles on debate from 1926 to 1934

Titles	Authors	Issues (Year)
Tips for a successful debate and how to put them into practice	Takesuchi, Jō	Vol. 17 No. 3 (1926)
Why isn't debate practiced in Japan?	Kayahara, Kazan	Vol. 17 No. 9 (1926)
Debate tips and tricks	Imai, Saburō	Vol. 20 No. 7 (1929)
Ways of debating	Tsurumi, Yōsuke	Vol. 21 No. 6 (1930)
I highly recommend debate training to all of you	Kiyosawa, Tadashi	Vol. 24 No. 2 (1933)
Quick guide to learning the ways of debating	Kiyosawa, Tadashi	Vol. 24 No. 6 (1933)
A study group to generate enthusiasm for debate	Panel composed of five intellectuals	Vol. 25 No. 1-2 (1934)
American students' enthusiasm for debate	Negishi, Yoshitarō	Vol. 25 No. 8 (1934)
Report on a debate meeting by [students enrolled in] the Meiji University Preparatory Course	Nakamura, Hokusai	Vol. 25 No. 8 (1934)

Table 2: *Yūben* articles on debate from 1926 to 1934

Faced with this decline in popularity, *Yūben* made several attempts to rejuvenate the importance of eloquence; one of them was to promote an alternative style of debate. As table 2 shows, *Yūben* regularly carried articles on debate around the time it hosted the intercollegiate debates. This testifies to its systematic effort to spread a new form of debate in Japan.

Importantly, many of these articles not only stressed the benefits of debate but also tried to reconfigure the concept of eloquence itself. For instance, Kazan Kayahara maintained that the lack of debate activities in most college oratorical societies was indicative of a serious weakness of Japan's national character. For as he sees it, "[i]t is impossible to conceive of eloquence without debate. Yet Japan does not have debate, but only speech, which indicates that there has yet to be any true eloquence in Japan" (Kayahara, 1926, p. 36). Similarly, the *Yūben* editor who moderated the aforementioned round-table discussion stated that "speech meetings are fairly popular in youth clubs as well as among students. I wonder how much eloquence would be refined if we could bring at least half of their enthusiasm to debate ("Tōronnetsu," 1934, p. 144).

Interestingly, this shift from elocution to argumentation coincided with increased emphasis in the American debate community on research rather than eloquence (Keith, 2010, p. 16). According to Brown (1996), “[a]lthough the American elocutionary movement remained similar to that of England, it gradually became less interested in elocution itself and more concerned with intercollegiate debate and argumentation” (p. 214). Besides, *Yūben* attempted to reposition debate from political practice (as with mock parliaments) to academic exercise around the time “judging shifted from judging the question to judging the debate” on the U.S. college debate circuit (Keith, 2010, p. 15).

More importantly, several regular contributors to *Yūben* were well aware of this shifting trend in the United States. For instance, in the article entitled “Ways of Debating” Yūsuke Tsurumi (1930) cited the changing nature of public speaking styles in the United States and used it as a rationale for promoting debate education in Japan:

*There used to be such great speakers as Daniel Webster who composed polished prose in the world of public speaking in the United States; the style of speech, however, has dramatically changed over the past two decades under the influence of the [former] Harvard University president, the late Dr. [Charles William] Eliot’s speeches. That is, flowery, declamatory styles have been abandoned and replaced with plain, conversational speeches (p. 64)*

Likewise, Jūji Kasai (1928), who once received the Julius Rosenwald Prize for Excellence in Oratory as a student at the University of Chicago (“Jiuji,” n.d.), argued that true eloquence consisted in expressing one’s will as briefly, simply, clearly, and succinctly as possible. He therefore found it ludicrous for many Japanese to acclaim those who would speak for a few hours as eloquent speakers (p.162). By the same token, St. Paul’s University professor Yoshitarō Negishi pointed out that unlike Japanese students, American students’ speeches were rarely cut-and-dried because they learned how to compose and present clear, logical, and substantive speeches through debate (p. 256). Conversely, in Negishi’s view Japanese students tended to cling to the old-fashioned mannerisms and present cookie-cutter arguments as they received little debate training.

Despite *Yūben*’s systematic efforts, the alternative style of debate did not take hold in pre-World War II Japan. As Meiji University professor Takahiro Akagami (1940) regretfully wrote in retrospect: “under the auspices of this magazine

*Yūben*, the need for debate was emphasized at one point and it was frequently tried in Japan. But in the end such attempts didn't yield expected results for various reasons" (p.106).

## 5. Conclusion

This paper has demonstrated that persistent attempts had been made to introduce an alternative (mostly American) style of debating to Japan in the early 20th century. This runs counter to the common conception that "the popularity of Western speech and debate declined all of a sudden at the turn of the century" (Okabe, 2002, p. 288). In fact, even a year before the outbreak of the Pacific War, Akagami (1940) stressed the need for debate training by attributing Japan's weak diplomacy to the people's poor debating skills (pp. 105-106). Similarly, Kasai (1928) suggested that the Japanese Exclusion Act of 1924 was passed partly because the Japanese people were too reticent to speak out against the legislation (p. 167). In Akagami and Kasai's views, debating skills could be used to improve the deteriorating diplomatic relations between Japan and the United States.

In fact, some students and intellectuals made last-ditch efforts to avert a war in the face of the escalating tensions between the two countries. In 1934 a group of concerned Japanese students organized the first Japan-America student conference out of the belief that "peace in the Pacific depended on friendly relations between Japan and the U.S. and that this amity was rapidly eroding" ("The Japan-America," n.d., n.p.). They invited about 70 American university students and professors to Japan in order to talk about major problems confronting the two countries. Although it was named *Nichibei Gakusei Tōronkai* (literally, Japan-US Student Debate Meeting), it was basically a round-table discussion without any rigorous procedures. Having been disappointed to see Japanese students insist on their opinions, Kiyosawa (1934) wrote that only if debate had been taken more seriously in the students' universities, they would not have so stubbornly clung on to their own ideas without responding to American students (pp. 92-93). We are not suggesting that the Pacific War could have been avoided if the Japanese were more skilled at debating. Our point is that we should pay more attention to the fact that there was a grassroots movement to ease the diplomatic tensions between Japan and the United States shortly before the war and that some students and intellectuals regarded debate as a valuable cultural resource to achieve that goal.

Lastly, while we agree with Okabe (2005)'s view that "Western rhetorical ideas

were too artificial and technical for most Japanese people to emulate” (p. 165), it should also be noted that “the artificial and mechanical concepts of Western elocutionary rhetoric” (Okabe, 2005, p. 165) were deemed outdated in Western societies as well. More importantly, *Yūben*’s attempt to promote academic debate in the 1920s and 30s coincided with the shift in emphasis from elocution to argumentation in the United States. Unfortunately, little is still known about the American influence on debating activities in early 20th century Japan. Although we often take for granted that debate practices in Japan have always been under the American influence, the question of “how” has yet to be fully explored. Much still needs to be done to understand how American practices have actually influenced the ways of debating in Japan.

## NOTES

- i.** Macrons have been placed over elongated Japanese vowels except in the case of major cities and well-known company (or university) names (e.g. Tokyo and Kodansha).
- ii.** All translations in this paper are the authors’ except where otherwise noted.

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# ISSA Proceedings 2014 ~ Argumentation In Bulgarian Political Virtual Forums And Social Networks

*Abstract:* This study examines specific features of the argumentation in virtual political forums and social networks. The subjects of research are political forums and Facebook groups as a part of the civil protests in Bulgaria over the period of two years (2012-2013). The main goal is investigation on arguments used by Bulgarian citizens in virtual dialogues, appropriateness and effectiveness of argumentation. The second goal includes survey of specific verbal, visual and multi-modal arguments used in the social networks.

*Keywords:* argumentation, visual and multi-modal arguments, political virtual forums, social networks

## 1. Introduction

The new Bulgarian state has reached 135 years of independent history and form of government since 1879. From 1945 to 1991 (during socialism) the form of government was a specific kind of republic (the People's Republic of Bulgaria). The Constitution from July 1991 states that Bulgaria is a parliamentary representative democratic republic. The multi-party system was established after 45 years of socialist and totalitarian government. A transition towards a pluralistic and democratic society is taking place.

Bulgarian political communication plays a role in the civil society; it continues to be a function of the state institutions and political parties. Political and civil rhetoric practices and influence have immensely grown during the Bulgarian civil protests and demonstrations (1989, 1990, 1996-1997). Political communication has transformed since 2010 and Bulgarian citizens vow their demands in more definite forms combining direct, media and virtual channels. Bulgarian citizens largely use the Internet as a tool for increased social activities in the civil society. The participants in the *protests* in Bulgaria (2012-2013) use Facebook as an instrument of civic activity and acceleration of the protests. The protesters use



Facebook as virtual tribune and Internet forums as virtual discussions where they raise topics and conduct dialogues.

## 2. *Hypothesis and research questions*

The hypothesis initiating the present search is that the argumentation in the Bulgarian political forums and social networks during the protests from 2010 to 2013 goes through different transformations as a result of technical, technological and social factors. In addition, the traditional kinds of arguments are transformed; virtual communication includes verbal, visual and multi-modal arguments and has achieved new forms of display. The manners and modes of presenting the ideas have changed as a result of the changes in the attitudes of the e-communicators and protesters. Bulgarian virtual civil communication has diverse forms of manifestation and characteristics.

The aim of the current study is to try to give answer the following research questions:

- \* What was the significance of virtual forums and social networks during the protests?
- \* Which are the main features of virtual forums?
- \* Which rhetorical figures, arguments and tools did the protesters use purposefully to convey their main messages, influence the public conscience of the citizens and mobilise them to support their ideas?
- \* How verbal, visual and multi-modal arguments create opportunities to persuade Bulgarians to participate more actively in the civil society events?

## 3. *Theoretical frame*

Aristotle has fundamental contribution to rhetoric and argumentation: *Rhetoric* (Aristotle, 1986) and *The Topics* (Aristotle, 1998) and the focus is on verbal manifestations of the arguments. Studies of rhetoric and argumentation have been conducted throughout the centuries and they have undergone a kind of renaissance in the 20th and 21st century. Stephen Toulmin published the book *The uses of argument* in 1958; Chaim Perelman and Lucie Olbrechts-Tyteca announce their position to give a new meaning to the rhetorical heritage in the book *The new rhetoric: A treatise on argumentation* (Perelman & Olbrechts-Tyteca, 1969). Frans van Eemeren and Rob Grootendorst presented their standpoint concerning the argumentation in the book *A Systematic Theory of Argumentation. The Pragma-dialectical Approach* (Eemeren & Grootendorst, 2006). We will also draw on the basic definitions of the arguments and in

particular the terms *Pro Homine*, *Ad Populum Arguments*, *Arguments from Authority*, *Arguments against Authority* explained by Leo Groarke and Christopher Tindale in the chapter “Ethotic Schemes” of the book *Good Reasoning Matters! A Constructive Approach to Critical Thinking* (Groarke & Tindale, 2012: pp. 307-340).

The studies of the arguments and argumentation have intensified in the latest two decades and scientists start to investigate visual arguments. Antony Blair published the article *The Possibility and Actuality of Visual Arguments* in 1996. The author continued developing the research on this topic and he published the article *The Rhetoric of Visual Arguments* in 2004. Other scientists have displayed their individual positions on visual arguments in a series of quality papers: *Outlines of a Theory of Visual Argument* (Birdsell & Groarke, 2008: pp. 103-113), *Iconicity in Visual and Verbal Argumentation* (Hoven, 2011, pp. 831-834) etc. Leo Groarke reconceptualises Toulmin’s position and he expresses his position in the article *Five theses on Toulmin and visual argument* (Groarke, 2009: pp. 229-239). Leo Groarke and Christopher Tindale give a definition of visual arguments in the dictionary of the book *Good Reasoning Matters! A Constructive Approach to Critical Thinking: Visual arguments are arguments that convey premises and conclusions with non-verbal images one finds in drawing, photographs, films, videos, sculptures natural objects, and so on. In most cases they combine visual and verbal cues that can be understood as argument.* (Groarke & Tindale, 2012: p. 455).

We are in agreement with the above definition, especially with the position that verbal and visual cues are combined to support the process of understanding the arguments and we will use it as a part of the theoretical background of this study. Other researchers have announced the results of researches on visual arguments. George Roque focuses on the political rhetoric in visual images (Roque, 2008: pp. 185-193). Jos van den Broek, Willam Koetsenruijter, Jaap de Jong, Letitia Smit write about the functions of the visual language (Broek et al., 2012: pp. 32-39). Jens Kjeldsen applies a cognitive, contextual, and reception-oriented approach analyzing the visual argumentation in Scandinavian political advertising (Kjeldsen, 2007: pp. 124-132) and he investigates the roles of visual tropes and figures as a way of creating visual argumentation again on the field of the advertising (Kjeldsen, 2012: pp. 239-255). All of them have their singular contributions to the theory of visual argument and the methodology of its

research.

Following the principle of terminological clarity we will outline the concept 'multi-modal argument' as it is applied here in the terms of Leo Groarke who says that:

*The fundamental reason for accepting multi-modal arguments is the root notion that an argument is an attempt to support a conclusion by presenting evidence for it – something that can clearly be done in ways that extend beyond premises and conclusions understood as declarative sentences. To take only a few examples, I may try to convince you of some claim by presenting photographs, drawing a map, pointing to something, telling a story (fiction or non-fiction), showing a film, painting a picture, and so on and so forth. Our lives are replete with situations in which evidence for some point of view is presented in these and other ways that do not neatly correspond to the verbal paradigm that was always stressed in traditional accounts of argument (Groarke, 2013: p. 34).*

The author explains that:

*At a time when the development of digital communication is making it easier to transmit images, sounds, and even physical sensations, it is not surprising that arguments increasingly incorporate non-verbal elements that can be communicated in this way. Especially in such a context, recognizing multi-modal arguments is one way to broaden the scope of our general account of argument, taking us one step further in the development of a thick theory (Groarke, 2013: p. 36).*

For the purposes of this study will also give brief information about the other kinds of argumentation. Marcin Lewiński introduces and explains the terms 'argumentation design' and 'computer-mediated design'. He presents in the table 3.1 the three different computer-mediated argumentation designs (de Moor & Aakhu, 2006: p. 97): *issue networking, funnelling, and reputation* (Lewiński, 2010: p. 38). The pattern 'provide quote or link' exists to use hyper-linking which is "a simple technological affordance that has become a vital part of online culture" and adds that this "entry level online-specific mode of attacking the propositional content of argumentation" (Lewiński, 2010: pp. 140-141).

We are in agreement with these statements and we will use these terms adapted to the aim of the current research.

#### 4. Research design

My empirical sources for the present study are selected out of 4 sub-corpora including the topic 'protests': Facebooks groups „Occupy Bulgaria”, Протестна

мрежа - Protestna Mreja - Protest network; sites 'Dance with me' <http://www.danswithme.com/>''', 'No Oresharski' <http://noresharski.com/>;; 'Solidarnost' <http://solidarnost.tv/public/life/goriva/>; forums <http://forum.clubpolitika.com/>;; <http://www.investor.bg/forum/forumdisplay.php?f=11>; hash tags #Оставка (#Retirement), #протест (#protest), #България (#Bulgaria), #Идвайте (#Come along).

The study is based on a grounded analysis of 200 posts and 200 posters, photos, parodies, caricatures from these sites selected from the period between January 2012 and December 2013 from 4 protests: against high prices and the national protest against outrage, against the monopolists of energy - December 2012 - January - April 2013, against the nomination of Peyevski for the position of director of the State Agency of National Security (SANS) - 14 June 2013.

The specific features of virtual discussion, the behaviour of e-participants and the factors that determine the dialogues are outlined in the beginning of this study. After that the focus is on the sources of arguments, kinds of arguments and their specific uses in virtual forums and Facebook groups. The research includes analysis of five kinds of arguments - Argumentum ad Hominem, Pro Homine, Argument of Authority, Argument against Authority and Argumentum ad Populum on verbal, visual and multi-modal levels in virtual environments.

##### *5. Factors, sources and kinds of arguments*

In general social networks are the result of a couple of circumstances such as: developing and improving technological opportunities for communication; access to new ideas, web-based information, electronic resources and database serving millions of people the world over. This is valid for social networks used by Bulgarian citizens. The protesters broadcast the appeals and civil demands to virtual audiences and they try to persuade them for civic action using different kinds of arguments. Bulgarian virtual political forums contains posts, dialogues between e-communicators, and mix of rhetorical figures, verbal, visual and multi-modal arguments. Argumentation design and computer-mediated argumentation have changed, and words, terms and short sentences have been gradually mixed with visual and multi-modal arguments. The forms of the political communication of protesters found in the virtual environment are heterogeneous. The social networks and virtual forums play a significant role during the protests against the politicians, governing classes, and the government itself; Bulgarians have moved

from passive behaviour to active citizenship; from recipients of political messages to participants in the different formats of virtual communication. The virtual forums are transformed to a mixed format and it contains personal positions and critical discussions. In their turn, discussions between members the virtual political forums include some sub-dialogues on such topics as: government, political parties, political system, monopolists, oligarchy, connections between government and monopolists, law system, prices, ecology etc.

