ISSA Proceedings 1998 – Democratic Justice, Argumentative Dialogue, And Political Legitimacy

1. Introduction

My aim in this paper is to address some links between argumentation theory and political theory. Practitioners in both areas share an important element of common concern, namely, identifying the conditions of rational argumentative dialogue. On the one hand, argumentation theorists have offered models idealizing a preferred structure of discussion aimed at reaching a reasonably well-defended position on some subject, while on the other hand, some political theorists have been concerned, over the past decade or so, to think about social deliberation as part of a defense of democratic legitimacy and social justice. In the present context, the interest of the latter idea, for both sorts of theorists, is that an appealing conception of legitimacy or justice for modern democratic societies might be developed by focusing on the idea of a rational democratic discussion.

My more specific aims are as follows: first, to explain the immediate background in political philosophy to the current concern with the links between dialogue and justice (i.e., John Rawls's approach and its problems); secondly, to clarify the reasons for thinking that democratic legitimacy is best understood by reference to a model of social discussion; thirdly, to register a general claim about the material preconditions for meaningful participation in democratic discussion aimed at reaching decisions about the terms of political association; and finally, to address several objections to the idea that a model of "deliberative democracy" is at all relevant to our self-understanding as citizens in modern democratic societies.

2. Rawls's Contractarian Argument and Beyond

In 1971, John Rawls's book, *A Theory of Justice* , was published, immediately reinvigorating political philosophy and initiating a series of debates about justice and political justification that have continued to this day. Rawls's achievement consists in two different variations on some old themes: first, he offers substantive principles of justice, attempting to show that liberty and equality are compatible moral and political values, and secondly, he defends those principles,

in part, by means of a social contract argument. For our purposes, it is this argument – rather than Rawls's specific conclusions – that is the jumping-off point for my discussion.

Rawls's argument appeals to a hypothetical contractual situation in which individuals choose principles from behind a 'veil of ignorance', a device designed to rule out bias and therefore ensure impartiality in the resulting principles. The problem is to choose principles of justice to underpin the main social, economic, and political institutions for a given society, and Rawls's argument is that we should imagine what principles individuals would choose if they did not know anything about themselves that would enable them to tailor the chosen principles to their own advantage. The principles that would be chosen in this hypothetical so-called 'original position' are the principles we should accept because the choosing situation is designed to cohere with our considered judgements about the requirements of justice. One such judgement is that justice is closely linked to *impartiality* , another is that a person's life prospects should not be determined by their good or bad luck in respect of natural abilities or social circumstances (Rawls 1971: 18-19).

According to Rawls, as I have said, persons in the original position are situated behind a 'veil of ignorance', thereby preventing them from knowing precisely who they are. (They do know some general facts and theories about human psychology and social structures, and they know that their society is characterized by moderate scarcity of resources and limited benevolence of individuals.) Accordingly, in the original position there is nothing to distinguish one person from anyone else: if anyone has a reason to prefer one principle of justice to another, then everyone has that same reason. Hence, at this stage, we are presented with a problem of rational choice, and Rawls (controversially) believes that a rational chooser would adopt a 'maximin' decision rule, focusing only on the worst-off position in any resulting social framework and preferring that framework in which the worst-off are better off than they would be under any other arrangement.

The most important thing for us to notice about Rawls's account is that its goal is to provide a means of defending principles of justice everyone can accept, yet it does so not by appealing to everyone to participate in a dialogue about justice but by adopting the standpoint of any person selected at random while behind the veil of ignorance (Rawls 1971: 139). So Rawls's argument is 'monological' in form, that is, the thought experiment puts everyone on an equal footing so that each

person will reason in precisely the same way. But there are two important objections to this monological approach: first, it fails to account for the different perspectives individuals and groups legitimately bring to the ongoing public dialogue within contemporary pluralist societies, and secondly, it does not provide a satisfactory link between justice and *democracy* in the justification of the central social institutions of a society, a link whose importance stems from the claim that both justice and democracy are bound up with the morally prior notion that each person's interests are due equal consideration. These objections point the way to an alternative conceptualization of how to defend principles of justice. On this view, the justice of an arrangement is connected to its legitimacy, and legitimacy in turn is best thought of as arising from a deliberative process in which each person has an effectively equal say in determining their terms of association. Hence we should turn our attention to the topic of 'democratic justice' and to the *egalitarian dialectical process* that is sometimes taken to be a necessary condition of political legitimacy.

3. Democratic Legitimacy and Argumentative Discussion

Democratically organized discussion and deliberation are valuable because they help individuals better understand their own interests as well as the interests of others (Christiano 1996: 84). Moreover, where a society's institutions enable all citizens to discuss matters of public concern, people will be better able to exercise the equal power that is suggested by a prior moral commitment to the equal consideration of persons: in short, someone has power when they actually know which policies will promote their interests (Christiano 1996: 85), and such knowledge is most likely to be gained by everyone when discussion and deliberation are open to all. In a democratic society, each citizen should have an equal say in determining the society's overall aims. Ideally, this means that deliberation about public policy should be modelled on a discussion procedure that is both rational and egalitarian. I want to address the question of whether such a model is relevant to large, technologically advanced societies, but first we need to know a bit more about this model of democratic deliberative discussion (I direct the reader to two of the more helpful accounts in the recent literature, on which I base much of what follows: Christiano 1996: 116-28 and Cohen 1989). Citizens gain information through social discussion and deliberation in which individuals and groups communicate with each other with the aim of reaching a consensus. But if this process is to be legitimate, the consensus reached (or the process whose ideal end-point is the reaching of consensus) must be in line with

certain *criteria for procedural legitimacy*; otherwise, the so-called "consensus" will lack normative force.

What are these criteria? At the very least, participants must appeal to reasons acceptable to anyone, regardless of their social position, class background, natural talents, and so on. This criterion rules out what we might call 'persuasion by coercion', that is, giving someone a reason to adopt a position by threatening good or bad consequences if they act in one way rather than another. The idea here is related to the rationale behind Rawls's veil of ignorance: when self-interested people know certain specific facts about themselves, they can be expected to reason so as to use that knowledge, perhaps to the detriment of others. When a reason is a reason only for someone in a given social position, the danger is that discussants will engage in bargaining aimed at maximally benefiting themselves, taking the interests of others into account only to the extent necessary to further one's own interests. It should be fairly clear that bargaining in full knowledge of one's class position and natural talents, combined with minimal rationality directed at achieving one's ends, will lead to agreement on terms of association that benefits members of the materially advantaged classes and those better endowed with socially useful talents. Since the socially and naturally disadvantaged have less bargaining power, they have to settle for less. But if we accept this bargaining picture, we commit ourselves to the legitimacy of a social arrangement in which people's life prospects are largely determined by features of themselves – say, their class position or natural talents – for which they are not responsible. It is difficult to believe that the bargaining model is legitimate, for it more or less ensures that the society's institutional structure results from a series of threats and offers. On the other hand, if we want to model social legitimacy we should not conceive of society as a bargaining procedure in which the parties aim merely to get as much as they can for themselves, regardless of the basic needs and interests of the other parties. The agreement reached by that procedure might be "rational," in one sense of that much-contested word, but it will not be reasonable.

Participants, then, need to be able to recognize the force of the reasons given in the discussion. But they also need to adopt a certain attitude of mind. Specifically, they must be willing to listen to the reasons given by those with opinions different from themselves. Each discussant wants to persuade the others of the acceptability of his own view, but he must also be persuadable by the reasons

offered by those others. Additionally, the aim of participants should be that people change their views on the basis of reasons offered, and not for any other reason. So rational social discussion is in this sense distinguishable from *indoctrination* in which the two-fold goal is to bring about some belief in others (regardless of the reasons there might be for that belief) and to close off those others to any future change in view (Christiano 1996: 117).

Another criterion for rational deliberation about political goals is that a range of views should be on offer. The need for a plurality of positions stems from the plural character of free societies themselves: it is highly unlikely that a social arrangement will be legitimate if it fails to address the concerns and perspectives of the diverse viewpoints that develop in the context of free deliberation. One of the problems with the Rawlsian thought experiment with which I began is that it does not make room for this plurality at any basic level. Bringing in a range of views has one important consequence, for our purposes: namely, conflict between perspectives will be inevitable, and there is the persistent worry that consensus can never be reached. I address this problem later on.

Another criterion for reasonable social discussion is what we might call *universal comprehensibility*. This is the idea that every citizen must be capable of following the arguments given in the process of deciding upon social goals, and that positions are adopted (ideally) on the basis of reasons everyone understands. Yet another criterion is efficiency (Christiano 1996: 118). By this I mean simply that the deliberative process should not take up so much time and effort that the citizens lack the time and energy to pursue other socially useful tasks or purely private activities. Moreover, discussion on any given topic should not consume so much time that other, equally valuable subjects are not discussed.

Perhaps the most interesting criterion is that the process should be guided by the reasons offered (Christiano 1996: 119 and Cohen 1989: 22). Positions should be adopted when they are supported by the best reasons. Despite the obvious importance of this criterion, I will not say much about it here, since the difficult work of deciding which reason is best in a particular instance will likely appeal to considerations at least partly tied to whatever subject-matter is in dispute. (I say, "at least partly," rather than "wholly," because any discussion must meet certain general, context-insensitive criteria such as consistency, openness to different viewpoints, and so on.)