The analysis shows that most of the debaters prefer the reputation model which every participant in virtual forums is committed to follow while vowing their proposals and arguments, and thus has a personal stake in the process of argumentation. This argumentative design presupposes the frequent uses of personal civil experience and explicit defence of the main thesis based on one or two items of proof.

We can generalize that the participants of the forums did not use too many and too different arguments. They preferred the following sources: dictionaries, history, statistics, blogs, media and in particular online media, social networks, legal documents, and personal experience. The *netizens* explained the origin of the proofs. The pattern 'provide quote or link' is generally applied and shows clearly the source of arguments. E-debaters use this pattern as an ethotic argument and they demonstrate the credibility of the proof. Some of the participants have adopted their argumentative and digital competence in the forums. Bulgarian netizens as participants in the Facebook groups prefer short sentences, and verbal expressions are typical features of the appeals; they consist of negative connotations, polar evaluations of the state institutions, political leaders, big corporations which are monopolists in Bulgarian business spheres and market. From argumentative standpoint the telegraphic style is appropriate during the virtual discussions; the e-communicators posted short messages on the walls of Facebook groups because they understand that the Bulgarian citizens avoid complicated argumentation. Written and visual arguments on the wall of Facebook groups are displayed in front of hundreds or thousands of people in Bulgaria and Bulgarians the world over. Some of the arguments are created spontaneously by protesters; most of them are selected from personal experience and they are acceptable for most citizens who avoid the sophisticated argumentation style of the Bulgarian politicians. The topics of virtual forums are initiated by netizens and the communication is carried out on horizontal level. The

positions are presented by netizens who accept the Facebook groups as virtual tribune and they combine the arguments according the situation and concrete aims. The freedom of speech, the digital competence and the active citizens' behaviour establish new opportunities for virtual civil communication in Bulgaria after 2012.

## 6. Verbal arguments

The protesters in Bulgaria accept the Internet as an instrument of mobilisation and organisation; they post messages, publish about events and call up activities on the wall of Facebook groups and in the virtual forums. During the summer protests in 2013 e-citizens started to use hash tag # and some of these groups were #Оставка (#Retirement), #протест (#protest), #България (#Bulgaria), #Идвайте (#Come along). Virtual civil oratory includes clear words, short sentences and the leaders of the protests avoid sophisticated verbal style. The protesters include new terms in their messages, most protesters are anonymous authors in the social networks but they identify themselves in the virtual forums. Most protesters have argumentative skills and digital competence.

Verbal Pro Homine Argument has relatively new application in virtual civil communication in Bulgaria. The protesters see themselves as moral, competent and active citizens. From their point of view civil society could develop better and more effectively if the politicians and state institutions accept their idea for: *civil participation in the decision making process, institutionalization of the civil participation, and civil control over state institutions*. The protesters demonstrate maturity and they focus on some suggestions in connection with the elections concerning their transparency and outlining a modern way to organise the national election campaign. The e-communicators present in the virtual forms the arguments supporting their civil demands: *equal access to media during election campaigns, new organization of the elections including new kind of voter lists and new electoral rolls; transparency with regard to the connection between parties, institutions and corporations, two mandates as a member of the Parliament, new Constitution, etc*. These arguments are not a part of the sophisticated ideological communication; they are proofs of a process of growing conscious activities of the civil society in Bulgaria.

Other kinds of verbal arguments are found on the posters and they are posted on the Facebooks walls by Bulgarians who live and study abroad. E-communicators used a combination of Argument from Authority and the Ad Populum Argument.

They accept themselves as Bulgarian citizens and they support the protesters: *We are away but we support you. We are with you. From Spain*, *“Students from Manchester are with you”*. They have arrived at the conclusion that they are netizens and that the frontiers and barriers are past because social networks create good opportunities to express their positions as Bulgarian citizens. The sense of belonging is effect of this persuasion. Virtual civil citizenship is a new phenomenon in the contemporary Bulgarian political life. Verbal argumentation related to it reveals in new circumstances.

Verbal Argument against Authority is preferred by the protesters when they want to express their disappointment with Bulgarian politicians. For example they write on their Facebook wall: *„You are not sufficiently intelligent to manage us”, „Go voluntarily! You have a choice now! Next we shall use force!”*. Some of these verbal arguments were created during the street protests, the messages and arguments were shared very rapidly across social networks. Other slogans and arguments were written online and e-communicators broadcast them to protesters. It is possible to conclude that there are two ways to share the arguments: from street to social networks and from social networks to square demonstrations. We can go to the assumption that it is a relatively new manifestation of *argumentation design* and *computer-mediated design*.

Most of the protesters have profiles in social networks, so they create virtual groups. Digital Bulgarian citizens publish posts, photos, video clips; they share and broadcast them across the social networks. The dialogue takes up three different levels: real, virtual and a combination between the two. For example, an expert in psychology who is a member of the Bulgarian Socialist Party (BSP) evaluates the e-citizens as *‘internet vagabonds’*, *‘internet lumpens’* and he abuses them. The Argumentum ad Hominem activates the protesters who write on the posters and on the wall of the social network Facebook the following slogans: *“I am not an Internet lumpen!”*. The protesters combine Argumentum ad Hominem with analogy and they compare the politicians from BSP with politicians from Egypt, Turkey and China who limit the access to the Internet and appreciate the social networks as tools for mobilising citizens during the protests. The Bulgarian protesters understand that the social networks create broad opportunities for them to be active digital citizens yet at the same time they insult the psychologist named him *“psycho”, “red rubbish”* etc. The Argumentum ad Hominem is used by the politician against virtual groups which are fluid but the protesters prefer

personalization and they direct the Argumentum ad Hominem against one man.

Summarising, we can draw the conclusion that different kinds of verbal arguments created by the protesters have wide application in virtual space and the argumentative skills developed offline are shifted and transferred online.

### 7. Visual arguments

Visual Argument *Pro Homine* is not used by the protesters very often but it has proven very effective. The portrait of Vassil Levski, one of the celebrated historical figures of Bulgaria, is preferable to construct argument *Pro Homine*. The charisma of Levski as a leader from the Bulgarian Revival (and to be more precise from the late 19th century) is a solid argument and it persuades Bulgarians to be more active citizens and netizens. On the poster published on the Facebook wall the title “National protest against outrages” is combined with the portrait of Vassil Levski and Levski’s appeal “Трябва да се жертва всичко, па и себе си” (“Everybody should sacrifice everything, even himself”).

The scheme of Argument *Pro Homine* is presented by Leo Groarke and Christopher Tindale:

Promise 1: X says y.

Promise 2: X is knowledgeable, trustworthy, and free of bias.

Conclusion: y should be accepted.” (Groarke & Tindale 2012: 308).

The scheme of the visual argument presented on the Facebook wall is the same:

Promise 1: Levski says that we should sacrifice everything in the name of our freedom.

Promise 2. Levski is knowledgeable Bulgarian hero, notable and moral man.

Conclusion: The appeal to sacrifice in the favour of Bulgaria should be acceptable.

The second poster includes the same type of argument and the protesters use the portrait of Ivan Vazov who is a famous Bulgarian writer and poet from the 20th century. The portrait is used to help reach the conclusion that the protest will change the situation in Bulgaria in the second decade of the 21st century.

When the aim is to consolidate and reinforce the persuasive effect, the protesters combine two portraits constructing Visual Argument *Pro Homine* and combine it with analogy. The protesters use the portraits of political leader Levski and



patriotic writer Vazov and they add the verbal messages: *Bulgaria for Bulgarians. Levski and Vazov are heroes. Go and support them!*

To take another example, the octopus is a preferable visual proof to persuade virtual audience that the oligarchy and mafia control the economy in Bulgaria. This visual sign has the role of an *Argument against Authority*. E-protesters use the faces of politicians and they combine them with the octopus. The memory about the Italian movie "Octopus" (*La Piovra*), which is very popular in Bulgaria, supports the persuasive effect.

One and the same visual element can have different argumentative uses depending on the virtual communicator's aim. For example a map of Bulgaria is used both as an *Argument from Authority* and as an *Argument against Authority*. In the case when the protesters has positive attitudes as Bulgarian citizens they use the coloured map or combine the map with the official flag or with the state emblem. They try to persuade Bulgarians that we can be proud of our country and that the official sings express that we are citizens of an independent state. On the contrary when the protesters prefer to express negative connotation and to reveal the lack of morality and ethics of Bulgarian politicians, they use the map painted only in black and white. Additionally they transform the picture of the map using Photoshop and they give it the form of a sheep combining it with the written words and figures of politicians, banks, monopolists who milk the state visually presented as a sheep.

Another preferred symbol used as visual *Argumentum ad Hominem* is a hat. The hats used as visual elements fall into three groups: the first one is typical for a soldier of the Soviet Army and Sergey Stanishev as leader of the Bulgarian Socialistic Party is wearing it, Volen Siderov as a leader of the nationalistic party is wearing a hat typical for Nazi soldiers and Lyutvi Mestan as a leader of the ethnic party of the Turkish minority has a red fez.

Summarising, we can say that visual arguments have persuasive effect and Bulgarians accept them as an interesting manner to lay civil demands in front of hundreds of citizens.

## 8. Multi-modal arguments

The persuasive power of multi-modal arguments posted during the protests on Facebook walls or in virtual forums is great.

In the beginning of our study of multi-modal arguments we selected 3 posters from the corpora which contain the element 'index finger' used as a combination of Argument from Authority and the Ad Populum Argument. The application of two arguments is an appeal for mobilisation, taking an active position and participation in the political processes.

In the first poster the visual element 'index finger' is combined with the verbal appeal „Спрете да се оплаквате от държавата! Променете я! Защото вие сте държавата!“ (*Stop complaining about the state! Change it! Because you are the state!*). The sentences look like a paraphrase of Kennedy's appeal "Ask not what your country can do for you. Ask what you can do for your country".

E-protesters use index finger which directs to active position combining well-known visual element and figures from a different age, state and political system. In the second and third posters the protesters have paraphrased the celebrated posters from the USA and the Soviet Union and they are used too but in Bulgarian political and virtual contexts. Uncle Sam encourages them to take part in the street protests or to paint monuments from the socialism as a way to express their position against the manipulation by the government of the Bulgarian Socialist Party which is a part of the government (June 2013-August 2014): „Ти истински демократ ли си или не? Боядиса ли днес паметник?“ (*Are you a true democrat or not? Have you painted a monument today*). A young soldier from the Red Soviet Army pointed towards the viewer and said in English "What do you occupy?"

Parallel and analogy support persuasion because the multi-modal arguments are decoded easily and fast, despite the mixture of historical periods. The multi-modal arguments combine Argument of Authority and Argument Ad Populum and the digital competence and display skills of the protesters and netizens make the argumentation more impressive and persuasive. The E-protesters have digital and IT competences and they prefer to paraphrase and adapt the posters from famous USA movies creating new kind of argument. The combinations of politicians' faces are different and the creators of the posters express negative attitudes while they use multi-modal variants of Argumentum ad Hominem against the political leaders.

One of them is based on the movie "Miserable". The faces are of Oresharski - prime-minister, Ahmed Dogan - former leader of the Movement for rights and

freedom, Volen Siderov – nationalistic party leader, and socialist leader Sergey Stanishev. A second poster displays the faces of 10 political leaders, two Bulgarian presidents and state men in the place of the heroes of the movie „Ocean’s Eleven”. The multi-modal Argument ad Hominem is not against one politician but against the politicians from all parties, and it is a specific manifestation of attitude in the context of the protests because Bulgarians are disappointed with the political elite and accept that socio political manipulation of the broad public is a result of the lobby activities of certain leaders, and that Bulgarian politicians have stopped working on the common ideals coming into reality. This multi-modal Argumentum ad Hominem has had powerful effect on the protesters.

Argumentum ad Hominem has some other manifestation on the multi-modal level of application. A particular explication of this argument is directed against political leaders and the posters published online present the waltz dance of the political leaders Sergey Stanishev (the Bulgarian Socialist Party – BSP), Volen Siderov (Nationalistic party ‘Ataka’) and Lyutvi Mestan (the Movement of Rights and Freedom – MRF – ethnic party), Boyko Borosov (Citizens for European Development of Bulgaria – CEDB). The political context is that lobbyism, lacking in transparency and coulisse negotiations and stipulations make the dialogue between politicians and citizens difficult. The visual image is enlarged; it combines with verbal Argument ad Populum „*Dance with me to the end of BSP, MRF, Ataka, CEDB*”.

Multi-modal argument has been used quite recently in virtual civic communication, digitalisation and new kind of behaviour of the social networks accelerating its manifestations.

## 9. Conclusion

Most Bulgarian protesters are citizens in the traditional sense, and at the same time they are netizens who accept virtual forums and Facebook groups as a place where they discuss the topics initiated by them. Most participants in the virtual forums have digital competences and they combine them with good argumentative skills applicable in virtual environments. They follow the good practices of the computer-mediated design; they prefer the pattern ‘provide quote or link’ because it is a way to confirm that they use correctly the sources of arguments because credibility is an important factor to persuade virtual audiences.

The netizens avoid verbosity and prefer a combination of two or three arguments. The virtual debaters in the forums often use Argumentum ad Hominem, Argumentum ad Populum, Argument against Authority. It is reasonable because the protesters want to persuade hundreds of people of Bulgaria that the politicians do not follow moral principles and they have stopped working in favour of the citizens and the country. The protesters use Pro Homine Argument and Argument for Authority picturing themselves as moral people, active citizens and members of the civil society in Bulgaria. The virtual audience easily decodes and understands the sense; the ethotic arguments have strong persuasive effect.

Bulgarian citizens gradually improve their argumentative skills and take part in the political virtual forums; they mix verbal and visual arguments and create multi-modal arguments. The protesters appreciate virtual forums as *virtual agora* or *e-agora* as some researchers prefer to call it avoiding etymological ambiguity based on the meaning of virtue (Apostolova 2014: 71), the dialogue is semi-formal, and the argumentation is simple. The freedom of speech and new technological circumstances determine a new model of behaviour, new attitudes to write, prepare, design, share and broadcast very easily and fast the information and argumentation across the social networks.

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# **ISSA Proceedings 2014 ~ Discourse, Argumentation And Constructivist Approaches: Analysing Discourses Of Social Change**

*Abstract:* My research in recent years has focused on the analysis of discourse of social change as a type of 'ideological construction', using a holistic, interdisciplinary approach that combines: a) constructivist rhetoric and argumentation; b) the constructivist theories of Bateson, Goffman, Gumperz and Lakoff; and c) embodied social cognition studies. This article examines the concept of ideological construction in relation to data from the Spanish 15M movement.

*Keywords:* Constructivist rhetoric, Critical discourse analysis, Complexity studies, Discourses of social change, Embodied cognition, Ideological construction, Socio-cognitive frame, 15M.

## *1. Introduction*

In recent decades, research in Critical Discourse Analysis (or CDA), particularly in Europe, has shown a growing interest in political discourse in globalized, democratic societies. This, in turn, has led to a broader definition of the term 'political discourse', used here in the wider sense of the varied discursive practices of political professionals, and the socio-political proposals for change generated by diverse social groups, described as 'discourses of social change' by Montesano Montessori & Morales-López (2014) and Morales-López (2012, 2014).

Discourses of social change are ideological speech acts that call for radical social and political reforms. They appeal, in the first instance, to the country's citizens, in order to gain support for the speakers' ideological position, but also to government, key state bodies and other international institutions, in an effort to

have their proposals adopted as policy (Morales-López, 2012, 2014).

## 2. *Theoretical framework and methodology*

This study looks at discourses of social change from three different perspectives:

1. pragmatic-functionalist;
2. rhetorical-argumentative; and
3. socio-cognitive. **[i]**

This triple-perspective approach illustrates more effectively why the construction of meaning in ideological discourse is inseparable from the following key factors:

- a. the deliberate selection of multi-modal communicative resources;
- b. human action and the local and global contexts in which the communicative act takes place; and
- c. the cognitive constructions of the actors themselves.

In the pragmatic-functionalist tradition, discourse is understood as a socio-semiotic process, in reference to the idea that symbolic meaning is constructed in dialectical relation to the prevailing social reality. Halliday (1977, p 50) explains this clearly when he describes his view of language as:

*[...] a sociological event, a semiotic encounter through which the meanings that constitute the social system are exchanged. The individual member is, by virtue of his membership, a 'meaner', one who means. By his acts of meaning and those of other individual meaners, the social reality is created, maintained in good order, and continuously shaped and modified.*

According to Halliday (1977), the construction of social reality in its most basic form occurs through spontaneous conversation in the course of everyday encounters, so that changes or continuity within the social system (and culture in general) are reflected in the discourse and simultaneously created by it. This dialectical relationship has also led to the diversification of discourse texts themselves, as the source and expression of new social (and ideological) meanings in particular contexts of situation.

Ethnography brings an important additional dimension to this functionalist approach. In this regard, the relationships between discursive data and the local and global context (Duranti, 1997; Scollon & Wong Scollon, 2001; Blommaert & Jie, 2010), and data, context and action (Scollon and Wong Scollon, 2005; Scollon, 2008) are crucial. Ethnography also helps to unify more scattered data, since the

goal of a successful ethnographic study is, as Duranti (2007, p. 87) points out, to create a dialogue between the different viewpoints and voices present: that of the researcher as well as those of the people studied.

The constructivist rhetorical-argumentative perspective is also essential for the analysis of this type of ideological discourses; classical authors as well as modern experts such as Perelman & Olbrechts-Tyteca (1958), Meyer (2008), van Eemeren & Grootendorst (2004), van Eemeren (2010) and Pujante (2003), among others. The pragmatic-discursive approach provides useful tools for analysis at the micro level: in relation to speech acts (Searle, 1975), as the basic units of any communicative activity; and also in relation to the selection of contextualization cues (linguistic forms that activate contextual inference), as defined by Gumperz (1982, p. 131).

However, this type of micro-level analysis limits our ability to appreciate the full complexity of the constructions involved in ideological discourse, including such macro-level factors as argument and fallacy, pragma-dialectical rules, etc. (Perelman & Olbrechts-Tyteca, 1958; Perelman, 2007; van Eemeren & Grootendorst, 2004; van Eemeren, 2010; Pujante & Morales-López, 2008, 2009). Both the pragmatic-discursive and the rhetorical-argumentative approaches share what I consider to be two vital features of discourse analysis: a functionalist orientation (the goal of which is to establish a dialectical relationship between communicative functions and the forms that convey them), and a constructivist view of knowledge (that is, the idea that reality does not exist independently of discursive practices).

What these approaches lack, however, is a socio-cognitive perspective. For my own research, therefore, I have adapted the approach used in embodied and social cognition studies, which dissent strongly from the rationalist view of knowledge and the computational model of cognitive information processing (Harré, 1981; Forgas, 1981, p. 259; Capra, 1996, pp. 275f.; Morales-López, 2011, 2013). Harré (1981, p. 212) is clear about where the problem lies:

*Cartesianism is everywhere, suggesting that if anything is cognitive it must be individual and private (and then how can we find out about it in publicly reliable ways?) The error of identifying the cognitive with the inner processes of individuals [...]*

From a socio-cognitive point of view, reality exists, but individuals reorganise it to



fit their perception of the world. A person's world view is not individually constructed or separate from their physical and emotional being, as Bateson (1972, pp. 454, 461, 464) explains:

*The mental world - the mind - the world of information processing - is not limited by the skin [...] What I am saying expands mind outwards [...] It is the attempt to separate intellect from emotion that is monstrous, and I suggest that it is equally monstrous to attempt to separate the external mind from the internal. Or to separate mind from body.*

Bateson's constructivist approach is also found in American authors such as Bartlett (1932), Mead (1956), Goffman (1974) and Gumperz (1982), and has been reformulated more recently from a cognitive perspective by Lakoff (2007). Other precursors of the approach include Bakhtin (1981), Voloshinov (1929) and Vygotsky (Scollon & Wong Scollon, 2005), while the constructivist point of view is also found among social theorists such as Berger & Luckmann (1968), Castoriadis (1975) and Bourdieu (1990), among others.

My interest in this type of approach has led me in recent years to authors applying a similar constructivist approach in other disciplines (studies of complexity, in particular). One example is the socio-cognitive interpretation found in Maturana & Varela (1990), Varela, Thompson & Rosch (1991), Maturana (1996) and Capra (1996), among others. For these authors, human cognition operates through a network of interconnected, sensorimotor sub-networks (knowledge, emotions, etc.), which are in turn interwoven with embodiment, action and environment; Damasio (1994, 2010) reaches similar conclusions using neurological studies.

The biologist Humberto Maturana (2006, pp. 96-97) explains the relationship between language, knowledge, emotions and social relations in the following terms:

*Language is not a property or faculty of the brain or of what is called the 'mind'. Language occurs as a recursive flow of consensual coordinations that takes place in living systems interacting with each other in a flow of recursive consensual coordinations of doings and emotions. Consciousness and self-consciousness cannot be considered to exist independently of the circumstances of their arising in the relational space of language in the flow of coordinations of doings and emotions. We do not construct the worlds that we live, we just live them.*

If cognitive representations are the result of the interaction between communication and emotion (in the sense of the physical disposition of the body in relation to the specific domain of human action present in the individual at any given time), cognition cannot be treated separately from body and the social and interactional context. Capra (1996, p. 300) highlights this point by tracing the meaning of the term consciousness back to its Latin origin, *con-scire* 'knowing together'; this sense of shared knowledge also appears in terms such as embodied cognition, embodied action (Varela, Thompson & Rosch, 1991), and networked (or distributed) cognition (Capra, 1996, pp. 59, 89). Such ideas depart completely from the modular, representational theory of human cognition that has dominated cognitive science up to now, and which views cognition as the representation and parcelled sub-representation of an independently existing world.

In my research, the socio-cognitive notion of 'framing' (Lakoff, 2007) is used at an interpretative level to explain the different ideological constructions, world views (Bourdieu, 1990, p. 130), imaginaries (Castoriadis, 1974) or symbolic universes (Berger & Luckmann, 1968, p. 124) that social actors create and attempt to maintain in ideological disputes. In one of his latest books, van Eemeren (2010, p. 126) also refers to the notion of frame and its function of constructing social facts.

Applying this idea of 'frame' rather than 'representation' involves more than a simple change in terminology. Framing offers a new cognitive approach, referred to as 'post-cognitivism' by some authors (Gomila & Calvo, 2008), in which cognition is understood as a unified process resulting from the interplay between the multiple factors mentioned above. Under a frame analysis, the construction of meaning in discourse forms part of a holistic cognitive process, in which the actors' experience of the world is created in the discursive process as part of a dialectical relationship between their subjectivity and emotions, their actions and the environment. **[ii]** All cognitive processes, including the process of signification, are thus inseparable from our biological characteristics and the socio-cultural relations in which we are immersed.

The multifaceted approach used throughout this research demonstrates the need to follow the example set by authors of complexity studies (Morin, 1990; Nicolescu, 2007), and begin to treat discourse analysis as a transdisciplinary field of study and an area of new theoretical and methodological reflection.

### *3. Analysis of the data*

To illustrate the ideas and models discussed above, I have selected the discourse created by a social movement that emerged in Spain in response to major cuts in funding for social services in the aftermath of the 2008 economic crisis: the so-called '15M' movement.

15M takes its name from a spontaneous peaceful protest in the main squares of Madrid and Barcelona that took place on 15 May 2011, before spreading to other cities across the country. (The group is also referred to as the 'Outrage Movement' - *los indignados* - after Stéphane Hessel's 2010 essay, *Indignez-vous*.) While Spain is no stranger to the struggle for democracy, the 15M group presents a number of novel characteristics, including its emphasis on peaceful resistance and the movement's imaginary of a new democracy or world view, transmitted through inventive placards and slogans designed by the citizens themselves and posted in public squares and spaces and/or on various websites (Pujante & Morales-López, 2013). The hypothesis of this study is that these placards (in combination with the numerous demonstrations and the overall dynamic of the movement) functioned, in the first instance, as a sign of protest, but also as a way to reframe the population's understanding of the economic and social crisis, and rearticulate the identity of the country's citizens, transforming them from victims into agents (Montesano Montessori & Morales-López, 2014).

Two recent studies examine some of the most noteworthy slogans produced by the movement (Pujante & Morales-López, 2013; Montesano Montessori & Morales-López, 2014), dating not only from the period of encampment in different towns and cities, but also from the many events and demonstrations that took place during the months that followed. **[iii]** This article analyses two additional 15M slogans.

One of the first slogans used by the emerging movement was: 'Real democracy now. We are not goods to be bought and sold by the bankers and politicians' (*Democracia real ya. No somos mercancías en manos de políticos y banqueros*). (The first part of this slogan is, in addition, another of the names used by the group.)

From a discursive point of view, the creativity of the slogan lies, firstly, in the use of the adjective 'real' as a modifier of the noun 'democracy', introducing a new collocation whose meaning could imply that the democratic system in place since 1975 has been anomalous in some way - or even reminiscent of the dictatorship it

was intended to replace. A second discursive construction is the use of temporal deixis, introduced by the adverb *ya*. The temporality of the adverb turns this entire statement into a directive speech act (Searle, 1975) with deontic modality (Ridruejo 1999): the actors are not stating a fact, but expressing their intention that the world - or the political world, at least - should be made to fit their view of reality. The third device is the implicit causal argument created by the juxtaposition of the two premises. Lastly, the slogan presents two metaphors: the citizens as merchandise (a material object for exchange), and the bankers and politicians as the actors who handle them like puppets, moving for their own ends the life-strings of those worst affected by the economic situation. The second slogan reads as follows (Fig. 1):**[iv]**



Translation: 'Your other bench – the bench more and more people are choosing.'  
'Don't pay for their recession. Rise up! Occupy the streets!'

Fig.1: *Translation: 'Your other bench – the bench more and more people are choosing.' 'Don't pay for their recession. Rise up! Occupy the streets!'*

The use here of a well-known bank advertisement represents the discursive recontextualization of a capitalist message for a completely opposite socio-political purpose.**[v]** The persuasive effect of the original advertisement was based on the homonymy in Spanish between the word *banco* 'bank of money' and *banco* 'park bench'; in the 15M slogan and image, however, *Tu otro banco* has only one possible referent. In order to appreciate the full meaning of the park bench in the context of the 15M movement, we must first analyse the metonymy created here: this bench and countless others like it were where citizens, in

squares in cities all over Spain, sat to debate and demand their rights (that is, the physical space in which the communicative action took place for that action). The group of citizens mobilized by 15M refers not just to the people who started the camps, but also to those who came to see what was happening, and it is to them and future observers like them that the authors of the slogan are addressing their message when they use the pronoun of solidarity 'you' (i.e. someone close). The slogan concludes with three directive speech acts designed to persuade the public to add their voices to the cause.

#### *4. Interpretation*

These two illustrations are just a small representation of the huge number of examples collected as part of this study. To account for the emergence of so much discursive creativity, in terms of both meaning and the devices and resources used, the following factors must be taken into consideration:

Firstly, the relationship between discursive creativity and the communicative and contextual circumstances in which the slogans were formed. These were not the specific speech acts of individuals discoursing in isolation to persuade/convince a particular audience, but the collective communicative outcome of a series of assemblies, information boards, blogs, websites, etc. and the shared emotion of those experiences.

This new communicative action, which began with the encampment of a group of activists in a public square in one city and spread spontaneously via social media to other parts of Spain, could be interpreted as a major feat of civic cooperation: the collective action of a group of citizens who begin to realize that the political class, though democratically elected, has undermined the democratic values enshrined in the 1978 Spanish Constitution, and the ideals of European integration; has turned its back on the people, and handed over the country's wealth and that of Europe to the financial institutions. Extreme communication situations, such as that represented by the 15M protest, appear to bear out the belief held by certain authors that cooperation is one of the most powerful drivers of human evolution: 'Societies, both animal and human, might almost be regarded as huge cooperative nervous systems' (Hayakawa, 1973, p. 11; see also Capra, 1996).

Possibly as a consequence of the movement's entirely peaceful nature, the groups involved in 15M appear to have adopted discursive creativity spontaneously as a

way of raising awareness of their common cause. Their preferred form of expression was the slogan, a narrative discursive genre that has the advantage of communicating a great deal of information in a very small amount of space, while at the same time maximizing the number and variety of rhetorical-discursive strategies available.

A second point to be considered is that these slogans are the result of a widespread, co-distributed cognition (Capra, 1996, p. 89; Maturana & Varela, 1990) that places Spanish democracy since 1975 within a new ideological frame or construct. According to one study, carried out by the newspaper *El País* in 2011 (23 October), 73 per cent of Spaniards expressed themselves in agreement with the messages and demands of the *indignados*.

The slogans of the 15M movement cannot be examined from a solely socio-semiotic or rhetorical-argumentative point of view, therefore, because these perspectives do not account for the full potential meaning and persuasive effect of the discourse (Pujante & Morales-López, 2013). The analysis of these slogans requires a more holistic approach, integrating additional disciplines, such as ethnography, which views the signification process as inseparable from the context of situation and social action (in the case of 15M, the occupation of public spaces and subsequent dissemination of messages via social media); and socio-cognitive analyses, which establish a continuum between the speaking subject (complete with subjectivity and emotions) and reality. The messages created by the 15M movement not only transmit knowledge, in the form of a new interpretation of the Spanish socio-political situation, but also connect at an emotional level both with the past and with the need for younger citizens to become more actively engaged in politics.

## 5. *Conclusions*

The interdisciplinary and transdisciplinary constructivist framework for this analysis highlights the inseparability of all factors and actors present in the creation of a new ideological discourse: the speaking subjects; their speech acts, and their recontextualization in relation to other acts; the interlocutors present in the physical space in which the statements are first uttered, and the interlocutors who receive those messages through traditional and social media; the local context in which the statements are made; the socio-political environment that gives rise to them, and the action or actions carried out at the same time by the social actors present.

Only by examining all these variables together can we fully understand the complex meaning of ideological discourses, especially those which arise in spaces of radical conflict, as is the case in Spain today.

## NOTES

**i.** This research is part of the 'Constructivist Rhetoric: Identity Discourses' project, financed by the Spanish Ministry of Economy and Competition (FFI2013-40934R; period: 2014-2016).

**ii.** For a description of the origins of the idea of 'framing' among American theorists, see Morales-López (2011). Montesano Montessori & Morales-López (2014) looks at the relationship between framing and Somers's theory of narratives and narrativity (Somers, 1994).

**iii.** For an example of the spontaneous protests and slogans launched by the 15M movement, see: <http://www.rtve.es/noticias/20110516/miles-personas-piden-toda-espana-cambio-d-el-modelo-politico-social/432656.shtml>

**iv.** All the 15M's speeches are open access.

**v.** See the original advertisement at: <http://www.youtube.com/watch?v=dpLbXcmVvkw>

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# **ISSA                      Proceedings                      ~**

# **Argumentative Moves In An**

# **Inquisitive                      Context                      About**

# **Psychological Harassment In The**

# **Workplace: A Case Study In**

# Québec

*Abstract:* We summarize a recently (2013) completed doctoral research, which analyzed and commented a series of interviews led by four public servants, the mission of which was to ascertain admissibility for further inquiry, of claims of psychological harassment on the workplace by complainants, in Québec province (Canada). We combine with Argumentation and Rhetoric tools and concepts a Conversation Analysis (CA) perspective, showing how meaning obtains in speech acts constructed in interaction.

*Keywords:* Interviews, psychological harassment, argumentation, conversation analysis, rhetoric, admissibility, speech acts

## 1. Introduction

This proposal looks at argumentative strategies between complainants and investigators around harassment issues at work. A recently (2013) completed doctoral research analyzed and commented, from an argumentative point of view, a very specific corpus: a series of four interviews, totalizing ten hours, led by four public servants, the mission of which was to ascertain a first recognition of validity for further inquiry, of claims of psychological harassment on the workplace by complainants, in Québec province (Canada). The interviews having taken place in 2006, using a convention taking back accepted notations. One interesting theoretical achievement done in the research is probably to combine a Conversation Analysis (CA) perspective, claiming that meaning obtains in speech acts constructed in interaction, with argumentative figures and cues taken in Aristotle, Perelman, Walton and Van Eemeren.

In the context of a doctoral research in philosophy (Ph.D.), we wanted to study specific discourses that certainly have a rhetorical dimension: claims of psychological harassment presented by plaintiffs and their treatment by investigators. Different conceptual and methodological tools have been used, which are coming from rhetoric, argumentation studies and also from Conversation Analysis (CA). The notions of *logos*, *ethos* and *pathos* were examined and used in the analysis of a corpus of scripts of taped argumentative exchanges, between complainants and investigators; details and conventions utilized are given below. We will start by providing the social and professional context of the study, recall briefly Aristotle's notions, then look at Perelman's

notion of the audience's adhesion, with some contributions of Van Eemeren and Walton; we will limit ourselves to specific elements of these theories here. Then the research method used, by reference to CA, will be explained briefly while we will be finishing with the presentation of a few examples illustrating our main results about the rhetorical effects of narrative accounts of psychological harassment in the context of specific investigative interactions.