Still, what counts as a reason must be a reason that anyone can reasonably accept and that, where expert knowledge in some subject-area is relevant, the experts' consensus figures centrally. So much for the outline of general criteria for

rational democratic discussion aimed at determining a society's central goals. I want to turn now to consider a necessary condition for implementing such a model of discussion in contemporary societies, namely, the achievement of a roughly equal level of material well-being. We will see, however, that meeting this condition may be necessary, but it is certainly not sufficient for the legitimate reaching of agreement on terms of political association.

It seems fairly clear that the democratic ideal of political equality cannot be realized where there is persistent *material* inequality. It is more or less impossible for individuals lacking a reasonable share of social and material resources to make their voices heard, especially in societies where relatively few people possess vast resources enabling them to wield great influence upon both the main media of opinion *and* political representatives. Notice that this state of affairs can persist even where there is no coercive interference with political expression or association; it is simply that some groups speak "so loudly and so much as to deny an effective hearing to contrary voices" (Fishkin 1992: 161). Here the underlying concern for equal consideration and respect should lead democrats to favour (one version of) principles of distributive justice ensuring not only equal civil and political liberties but the material prerequisites for making those liberties practically meaningful. Although this claim is controversial in some quarters, I now will assume its truth in order to focus on a deeper problem for democrats.

4. The Problem of Pluralism

The problem is this: even where everyone had a substantively equal say in democratic deliberation, we would still live in a society "characterized by moral pluralism, and so [we] must contend ... with disagreements rooted in differing conceptions of the aims and purposes of human life, and in different allegiances and attachments, differences that can lead to deep and enduring conflicts" (Moon 1993: 86). One way to counter this problem was suggested by Jean-Jacques Rousseau (Rousseau 1762): we could ensure uniformity of opinion by way of a strict regime of censorship along with other mechanisms such as a civil religion that serves as a focus of patriotic devotion. This approach is unacceptable in large, modern societies – Rousseau himself favoured small, simple societies for precisely this reason. In any case, if, like Rousseau, one is concerned foremost with freedom, it seems odd to try to achieve it by setting up an institutional framework in which freedom is directly and intentionally curtailed.

The pluralism problem generates an objection to the model of democratic deliberative discussion. The objection is that the consensus at which the model

aims is simply not possible. There is a vast range of opinion on matters of social policy, for instance: think of policies on welfare, taxation, education, and health, not to mention abortion and euthanasia. In the end, I think it is fair to say that if achieving consensus is required by the model, then the model must be rejected. But the obvious reply is that the model need not deny the persistence of deep-seated conflict of opinion about matters of public concern. The utility of the model is not that it promises to settle all conflicts; rather, it is that it might lead to the acceptance by the majority of citizens that such conflicts as are irresolvable are nonetheless defended on all sides by people who can and do appeal to *reasons* with some persuasive force, even if those reasons are reasonably rejectable by those who do in fact reject them. An additional benefit of the model I have been describing is that it institutionalizes free and open discussion in a way that is aimed at generating respect for co-participants in the process. Consequently, where conflict of opinion is not resolvable, there is greater likelihood that peaceful means will be used to change the views of one's opponents.

But there are alternative discussion models, distinguishable by their characteristic handling of the pluralism problem. I want to focus now on one of the more interesting alternatives for dealing with the pluralism of modern societies. This is the approach favoured by Bruce Ackerman. On Ackerman's view, a just society institutionalizes a public dialogue characterized by what he calls "conversational restraint" (Ackerman 1989). According to this strategy, conflicting and deeply-held moral ideals should be excluded from public dialogue. Instead, the emphasis should be on those beliefs shared by all participants. In this way, no one will be forced to impose on others views those others may reasonably reject. (Remember that directives backed by state authority are ultimately supported by the *force* of the organs of the state; the aim is to maximize the extent to which that inevitable threat of force is further sustained by reasons the citizens can accept, reasons unrelated to that threat.) Ackerman's model is compatible with the idea that the terms of political association should be freely accepted. But it fails to satisfy the criterion (mentioned earlier) that views should be accepted on the basis of reasons offered in the discussion. The model prevents participants from questioning competing beliefs; yet if the aim is to pick out commonly held views, the model backfires, since it is precisely such questioning that can lead to the identification of common beliefs (Moon 1993: 77). That is, we identify the positions we share with others by defending claims they question, since we defend those claims by appealing to reasons we believe others will

accept. Perhaps paradoxically, common ground is found by testing views that conflict with each other in order to see what can be publicly defended. Ackerman's 'conversational restraint' model fails because it backs away from dialogue in precisely those contexts where dialogue holds out the only non-violent hope of reaching an accommodation between competing views. My tentative conclusion here is that we would be better advised to encourage civilized discussion about conflicting moral ideals, rather than pushing all such ideals off the public agenda.

5. Further Objections

I began with an outline of Rawls's contractarian method for defending principles of distributive justice, and we were led to the idea of a democratic dialogue as a means of making up for certain weaknesses in the Rawlsian approach. There is a further respect in which the dialogue strategy improves upon the monological approach. The Rawlsian style of contractarian argument is sometimes accused of begging the question. Its purported *basis* is what would be agreed by individuals in a hypothetical contractual situation, but the principles of justice it aims to produce are not in fact adequately defended by appeal to hypothetical agreement: the correct characterization of the initial choice situation presupposes a substantive view about justice, hence all contractarian justifications of justice are viciously circular: one gets out only what one puts in, so skeptics of one's substantive conclusions may reasonably reject such a method of persuasion. Moreover, a further problem with the contractarian strategy is that, being hypothetical, it cannot generate actual obligations to abide by the conclusions agreed to. The idea here is that real contracts generate obligations – think of a promise which, once made, obligates (at least *prima facie*) the promissor to do whatever it is she promised to do – but a hypothetical contract is patently unreal, so it couldn't in itself generate anything. The movie mogul Sam Goldwyn – the 'G' in 'MGM' – is supposed to have said that a verbal contract isn't worth the paper it's written on; the present point is that a *hypothetical* contract isn't worth the paper it's written on. (Or, to be strictly accurate, a hypothetical contract isn't worth the paper it's *not* written on. See Hampton 1997: 66).

The solution to these difficulties is to conceive of one's contract as actual rather than hypothetical, thereby enabling agreements reached to have real justificatory force. The deliberative dialogue is meant to be an actual process, so (at least potentially) it packs the relevant justificatory punch. The problem then is to point to a real form of agreement people reach that has the legitimacy-producing

features I've pointed to in setting out criteria for procedural legitimacy. There are many reasons why we might think that any actual process of generating agreement cannot generate legitimacy; the pluralism problem is among the most difficult. I will close by mentioning another.

An obvious difficulty is that the level of participation required by this account of democratic legitimacy is too high to be realistic in the context of large modern states. This problem is akin to the difficulty with socialism once noted by Oscar Wilde: it would take up too many evenings. In fact, the objection might not be simply that the deliberative democratic ideal is too time-consuming: the problem might be more serious. For one might argue that, even if time could be set aside for discussions about society's goals in which everyone participates, it might be the case that some people – perhaps the vast majority – are *incapable* of contributing to such a discussion. In short, the ideal of rational social deliberation cannot be the ideal for a *democratic* society in which every citizen is meant to contribute to the determination of social aims (Christiano 1996: 123).

In reply to this objection, one must temper the enthusiasm for large-scale participation that might have seemed to characterize the deliberative model. The aim is definitely for more participation than we now see, but it does not require that every detail of state policy be up for discussion. There are experts in many areas necessary to the formation of a rational social policy, and no one is capable of becoming an expert in all of those areas. However, the deliberation model should call for all citizens to be participants in the setting of overall aims for the society, and for this task they need only a general capacity to understand policy directives and institutional mechanisms (Christiano 1996: 169). Most importantly, every citizen is in fact capable of judging for themselves the *effects* of a policy or the workings of an institution: as Aristotle said in the *Politics*, Book 3, the best judge of a house's livability is the person who lives in the house, not the person who built it. The political analogue of this argument is that, even if we rightly make use of experts in devising social and political institutions, citizens themselves should be allowed to decide whether some directive is satisfactory. And if their decision is to be rational and informed, everyone must play at least some role in following the reasons offered in public dialogue. Moreover, democratic participation has the potential for moral education of the entire body of citizens (Christiano 1996: 82-3). In short, the model of deliberative democratic discussion is far from perfect, but no other scheme holds out any hope of generating legitimacy in societies committed to equal consideration for all of their

citizens.

One might question the empirical evidence, pro and con, relevant to the deliberative model we have been discussing. On the one hand, it seems implausible to say that this model has ever been implemented to any significant degree in a modern democratic state. But there is one indication that the model is worth further investigation. Consider, in closing, an article in *The Economist* magazine for May 16th, 1998, p61. The background is as follows: the American political philosopher James Fishkin has recently been defending something called a "deliberative opinion poll" in setting out his ideal of a "self-reflective society" (Fishkin 1992). Roughly, the idea is to get a representative sample of the population together for a long weekend, all expenses paid, and expose them to the details of a specific policy question. At the end of the discussion, in which experts are questioned and the participants debate amongst themselves, a "deliberative poll" is taken. Fishkin's general approach has much in common with the abstract model I have been defending. It is an attempt to create a forum for discussion among citizens in societies where it is literally impossible for everyone to participate equally on every occasion.