## *2. Research context*

Our research context was provided by a public organization, the Commission des normes du travail (CNT), which is a Labour Standards Commission having its jurisdiction in Québec, Canada. People who have suffered for different reasons at work, can file complaints in front of that organism for psychological harassment, the complaints are then treated by professionals. Since 2004, it is possible in Québec for a worker (blue or white collar) to file such a complaint, with the aims of putting an end to the problematic situation. The law that clarifies the recourse determines the nature of manifestations that can be associated with psychological harassment; the text refers to notions such as "A vexatious behaviour in the form of repeated conduct, verbal comments, actions or gestures that are hostile or unwanted, that affect the employee's dignity or psychological or physical integrity and make the work environment harmful", (L.Q. 2002, c.80). This sentence includes a number of possible situations which resonates with workers who experience different forms of suffering in the workplace. These possible victims can then refer to CNT as a public office, even though the procedure will represent an enormous challenge for people who feel they were or still are being harassed at work.

We looked in particular at the method that was used by the CNT in the years immediately following the implementation of the law, between 2004 and 2008. In those years, a professional of the Commission had to play the role of a psychological harassment investigator, having first to decide on the admissibility of the complaint, e.g. to see if the alleged facts described would justify an inquiry, before such a thorough inquiry would be conducted[i]. That first phase of the procedure would generally happen in a face-to-face interview with the plaintiff. It is in the frame of that conversation that complainants would have to demonstrate that the actually lived experience of suffering really could be understood as psychological harassment as the law defined it. The investigator had to decide if the set of facts presented and analyzed did meet or not the criteria for

psychological harassment as currently defined.

In this first interview encounter, clearly the exchanges between plaintiff and investigator showed a rhetorical dimension: the plaintiff wanted to convince the investigator that he was in fact the victim of psychological harassment as the law defined it. As the following testimony shows, that interview is crucial, if the plaintiff is to have his-her status of being a victim recognized: « the CNT is my only resort. Elsewhere nobody wants to hear what I have been living. It is important for me to show that I am right and that I am the victim here. I am not inventing all this! » (Brun et Kedl401)[ii]. This is why the plaintiff needs to take an argumentative and rhetorical posture to obtain the adhesion of the investigator to his/her thesis: the manifestations that the plaintiff brings in recounting the events are clearly associated for that person with psychological harassment, and the rhetorical aim pursued seems to be that the investigator should accept that thesis. On the other side of the fence, the investigator will ask questions with the aim of verifying if the claims do fall under what has been defined as PH by the law.

### 3. *The notions of logos, ethos and pathos in rhetoric*

To be able to treat comprehensively the argumentative strategies deployed in this initial encounter between plaintiff and investigator, a theoretical frame had to be put in place that would be appropriate for the kind of process, here psychological harassment at the workplace. To be able to treat adequately what the actors actually do in the practical encounter that starts the process of treating the complaint, we will briefly examine two theoreticians of rhetoric and argumentation, Aristotle among the ancients and Perelman among more contemporary thinkers.

Aristotle's [384-322 av. J.-C.] core notions of *ethos*, *pathos* and *logos*, as they appear in *Rhetoric*, as we know are three technical means of persuasion. They are still very relevant in a reflexive approach to argumentative strategies, even outside the strict relationship between a rhetor and an audience[iii]. Originally, rhetoric is preoccupied with day to day problems of the city, the rhetor will use discourse to obtain adhesion of the crowd, the people gathered in the public place. As we will see, the protagonists in argumentative interaction in the context of the initial encounter in the inquiry process are not without similarity with rhetors trying to persuade and obtain adherence of a public.

The three persuasive dynamics in Aristotle's rhetoric are convergent and

complete each other; ethos for the character of the speaker that always has to be established, pathos because persuasion needs the emotional dispositions of the audience, and logos because discourse has to be rationally convincing. In this research every one of these dimensions has been found at play, in the interaction taking place in the context of a plaintiff's speech acts and reactions in the argumentative exchange, trying to ascertain if there was a valid possibility of psychological harassment. We can understand that the ethos of the speaker has an impact on the reception of his or her arguments (logos); the emotions or passions (pathos) that he or she will be able to elicit will also play a part, and these three dimensions will influence one another and the result obtained in differing ways.

The ethos has a great role to play inside rhetoric. "It is not true, as some writers assume in their treatises on rhetoric, that the personal goodness revealed by the speaker contributes nothing to his power of persuasion; on the contrary, his character may almost be called the most effective means of persuasion he possesses" (Aristotle, 1356a, 10-15). It is to ethos that Aristotle attributes the greatest capacity of influence on the audience. Persuasion is accomplished by character whenever the speech is held in such a way as to render the speaker worthy of credence, by establishing credibility and authority.

The way the speaker presents him or herself, for instance moral character and honesty, this has an effect to inspire confidence with interlocutors. In our experimentation and study of the exchanges, we could clearly see that the plaintiff does whatever he or she can to present his or herself in a better self-image, obviously to inspire confidence to the inquirer and to help with the adhesion of that person to the thesis of psychological harassment.

#### 4. *Perelman's notion of the audience's adhesion*

Chaïm Perelman's (1912-1984) most famous book, *La nouvelle rhétorique, Traité de l'argumentation*, written with Lucie Olbrechts-Tyteca, was originally published in 1958. It breaks with the Cartesian notion of reason and renews a rapport with Aristotelian rhetoric. To clearly position themselves, the author begins the book with the following sentence: « The publication of a treatise devoted to argumentation and this subject's connection with the ancient tradition of Greek rhetoric and dialectic constitutes a *break with a concept of reason and reasoning due to Descartes* which has set its mark on Western philosophy for the last three centuries (Perleman and Oblbrechts-Tyteca, 1969, p. 1).

Perelman and Olbrechts-Tyteca are adapting classical aristotelian problems in the epistemological context of the middle of the 20th century. Their work is focussing on the so-called dialectic proofs; Aristotle analysed them in the *Topics* while their usefulness was explained in *Rhetoric*. Aristotle understands dialectic as the art of reasoning on the basis of generally accepted opinions. For Perelman, dialectic is preoccupied with opinions, e.g. the theses to which we adhere with a varying intensity or degree. This is not to be understood as demonstrative work as in a logic-mathematical model. « With Aristotle and Perelman, argumentative rhetoric is turned towards the other with the aim of making him adhere to a claim: this is what can be called the persuasive language activity » (Charaudeau 3, our translation). It is in part on the basis of that notion of adhesion that the authors back the idea of practical reason. The New Rhetoric is based on the idea that “since argumentation aims at securing the adherence of those to whom it is addressed, it is, in its entirety, relative to the audience to be influenced” (1969, p. 19). He uses a number of examples to show how rhetoric was “a practical discipline,” that was used to have a persuasive effect on an audience. The book examines the discursive techniques meant to augment adhesion, positing that this will produce attitudes and eventually action. The force of arguments is manifested related to the strength of adhesion by the audience to presented arguments. When rhetor and audience adhere because of the rhetor’s creation of an audience-oriented presence (which is then augmented with argumentative techniques), the adherence provokes the audience to act in ways desired by the rhetor.

They still recognize the role of ethos and of emotions in the overall argumentative process, a point very useful to understand better the peculiar argumentative relation between plaintiff and professional. Rhetoric becomes a study of discourse in the context of the study of communication relationships, by contrast to a previous notion according to which it was limited to the apprenticeship of being a good debater.

##### 5. *Van Eemeren’s and Walton’s contributions*

Van Eemeren’ pragma-dialectic approach had a tremendous importance to finally make the link between argumentation as rational contents and argumentation as processes. Similar remarks can be made for Walton’s re-reading of the *fallacies*, we can now look at them as argumentative schemes, tools in interaction that can in some cases be abusive, but not all the time. These contributions were both very

useful as part of our theoretical framework, since they look at argumentation into interaction processes in given situations.

While reworking (among other elements) the whole fallacy analysis tradition, Walton has since quite a few years added a new treatment of the role of emotion in argumentation, as a major theme of reflection. In *The Place of Emotion in Argument*, published in 1992, he discussed the rational value of such appeals. « The thesis of this book is that appeals to emotion have a legitimate, even important, place as arguments in persuasion dialogue, but that they need to be treated with caution because they also can be used fallaciously » (Walton, 1992, p. 1). Not only does he demonstrate that the appeal to emotion can be justifiable and acceptable in argumentation, but he also shows how they contribute to the fundamental goal of the argumentative discussion. Instead of dismissing these appeals as fallacious wherever they occur, as many have done and still do, Walton urges that each use must be judged on its merits. He also warns us against fallacious recourses that could hinder an efficient discussion process. He will explicitly refer and back himself up with a reference to the pragma-dialectic approach as developed by Van Eemeren and Grootendorst, referring to the 1984 book. « According to this new Pragma-Dialectic concept, a fallacy is a technique of argumentation that may in principle be reasonable but that has been misused in a given case in such a way that it goes strongly against or hinders the goals of dialogue » (p.18) For instance, in the context of our research, we could verify that the appeal to pity, *ad misericordiam*, which is present in the encounter between the plaintiff and the inquirer, can hardly be understood as fallacious, if we are to mean by this that it would be for the plaintiff a way to trump the inquirer's research, e.g. to lead him to error. In cases of misery that would be documented, we could not justifiably talk of argumentative abuse. Such an appeal to emotion can certainly have a place in our argumentative context, provided the plaintiff is not using that argument to hide a lack of strength in the proof considered.

Especially important for us was the connection established by the Amsterdam school between pragmatics of speech acts and the dialectical point of view on critical discussion. Since we do not have a formal discussion here, it was not possible to systematically treat the corpus by using the ten rules for a critical discussion (Van Eemeren & Grootendorst, 1992; 2004). The pragma-dialectical theory regards argumentation as ideally being part of a critical discussion (see Van Eemeren & Grootendorst, 1984, p. 17). Here of course, we do not have a



purely symmetrical dialogue but an inquiry process, which has an adversarial character (Walton, 2010). The inquiry does not aim at a reasonable resolution of a difference of opinion, but an authority has to judge on a complaint which is interested; even though this is not a judiciary process *per se*, it could serve as a basis for further endeavours of the kind. In a case like here, with plaintiffs and inquirers, it still is very helpful to consider, as in pragma-dialectics, argumentation as a communicative and interactional discourse phenomenon.

We did manage to find four stages that do bear a resemblance to Van Eemeren's phases in a discussion. As we recall, in Van Eemeren the four stages are:

1. Confrontation stage,
2. Opening stage,
3. Argumentation stage and
4. Concluding stage.

In our case, the four stages were the following.

1. Introduction, by each of the participants, of his or her frame of reference. This is where the inquirer explains what he or she will try to do, and the plaintiff will express the meaning as perceived of the complaint. It could be seen as a prelude to confrontation.
2. Discussion about the facts at hand, with formulations from one side, questions and answers. The plaintiff tries to build his or her own case, mostly with remarks of clarification from the inquirer.
3. Validation, by the inquirer, of the hypothesis previously constructed in the interview. During that phase, the inquirer directs more the process by working on this basis of a tentative conclusion already formulated
4. conclusion in terms of admissibility or not of the complaint. This will be a challenge for both parties; the decision will never be totally announced here, but the general direction taken is given.

#### 6. *Methodology of the research: conversation analysis*

With situations of potential psychological harassment, it is interesting to try and capture the relationships between people, and not to focus only on isolated utterances. We also tried to recapture impacts of one's utterances on the other and reciprocally, and for this some background references to speech act theory and pragmatics was useful and necessary. A rhetorical dimension of the complaint's narrative does take place in any case, whether it will result in success or in failure to convince. So to avoid letting important elements slip by, we chose

a methodology that would make it possible to refer to pieces with sufficient precision and completeness.

Language produces an effect that is not only linked or limited to the description of reality, in terms of truth hood and falsity, but it also goes with force and impacts on co-locutors. Pragmatics of speech acts permitted to reorient philosophy of language towards the interlocutors, it also helps to stress the ethical dimension since we are in the domain of interpersonal relationships.

Such a contribution of pragmatics oriented us towards tools developed inside the family of methods regrouped into *Conversation Analysis*. The object of such an analysis is to describe procedures and expectations that help interactants to act while interpreting the other's conversational behaviour in the relationship, in an interplay of exchanges that is conversation. Conversation Analysis (CA), a research tradition that grew out of ethnomethodology, has some unique methodological features. It studies the social organization of 'conversation', or 'talk-in-interaction', by a detailed inspection of tape recordings and transcriptions made from such recordings. This way the researcher does not try to judge or qualify the ways by which the participants act, but focusses on the strategies they adopt to construct an understandable exchange. Harvey Sacks (1935-1975), considered to be the founder of this approach, is a sociologist that is interested, at the beginning of the 1960's, to the experience of everyday life. Sacks became interested in the structure of conversation while working at a suicide counseling hotline in Los Angeles in the 1960s. The calls to the hotline were recorded, and Sacks was able to gain access to the tapes and study them. By using comprehensive transcriptions of recordings of « ordinary language », Sacks sets himself the task to study without theoretical a priori, the interpretations that members had of what is happening « here and now ». He thus controls what he could understand of the actions that constitute the talk turns of the interlocutors, by their mastery of natural language. In effect, the raw data as transcribed gives access to all the important details; not only the statements themselves, e.g. the contents of the speech turns, but also the tone of voice, errors, corrections, silences, onomatopoeias and noises on which interpretations are based by preceding speakers. This way it becomes possible to deduce certain social activity models since their properties are clearly ordained and observable. Conversation Analysis may then be conceived as a specific analytic trajectory which may be used to reach a specific kind of systematic insight in the ways in which members

of society 'do interaction'. In their introduction to a collection of research papers, Heritage & Atkinson (1984) write: The central goal of conversation analytic research is the description and explication of the competences that ordinary speakers use and rely on in participating in intelligible, socially organized interaction. At its most basic, this objective is one of describing the procedures by which conversationalists produce their own behavior and understand and deal with the behavior of others. A basic assumption throughout is Garfinkel's (1967: 1) proposal that these activities - producing conduct and understanding and dealing with it -are accomplished as the accountable products of common sets of procedures.(Heritage & Atkinson (1984):1)

Conversation Analysis (CA) is the method chosen to analyse this research corpus, which includes four interviews taped on a digital recorder for audio support. This method is part of the social sciences, it requires the careful recording and the attentive transcription of the conversation in its details, in following the conventions developed by Gail Jefferson (Sacks, Schegloff et Jefferson 696-735). Gail Jefferson was, along with Harvey Sacks and Emanuel Schegloff, one of the founders of the area of research known as Conversation Analysis (CA). She is particularly remembered today for the methods and notational conventions she developed for transcribing talk. The system of notation widely used today in CA research bears her name. We are reproducing these transcription rules below to facilitate the understanding the analysis of the interviews.

7. CONVENTION USED IN TRANSCRIPTS

Symbol	Indication	Example
(( ))	Double parentheses are used to mark transcriber's description of events, rather than representations of them.	((cough)), ((whispered))
(0.3)	Numbers in parentheses indicate elapsed time in tenths of seconds. The device is used between utterances of adjacent speakers, between two separable parts of a single speaker's talk, and between parts of a single speaker's internally organized utterance.	Yes (0.2) yeah
(.)	Indicates a short pause in the speaker's talk.	
[	Single bracket indicates the point at which a current	A: quite a

### 7. *Convention used in transcripts*

Each of the interviews lasted approximately 2 hours, and where chosen with different inquirers, after having obtained all the necessary approvals by the ethics committee. We chose to

transcribe the parts of the interviews where there were important verbal interactive exchanges between the partners, and left on the side longer detailed descriptions of situations by the plaintiffs, for which the impact on the development of the exchange was less obvious. Parts that looked like monologues, turning most of the times on the narration of precise events, have not been transcribed, a choice also justified by the importance of the interactive material

	speaker's talk is overlapped by the talk of another.	B:   yeah
=	The equals sign (=) indicates 'latching'-i.e., no interval between the end of a prior and start of a next piece of talk. It is used for the relationship of a next speaker's talk to a prior speaker's talk.	A: that I'm aware of B: =Yes. Would you confirm that?
—	Underscoring indicates various forms of stressing and may involve volume.	What's up?
↑	The up arrows mark sharper rises in pitch	Are you responsible
XX	XX indicate that transcribers are not sure about the words contained.	Would you XX anything positive

covered, which encompassed more than a hundred pages; comparatively, parts not transcribed were much smaller overall.

Our task was descriptive, we wanted to document as much as possible the diversity and scope of the argumentative exchanges present in these particular situations, into which the plaintiff wants to make sure he or she puts everything in play with the aim of convincing the inquirer of the well founded character of the complaint for psychological harassment. Globally taken, the eight hours of interview assuredly permitted to document the most part of the argumentative tendencies specific to this research context. We will recall here some examples of the results that emerge from a deep analysis of the transcriptions. First, we will look at sections where the preoccupation of the plaintiff to present a favorable ethos can clearly be seen. After that, we will present some examples of emotion appeals, and in the following part, we will examine argumentative strategies that emerge in contexts where the inquirer is adhering to the thesis of the plaintiff, and others where there is no adhesion on the inquirer's part.

### 8. *A plaintiff presenting a favorable ethos*

Since we remember that for Aristotle, ethos is strongest of proofs (Rhétorique, 1356a), we can easily verify that the plaintiff takes care of his speech to be able to inspire confidence in the inquirer. He or she will put everything at work to show that he or she is worthy of belief, by a number of examples that show his or her good side. Here are two short examples in that regard. A translation from French to English is also provided.

#### Entrevue 1-A (97-102[iv])

P[v]: Je suis un employeur, j'en ai des employés maintenant pis j'ai été directeur pour Options Multi [ancien employeur] donc l'usine pendant plusieurs années, donc j'sais ce que c'est que de rencontrer un employé quand on encadre une procédure qui se veut euh, réparatrice on va dire.

#### Interview 1-A (97-102)

P[v]: I am a director, I have employees now and I've also been a manager for Options Multi (ex-employer), so the factory, I know what it is to supervise a process that needs to be - hem - repairing somehow.

Entrevue 1-C (23-26)

P: Moi je suis arrivé au Québec en 89 avec 70 dollars sur moi. J'ai commencé comme désosseur chez Options Multi ↑, pis graduellement à force de cours je suis monté. Chu, euh, défini comme un généraliste, avec (.) naïf et très axé RH.

Interview 1-C (23-26)

P: I arrived in Quebec in 89 with 70 dollars. I started with boning chickens at Options Multi ↑, then gradually I climbed up, with following courses. I am -hem - defined as a generalist, with a naïve (.) and centered on HR.

Entrevue 2-C (86-100)

P: OK, j'aimerais bien, si c'est, euh, si c'est vraiment, bon ce qui m'a fait, il se peut que c'est avec, avec d'autres, d'autres filles. Donc, qui sait, c'est son harcèlement, c'est-à-dire, euh, même si, même si moi c'est fini, il m'a congédié et tout, mais au moins qu'il doit savoir, euh, c'est-à-dire, euh, comment faire avec les autres, les autres employés

E2: [Qu'il en tire un petit peu une leçon de ça

P: C'est ça, qu'il tire, c'est ça

E2: Mm

P: L'essentiel, euh, même s'il m'a, il m'a congédiée, moi y a pas de problème.

Interview 2-C (86-100)

P: OK, I'd like, hem, if it, if it's really what he did, what he did to me, it might be that the same goes with, with other girls. So, who knows, his harassment, even if, even if for me it is over, he fired me and all, at least he should know, hem, how to do, with the other employees

I2[**vi**]: [He should get some lesson of that

P: Yeah, he should, yeah

I2: Mm

P: The important thing is, hem, even if he fired me, for me this is not a problem

The examples taken from interview 1 and 2 show the importance of presenting a favorable ethos by the plaintiff. The two first examples put ahead a plaintiff centered on « human relations », who explains how he knows to treat correctly his employees, he also worked very hard to get to where he is now. He presents the ethos of a good employer that is also a good worker. The third example presents a plaintiff who declares she makes a complaint not for herself, but for female colleagues that possibly suffer the same fate. She thus shows a decentered

attitude, an element that certainly can give a boost to her own ethos in front of her interlocutor.

These favorable representations of the plaintiff's ethos certainly can have an impact on the interviewer, at least they are intended thus, as if the fact of establishing trust and credibility in front of the interviewer would conduct him or her to judge favorably on her behalf in future interventions. But we should also note that this establishing of a favorable ethos is frequently put to the test in the remainder of the interviews. The inquirer will check by asking for precisions; for instance, about the last example, the following of the interview led the plaintiff to fairly contradict herself in this presentation of this altruistic «ethos». In the following she describes to which point she was in conflict with those women, for whom she supposedly is pursuing the complaint, wanting to defend them. The interview's structure, by its numerous validations and its continual asking for details, can certainly put in jeopardy an apparent construction of a favorable ethos by and in the complainant. We should also note that such is not the aim of the interview, even if to appreciate admissibility of the complaint can destabilize a plaintiff involved in a complex process of validation that is demanding for anyone.

### *9. Appeal to emotion*

Generally speaking, the plaintiff's discourse is charged with emotions which are revived in the process of narrating the events previously lived, by which they are recalled. Three out of four plaintiffs cried in their narrative, by which they kind of relieved the suffering that they wanted to denounce.

#### Entrevue 1-C (14-22)

P : J'ai jamais cru, madame, que j'allais (.) être si vidé. [...] J'ai jamais cru (.) les premières semaines là madame, je me levais (.) je me recouchais (.) je me levais le midi, je me recouchais, je mettais mon cadran, pour que mon ami ne me trouve pas couché en entrant (.). Et je me suis complètement, je n'avais, d'abord j'ai jamais été congédié (.)

#### Entrevue 2-G (21-49)

P : C'est à ma grande surprise, là, quand j'ai vu ça, c'est pour ça que j'ai eu un choc, euh, émotif.

E2 : Ça, ça vous a vraiment,

P: [Ah vraiment

E2: [Ça vous a vraiment renversée

P: Ah, mon dieu

E2: [bouleversée

P: J'ai pleuré, j'ai pleuré ↑, pis, euh, il me demande de continuer. Je n'arrivais plus, je suis rentrée aux toilettes, j'ai lavé mon visage, mais je pouvais plus, je, je pouvais pas finir, parce que

E2: [Le choc, le choc était grand

P: [Moi, comme ça? ↑ Moi ceci, moi cela ↑, c'est comme, je n'arrivais pas, non, non, ah c'était trop fort.

E2: Ça, ça vous a fait comme un choc, enh?

P: Mon dieu, mon dieu. Maintenant ça va, je suis plus, plus forte, mais les premiers temps ↑, j'ai pleuré, j'ai pleuré, j'ai pleuré, mais c'était vraiment ((la plaignante pleure))

Interview 1-C (14-22)

P : I never would have believed that I would be so (.) exhausted.. [...] I never believed (.) the first weeks ma'am, I would get up (.) than lie down again (.) I got up at noon, would get back to bed again, I would set my alarm clock, for my boyfriend not to find me in bed while coming in (.). And I was completely, I was, I never was fired in the first place before. (.)

Interview 2-G (21-49)

P : This was a big surprise, when I saw that, this is why I had an emotional shock.

I2[vi] : So this was really,

P: [Ah really

I2: [You really were bowled over

P: Oh my goodness

I2: [devastated

P: I cried, I cried ↑, and then ah, he asks me to continue. I couldn't, I got inside the toilet, I washed my face, but I could not, I could finish because

I2: [The shock, the shock was too great.

P: [Me, being like that? ↑ Me this, me that ↑, it's like, I couldn't, nah, that was too much, too strong.

I2: This gave you a shock, han?

P: My, oh my. Now it's ok, I am more, more strong, but at beginning, in the first times ↑, I cried, cried, and cried, it was so

((the plaintiff cries))

Even if sometimes recourses to emotion denote a lack of contextualization or of nuances regarding what provoked the situation, they document and make concrete what has been lived, while at the same time they contribute to facilitate a better understanding for the inquirer of what happened to the plaintiff. The emotion appeal of the quote from interview 1 renders available to the interviewer the suffering lived by the plaintiff; her illustrations reinforce the credibility of that appeal. As for the second quote, the call to emotion by the plaintiff is provoked in particular by the narrative of an attack on her integrity ([Me, being like that? ↑ Me this, me that ↑, it's like, I couldn't, nah, that was too much, too strong. The emotion was revived by the recalling of the hurting that comes in the narrative of the hurting and cries of the employee, while confirming the importance of the attack on her integrity.

#### *10. Argumentation which is typical in cases of the inquirer's adhesion*

By studying their owl process carefully, we saw clearly that two of our four inquiries led to a conclusion of admissibility and two led on the contrary to a decision of non admissibility, and each set had specific characteristics that are worth recalling here. The fact that the inquirer concluded to the admissibility means he adhered in good part to the thesis held by the plaintiff in terms of in terms of Psychological Harassment in the work place. In the case where inquirers concluded to the contrary, this conclusion shows that the inquirer did not associate the claims of the plaintiff with the definition of psychological harassment as it is clarified by the law that gives a frame to the treatment of complaints. Let us look now more closely at the argumentative strategies that are present in each of these sub-sets, in the cases of adhesion and non-adhesion. After a number of readings the four interviews, we could ascertain that the tones employed by the partners in the exchange were certainly not the same and we could underscore some tendencies that will be identified and commented briefly here. We will start by the interviews that led the inquirer to adhere to the thesis of the plaintiff.

##### *10.1 Expressions of doubt and shame by the plaintiff*

One of the lead authors on the issue of psychological harassment, Marie-France Hirigoyen (1998, 2004) documented in good part what distinguishes victims of psychological harassment of those that experience different problematical situations present in the work place but not associated to PH as such as defined by the different laws. She observed that the speech acts of "true" victims of PH



are marked with uncertainty regarding the victim's role in the situation; the complaint of the victim is punctuated with self-doubt in a person that wants to end his or her torment. This is something that is confirmed in our corpus, as we can see in the first interview that is particularly expressive on that point.

Entrevue 1-C (50-53)

P : [Une fois arrêté, j'étais comme complètement incapable de réagir et je me suis mis à (.) d'abord je me sentais extrêmement coupable (.) euh, et puis (.) je n'avais vraiment plus, j'avais plus de moral, ça n'allait plus.

Entrevue 1-E (46-51)

P : Parce qu'avec le recul, voyez-vous (.) si y a quelque chose que je me suis beaucoup reproché (.) qui je crois m'a fait complètement perdre pied, c'est de pas avoir mis, avoir eu la force d'y mettre un oh là. Vous savez, j'ai pas été capable de (.) j'étais déjà fatigué et j'ai pas été capable de l'arrêter.

Interview 1-C (50-53)

P : [Once it stopped, I was completely unable to react and I started to (.) first I felt extremely guilty (.) hem and then (.) I really did not have, I had no spirit, I did not work.

Interview 1-E (46-51)

P : Because as time passed, you see (.) if there is something I really regretted (.) is that he made me lose footage, it is that I couldn't, I did not have the strength to put an end to it. You know, I was unable to (.) I was tired already and unable to stop him.

We see clearly in the narrative expressions of self-doubt, guilt and even shame and regret, not for having somehow provoked the harasser's behaviour, but to stand up and make the person stop that disturbing behaviour. This self-questioning coincides clearly with a documented characteristic in the victim's experience; the person loses ground, his/her identity is under attack and the person can hardly keep a good judgement on the situation. That self-doubt in the situation of harassment is what permits the conflict to perpetuate, most of the times until the person is fired or has to leave for health reasons. On the contrary here, the expression of this self-doubt seems very close to an *ad misericordiam*, even if it is hardly of that kind. The argument seems to function this way: by trying to find his or her responsibility in the situation, the plaintiff shows good

faith to the inquirer, an element that rejoins some common sense on shared responsibilities in conflicts. But since this part of responsibility will prove to be absent in the case as presented by the plaintiff, the inquirer/judge has to shift the burden of guilt somewhere.

### 11. *Characteristics of argumentation in cases of non adhesion*

When the inquirer does not conclude to psychological harassment, the person is not adhering to the thesis of the plaintiff. The analysis of the corpus showed that the whole development of the interview takes a very different shape in those cases. The plaintiff did not convince the inquirer that the actions of the employer or of the co-worker were something else than just ordinary conflict, that might have to do with ordinary work constraints. We will describe here the main characteristic of this expression of non admissibility of a complaint for psychological harassment.

#### 11.1 *Expressing a work conflict and professional constraints*

In what qualifies as a simple conflict at work, reproaches are identified explicitly and the protagonists manifest their hostility in an almost equal manner. For instance, if a person feels too much pressure at work, or conversely if a manager finds some worker not efficient enough, expressions will occur of these malaises. There is no such symmetry in situations of psychological harassment.

##### Entrevue 2-H (55-65)

P : [...] mais de toute façon, y avait pas un bon, une bonne relation, ni de travail, ni, euh, je la voyais de toute façon comment qu'elle, euh, comment qu'elle me regarde, comment qu'elle euh, de toute façon, c'est comme euh, à peine si je, je lui dis bonjour, din fois elle me répond même pas, donc, euh.

Mais ce n'est pas cette façon c'est, moi je pense que c'est pas la seule, c'est dans leur éducation, quelques-unes, jamais elles disent bonjour. C'est pas parce que ils m'en veulent ou quelque chose, mais c'est dans leur éducation.

##### Entrevue 3-B (148-149)

P: Ouais, il a explosé. Comme si ça faisait un moment qu'il me supportait pas [...].

##### Interview 2-H (55-65)

P : [...] in any case, it was not good, there was no good relation, of work, or of hem, I saw anyway how she looks at me, how she, in any way, it is like hem, I barely, hem, I say hello, sometimes she does not even answer me, so hem.

But it is not that way it's, me I think it is not the only, it is in their education, some of them, they never say hello. It is not because they have something against me, it is just in their education.

Interview 3-B (148-149)

P: Yes, he exploded. As if it's been coming a long time, he couldn't stand me [...].

By these and other elements not reproduced here, we see that the plaintiff of Interview 2 denounces a cultural situation, she blames the education of the colleagues, who did not have the same upbringing (her interpretation of the wrongful behaviour) and she does not see anything else in the fact that they did not salute her. There seems to be a symmetry in the conflict, she herself admits that something else than PH is going on here. The quotes from interviews 2 and 3 illustrate situations of conflict that are not in a dominant-dominee frame where the one leading the conflict would try to submit the other to the point of leading the person to loose or doubt her or his identity.

## 12. *Conclusion*

Differences of tones are present that do play a part on the inquirer's decision for the admissibility or not of the complaint. Some strategies were quite obviously put in place, around ethos, pathos and logos; we saw some examples of appeals to ethos on the plaintiff's side, but there were also some that were present on the inquirer's side - for instance, explaining the limits of what can be done, the professionalism the person was going to put in place. Adhesion is certainly a crucial element to be obtained along the process. Since the procedure has been replaced by a form which is less personal, it would be impossible to enlarge the data set to verify some recurrences already identified.

## NOTES

**i.** We should note that the admissibility phase has been conducted differently since 2009. Currently, the plaintiff would deposit his/her complaint on the website of the CNT or by phone. After that, the admissibility of the complaint is treated for a good part by phone. Our goal in the research was not to compare methods or to evaluate the interview procedure, but just to know it better with the aims of situating its resources from a rhetorical and analytical point of view.

**ii.** « Je n'invente pas toute cette histoire! » - As everywhere else in the document, the original material was in French, and the translations in English are provided by the authors.

- iii.** Most of the times, Aristotle talks about the « audience » in Rhetoric, but there is reference to a « judge-auditor », a notion relevant in our context where an orator speaks to one auditor/listener who has a mandate to take a decision.
- iv.** Numbers represent the chosen segment in the 1-A interview.
- v.** P stands for the plaintiff.
- vi.** Ibid.

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# **ISSA Proceedings 2014 ~ That's No Argument! The Ultimate Criticism?**

*Abstract:* What if in discussion the critic refuses to recognize an emotionally expressed (alleged) argument of her interlocutor as an argument? In this paper, we shall deal with this reproach, which taken literally amounts to a charge of having committed a fallacy of non-argumentation. As such it is a very strong, if not the ultimate, criticism, which even carries the risk of abandonment of the discussion and can, therefore, not be made without burdening oneself with correspondingly strong obligations. We want to specify the fallacies of non-argumentation and their dialectic, i.e., the proper way to criticize them, the appropriate ways for the arguer to react to such criticism, and the appropriate ways for the critic to follow up on these reactions. Among the types of fallacy of non-argumentation, the emphasis will be on the appeal to popular sentiments (argumentum ad populum). Our aim is to reach, for cases of (alleged) non-argumentation, a survey of dialectical possibilities. By making the disputants

themselves responsible for the place of emotion in their dialogues, we hope to contribute to a further development of the theory of dialectical obligations.

*Keywords:* Abandonment of discussion, Ad populum, Criticism, Dialogue, Emotion, Fallacy, Non-Argumentation, Ultimate criticism

### 1. Introduction

In this paper, we want to study the so-called fallacies of non-argumentation and the corresponding kind of fallacy criticism: the accusation of having presented no argument at all. This may count as a sort of ultimate criticism.

Generally, fallacy criticisms point out a problem and ask for repair so that in a metadialogue (a dialogue about the dialogue) one may deal with the problem. But an accusation of “non-argumentation” denies that there even is an argument. Therefore it seems to leave no room for any amendments or further discussion. Let us look at an example. It’s from the ongoing discussion about gay marriage.

When last year the Republican Senator Rob Portman decided to support same-sex marriage, the Speaker of the House, John Boehner, was asked what he thought about that. Boehner then rejected gay marriage by an expression of his gut feelings about it. This again led to an accusation of non-argumentation:

#### *CASE 1: Gay marriage*

Asked about Portman’s change of heart, House Speaker John Boehner (R-Ohio) explained on ABC’s *This Week*, “I believe that marriage is the union of a man and a woman.”