The model would be of potential value if it produced results in conflict with a status quo in which prevailing views are generally in line with influential interests and often directly opposed to the public good. This is where the recent article becomes relevant. *The Economist* describes an implementation of this vision in the state of Texas. Fishkin himself organized the event. In the case in question, the aim was to discuss the spending plans of public power companies. How did this experiment work? Well, I will finish with a question: Would we have predicted that a representative sample of the population of Houston would opt for an increase in their energy bill in order to pay for wind turbines?

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ISSA Proceedings 1998 – The Use Of Ambiguous Expressions In Discussions

The fallacy of misusing lexical ambiguity in argumentation is called the fallacy of equivocation. I will explain what the fallacy consists of by sketching a dialectical situation. Starting from the notion of a precization, I will explore some possible moves of the opponent and proponent in that situation.

My main conclusions will be that it is polysemy rather than ambiguity in a narrow sense that is at the bottom of the fallacy of equivocation and that, partly in consequence of this, the proponent has some interesting possibilities after the opponent has detected the ambiguity. Before one accuses someone of the fallacy of equivocation one should not only check if a distinction is apt, but also whether there is any reasonable defence for the proponent.

1. The fallacy of equivocation

Equivocation is the fallacy of the misuse of the multiple meanings of an expression in argumentation. Two examples are:

(1) The money is in the bank, the bank is by the river, so you should go to the river. (Walton 1996: 72)

(2) All acts prescribed by law are obligatory. Nonperformance of an obligatory act is to be disapproved. Therefore, nonperformance of an act prescribed by law is to be disapproved. (Hamblin 1970: 292)

What's wrong with these arguments? I will focus on the second, more realistic

example. We can best understand the function of the elements of the argument from the perspective of a persuasion dialogue or critical discussion (Walton & Krabbe 1995: 68, Van Eemeren & Grootendorst 1992: 34). A proponent tries to persuade an opponent of his thesis. To achieve this end he needs a strategy.

The proponent should offer reasons that are plausible to the opponent. If the opponent does not object to these reasons, they count as commitments that cannot be withdrawn without explanation. The proponent will then have to show that the opponent is inconsistent when she is committed to the reasons that form part of his argument, but still maintains her critical attitude towards the thesis.

That means that when we are confronted with an argument for a thesis, we can evaluate the argument by (1) examining the plausibility of the reasons relative to the opponent and (2) checking if the position in which one is committed to the reasons but criticizes the thesis is inconsistent. So the evaluation is partly dependent upon the choice of the opponent. This choice is dependent upon the end of the evaluation. One can be interested in the tenability of the argumentation relative to oneself or relative to another actual or imagined group or individual.

When we imagine some reasonable and charitable opponent and look at the second example, we see an argument that could be successful. Both reasons have a certain plausibility. Acts prescribed by law are obligatory in a sense, because nonperformance of an act prescribed by law is often followed by sanctions of some sort. And nonperformance of an obligatory act is to be disapproved in a sense, because we should disapprove of the nonperformance of an act that one should perform. So, there is some ground to expect that this reasonable and charitable opponent will commit herself to the reasons.

We can picture the relevant fragment of dialogue as follows. Moves one and two form the confrontation stage, moves three and four are part of the argumentation stage (van Eemeren & Grootendorst 1992: 35).

(3)
Ax: x is an act prescribed by law
Bx: x is obligatory
Cx: nonperformance of x is to be disapproved

Opponent	Proponent
1	$\forall x(Ax \to Cx)$
2 I do not accept	$\forall x(Ax \to Cx)$
3 I commit myself to:	$\forall x(Ax \to Bx)$, $\forall x(Bx \to Cx)$
4 I commit myself to:	$\forall x(Ax \to Bx)$
	$\forall x(Bx \to Cx)$

After the opponent has conceded the reasons, the proponent is in a strong position. He can ask her again to accept the thesis. And if the opponent refuses, he can accuse her of being unreasonable. For the thesis follows logically from the reasons, the denial of the thesis is inconsistent with the truth of the reasons. To back this up, he can prove this within predicate logic.

In models for discussion that do not provide the critical instruments for the opponent to handle this kind of situations, for example RPD (Walton, Krabbe 1995: 154-163) or Systems 1, 2, 3 (Mackenzie 1989), the proponent can win an easy triumph.

But that does not mean that the opponent would lose in a more complete model for discussion. For the expression 'is obligatory' represented by 'Bx', and thereby both reasons, represented by '.x($\forall x$->Bx)' and '.x(Bx->Cx)', can be subjected to a distinction (Crawshay-Williams 1953, Rescher 1977, Mackenzie 1989). The participants in the discussion should be more precise (Naess 1953, Crawshay-Williams 1957, Pinkal 1995).

'Obligatory' can be interpreted in a legal sense or in a moral sense. How should we read the reasons and consequently the commitments? A better representation of the dialogue is the following. A questionmark before a reason or commitment means that it is open in what way the statement should be interpreted.

$$(4)$$

Opponent	Proponent
1	$\forall x(Ax \to Cx)$
2 I do not accept	$\forall x(Ax \to Cx)$
3 Int?	$(\forall x(Ax \to Bx))$, Int? $(\forall x(Bx \to Cx))$
4 I commit myself to: Int?	$(\forall x(Ax \to Bx))$

In a legal sense of obligatory it is definitely true that acts prescribed by law are obligatory. And in a moral sense of obligatory it is definitely true that the nonperformance of an obligatory act is to be disapproved. So if the opponent was aware of the double meaning of 'obligatory', she would probably have committed herself only to those statements.

Walton (Walton 1996: 66) describes the fallacy of equivocation as a mixing up of different arguments. The proponent seems to give one good argument, but actually he gives several defective arguments. These defective arguments can be reconstructed by substituting for 'obligatory' either 'legally obligatory' or 'morally obligatory'. Either both reasons are acceptable for the opponent, but then each argument contains 'obligatory' in a different sense, and the thesis does not follow. Or both reasons contain 'obligatory' in the same sense, so the thesis follows, but then one of the reasons is not acceptable for the opponent.

2. The defence of the opponent
When the opponent detects the ambiguity in the reasons adduced by the proponent before she commits herself to the statements, she should request the proponent to make his reasons more precise. But it is also possible that the opponent finds herself in the situation that she has already committed herself to statements that turned out to be ambiguous. In this situation too she should be able to make her commitments more precise. I will start from this latter and more difficult situation.

Her defence could be expressed like Mackenzie's *Distinguo!* (Mackenzie 1988). 'I distinguish between two different senses of 'obligatory', "morally obligatory" and "legally obligatory". I make my commitments more precise in the following way: under the legal interpretation (1) of obligatory it holds that acts prescribed by law are obligatory, under the moral interpretation (2) of obligatory it holds that nonperformance of an obligatory act is to be disapproved.' In schematic form:

(5)
Distinguo!
I replace my commitment .x(∀x->Bx) with the more precise commitment
Int1(.x(∀xÕBx))
I replace my commitment .x(Bx->Cx) with the more precise commitment
Int2(.x(Bx->Cx))

After this move, until further orders, every statement that makes use of 'Bx' should be supplied with an index that shows in what way it should be interpreted.

After this move the proponent is no longer in the position any more to accuse the opponent of an inconsistency. The thesis follows only from the reasons when both are read under the same interpretation of 'obligatory' and under each

interpretation one of the reasons is not accepted by the opponent. So with the *Distinguo!*-move, the opponent has an effective instrument to counter the strategy of the proponent. Precision is the subject of the next section.

Instead of this move, the opponent can make the further move to accuse the proponent of committing a fallacy by exclaiming *Equivocatio!.* The burden of proof will consist of explaining why the moves of proponent were fallacious, for example by pointing out which rules of discussion were broken or in what way his arguments were seriously misleading. But it consists in any case of making a distinction in the meaning of an expression used by the proponent. The move *Distinguo!* is part of a complete defence of the move *Equivocatio!.* So after each of these moves of the opponent, the proponent needs to be able to counter the distinction if he does not want to lose this line of argumentation.

An easy triumph by the proponent due to the ambiguity of an expression can only be successful if the opponent is deceived and does not make a distinction. Most authors locate the capacity of an argument to mislead in this way in the ambiguity of an expression. The proponent expresses two different things, but the opponent does not notice, because these different things are indicated by the same words.

But there is a difference in the examples mentioned above. It is hardly imaginable that someone will be trapped by example (1), but it is imaginable that one is trapped by example (2). This capacity to mislead explains the realistic character of the latter. I will contend that the ambiguity in realistic examples is of a different nature than in didactic examples. The potential to mislead has a semantic explanation. The difference between both kinds of ambiguity can be explained by means of the notions 'precization' and 'specificity'.

3. Precizations

Manfred Pinkal presented in *Logic and Lexicon* (Pinkal 1995) a theory for reasoning with ambiguous and vague expressions. The central ideas of this book are very suitable for modelling the problem of ambiguity in discussions. I adopt his notion of a precisification in a slightly different form for the purpose of this paper and call it, like Naess (Naess 1966: 38), a precization.

Imagine a context of utterance where two persons, S and L, are talking about ships. S utters the following ambiguous statement, whereas L evaluates the different precizations (relevant and more precise interpretations) of this statement.

(6)

S: The Santa Maria was a fast ship.

L: Fast? If you mean 'fast compared to a modern sailboat', then I do not agree. The Santa Maria was not fast compared to a modern sailboat, not in the actual sense, nor in the dispositional sense of the word. If you mean 'fast for a 15th century ship', then it depends. I think the Santa Maria was fast in the dispositional sense of the word, but, actually, she had to sail slowly because the accompanying ships were much smaller. So one statement (0) is given six precizations:

0: The Santa Maria was fast.

P1: The Santa Maria was fast compared to a modern sailboat.

P2: The Santa Maria was actually fast compared to a modern sailboat.

P3: The Santa Maria was dispositionally fast compared to a modern sailboat.

P4: The Santa Maria was fast for a 15th century ship.

P5: The Santa Maria was actually fast for a 15th century ship.

P6: The Santa Maria was dispositionally fast for a 15th century ship.

The set of precizations is dependent on the context of utterance. If S and L were talking about 15th century ships the possible interpretation of 'fast' as 'fast compared to a modern sailboat' would not be relevant.

But in a more general context of utterance, the above conversation about ships for example, L sees six ways to interpret the statement of S. In precizations P2 and P3 the statement is unacceptable. Since those are the only relevant further precizations of the statement in precization P1, the statement in precization P1 is unacceptable too. The statement in precization P4 has two further precizations, of which one, P5, is unacceptable and one, P6, is acceptable. The statement in precization P4 is therefore neither fully acceptable, nor fully unacceptable, but indefinite. The same applies to statement 0 itself. Because statement (0) does not admit of only acceptable, nor of only unacceptable precizations, it is neither fully acceptable or unacceptable itself, but indefinite.

A statement that is indefinite in a context can also be called too imprecise for that context. A statement that admits of only acceptable or of only unacceptable relevant precizations in a context can be called precise enough for that context. The notion of precision is tied up to particular contexts of utterance, so total precision does not need to bother us.

In accordance with the above terminology a statement (in a certain context) gets the value 'A' (acceptable) if it is acceptable in all relevant senses in that context of

utterance, the value 'NA' (not acceptable) if it is unacceptable in all relevant senses in the context of utterance. A statement gets a third value, designated with 'I' if there is a relevant interpretation in the context of utterance under which the statement gets 'A' as well as a relevant interpretation under which it gets 'NA'.

A statement φ is in context c a precization of a statement ι, φ a ι, if and only if,
1. φ expresses in c a relevant interpretation of ι,
2. (i) if ι is A in c, then φ is A,
   (ii) if ι is NA in c then φ is NA in c,
   (iii) if ι is I in c, then φ can be A, NA or I.

So, by the transitivity of 'is an interpretation of', a precization w of i never admits of an interpretation that i does not admit. To keep the definition simple the relation here defined is not the 'more precise than' relation, but the 'at least as precise as' relation. The practical function of course is to exclude interpretations.

5. Ambiguity in the narrow sense and polysemy
With the notion of 'precisification' Pinkal classifies a wide range of linguistic phenomena that can lead to indefiniteness. For this paper it is enough to use a less subtle classification of ambiguity than he does.

When we use the notion of precization to denote parts of sentences, we can say that the word 'bank' admits of two standard precizations: 'edge of a river' and 'financial institution'. But when this word is used, it is always in the one or the other specific meaning of 'bank'. It does not have a potential to mislead. That's why the linguistic ambiguity test is effective. Put an expression like 'bank' in a sentence of the following form 'That biologist is working on a bank, just as Duisenberg.' When it is not possible to precizate 'bank' to one of the precizations, without feeling that something is wrong with the sentence, the expression is ambiguous. There is, except for some special contexts (Geeraerts 1993: 245), no widest reading (Pinkal 1995: 78) that allows a listener to interpret the expression in a general sense that includes financial institutions and edges of rivers. I call this type of ambiguity 'ambiguity in the narrow sense'.

When the linguistic ambiguity test is applied to 'obligatory' there is not such a strong feeling of awkwardness: 'Waiting for a red traffic-light is obligatory, just as helping someone in need.' This type of ambiguity is called polysemy. A listener, eager for distinctions, will point to the difference between the legal and the moral senses of 'obligatory', but polysemous expressions do allow for a widest reading. The sentence admits a natural precization without awkwardness: 'Waiting for a red traffic-light is obligatory in a general sense, just as helping someone in need.'

The word 'obligatory' has three different precizations: (P1) 'morally prescribed', (P2) 'legally prescribed' and (P3) 'prescribed (legally or morally)'. The meanings of P1 and P2 are semantically strongly related. P3 is the widest reading of the expression that is unspecific towards P1 en P2. That means that in the case of these one-place predicates that the positive extensions of both P1 and P2 are included in the positive extension of P3. So polysemous statements allow for specific precizations and at least one unspecific precization, all precizations being equally precise. So being more precise is not the same as being more specific (Naess 1966: 42). A user of a polysemous expression could have intended something general.

When the fallacy of equivocation is treated (Freeman 1988: 111-120, Walton 1996: 37-76) the more realistic examples make use of polysemous expressions and not of ambiguous expressions in the narrow sense. This can be explained as follows. Non-realistic examples are non-realistic because it is not imaginable that the listener does not notice that two senses of the expression are being used. The potential of narrow sense ambiguity to mislead within one sentence is minimal, as we saw with the linguistic ambiguity test. The potential to mislead in the broader context of an argument is also very small. That's why they are used in didactic examples of equivocation. The reader notices immediately that something is wrong. So the author has to explain only what is wrong.

Not only does a polysemous expression designate several meanings, but the specific meanings themselves are so similar that they allow for a widest reading. So if an opponent is mislead by a polysemous expression this can be explained by the fact that not only two meanings are designated by one word, but also by the fact that those two meanings are similar to each other. The opponent can get confused by mixing up different but similar meanings.

6. The seeming correctness of argumentation

A fallacy was traditionally regarded as "an argument that seems to be valid but is not so" (Hamblin 1970:12). In the modern theory of argumentation (Walton & Krabbe 1995, Walton 1996) the distinction between what it seems and what it really is keeps to plays a role in the conception of fallacy. A characteristic for many fallacies is that they could be reasonable arguments in some type of context but that they are not reasonable in the context wherein they are actually used. That gives the argumentation a semblance of reasonableness that is able to deceive a discussionpartner.

The seeming correctness of an equivocation can be explained by pointing at the

nature of polysemy. The semantical similarity relation between the different possible precizations, specific and unspecific, explains the persuasive power of the terminology.

7. Discussion-techniques

The opponent can not only precizate her commitments to commitments that are more precise and more specific, but she also has the possibility to make her commitments precise but unspecific. This is a variant of the *Distinguo!*-move that is seldom pointed at, probably because the notions of preciseness and specificity are often not clearly separated. For now, I will discuss only the *Distinguo!*-move I described in section 2:

(5)
Distinguo!
I replace my commitment .x(Ax->Bx) with the more precise commitment
Int1(.x(Ax->Bx))
I replace my commitment .x(Bx->Cx) with the more precise commitment
Int2(.x(Bx->Cx))

What possibilities are there for the proponent at the next stage of the discussion? I will describe some plausible moves, skipping the possibility of giving up this line of argumentation or abandoning the discussion altogether.

A. The proponent can choose one of the interpretations of 'obligatory', for example interpretation 2, and check which of the reasons is not yet accepted in that interpretation by the opponent. The proponent defends that reason in interpretation 2. The same is possible for a choice for interpretation 1.

(7)
Under the moral interpretation of 'obligatory' it holds that acts prescribed by law are obligatory, in schematic form:
Int2(_x(∀x_Bx)).
Under the legal interpretation of obligatory it holds that nonperformance of an obligatory act is to be disapproved, in schematic form:
Int1(.x(Bx->Cx)).

Both possibilities imply that the proponent accepts the distinction and that he wants to try to convince the opponent that for one of the precizations both reasons are acceptable under that interpretation. If the proponent would succeed,

he once again can confront the opponent with the inconsistency between her adherence to the commitments and her critical attitude towards the thesis.

B. The proponent can attack the relevance of the distinction by claiming that both reasons should be acceptable under all precizations. Since the opponent already committed herself to two of the required statements, the proponent brings forward the other two: Int2(.x(∀x->Bx)) and Int1(.x(Bx->Cx)).
With this move he tries to neutralize the distinction. If the opponent eventually accepts all reasons in all relevant precizations, both parties may henceforth use expression 'obligatory' without mentioning which precization is intended.

C. The proponent can appeal to the unspecific precization of his reasons. He can explain that the opponent is wrong in neglecting the general interpretation. He explains that he meant obligatory in general, legally or morally, and asks the opponent to consider if the reasons are acceptable to her under that precization. In schematic form: Int3(.x(∀x->Bx)) and Int3(.x(Bx->Cx)). The proponent will probably have to defend the second reason that now reads: 'nonperformance of an act that is either morally or legally obligatory is to be disapproved.'