Asked if his position might change, Boehner explained and elaborated (not really): “Listen, I believe that marriage is the union of one man and one woman. ... It’s what I grew up with. It’s what I believe. It’s what my church teaches me. And I can’t imagine that position would ever change.” (Leon 2013, italics as in the original)

Commentator Michael Leon criticizes Boehner by a charge of non-argumentation: Boehner’s repeated assertions that he *feels* this way because he *believes* this way is not an argument [...] (Leon 2013, italics as in the original).

This case is not so simple as it may appear. For one thing, in order for a fallacy charge of non-argumentation to be appropriate, the accused should be in a position where he or she is indeed expected to provide an argument. A mere expression of one’s opinion, where this opinion has not been called into question,

cannot amount to a fallacy of non-argumentation. Leon seems to suppose that in the case he considers this condition has been met; probably, because politicians are supposed to argue. Further, there must really be no reconstructable argument. In Case 1, however, this is doubtful since Boehner invokes the teaching of his church, which amounts to a – be it rudimentary – argument from authority.

In some cases, then, accusing the other of having failed to present argumentation may at first sight seem to the point, but is actually overdoing things. Means of defense are, and should be, available to the accused. Sometimes, it can be explained that actually there is an argument contained in what was labeled as non-argumentation. Or perhaps it can be justified that no argument was needed at this point. Of course, these responses might misfire so that the original critic should have an opportunity to try and dismantle them. As long as this discussion lasts, there has been no “abandonment of discussion” (Fearnside & Holther 1959, Section 39, pp. 132-133). What we want to do in this paper is to investigate the ways discussants deal or should deal with such situations and thus formulate “a dialectic of non-argumentation.”

According to the pragma-dialectical theory of fallacies, the fallacies of non-argumentation constitute a particular kind of violation of Commandment 4 of the Code of Conduct for Critical Discussion, the *relevance rule*:

Standpoints may not be defended by non-argumentation or argumentation that is not relevant to the standpoint (van Eemeren and Grootendorst, 2004, p. 192).**[i]**

Fallacies of non-argumentation do not present argumentation. Other violations of the same rule do present argumentation but no argumentation relevant to the standpoint at issue (cases of *ignoratio elenchi*). So, even though covered by the so-called *relevance rule*, cases of non-argumentation are not merely cases of lack of relevance.

Characteristically, fallacies of non-argumentation substitute either *pathos* or *ethos* for *logos* (van Eemeren and Grootendorst, 1992, pp. 134-137). In the first case we have a play on the emotions of the audience (*argumentum ad populum*); in the second case an arousal of emotions of awe or diffidence (*argumentum ad verecundiam*).**[ii]** In our paper, we concentrate on the *ad populum* cases, which may stand proxy for all kinds of non-argumentation.

Since the fallacy of non-argumentation is characterized as substituting emotions for arguments, we are immediately concerned with the role of emotion in

argument. We shall deal with this issue from a dialectical point of view (Section 2). Next, we need to circumscribe which moves in an argumentative discussion may - so we propose - count as cases of non-argumentation (Section 3). Having in this way pinpointed the fallacy, we do not want to stop there but continue our study by investigating the (actual or required) means for the critic to protest against it (Section 4). As we think that in some cases these protests can be answered, we turn to the possible reactions of the alleged ad populum arguer to the fallacy charge of his critic (Section 5) and to the critic's reply (Section 6). Generally, non-argumentation seems a bad thing, and its criticism a good thing. Yet, we shall try to point out some advantages of the former (Section 7) and some drawbacks of the latter (Section 8). Finally, we present a survey of the dialectic of non-argumentation (Section 9).

## 2. *Emotion in argument*

### 2.1 *Emotion*

One possible view on the place of emotion in argument is to see it primarily as a source of fallacies. However, nowadays a number of subtle accounts of emotion in argument are available that allow for argumentative contributions that are emotional but non-fallacious. For instance, both Michael Gilbert (1997) and Douglas Walton (1992; 1999) have argued extensively that the use of emotions in argument need not be fallacious.

Our use of the term "emotion" is based on the explanation of that term given by Aaron Ben-Ze'ev in *The Oxford Handbook of Philosophy of Emotion* (2010). Ben-Ze'ev distinguishes between four components of an emotion (p. 47): feeling, cognition, evaluation, and motivation.

Feeling is the only component of emotion that is "non-intentional." In other words: One may undergo some feeling without the feeling being about something. The other three components are "intentional": They are always about something. Cognition refers to the information about the object of an emotion; evaluation refers to either a negative or a positive view that is taken of the target of the emotion; motivation refers to how an emotion may influence one's desires or make one take some action. Compared to emotions, the *sentiments* are of a more dispositional nature, such as enduring love or grief. Whenever we use the term *emotion*, we shall refer to both emotions and sentiments in Ben-Ze'ev's senses of those two terms.

We distinguish between two uses of an emotion in argument that are *prima facie*



of dialectical relevance. The first concerns devices for the presentation of argumentation and the second devices for obtaining concessions from one's interlocutor. We discuss these two uses in turn.

### *2.2 Emotion as a presentational device*

In one of Gilbert's examples, Jill asks Jack: "But why should I marry you, Jack?" and Jack answers: "Because I love you as life itself" (1997, p. 83).

We underwrite Gilbert's view that emotion is "inextricable from the logic of the argument" (p. 40). Nevertheless, we conceive of emotional arguments as grounds that can be evaluated as acceptable or unacceptable and as having, or lacking, sufficient justificatory force. Suppose, Jack utters the words "I love you" in an emotional, non-detached, even somewhat theatrical manner. Then, in so far as the emotion of being-in-love plays an argumentative role, we propose to reconstruct Jack's argumentation as having the following propositional structure: "(1) Jill, you should marry me because (2) I love you as life itself; and (2) I love you as life itself because (3) I act and speak like someone who is really in love with you." Jack expresses the basic premise, proposition 3, by making this proposition true by his very behavior, tone of voice, mimicry, and so on. After all, Jill may challenge the acceptability of proposition 3 ("You act like a clown") or challenge that proposition 3 is a good reason for proposition 2 ("You might just be play-acting").

### *2.3 Emotion as a device for obtaining concessions*

The second way, for a proponent, to use emotion in argument is to express emotion in order to obtain concessions from the addressees. Suppose for instance that a proponent arouses in his opponent a feeling of fear for nuclear power plants. Suppose further that this emotion suggests the cognition that nuclear power plants involve considerable risks, the evaluation that they are bad things, and the motivation for not letting them be built. Then, in so far as the opponent shows signs of her aroused emotion (she has a fearful look), she conveys her sympathy for these propositions. This may count as implicitly conceding these propositions. By being emotionally aroused, preferably noticeably so, it becomes harder for the opponent to criticize the position of the proponent.

Walton's (1992,1999) theory of emotion in argument deals mainly with examples of this second usage. Further, he distinguishes between a number of different subtypes of ad populum argumentation (1999, Chapter 7). In our view, some of these subtypes are susceptible to the "that's no argument" critique, especially if

the emotion at hand is used to obtain concessions in a particularly manipulative way, to wit: appeal to popular sentiments; the rhetoric of belonging; common folks ad populum; and mob appeal. Interestingly, none of these types of argument are inherently fallacious, in Walton's view, even though he identifies possible misuses that may make them degenerate into fallacies. Like Walton (1999), we want to stress that, depending on situational features, ad populum arguments admit of fallacious instances, but also of legitimate ones, such as when they are used mainly as non-manipulative devices for obtaining concessions from one's opponent, and thereby as legitimate parts of one's defense.

### 3. *Non-argumentation in argumentative discourse*

Clearly, the proponent's use of emotional appeals would not suffice to speak of non-argumentation. In what kind of situation, then, would this extremely harsh verdict be warranted? We here formulate a set of six necessary conditions, which together delineate those situations in which one could, in our view, arguably speak of a fallacy of non-argumentation:

1. There must be a context of dialogue (explicit or implicit) about some issue.
2. There must be a standpoint presented by one of the discussants.
3. This standpoint must have been called into question.
4. There must be a background of shared material and procedural commitments allowing argumentative exchanges on the issue.
5. There must be a proponent/protagonist who accepts a burden of proof for the standpoint. That is, we want to distinguish the fallacy of evading the burden of proof from the fallacy of non-argumentation. The latter fallacy is committed by an arguer who in principle recognizes his burden of proof, i.e. that he should present an argument, but nevertheless, when the time has come to do so, does not live up to this recognition. According to the pragma-dialectic theory of fallacies, the two fallacies are clearly distinct because they violate different rules and pertain to different stages of a critical discussion (van Eemeren and Grootendorst, 1992, 2004).**[iii]** All the same, given that arguers normally do not make an announcement to the effect that they do, or do not, acknowledge a burden of proof, it may sometimes be difficult, if not impossible, to distinguish between cases of these two fallacies in real-life examples.

6. The proponent tries to make the other concede the standpoint by doing, instead of presenting an argument, something else that he passes off as argumentation. The additional condition

7. Characterizes the *ad populum* variety of non-argumentation: The means the proponent uses consist of appeals to popular sentiments luring the interlocutor into accepting the standpoint.

#### 4. *The charge of non-argumentation*

We aim to arrive at a conception of non-argumentation, by examining sequences of dialogue moves that may follow upon an alleged occurrence of non-argumentation. If the opponent is confronted with what she conceives of as an example of non-argumentation, she has a number of possible reactions at her disposal, which we shall list in this section. **[iv]**

One quite extreme reaction would be to just accept the non-argumentation as if it equaled argumentation. The opponent might even make her acceptance overt by venting an *ad populum* of her own.

Thus, if the proponent defends his resistance to same-sex marriage by saying “I believe that marriage is the union of one man and one woman. ... It’s what I grew up with. It’s what I believe. It’s what my church teaches me,” the opponent may go along with him and try to restore the emotional balance by retorting: “Well, in my Unitarian church, we feel that all you need is love!”

Clearly, such a lenient attitude towards non-argumentation brings the risk that genuine considerations *pro* and *con* remain unexpressed. We will not further explore how such dialogues may develop.

To abandon the discussion would be another extreme response. The opponent may explain her abandonment by pointing out that the proponent, by committing the fallacy of non-argumentation, forfeits his chance at “winning” the dialogue.

We are not going to explore how such dialogues may develop either. We cannot, since the dialogue here stops.

Generally, if a proponent has advanced some nugget of argumentation, an opponent can request for an elaboration of the proponent’s case by requesting him to offer more in support of his position. This is, however, not an option for an opponent who believes to have been confronted with non-argumentation. There is, as far as she can see, nothing to fortify. **[v]** However, it is possible that the opponent reckons with the possibility that she failed to fully grasp the

proponent's response: Did she miss his argument or did he really fail to offer any evidence? In such a case she may request a clarification. This kind of move can be seen as an intermezzo preparing the parties for a critical exchange on the merits of what would turn out to be the proponent's actual argument.

As soon as it becomes clear to the opponent that the proponent is offering no argument whatsoever, she can inform the proponent that, as far as she reads his response, he failed to provide her with genuine argumentation and, to make an issue of it, say something to the effect of "That's no argument!" The filing of this charge of non-argumentation needs to be explored in some detail, for the ensuing possibilities for dialectical exchange constitute the gist of our characterization of non-argumentation as a dialectical move.

As a standard, albeit somewhat overly verbose, way of phrasing this kind of charge of non-argumentation, we propose the following: "In your previous move, you ought to have advanced an argument in favor of proposition *S*, given that earlier you incurred the obligation to defend *S* and that you even accepted this burden of proof, which has not yet been discharged; however, in your previous move you did not provide any proposition that could constitute (part of) a full-fledged argument, either for *S* or for something closely resembling *S*; instead, showing your own emotion and/or arousing my emotions, you invoked either popular sentiments or feelings of awe, or feelings that make laugh, cry, fear, pity, et cetera, acting as if such invocations fulfill the function of an argument in favor of *S*." We abbreviate this message as: "That's no argument!" **[vi]**

This message can be presented in different ways and we want to point out three variants. First, it can be presented in a straightforward manner, more or less instantiating the standard phrase that we introduced above but often doing so rather bluntly as exemplified by Leon in Case 1, above.

Second, a charge of having committed the fallacy of non-argumentation can be phrased in a more rhetorically apt manner: "As far as I can see, your last contribution might amount to no more than non-argumentation. Can you show me wrong?"

Third, the same message can sometimes be conveyed by means of a counter-ad populum. Above, we used the Unitarian church response as an example of a response that is extreme because it deals with non-argumentation as if it were

simply acceptable. However, the same sentence can be used ironically. In that case, the proponent must interpret her “ad populum” as an attempt at refutation by parity of reasoning: “I respond in this non-argumentative way and this is a clearly unacceptable way of responding. My response and your response are relevantly similar. Therefore, your response is unacceptable.”

An example of this ad populum charge by means of parallel reasoning occurred in a recent performance of Theo Maassen’s, a Dutch comedian known for his coarsely formulated criticisms (Case 4).

### *CASE 2: Black Pete*

In the Netherlands, the feast of St Nicholas is among the most popular feasts, and it involves besides the character of St Nicholas, the character of his black servant: Black Pete (also plural: black Petes). The black Petes act as St Nicholas’ helpers, acting in funny, not too smart, formerly quite threatening, but nowadays mostly extremely friendly ways. In the last few years, this character of Black Pete has been increasingly criticized as a racist element in the festivities.

Now, someone might argue that Black Pete should be with us to stay because he is providing a larger number of people pleasure than that of the people he is providing pain. In his televised New Years Eve show of 2013, Theo Maassen classified this line of reasoning as non-argumentation:

But that is no argument, right? Because then we should also accept that collective rape should be with us to stay. (Maassen, 2013, quoted from memory, our translation)

If, in one way or other, a charge of non-argumentation has been presented, the next question is how to respond.

### *5. Reaction to the charge of non-argumentation*

For a proponent confronted with a charge of having committed the fallacy of non-argumentation, there are in principle two options:

The proponent may either concede to have committed the fallacy or criticize the charge. In the first case, the proponent ought to retract or repair his fallacious move. In the second case, when he criticizes the charge as being unjustified, the allegedly fallacious move is retained.

Like other fallacy charges, charges of non-argumentation (“That’s no argument!”) have the force of assertions that may be called into question. When this assertion

is called into question (“Why is it no argument?”), the burden of proof lies on the disputant who advanced the fallacy charge, i.e. the original opponent – now acting as the proponent of the charge; it is up to her to show, in a metadialogue, that there really was no argument offered in the original dialogue. In Case 2, Theo Maassen, as an opponent of the standpoint that Black Pete should be with us to stay, is clearly aware of this burden of proof and tries to discharge it by a parity of reasoning argument. It may of course be doubted whether he demonstrated that there was really no argument at all; perhaps he only made it plausible that the argument given was no good.

There is, in the metadialogue, no burden of proof on the original proponent to show that his alleged argument (decried as non-argumentation) is after all really an argument. But the proponent could voluntarily take on such a burden of proof saying, “But it really is an argument” and then, instead of retracting it, explain how his original contribution could be interpreted as presenting an argument or as a part of one. He could do so, for instance, by making the propositions expressed by the cognitive, evaluative, and motivational components of his emotion more explicit, or by elaborating other nuggets of argumentation contained in his emotional presentation.

#### 6. *Defending one’s charge of non-argumentation*

Suppose, the original proponent challenges the original opponent’s charge of non-argumentation; how can the opponent defend her charge to be correct? We distinguish between two ways she can do so.

First, she can hold that the proponent’s contribution at issue did not express a proposition, either explicitly or implicitly, and without any proposition, there cannot have been an argument. This could be a plausible defense when the proponent simply laughed off the opponent’s doubts about his thesis or when he merely yelled in response to her challenges. In cases such as these, although the proponent clearly shows emotion, the emotion remains rudimentary and is not connected with any clearly cognitive, evaluative, or motivational component.

Second, the opponent can hold that the proponent’s contribution does not contain argumentation, because – although it is expressive of one or more propositions – the propositions expressed do not exemplify any known argumentation scheme. **[vii]** Note that this second defense of the charge of non-argumentation fits the characterization by van Eemeren and Grootendorst of *non-argumentation*

as a contribution “that does not allow the reconstruction of an argument scheme that would establish an argumentative connection between the propositional content of the argumentation[viii] that is advanced and the proposition that is expressed in the standpoint” (2004, p. 171).

Of course, such a defense of the opponent’s charge of non-argumentation is vulnerable to the reply that even though the argument does not fit any known (deductive or defeasible) argumentation scheme, it is an argument all the same, and -the proponent could add- in fact a good one.

In both cases, the proponent can criticize the opponent’s defense of the fallacy charge, by challenging the opponent to make it plausible that no proposition has been expressed, or that no known argumentation scheme has been exemplified. However, he also has the option to explain to the opponent what proposition he intended to express or what familiar argumentation scheme he tried to exemplify or what his argumentation, though not exemplifying any familiar scheme, amounts to.