D. Walton (Walton 1987: 255) discusses the further option where an extreme legal positivistic proponent defends himself by saying that he meant 'legally and obligatory', because moral obligation and legal obligation are the same thing. In schematic form:
Int4(.x(∀x->Bx)) and Int4(.x(Bx->Cx)). This could be a specific precization, but in the present case it is not an interpretation standard in ordinary English (so perhaps violating clause (1) of the definition of 'precization'). The proponent could of course stipulate this meaning for this discussion. He will then probably have to defend the first reason that now reads: 'actions prescribed by law are both legally and morally obligatory'.

E. In special cases the proponent can appeal to a meaning postulate. The case in question is not suitable to illustrate this kind of move, so I take a different case. In the following discussion the opponent makes the wrong choice in precizating her commitments. She should not be able to get away with it. So the proponent must be able to appeal to relations between meanings expressed in meaning postulates.

(8)
Proponent: Donald is a duck. Ducks are female.

Opponent: I admit this.

Proponent: So Donald is female.

Opponent: *Distinguo!* I precizate my commitment 'Donald is a duck' to 'Donald is a duck in the specific sense of 'duck'' and precizate my commitment 'Ducks are female' to 'Ducks in the general sense of duck are female'.

Proponent: There is a meaning postulate for 'duck' that says 'if x is a duck in the specific sense than x is a duck in the general sense.' You committed yourself to 'Donald is a duck in the specific sense, so you should commit yourself to 'Donald is a duck in the general sense.' You also committed yourself to 'Ducks in the general sense of duck are female'. So you should accept my thesis.

The use of meaning postulates by the proponent prevents the opponent of winning an easy triumph with a non-sensible *Distinguo!*.

F. The proponent can make a counter-distinction. Such a move can be directed towards an expression that has not yet been the subject of an earlier distinction, but it can also be directed towards the expression the opponent already submitted to a distinction. An example of the first possibility.

(9)
Proponent: You are right, nonperformance of a legally obligatory act is not to be disapproved, in the strict moral sense of 'disapproved'. But nonperformance of a legally obligatory act is to be disapproved in a general sense of 'disapproved'.

In schematic form: *Distinguo!* I precizate Int1(.x(Bx->Cx)): not Int1.1(.x(Bx->Cx)) but Int1.2(.x(Bx->Cx)).

An example of the second possibility.

(10)
Proponent: You are right, it's not the case that acts prescribed by law are morally obligatory, in the sense of moral that you should do what is morally minimal. But it is the case that acts prescribed by law are morally obligatory, in the sense of moral that you should do what is morally maximal.

In schematic form: Distinguo! I precizate Int2(.x(∀x_Bx)): not Int2.1(.x(∀x->Bx)) but Int2.2(.x(∀x->Bx)).

These distinctions in reaction to another distinction are very much like Reschers

countermoves to distinctions (Rescher 1977: 15), but here they are especially related to the use of language and not restricted to presumptive reasoning.

8. The evaluation of ambiguity in argumentation.
It is polysemy rather than ambiguity in the narrow sense that has the potential to mislead in a discussion. My first point therefore is that the seeming correctness of an argument that one wants to qualify as fallacious, can be explained by the similarity of the meanings of a polysemous expression.

As already said, within a dialectical approach, an argument should be evaluated relative to an opponent with a specific set of commitments. It is perfectly possible to imagine an opponent who does not make a difference between legal and moral prescriptions. In this situation, the argument contains a polysemous expression, but the expression is precise enough for this situation. For this opponent will probably accept the statements containing the polysemous expression in all precizations. My second point is that the occurrence of polysemy does not always indicate a lack of precision.

But relative to the opponent we imagined throughout the paper, the proponent is too imprecise, whether the opponent notices it or not. After she notices it and makes a *Distinguo!*-move or *Equivocatio!*-move the proponent has not yet lost this line of argumentation. We have seen that the proponent has possibilities to go on within the line of argumentation he started, for example by defending both reasons under one specific or unspecific precization of 'obligatory'. It is even possible that the proponent accepts the meaning distinction and submits it to a further distinction. So my third point is that lack of precision relative to an attentive opponent does not imply that the discussion is blocked. In the examined case the proponent could combine two possible moves in the following way.

Proponent: I intended 'obligatory' in both reasons in the general sense of 'morally or legally obligatory'. And I did not mean 'disapprove' in the strict moral sense, but also in the general sense of 'morally or legally disapprove'.

So the proponent can make his own reasons more precise with unspecific precizations. My fourth point is that distinctions and precision should not be mixed up with specificity.

What in the beginning was presented as an example of a fallacy, now turns out to be an argument that does not have to block the course of the discussion. Furthermore it is possible that it is capable of being reasonably defended by the

proponent. I represented the moves by proponent and opponent without mentioning any discussion rules, but as I see it, none of the represented moves contains a clear violation of a rule of an ideal model for discussion. So my fifth point is that example (2) (just as the first example for not being misleading) is not a straightforward example of a fallacious argument. To present it as an example of the fallacy of equivocation it should be placed in a context where the proponent lacks any reasonable defence relative to his opponent.

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ISSA Proceedings 1998 – Modelling Contractual Arguments

1. Introduction

One influential approach to assessing the "goodness" of arguments is offered by the Pragma-Dialectical school (p-d) (Eemeren & Grootendorst 1992). This can be compared with Rhetorical Structure Theory (RST) (Mann & Thompson 1988), an approach that originates in discourse analysis. In p-d terms an argument is good if it avoids committing a fallacy, whereas in RST terms an argument is good if it is coherent. RST has been criticised (Snoeck Henkemans 1997) for providing only a partially functional account of argument, and similar criticisms have been raised in the Natural Language Generation (NLG) community – particularly by Moore & Pollack (1992) – with regards to its account of intentionality in text in general.

Mann and Thompson themselves note that although RST can be successfully applied to a wide range of texts from diverse domains, it fails to characterise some types of text, most notably legal contracts. There is ongoing research in the Artificial Intelligence and Law community exploring the potential for providing electronic support to contract negotiators, focusing on long-term, complex engineering agreements (see for example Daskalopulu & Sergot 1997). The negotiation process, which is a lengthy cycle of proposal and counter-proposal, can be seen as inherently argumentative in nature with each party involved trying to influence the agreement in a way that best serves their own interests. The negotiation process is conducted by parties exchanging proposed drafts of the contract, where each draft represents an argument put forward by one party to persuade the other. Furthermore the internal structure of any given contractual document can be analysed as an implicit discussion where an implicit opponent makes requests for clarification and specification (particularly of contingencies that might arise). Supporting these aspects of contracts depends upon a rich

model of the argumentative structure of the complex pre-contractual documents, and it is therefore disappointing that RST fails to account for such text.

It has also become clear (Reed 1998) that RST is fundamentally inappropriate for representing argument structure in three important respects: RST admits multiple analyses of a given piece of text and this is in direct contrast to the argumentation theoretic approach; particular structures that are frequently encountered in arguments are not catered for by RST; and finally, patterns of reasoning that underlie an argument (such as modus ponens, inductive generalisation and so on) can neither be represented by, nor inferred from an RST analysis (and even more so where multiple analyses exist).

This paper provides a brief introduction to RST and illustrates its shortcomings with respect to contractual text. An alternative approach for modelling argument structure is presented (extending Reed & Long 1997a) which not only caters for contractual text, but also overcomes the aforementioned limitations of RST. Finally it is shown that this approach meets the criticisms expressed by both Snoeck Henkemans (1997) and Moore and Pollack (1992) by offering a truly functional account of illocutionary purpose.

2. An overview of rhetorical structure theory
2.1 RST assumptions, methodology and basic concepts
Rhetorical Structure Theory (RST) developed by Mann and Thompson (1987; 1988) purports to evaluate text (including arguments) in terms of its coherence. The characteristics of RST as a descriptive framework for natural text are:

(i) It describes relations between parts of text in functional terms, whether such relations are grammatically signalled or otherwise.

(ii) It identifies hierarchical structure in text.

(iii) Its scope is written monologue and it is insensitive to text size.

RST is put forward as a unifying framework, applicable to virtually any natural text of any size. An RST analysis of natural text operates within the following assumptions: The analyst has access to the particular text that is analysed, but no direct access to either the writer or the reader of such text. The analyst however knows the context in which the given text was written and shares the cultural conventions of both the reader and the writer of the text. The purpose of the analysis is to make explicit the function of the text along two dimensions, namely the writer's intention and the reader's comprehension; thus text is assessed on how effectively the writer's intentions are communicated to the reader.

The analysis is conducted by identifying relations between text spans (that is, uninterrupted linear intervals of text). A number of relations that can obtain between text spans have been identified by Mann and Thompson and are summarised in the following table:

Table 1 Organization of the Relation Definitions (Mann & Thompson 1987)

Circumstance	Antithesis and Concession
Solutionhood	Antithesis
Elaboration	Concession
Background	Condition and Otherwise
Enablement and Motivation	Condition
Enablement	Otherwise
Motivation	Interpretation and Evaluation
Evidence and Justify	Interpretation
Evidence	Evaluation
Justify	Restatement and Summary
Relations of Cause	Restatement
Volitional Cause	Summary
Non-Volitional Cause	Other Relations
Volitional Result	Sequence
Non-Volitional Result	Contrast
Purpose	

Table 1- Organization of the Relation
Definitions (Mann & Thompson
1987)

Mann and Thompson note that the set of relations that they have identified is not necessarily complete and that additional relations may be added to that if the analyst finds that none of those serve his purpose adequately.

Each relation is defined between two non-overlapping text spans with one of these labelled the nucleus and the other as the satellite of the relation. Though RST does not provide an explicit direction about how these labels are decided it appears that the nucleus is the text span that contains essential information, in that its absence would reduce the meaningfulness of the text.

A relation definition comprises four fields: constraints on the nucleus (N), constraints on the satellite (S), constraints on the combination of nucleus and satellite (N+S) and the effect. For example the definition of the relation JUSTIFY is:
Relation Name: JUSTIFY
Constraints on N: none
Constraints on S: none

Constraints on N+S:

Reader's comprehending S increases Reader's readiness to accept Writer's right to present N.

The effect: Reader's readiness to accept Writer's right to present N is increased. Locus of the effect: N.

To illustrate relation definitions further, consider another example, the definition of the relation ELABORATION:

Relation Name: ELABORATION

Constraints on N: none

Constraints on S: none

Constraints on N+S:

S presents additional detail about the situation or some element of subject matter which is presented in N or inferentially accessible in N in one or more of the ways listed below. In the list if N presentes the first member of any pair, then S includes the second:

1. set: member
2. abstract: instance
3. whole: part
4. process: step
5. object: attribute
6. generalization: specific

The effect: Reader recognizes the situation presented in S as providing additional detail for N. Reader identifies the element of subject matter for which detail is provided. Locus of the effect: N and S.

A relation between two text spans is pictorially represented by a structure diagram in figure 1:
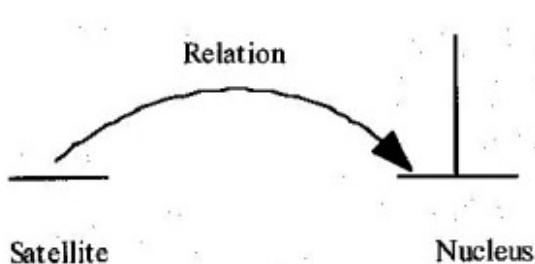

Figure 1 RST relation structure diagram

Figure 1 RST relation structure diagram

Each such relation is an elementary structure of the text that is analysed. Mutliple relations can be arranged into composite structures, that is patterns that define how a large span of text is analyzed in terms of other spans. Such composition of elementary relations is subject to the following constraints:

(i) Completeness: The top level of the structure contains all the text spans constituting the entire text.

(ii) Connectedness: Except for the entire text as a text span, each text span is either a minimal unit contributing as nucleus or satellite in a relation (elementary structure), or a constituent of a composite structure.

(iii) Uniqueness: Each structure consists of a different set of text spans and each relation within a structure applies to a different set of text spans.

(iv) Adjacency: The text spans of each structure constitute one text span.

As Mann and Thompson (1987) note completeness, connectedness and uniqueness taken in conjunction entail that RST analyses of texts yield hierarchical tree structures. The leaves of such a structure taken from left to right correspond to the entire text in the linear order in which they appear in it.

To illustrate these concepts RST analysis was conducted on a randomly chosen piece of text, in which text spans are numbered to facilitate reference:

1. The wealth of societies in which the capitalist method of production prevails, takes the

2. form of an "immense accumulation of commodities",

3. wherein individual commodities are the elementary units.

4. Our investigation must therefore begin with an analysis of the commodity.

5. A commodity is primarily an external object,

6. A thing whose qualities enable it, in one way or another, to satisfy human wants.

7. The nature of these wants, whether for instance they arise in the stomach or the imagination, does not affect the matter.

8. Nor are we here concerned with the question, how the thing satisfies human want, whether directly as a means of subsistence(that is to say, as an object of enjoyment), or indirectly as a means of production.

Example 1: Karl Marx, Capital, vol. 1, J. M. Dent & Sons Ltd. The analysis of this

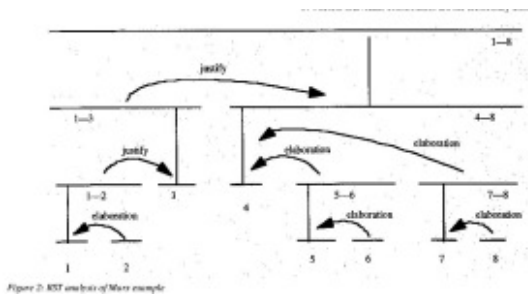text gave rise to the hierarchical structure shown in figure 2.

Figure 2: RST analysis of Marx example

2.2. Operationalisation of RST

One powerful application of RST is to the field of natural language generation (NLG): if a system has a goal to communicate information to a hearer, how can that goal be fulfilled? RST offers a way of planning text by viewing each rhetorical relation as an operator – a step which has precisely defined requirements and effects. Text generation is then a task of creating a sequence of these operators such that the requirements of the first are true in the initial, pre-discourse state, and the effects of the last include the desired communicative goal (Hovy 1988). This sequence of rhetorical relations can then be refined to the appropriate grammatical and lexical form by more established realisation techniques.

3. Critique of RST

3.1. Fundamental problems with RST

Although Rhetorical Structure Theory has been a highly popular technique in NLG (Hovy 1993), it has become clear from the demands of discourse generation that RST has a key failing with respect to the purported claims of functional adequacy. The conflation of informational (i.e. rhetorical, structural) and intentional (i.e. illocutionary) content leaves text generation systems without a means for recovering from communicative failure (such as the hearer misunderstanding) and answering follow-up questions (Moore & Pollack 1992). More recently, this conflation has also been recognised as a problem for an RST-based analysis of argument: Snoeck Henkemans (1997) concludes that the account could at best be "partly functional". RST also suffers, however, from a more fundamental problem which becomes manifest in argument analysis. Despite Mann and Thompson's opening claim that "it is insensitive to text size", RST seems to be unable to adequately represent the high level abstract structure

of argument. This intuitive shortcoming is a result of several assumptions upon which the account is founded. Mann and Thompson discuss the key role played by the notion of nuclearity – that relations hold between one nucleus and one satellite. They do, however, concede (Mann & Thompson 1987, p.269) that there are a few cases in which nuclearity breaks down – and these they regard as rather unusual. The two types of multi-nuclear constructs they identify are enveloping structures – "texts with conventional openings and closings" – and parallel structures – "texts in which parallelism is the dominant organizing pattern". Both of these are not just common in argument, but form key components. Enveloping structures are precisely what are described by, for example, Blair (1838), when presenting the dissection of argument into introduction, proposition, division, narration, argumentative, pathetic and conclusion (these are by no means obligatory in every argument, nor is there any great consensus over this particular characterisation; most authors, however, would agree that some such gross structure, usually involving introduction and conclusion, is appropriate). These structures are found with great frequency in natural argument, and cannot, therefore, be ignored. Parallel structures form the very basis of argument, since only the most trivial will involve lines of reasoning in which a single premise supports a single conclusion. Multiple subarguments conjoined to support a conclusion are the norm (see for example, (Cohen 1987), (Reed & Long 1997b) and these, necessarily form parallel structures.

Another point of dissonance between RST and argument analysis is that it is accepted that a text may be amenable to multiple RST analyses – not just as a result of ambiguity, but because there are, at a fundamental level, "multiple compatible analyses". Mann and Thompson (1987, p. 265) comment: "Multiplicity of RST analyses is normal, consistent with linguistic experience as a whole, and is one of the kinds of pattern by which the analyses are informative". This contrasts with the view in argumentation theory, where one argument has a single, unequivocal structure. There may, of course, be practical problems in identifying this structure, and two analysts may disagree on the most appropriate analysis (and indeed this latter has a close parallel in RST, since different analysts are at liberty to make different 'plausibility judgements' as to the aims of the speaker). The presence of these problems, however, is not equivalent to claiming that arguments may simply have more than one structure, a claim which would pose insurmountable problems to the evaluation process (the presence of inherent structural multiplicity would present the possibility of an argument being

simultaneously evaluated as good and bad).

Finally, there is a more intuitive problem with RST, highlighted by analysing argument structure. Although there is much debate over the number and range of rhetorical relations (e.g. (Knott & Dale 1996), (Hovy 1993)) there seems to be no way of dealing with the idea of argumentative support. In the first place, as Snoeck-Henkemanns (1997) points out, Motivation, Evidence, Justification, Cause, Solutionhood and other relations could all be used argumentatively (as well, of course, as being applicable in non-argumentative situations). Thus it is impossible to identify an argumentative relation on the basis of RST alone. Secondly, RST offers no way of capturing higher level organisational units, such as Modus Ponens, Modus Tolens, and so on. For although their structure (or at least the structure of any one instance) can be represented in RST – and, given Marcu's (1996) elegant extensions,

even their hierarchical use in larger units – adopting this approach necessitates a lower level view. It becomes no longer possible to represent and employ an MT subargument supporting the antecedent of an MP; rather, the situation can only be characterised as P supporting through one of the potentially argumentative RST relations Q, and showing that ~Q, so ~P, and ~P then supporting through one of the potentially argumentative RST relations R, therefore R. Apart from being obviously cumbersome, the representation has lost the abstract structure of the argument altogether, and is not generalisable and comparable to other similar argument structures. (It could perhaps be maintained that such structures could be represented as RST schemas, but there are several problems with such an approach: in the first place, schemas cannot abstract from individual relations, so there would need to be a separate 'MP' schema for each possible argumentative support relation; furthermore, the optionality and repetition rules of schema application (p248) are not suited to argument, as they license the creation of incoherent argument structure).