### *7. Advantages of non-argumentation*

Generally, non-argumentation is thought of as the bad guy and criticism of non-argumentation as the good guy. But some qualifications are in order.

Might not a non-argumentative contribution have virtues of its own, possibly even dialectical virtues? We think so. First, the proponent may feel the need to vent his emotions or to arouse the opponent’s emotions so as to clear the air, aiming to continue the exchange of reasons and critical responses as soon as both participants are rightly attuned to resolving their dispute. A good laugh, or a good cry, even if it happens to constitute non-argumentation, might be needed for the parties to accept one another as dialogue partners and to facilitate their argumentative exchange. Second, the aroused emotion, even if constituting by itself a fallacy of non-argumentation, can nevertheless be useful in so far as it may dispose a participant to raise the level of attention, and thus prepare her to seriously consider argumentation that will be presented later (cf. Rehg 1997). Third, the proponent may want to adjourn the current argumentative exchange and replace it by an emotional exchange because he supposes that an emotional intermezzo will, in the end, enhance a later argumentative discussion. Fourth, it may be advantageous to abandon the argumentative dialogue without intending to resume it, for the reason that other purposes prevail over dialectical ones. Not

all disputes need to be *resolved* on the basis of arguments and critical tests and the participants could be right in supposing that they had better *settle* their current dispute by means of a non-argumentative exchange of emotions. For example, a valuable friendship or a love affair may sometimes best be served by leaving a dispute unresolved.

#### 8. *Drawbacks of criticizing non-argumentation*

Generally, criticism, also fallacy criticism, is a good thing that helps to keep the argumentative process on track. But there is always the danger that the emotions that go with one's criticism will lead the interlocutor away from seriously considering the criticism and even make him abandon the discussion. This is especially the case when emotion-related fallacies such as non-argumentation are criticized. We do not want to say that one should never express a fallacy charge but rather that in many cases it may be worthwhile to consider whether other means are not more efficient to reach the goal of conflict resolution on the merits.

In the case of the *ad populum* variety of non-argumentation, one may think of first having a careful check whether the expressed popular sentiments do not serve one (or both) of the two legitimate purposes discussed in Section 2: Perhaps they serve as a mode of presentation of an argument or as a request to obtain concessions.

But even if no such function can be ascribed to the proponent's expression of popular sentiments, one may still opt for the strategy of asking for clarification (see Section 4) rather than for that of putting forward a fallacy charge. Clarification by the proponent could yield an argument - perhaps one that was not really there before - and thus the discussion would be put back on the argumentative track. After all, if no argument results, it will still be possible to charge the proponent with the fallacy of non-argument.

In case these attempts seem futile and the opponent decides that she wants to put forward the "That's no argument!" charge, she should consider the best way of presenting the charge (Section 4). Putting forward a fallacy charge of non-argumentation is extremely risky but if one has to do it, one should take care to do so in a rhetorically apt and face-saving way.



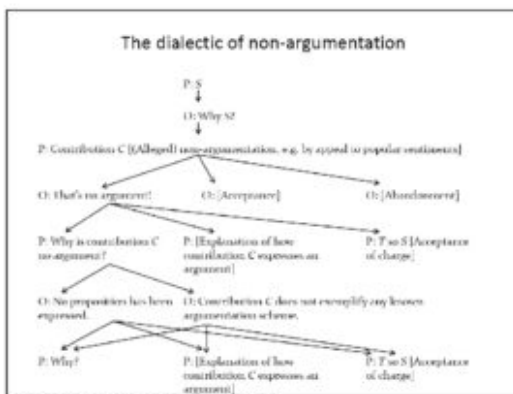


Figure 1. The dialectic of non-argumentation

Figure 1. The dialectic of non-argumentation

## 9. Conclusion

It is clear that emotions can be used in argumentative dialogue in a manner that is congenial to or at least consistent with the arguers' dialectical purposes but also as a substitute for genuine argumentation that leads the dialogue astray. In real-life cases, this is often a subtle issue and in order for the dialogue participants to deal with doubtful cases, they need to be able to raise and discuss a "point of order" (Hamblin, 1970). For such cases, the rules of dialogue need to provide the option of a charge of non-argumentation, as well as a framework allowing a reasonable examination of the issue. In this paper, we have explored the options of the dialogue participants within such a setting, summarized in Figure 1, and thus given an outline of the dialectic of non-argumentation. **[ix]**

We hypothesize that a normative model for argumentative discussion that aims to include rules for dealing with non-argumentation as well as the examination of charges of non-argumentation, needs to provide the participants with such prima facie rights and obligations as make it possible to execute the dialogues indicated in the branches of this profile of dialogue. Thus, the model would implement the dialectical ideal that the discussants themselves are in charge of the place of emotion in their dialogues.

## Acknowledgements

We thank the members of our audience at the 8th ISSA conference for their useful suggestions.

## NOTES

i. In an earlier publication, the fallacies of non-argumentation were labeled as

those using “nonargumentative means of persuasion,” and Commandment 4 was formulated as Rule 4 of the Rules for Critical Discussion (van Eemeren & Grootendorst 1992). According to the pragma-dialectical theory, violations of this Code of Conduct constitute fallacies in the sense of being a hindrance for resolving a conflict of opinion by argumentation.

**ii.** There are other kinds of *ad populum* and *ad verecundiam*, which are not specimens of non-argumentation. For instance, the present kind of *ad populum* should not be confused with that which consists of an appeal to the large number of adherents to an opinion in order to justify the opinion (appeal to popularity). This latter kind of *ad populum* amounts to a violation of the Argumentation Scheme Rule (van Eemeren and Grootendorst, 1992, pp. 161, 165-168, 213).

**iii.** Evading the burden of proof is a fallacy of the opening stage whereas non-argumentation is one of the argumentation stage (van Eemeren & Grootendorst, 1992, pp. 209, 210; 2004, pp. 167-168, 171, 191-192). Van Eemeren and Grootendorst (1992, p. 209-210, 216) mention appeal to diffidence (“personal guarantee of the rightness of the standpoint,” “*Argumentum ad verecundiam*2”), but not appeal to popular sentiments, as a way to evade the burden of proof. Both are mentioned as variants of non-argumentation (1992, p. 210, “parading one’s own qualities” and “playing on the emotions of the audience;” p. 216 “*Argumentum ad verecundiam*3;” p. 213, “*Argumentum ad populum*2”).

**iv.** Note that from a theoretical viewpoint what she conceives as non-argumentation could be just a case of very weak or bad argumentation, or even a completely legitimate move, instead of non-argumentation.

**v.** In his criticism of Case 1, Leon disregards a nugget of argumentation based on the authority of the church, i. e. he does not consider it as an argument.

**vi.** We recognize that the utterance “That’s no argument” can be and is also used to charge the interlocutor with having provided argumentation that is probatively irrelevant or argumentation that, though relevant, is overly weak. In this paper, we restrict our attention to occurrences of this charge in which the opponent can be taken to mean literally what she says.

**vii.** We use argumentation scheme in an inclusive sense to encompass both deductively valid patterns of reasoning as well as merely defeasibly valid (or cogent) patterns of argumentation.

**viii.** I.e. the set of alleged reasons.

**ix.** For brevity, we omit some options relating to clarification and abandonment.

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## **ISSA Proceedings 2014 ~ The Study Of Reasoning In The Lvov-**

# Warsaw School As A Predecessor Of And Inspiration For Argumentation Theory

*Abstract:* The hypothesis proposed in this paper holds that the Polish logico-methodological tradition of the Lvov-Warsaw School (LWS) has a chance to become an inspiring pillar of argumentation studies. To justify this claim we show that some ideas regarding classifications of reasoning may be applied to enrich the study of argument structures and we argue that Frydman's constructive account of legal interpretation of statutes is an important predecessor of contemporary constructivism in legal argumentation.

*Keywords:* classifications of reasoning, argument structures, schemes for fallacious reasoning, legal constructivism, the Lvov-Warsaw School

## 1. Introduction

The motivation for this paper lies in exploring possible applications of the heritage of the Lvov-Warsaw School (LWS) in argumentation theory. After presenting a wider map of current research strands and future systematic applications of the LWS tradition in contemporary argument studies (Koszowy & Araszkievicz, 2014), in this paper we focus on the study of reasoning as one particular area of inquiry which constituted the core concern of the LWS. The main justification of the need of focusing on the inquiry into the nature of reasoning in the LWS is twofold. Firstly, it manifests clearly that apart from purely formal accounts, the School elaborated the broader pragmatic approach to reasoning which may be also of interest for argumentation theorists. Secondly, it may be particularly inspiring for contemporary argument studies because of the possibility of applying it in (i) argument reconstruction and representation and (ii) identifying the structure of fallacious reasoning.

The research hypothesis proposed in this paper holds that the Polish logico-methodological tradition of the Lvov-Warsaw School (LWS) has a chance to become an important theoretical pillar of contemporary study of argumentation. This hypothesis may be justified by undertaking systematic inquiry which would show that some key ideas of the LWS may be applied in developing some crucial

branches of the contemporary study of argumentation. In order to argue that such an inquiry is a legitimate research project, we will show that apart from the developments of formal logic which are associated with the works of such outstanding logicians and philosophers as Tarski, Leśniewski or Łukasiewicz, in the LWS there was also present a strong pragmatic movement which may be associated e.g. with the works of Ajdukiewicz. Moreover, our aim is also to show that even 'purely formal' approaches to reasoning (e.g. the theory of rejected propositions proposed by Łukasiewicz) may turn out to be inspiring for argument analysis and representation.

In this paper, we will discuss two areas of applying ideas of LWS: argumentation schemes and legal argumentation. The aim of the paper will be accomplished in following steps. In section 2 we will sketch an outline of those research areas in the LWS which might be particularly interesting for argument studies. This preparatory discussion will constitute an introduction to Section 3 which is aimed at discussing the issue of applicability of LWS ideas regarding classifications of reasoning in argument representation. In Section 4, we will discuss the second area of applying the tradition of LWS in the study of argumentation is the domain of legal argumentation. We will argue that Frydman's constructive account of legal interpretation of statutes (1936) is an important predecessor of a contemporary view in theory of legal argumentation referred to as constructivism and advanced for instance by Hage (2013). Finally, in the concluding section, we will sketch an answer to the question of how the two specific contexts discussed in the paper form a good starting point for a broader research project concerning application of methods and ideas developed in the LWS to contemporary open problems of argumentation theory.

## *2. Key research strands in the LWS from the point of view of argument studies*

The Lvov-Warsaw School was ambitious philosophical enterprise (1895-1939) established by Kazimierz Twardowski in Lwów (see Woleński, 1989, Ch. 1; Lapointe, Woleński, Marion & Miskiewicz, 2009, Eds.). It is depicted as 'the most important movement in the history of Polish philosophy' (Woleński, 2013) the development of which is associated with 'the golden age of science and letters' in Poland (Simons, 2002). Despite of the fact that the heritage of the LWS is most famous for the developments of formal logic, thanks to such thinkers as Łukasiewicz, Leśniewski, Tarski, Sobociński, Mostowski, Lejewski, and Jaśkowski, it also encompasses a great variety of ideas in almost all fields of philosophy,

including epistemology, ontology, philosophy of language, philosophy of argument, methodology of science, legal theory, ethics and aesthetics (e.g. Woleński, 1989; Jadacki, 2009; Woleński, 2013).

It might be a matter of some interest that the logical studies within the LWS focused not only on formal logic, but the school also developed the strong pragmatic approach to logic (Koszowy, 2010; Koszowy, 2013; Koszowy & Araszkievicz, 2014). Note that even those representatives of the LWS who may be considered as 'purely formal logicians' also shared their interest in practical applications of logical theories. A clear illustration of this 'pragmatic thread' is Tarski's view on employing logic in everyday communication. In the preface of the 1995 edition of his *Introduction to Logic and to the Methodology of Deductive Sciences*, Tarski points to two ideas of this kind:

- (i) logical foundations of successful communication - as logic makes the meaning of concepts precise in its own field, and stresses the necessity of such a precision in other areas, and hence leads to "the possibility of better understanding between those who have the will to do so", and
- (ii) logical foundations of identifying fallacious reasoning - as logic perfects and sharpens the tools of thought and therefore it makes people more critical and "thus makes less likely their being misled by all the pseudo-reasonings to which they are in various parts of the world incessantly exposed today" (Tarski, 1995, p. xi). The latter point raised by Tarski also gives a 'practical' reason why the systematic study of reasoning (and of typical fallacies involved in it) constituted the core concern of the logical studies in the LWS.

An example area of possible applications of the LWS heritage in the study of argument structures is Bocheński's analyses of *One hundred superstitions (dogmas)* (1994). Major affinities between this account and argumentation theory were earlier discussed in (Koszowy and Araszkievicz, 2014, pp. 290-292). In order to emphasize the pragmatic dimension of Bocheński's approach let us only note that his main concern was to help people to recognize those communicative mechanisms which are commonly employed in the social sphere in order to convince people to accept false beliefs. The broad program of detecting common errors in thinking and communicating may be seen in the fact that superstitions and dogmas are not only described by Bocheński from the *inferential* perspective (which focuses on detecting errors in reasoning), but also from the *dialogical* point of view (which consists of identifying typical moves in the dialogue

employed in spreading superstitions in the social sphere), as well as within the *rhetorical* approach (that rests on analysing utterances aimed at convincing someone to accept a superstition).

Since this example may be helpful in exposing some general affinities between the LWS and argument analysis and evaluation, in what follows we will focus on answering the question: to what extent the accounts of reasoning in the LWS may be employed in the contemporary study of argumentation? The answer will be given by providing key reasons for the claim that amongst a variety of possible ways of influencing science and philosophy, the LWS has a chance to enrich the state of the art in the study of argumentation in two fields: (i) argument structures and (ii) legal argumentation.

### *3. The structure of arguments*

Classifications of reasoning constituted the key subject-matter of inquiry in the LWS (Woleński 1988). The main goal of this section is to expose some methodological ideas related to classifications of reasoning proposed by Łukasiewicz, Czeżowski and Ajdukiewicz which may be instructive in reconstructing arguments.

Łukasiewicz, Czeżowski and Ajdukiewicz attempted to develop their own classifications which were, amongst some other goals, aimed at achieving a better understanding of the complex phenomenon of reasoning and of the typical kinds of reasoning as applied in science and in philosophy. Two main approaches to classifying reasoning were proposed by (1) Łukasiewicz[i] (and continued by Czeżowski), and (2) Ajdukiewicz. Whereas Łukasiewicz and Czeżowski focused on the formal-logical aspect of reasoning, the classification elaborated by Ajdukiewicz's took into account not only formal characteristic of reasoning, but also its substantial pragmatic features - what was in line with his program of 'pragmatic methodology' (Ajdukiewicz, 1974, pp. 185-190; see also Woleński, 1988, p. 24). Despite of the fact that these two lines of classifying reasoning differ from each other, both of them consist of some intuitions which may be turn out to be inspiring for those argumentation scholars who focus on argument structures.

Some particular applications of the legacy of the LWS in the research on argument analysis and representation were exposed by Trzęsicki (2011). In this work we may find two ideas constituting the heritage of the LWS that might turn out to be particularly useful in representing the structure of arguments: (1) the

distinction between accepted and rejected propositions and (2) the distinction between the direction of entailment and the direction of justification.

The first idea rests on developing argument diagramming method which employs the distinction between four kinds of propositions:

- (i) asserted,
- (ii) rejected,
- (iii) suspended, and
- (iv) those which are neither asserted, nor rejected, nor suspended (Trzęsicki, 2011, pp. 59-60).

What might be a matter of particular interest for the project aimed at incorporating this distinction in argument representation and analysis is the possibility of applying Łukasiewicz's account of rejected propositions (Łukasiewicz, 1921; see also Słupecki et al., 1971; 1972) in argument diagramming.

Łukasiewicz (1921; see Słupecki et al., 1971, p. 76) noticed that the modern formal logic did not use 'rejection' as an operation opposed to 'assertion'. Note that even the very justification of the study of rejected propositions given by Łukasiewicz might be of interest for those who study ancient roots of argumentation theory. According to Łukasiewicz, Aristotle's idea of rejection, which has never been properly understood, "could be the beginning of new logical investigations and new problems which should have been solved" (see Słupecki et al, 1971, p. 76). This intuition concerning the need of the study of rejected propositions in formal logic is in accordance with the need of representing those argumentative moves (such as attacks, undercuts and rebuttals) which result in rejecting claims that have been put forward in argumentation. Although Łukasiewicz employed his distinction between asserted and rejected propositions in the context of research in formal logic, as we will show, there is also a possibility of employing it also in the field of argument representation.

The second idea elaborated within the LWS which also plays a key role in representing argument structures is the distinction between the direction of justification and the direction of entailment. This distinction has been employed within the diagramming method proposed by Trzęsicki (2011). For example, this method allows to represent the structures of typical kinds of reasoning such as deduction, induction and the reasoning by analogy:



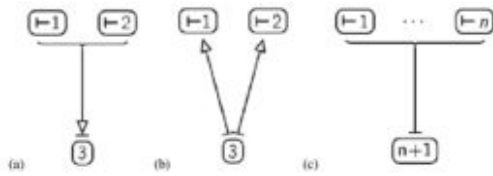


Figure 1: Argument diagrams for three kinds of reasoning: (a) deduction, (b) induction, (c) reasoning by analogy (Trzęsicki, 2011).

Figure 1: Argument diagrams for three kinds of reasoning: (a) deduction, (b) induction, (c) reasoning by analogy (Trzęsicki, 2011).

We may here observe how the previously discussed intuitions regarding classifications of reasoning are present in argument diagrams. In these three example diagrams, the numbers 1, 2, etc. represent propositions which have been extracted from the particular text. In the above diagrams all propositions are asserted, however this method also allows us to distinguish all four types of sentences: (1) asserted (e.g.  $\vdash 1$ ,  $\vdash 2$ ), rejected (e.g.  $\dashv 1$ ,  $\dashv 2$ ), suspended (e.g.  $\ddashv 1$ ,  $\ddashv 2$ ) and those which are yet neither asserted nor rejected nor suspended (and which are represented by numbers of propositions without any additional symbols, e.g. proposition 3 in diagrams (a) and (b)). The direction of entailment is represented by an arrow, whereas a perpendicular dash denotes the direction of justification. In the diagram (a) representing deductive reasoning, both premises are asserted and the direction of entailment is in line with the direction of justification. The diagram (b) for inductive reasoning shows that the premises justify the conclusion, but the general conclusion (such as *All ravens are black*) entails the premises (e.g. *The raven 1 is black*, *The raven 2 is black*, etc.). Finally, the diagram (c) for reasoning by analogy shows that the asserted premises about the well known case(s) justify the conclusion, but the relation of entailment does not hold. Moreover, we may note that this method enables the representation of linked (diagrams (a) and (c)), convergent (not represented in the above diagrams) and divergent (diagram (b)) arguments. This project is in line with the proposal of treating the LWS tradition as a point of departure for modelling the linked-convergent distinction (see Selinger, 2014).

For the purpose of our paper it might be also interesting how Trzęsicki's proposal could be compared to some basic notions which are used in argumentation theory

in order to describe the diversity of argument structures. For example, the argument diagramming method proposed by Trzęsicki may be discussed in terms of four stages of a critical discussion within the pragma-dialectical model (e.g. van Eemeren & Grootendorst, 2004, pp. 59-62). Amongst four stages (confrontation stage, opening stage, argumentation stage, and concluding stage) at least two of them may be pointed out in the discussion of further areas of applying the diagramming method proposed by Trzęsicki, i.e. the confrontation and the argumentation stage. At the confrontation stage one may apply tools presented above to identify a difference of opinion by indicating in the diagram which propositions are asserted and which are rejected. At the argumentation stage one may indicate in the diagram which kind of inference has been performed, in order to apply proper criteria of argument evaluation.

Although the above discussion shows only some applications of the approach to classifying reasoning proposed by Łukasiewicz and continued by Czeżowski, it is worth noting that some ideas developed by Ajdukiewicz may also play an inspiring role for argument studies. As early as at the stage of formulating the general motivation for building his taxonomy of reasoning, his approach may be strikingly similar to the very rationale of contemporary argument studies which starts from analysing everyday communication practices. In his talk given at the 1st Conference of Logicians in 1952 in Warsaw which was later published in Polish in *Studia Logica*, vol. 2 (Ajdukiewicz 1955), Ajdukiewicz presented his critique of the taxonomy of types of reasoning proposed by Łukasiewicz and Czeżowski (Woleński, 1998, p. 44). One of Ajdukiewicz's objections was that Łukasiewicz and Czeżowski defined some key terms employed in defining reasoning (such as 'inference') in a way which is far from their common use in natural language (Ajdukiewicz, 1955). Ajdukiewicz focuses in particular on a critique of definitions of terms which are involved by Łukasiewicz and Czeżowski in classifying reasoning. Amongst these terms there are: 'reasoning', 'inference', 'proving', 'deduction' and 'reduction'. Since, according to Ajdukiewicz, definitions of these and other terms depart from concepts such as reasoning and inference present in everyday communication, some distinctions employed in classifying various kinds of reasoning (such as the distinction between reason and consequence) are artificial (Ajdukiewicz, 1955; see also Koszowy & Araszkiwicz, 2014, p. 287). This pragmatic approach will be further seen in Ajdukiewicz's positive proposal of his own taxonomy of reasoning.

Since Ajdukiewicz developed and modified his attempts at classifying reasoning, some different proposals may be found in his works (Woleński, 1988, pp. 42-48). The latest proposal given in *Pragmatic logic* (Ajdukiewicz, 1974) seems to be particularly interesting for the purpose of this paper, because it may be treated as a clear manifesto of focusing not only on formal, but also on pragmatic aspects of reasoning. Within his taxonomy, Ajdukiewicz divides reasoning into two general categories:

- (1) conclusive, and
- (2) non-conclusive (Woleński, 1988, p. 47).

There are two forms of conclusive reasoning:

- (i) subjectively certain and
- (ii) subjectively uncertain.

Apart from details of this classification, let us only mention its key pragmatic features. Firstly, instead of using the notion of validity of reasoning, Ajdukiewicz introduces the concept of conclusiveness (Woleński, 1988, p. 47). Secondly, the notion of subjective uncertainty is clearly in line with those research strands in argumentation theory which stress the need of considering human fallibility in evaluating defeasible reasoning. Basing on these two features, we may point to the possibility of testing whether these ideas may be also applicable in the study of reasoning in argumentation theory, what might be the task for future inquiry.

#### 4. *Legal constructivism*

The research conducted by the representatives of the Lvov-Warsaw School constitutes not only an important source of inspiration for the general studies on argumentation, but also for investigations concerning particular domains of argumentation, including legal argumentation. In particular, the legal-philosophical work of Sawa Frydman, one of very few lawyers among the LWS members, offers interesting insights into the controversy concerning reconstructive or constructive character of legal argumentation (hereafter: the Reconstruction / Construction Controversy, abbreviated to RCC).

The RCC may be formulated as follows (see Hage, 2013, pp. 125-126 for a broader introduction to the problem). Legal argumentation either performs only constructive function (the Constructivism Thesis, CT), or it is reconstructive in easy cases while constructive in hard cases (the Reconstructivism Thesis, RT).

According to the CT, legal consequences of cases are always created by means of arguments, actually or possibly used to generate these consequences from some relevant premises. According to the RT, the CT is only locally true (it applies to the so-called hard cases), while in majority of cases (referred to as easy cases), the legal consequences of cases are already there, for they are the result of operation of legal rules, and they should simply be discovered, or reconstructed, by the law-applying organ.

It is not our purpose here to summarize the existing arguments supporting or attacking the RT or the CT (cf. Hage, 2013, pp. 142-143). Instead, it is our intention to show how Frydman's (1936) work may provide an import to the merits of the on-going discussion. For the sake of self-contained character of this paper, we have to recall the basic features of Frydman's theory of legal interpretation, briefly outlined in our past work (Koszowy & Araszkiewicz, 2014, pp. 294-295). However, the present elaboration will go deeper into the details of Frydman's contribution.

Sawa Frydman is the author of one of the earliest consistent proposals (1936) of constructive account of statutory interpretation. The key technical term in this proposal is the 'pattern of behaviour' which is an abstract concept referring to certain possible states of affairs (Frydman, 1936, pp. 144-145). Patterns of behaviour may be encoded in different media, for instance in oral utterances (such as orders) and, more importantly, in statutory texts. Patterns of behaviour may be accounted for either directly (intuitively) or indirectly (by means of justification). The latter case of accounting for patterns of behaviour on the basis of statutory texts is referred to as interpretation (Frydman, 1936, p. 145).

Frydman's general idea is to develop different ideal types of legal interpretation in the Weberian sense, which would be useful in empirical investigations. He rightly observes that it is difficult to indicate any 'facts' that would serve as truthmakers of the statements concerning assignment of meaning to statutory provisions. In consequence, the only part of legal statutory interpretation that may be analyzed from scientific point of view is the relation between its premises and its conclusion. In consequence, the process of legal interpretation is constructive, because it depends on the set of premises which is arbitrarily adopted by the interpreting person. Frydman defines the term 'objective interpretation' in the following manner: "statutory interpretation is objective if and only if it is true that from the premises  $p, q, r$  it follows that statute  $S$  contains the

pattern of behaviour P" (Frydman, 1936, p. 177).

The basic argument used by Frydman to support his thesis concerning arbitrariness of premises used in the process of legal interpretation is the argument from plurality of theories of interpretation. In this connection, the author reviews several important theories of statutory interpretation discussed in the literature those days (Frydman, 1936, pp. 181-194). The presence of these discrepant theories, often leading to contradictory conclusions, is an indisputable fact and there are no decisive criteria that could lead to establishment of a preference relation between them.

The second argument is based on the observation of actual legal interpretive practice. Frydman rightly notes that the choice of interpretative arguments is dictated by practical needs and value judgments rather than by focus on 'properness' of a given set of adopted assumptions. In this connection it seems implausible to seek for a 'right' set of premises adopted in statutory interpretation. The question concerning 'unique and objective' sense of a statute is an ill-formed question (Frydman, 1936, pp. 196-197).

The arbitrary choice of premises that play justificatory role coexists with the fact that the very process of legal interpretation has well-defined structure and it encompasses the following elements (Frydman, 1936, pp. 208-209):

- \* *the direction of interpretation* - that is, taking a certain class of facts into account, that possibly lead to the establishment of the pattern of behaviour;
- \* *the material of interpretation* - all signs (in semantic sense of this term) that are investigated in the process of establishment of the abovementioned facts;
- \* *the means of interpretation* - the use of this or that material in the scope of a given direction of interpretation;
- \* *the premise of interpretation* - a statement, which defines a direction or means of interpretation, or the order of use and significance of each direction in the process of interpretation.

Interestingly, Frydman emphasizes the twofold role of logic in the process of statutory interpretation. If the premises are established in a precise manner, then inference of the conclusions is actually objective, because it is independent of the interpreting person. Hence, Frydman insists on establishing deductive relations between premises and conclusions in statutory interpretation. However, Frydman

seems to accept also a broader account of logic, for he argues for application of logical tools in the process of comparison and reconciliation of results of different directions of interpretation. His brief informal account of this process invokes the concept of belief revision, which was introduced to the literature much later (Alchourrón, Gärdenfors & Makinson, 1985).

The theoretical framework presented above is a tool designed for empirical investigations concerning the phenomenon of statutory interpretation, and therefore it should not be treated as a descriptive model of this phenomenon. In particular, Frydman acknowledges that in reality some sets of premises used in the process of interpretation may be rooted so firmly in a given community of lawyers that the interpretative results generated by these premises may be seen as 'true' (Frydman, 1936, p. 239). However, the existence of such consensus is a purely empirical question: there is no necessity in assigning this and only this pattern of behaviour to a given statutory provision. In our opinion, Frydman's account of statutory interpretation is an important predecessor of contemporary constructive accounts of legal reasoning. Due to its very precise formulation and deepened analyzes, the work of Frydman could still provide valuable inspiration for the present research on the subject and persuasive arguments supporting the CT; however, its influence will remain limited in foreseeable future, because the referred work has been published in Polish only. Therefore, we see it purposeful to indicate the following aspects of Frydman's work that can be particularly fruitful in the research on legal argumentation nowadays.

First, the conception of statutory interpretation discussed is one of the earliest legal-philosophical proposals which focuses on the notion of argumentation. Even if Frydman does not use the term 'argument' or 'argumentation', his analysis of the relation between premises and conclusions of interpretative reasoning may be almost effortlessly translated into the language of argumentation theory. Let us also emphasize that the general scheme of interpretative reasoning outlined above may serve as a general template for development of new argumentation frameworks for representation of statutory interpretation. In particular, the concept of 'premise of interpretation' is defined very broadly by Frydman, for it encompasses not only statements that support or demote different interpretative statements, but also statements concerning the sequence of use of different directions of interpretation, mutual relations between them etc. In this connection, Frydman's conception may serve as a point of departure for

development of a formal model of constructive argumentation dealing with statutory interpretation. One should note that such formal systems have been developed for the context of Case-Based Reasoning (CBR), characteristic for the systems of law in the US and in the UK (for instance: Bench-Capon & Sartor, 2003), but not for statutory interpretation, connected with continental European legal culture. In the context of statutory reasoning, Frydman's broad notion of directions of interpretation enables a researcher to discuss and analyze a great variety of argumentation schemes that are actually used in statutory interpretation (for a general introduction to the topic of argumentation schemes see Walton, Reed & Macagno, 2008; for an initial application of this theory to legal interpretation see Macagno, Walton & Sartor, 2012; Araszkiewicz, 2013).

We are of the opinion that Frydman's general framework may enrich and systematize the contemporary attempts to analyze statutory interpretation by means of different argument schemes. Note also that according to Frydman's assumption of arbitrariness concerning choice of premises in interpretative reasoning, we obtain a negative result concerning the possibility of establishing a definitive preference relation between different methods of legal interpretation. However, this does not preclude defining local, or tentative, preference relations: the set of 'premises of interpretation' encompasses also statements concerning relative significance of directions of interpretation. This contention makes it plausible to state that the preference relations between conclusions stemming from different premises could play an important role in a model of statutory interpretation based on Frydman's conception. Their determination would presumably take place on the second logical layer of the process of interpretation, when different conclusions, presumably inconsistent, conclusions, are compared and revised.

Second, it is worth emphasizing that Frydman's scientific project was developed to enable the sociologists to effectively investigate the actual statutory interpretation by means of empirical research. Interestingly, Frydman postulated conducting of statistical analysis of large-scale corpora of documents (Frydman, 1936, pp. 267-268), which should be assessed as a bold proposal in the 1930s, because there were no electronic repositories of legal documents those days. Nowadays, when these databases are easily available, the conceptual scheme developed by Frydman may be useful in designing research tools for analysis of the existing corpora and argumentation mining. In this connection we would like

to point out that Frydman's distinction between three ideal types of interpretation, that is, objective interpretation, apparently objective interpretation and anticipatory interpretation (Frydman 1936, p. 151) may be used as an efficient guideline for development of empirical research on legal argumentation. The criterion of the distinction is the attitude of the interpreting person. In case of objective interpretation, the interpreting person intends to construct the proper pattern of behaviour from the statute and relevant premises without earlier determination of the desired behaviour. In the apparently objective behaviour the person determines the desired pattern of behaviour first, and then seeks the justification of this pattern of behaviour in the statute. Finally, anticipatory interpretation aims at foreseeing interpretive behaviour of other parties (the opposing party to the dispute or the appellate judge). We are of the opinion that ignoring these distinctions in the process of empirical research on statutory interpretation may lead to certain distortions, for instance, to a false conclusion that certain method of interpretation is generally abused, where in fact it could be abused only in cases of apparently objective interpretation (used, for instance, in unjustified lawsuits etc.).

In summing up the above considerations, it should be stressed that the work of Frydman is exemplary as regards the logical culture of investigations in the field of law. Clarity of exposition of the scientific problems and careful conceptual distinctions together with explication of all elements of argument of the author form a good pattern of conducting of this type of conceptual analysis in the field of legal argumentation.

## 5. *Conclusion*

As the discussion of two example areas (i.e. argument representation and legal argumentation) of employing the LWS heritage in argument studies show, the logico-methodological ideas of the LWS constitute not only the roots of argument studies in Poland associated with the emerging Polish School of Argumentation (see Budzyska & Koszowy 2014, eds), but may also contribute to the current state of the art in argument analysis and representation. As we pointed out in this paper, amongst the ideas which may be particularly inspiring for argument studies there are:

- (i) Łukasiewicz's theory of rejected propositions - as it might enrich the state of the art in argument diagramming, and
- (ii) Frydman's constructive account of statutory interpretation - as it may inspire



current applications of argumentation schemes theory to interpretation of statutes and it could be useful for development of tools applied in empirical research on large corpora of legal documents (in particular, judicial opinions and doctrinal works).

These two detailed areas of inquiry may also constitute a motivation for exploring the broader context in which the main pillars of future systematic inquiry might be suggested. Amongst such pillars we may point to the following:

- (i) classifications of reasoning as the foundation for developing argument diagramming methods; and in particular
- (ii) the inclusion of the account of rejected propositions in argument diagrams;
- (iii) the model of statutory legal interpretation based on the idea of construction;
- (iv) the framework for future empirical research concerning the set of actually employed premises in legal reasoning.

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### NOTE

**i.** Observe that although Łukasiewicz's classification of reasoning was rather peripheral to his major research concerns, it turned out to be widely accepted in logic textbooks (Ajdukiewicz, 1955).

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