3.2. RST analysis of contractual text
Legislation and legal contracts have, in recent years, been the focus of much research mainly in the Artificial Intelligence community. A recent research project was concerned with the development of electronic tools to support contractual activity, especially negotiation of long-term, complex engineering agreements (Daskalopulu & Sergot 1997; Daskalopulu 1998). The negotiation of such contracts is a lengthy cycle of proposal and counter-proposal between two

parties, and it can be seen as inherently argumentative in nature as each party tries to influence the agreement in a way that best serves their own interests. The negotiation is typically conducted by parties exchanging drafts of the proposed contract; each such draft may be regarded as an argument put forward by one party with the intention to persuade the other. Supporting such negotiation could benefit substantially by some means of assessing the communicative effect of contractual text. Moreover, establishing the functional

roles of various contractual provisions within a contract is important for another aspect of contractual activity: in litigation situations the courts of law are supposed to rule for or against a party's motion by interpreting the agreement and trying to establish the parties' intentions at the time of making it, using contractual documents as a guide. Under the English law of contract (and to the best of our knowledge in most other legal traditions) the *parol evidence* rule applies, whereby in the presence of written contracts the text is taken to express all that the parties agreed and only that (Atiyah 1989). A court of law in a litigation situation is therefore concerned with establishing the writers' (the parties') intentions as these are manifested through the text they upon which they agreed.

Mann and Thompson (1987, p. 265) note: " Certain text types characteristically do not have RST analyses. These include laws, contracts, reports "for the record" and various kinds of language-as-art, including some poetry". The reasons for this inapplicability of RST to these kinds of text are not documented[i] by Mann and Thompson though.

In an effort to uncover such reasons a conventional RST analysis of contractual text is presented below. The experiment demonstrates not that RST is inapplicable to contractual text, but rather, that there are a number of important points. Figure 3 represents an RST analysis of an extract from an agreement on arbitration.
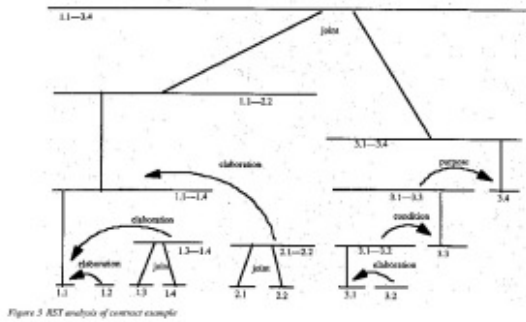
Figure 3: RST analysis of contract example

1.1. The arbitral tribunal shall be composed of three members,

1.2. one to be appointed by each party

1.3. and the third member, who shall act as president,

1.4. to be appointed by the ppointing authority.

2.1. The member of the tribunal appointed by the first party shall be me and address

2.2. The member appointed by the second party shall be me and address.

3.1. If at any time a vacancy shall occur on the Tribunal

3.2. by reason of the death, resignation, or incapacity for more than 60 days of any member, or for anyother reason,

3.3. such vacancy shall be filled as soon as possible

3.4. in the same manner as the original appointment of that position.

Example 2: Model Business Contracts, Croner Publications Ltd. 1988

The RST analysis of example 2 highlights the central role of the analyst's judgement in identifying text spans and in determining which relation applies between them (incidentally, this was also the case for the Marx example). The text span comprising 1.3-1.4 could for example be regarded as providing BACKGROUND to 1.1. Similarly, 2.1-2.2 might have been regarded as being JOINT to 1.1-1.4**[ii]**. Moreover the set of relations supported by RST is not necessarily complete; should none of the defined relations be deemed satisfactory to account for the relationship between two text spans, it seems that the analyst may make up a new one, as long as the definition conforms with the RST framework (by specifying all four of its fields). Mann and Thompson point out that the analyst has in effect to make plausibility judgements about the writer's intention and the reader's comprehension and this gives rise to multiple RST analyses for the same piece of text. In seeking a functional account of contractual

text however negotiating parties and courts of law would require something more conclusive.

The functional account that is appropriate for contractual text (for the purposes mentioned earlier) is very different from the one provided by RST. The constraints for completeness, connectedness, uniqueness and adjacency imposed by RST result in tree-like structures for linear text with each text span having a unique effect (a unique functional role) within a single analysis. Contract documents are organized in a tree-like structure syntactically, that is they are organized in parts, where each part contains sections, and the latter contain provisions which can further be analyzed in terms of their constituent sentences and so on. Semantically however contract documents are organized as graphs, with a heavy amount of cross-referencing and provisions playing multiple roles. For example (cf. Daskalopulu & Sergot 1997) a contractual provision may be providing a definition for a term, prescribing duties and rights for the parties, specifying a procedure that needs to be followed for certain goals to be achieved (the contract example presented earlier contained such procedural specification) and so on. The functional account that is required for contractual text is therefore one that caters for non-linear text and allows one text span to participate in multiple relations reflecting the diverse functional roles it plays within the agreement.

Revisiting the contract example earlier, the following diagram illustrates the kind of functional account that is desirable:
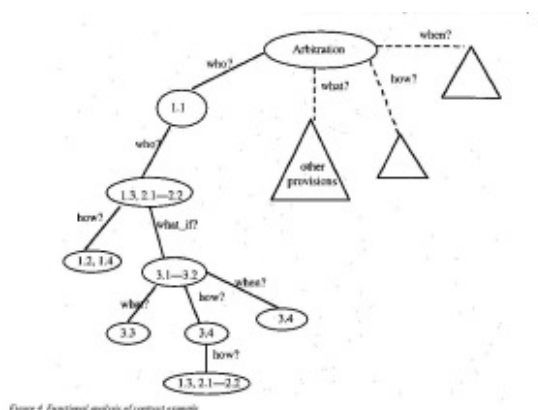

Figure 4: Functional analysis of contract example

The diagram shows the tree that corresponds to the graph for the text excerpt (that is, instead of repeating some nodes arcs essentially point to them directly).

Each of the who/how/what/what_if arcs can be treated in a uniform way as a specification of various kinds. The functional account of a large agreement dealing with a multitude of issues (for example, billing and payment arrangements, force majeure provisions, quality monitoring and so on) is a collection of such interrelated structures.

Finally, though there is a persuasive nature to contracts – reflected in drafts exchanged by parties – with each participant trying in a competitive manner to secure the "best" terms for him, there is also a deliberative aspect: on a variety of issues the parties deliberate on the manner which is best suited to operationalise their agreement**[iii]**. The contract example mentioned earlier is appropriate to illustrate this: parties are not in direct competition as regards the appointment of an arbitratory tribunal; rather they may argue for or against, say the number of members of the tribunal, or the time allowed for a vacancy to exist before it is filled, in an effort to cater for contingencies that might arise in the future. In effect they are arguing but not necessarily for their own narrow interests but rather for the best way that allows the business exchange to proceed smoothly. The approach proposed in the following section extends RST in a manner that enables both argumentative and deliberative accounts to be represented in a single framework.

4. A new approach
To address the fundamental problems noted in section 2 and particularly the last one in section 2.1, and to provide a platform for representing the functional effects of contractual text, an alternative approach is proposed whereby RST is subsumed by a layer which explicitly represents argumentative constructs (Reed 1998), (Reed & Long 1997a). At this layer, support relations between propositions are reified, and are employed in defining the structure of argument. These structural relations are then operationalised to enable planning with operators encapsulating the various argument forms (MP, MT, inductive generalisation, etc.). The definitions of the operators make extensive use of intentional constructs thus avoiding the problems outlined by (Moore & Pollack 1992) (so that, e.g., the MP operator has the effect of increasing the hearer's belief in a proposition).
The argumentative structures represented at this abstract layer can be mapped on to the most appropriate set of RST relations (thus, for example, the implicature in an MP may be realised into any one of the potentially argumentative relations mentioned above). The approach thus maintains the generative capabilities of

RST (particularly when extended along the lines of (Marcu 1996) to ensure coherency through adducement of canonical ordering constraints), whilst embracing the intuitive argumentative relationships at a more abstract level. It is these latter relationships which characterise the structure of the argument (i.e. the structure which argumentation theory strives to determine). The relationships are also unambiguous: a single argument has exactly one structure at this level abstraction (though multiplicity is not thereby prevented at the RST level). Further, parallelism occurs only at the higher level of abstraction (multiple subarguments contribute to a conclusion, but each subargument is mononucleaic), and similarly, enveloping structures are also characterised only at the higher level (thus the RST is restricted to a predominantly mononucleaic structure). Finally, complete argument texts are not obliged to have complete RST trees. For although most parts of a text are likely to have unifying RST analyses, and although there must be a single overarching structure at the highest level of abstraction, the refinement to RST need not enforce the introduction of rhetorical relations between parts. This expands the flexibility and generative capacity of the system encompassing a greater proportion of coherent arguments.

Though motivated by the requirements of sophisticated text generation, the model tackles many of the problems inherent to RST-only analysis. In particular, it offers a fully functional account by distinguishing the intentional and informational components of text structure, and answers Snoeck Henkemans criticisms by enabling argumentative relations between textual units to be handled explicitly. The structures generated by, and represented in, the system are essentially those characterised by Freeman (1991) as the 'standard treatment', whereby propositions can serve as premises or conclusions connected by convergent or linked support (it is recognised that there are, of course, much richer characterisations and diagrammatic techniques for investigating argument structures – Freeman himself develops one such – but the standard treatment offers a simple, tractable, and sufficiently expressive account to be of great interest).

Although the work in (Reed 1998), (Reed & Long 1997b) focuses specifically upon persuasive argument, the same approach can be adopted towards the inherently deliberative internal structure of parts of a contract. In particular, that structure can be represented diagramatically using nodes to represent propositions and arcs to represents relations between them. In the same way that a persuasive argument can be seen as an implicit dialogue, whereby each statement of the

writer has been elicited by some implicit question (of relevance or ground adequacy), a contract too can be viewed as inherently dialectical, whereby an implicit opponent may offer questions forcing specification: the who question demanding role instantiation; the when question demanding temporal specification; the how question demanding specification of means; and, most frequently, the what-if question, demanding specification of contingency action. It is these questions which characterise the relationships between nodes in the contract graph. With an isomorphic relationship between the structure of persuasive discourse and that of deliberative discourse, the techniques developed for computational representation of the former can also be applied to the latter.

5. Conclusions and future work

Rhetorical Structure Theory, though a competent model of small scale text structure with wide applicability in both discourse analysis and natural language generation, suffers from a range of problems many of which become insurmountable when considering its application to large scale arguments and contracts. A more abstract level of representation, subsuming RST, is required to provide a functional account of the complex structure and interdependencies present in such text. The representation developed for handling the structure of persuasive text has been shown to cope with contractual text as a result of an isomorphism in the structure of the two genres, and in particular, that it can be appropriate to view each as an implicit discussion. Current work is exploring in more detail the practical advantages such a computational representation may afford. In particular, a means of representing and manipulating the large scale structure of a contract may be of use in supporting the drafting, negotiation and litigation activities through provision of a tool for navigation and referencing of a large contractual agreement (such agreements may often run to hundreds of pages and have a dynamic nature running over many years). An integration with the work of (Daskalopulu & Sergot 1995), and with others working on legal information systems thus represents a potentially fruitful avenue of investigation. A more ambitious aim is to extend the model presented in (Reed 1998) to cover the automatic generation of contract structure, fulfilling either a role of critic of human generated contracts, or one of preliminary authoring in well defined domains.

NOTES

[i] Although in the case of language-as-art or some poetry they might be obvious:

it is not necessarily the case that the writer's intention is to convey some particular message to the reader, rather it might be to create a particular emotional effect with which the functional account of RST is not concerned.

[ii] JOINT is actually a means of composing elementary structures into compound ones (a schema application in Mann and Thompson's terms). Here we treat it just as a vacuously defined relation, that is, there is no specification of constraints on nucleus, satellite or their combination and no effect. The result is identical to that of Mann and Thompson's.

[iii] This distinction between notions of persuasion and deliberation is adopted from (Walton and Krabbe 1995).

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ISSA Proceedings 1998 – Argumental Deduction: A Programme For Informal Logic

1. A remark on logical practices

The business of logic is to provide us with the wherewithal for the evaluation of arguments. Not everyone will agree with so blunt a statement but most will accept it as close enough to the truth insofar as logic figures in argumentation and argumentation theory.

I want to begin by looking at some of our logical practices. By a 'logical practice' I mean a logical method, even if it is only loosely defined, that is used more or less widely.

Consider first propositional logic set up as a natural deduction system. This is one of our logical practices. With this method we identify an argument's premises and conclusion, write them in the syntax of propositional logic and then, by as many applications of valid inference rules as needed, we write a series of sentences the last of which is the argument's conclusion. If we are successful we have a proof that the conclusion follows logically from the premises, i.e., that the argument is valid. Using the Venn diagram method for testing syllogisms is another of our logical practices. We map only the argument's premises on the diagram and then examine it to see whether the given conclusion is present. The syllogism is valid just in case expression of the premises on the diagram is at once an expression of the conclusion too.

As a last example of one of our logical practices, think of informal logic. Not a few informal logicians teach that an argument is good only if the premises satisfy three conditions. One of these conditions is that they must be acceptable. The others are that the relationship between the premises and the conclusion must be such that the premises are relevant to the conclusion, and sufficient for the conclusion.

What these three kinds of logical practice, and some others, have in common is that they seek to evaluate arguments by examining the relationship between an argument's premises and its conclusion directly. Each method requires that we determine whether the conclusion follows from the premises; that is, given the premises, the question is "by the standards in use, can the conclusion be said to be a logical consequence of the premises?". It might not true. Consider, for example, the practice of logical analogies.

In evaluating arguments by logical analogy we proceed as follows:

A target argument, H, is presented for evaluation. A familiar argument, B, known to be a bad argument, is held to be structurally similar, or parallel, to argument

H. Hence, H is a bad argument. For example, let the argument to be evaluated be

No liberals are conservatives
All liberals are supporters of socialized medicine
So, No conservatives are supporters of socialized medicine

The logical badness of this argument is demonstrated by the following analogous, and obviously bad, argument.

No historians are logicians
All historians are clever
So, No logicians are clever

Of course, although this is not much stressed in the literature, arguments can also be shown to be good by the method of logical analogy.

The point I want to make here, however, is that the practice of using logical analogies to evaluate arguments is quite dissimilar to the three practices I described earlier. The analogical method does not ask whether the conclusion follows from the premises according to a set of norms for 'following from'. At least it does not address this question directly. Rather, the method of logical analogies sorts arguments whose logical value is not obvious into good or bad, according to whether they are analogous to arguments taken to be good, or bad. Hence, by the method of logical analogy, the question of whether the conclusion follows from the premises is decided indirectly: if the argument is analogous to a logically good argument, then the target argument is a good one too, and we infer that its premise-conclusion relation is in order; if the target argument is analogous to a bad argument, it is also a bad argument, and we infer that the conclusion does not follow from the premises (according to the relevant standards).**[i]**

2. Aristotle's method
In the *Prior Analytics* Aristotle invented formal logic. He not only identified a class of valid syllogisms, he also gave a systematic proof of the validity of each of them. Briefly outlined, his method was to identify four first figure syllogisms which were obviously valid, and then prove that the other non-obviously valid syllogisms in the second and third figures were valid by showing that they could be reduced to one or another of the first figure syllogisms. Reduction to the first figure is accomplished either (a) by weakening the premises of the syllogisms being reduced, or

(b) by strengthening its conclusion, or

(c) by argument transposition.

Here 'weakening' means replacing a premise by its converse: I and E propositions convert without restriction, A propositions convert by limitation, i.e., SaP – PiS, but not vice versa (Corcoran 1983). Here is an example.

Celarent (SF)
Celarent
      Camestres
(i)   (ii)   (iii)   (iv)
BeC AaB AaB   AaB
AaB BeC BeC   tab   CeB
AeC AeC tab CeA CeA

The reduction reads from right to left. Camestres, a second figure syllogism, is being reduced to the first figure syllogism, Celarent. The first move is from (iv) to (iii) where the minor premise has been converted from 'CeB' to 'BeC'. The second move is from (iii) to (ii) where the conclusion has been converted ('CeA' to 'AeC'). Finally, in (i), (ii) has been rewritten in conventional form so it is easily recognizable as Celarent.**[ii]** This constitutes a proof of the validity of Camestres in Aristotle's system. The whole proof of all the valid syllogisms is largely encoded in the Medieval mnemonic, "Barbara, Celarent …".

Aristotle is aware that valid syllogisms may reduce to invalid syllogisms as well as valid ones (Corcoran 1983). For example, Camestres might be reduced to

Camestres

BiA   AaB

CeB

CeB

CeA

CeA

The syllogism on the left is invalid. Invalid syllogisms, however, only reduce to other invalid syllogisms whereas second and third figure valid syllogisms reduce to at least some valid first figure syllogisms. The other kind of argument reduction Aristotle employs we may call an indirect method; it uses argument transposition. For example, on one of the third figure syllogisms, Bokardo, one performs the

following operation. Mutually exchange the positions of the major premise and the conclusion, and negate them both. The
result is:

Re-lettered	transposed	Bokardo
(i)	(ii)	(iii)
MaP	SaP	MoP
SaM	MaS	MaS
SaP	MaP	SoP

Again, I write the reductions from right to left. Bokardo is stated at (iii); at (ii) the transposition is made, and at (i), (ii) is re-lettered to be clearly identifiable as Barbara.

Let us make a few summary points about Aristotle's method of reduction.
1. Some arguments – the perfect four – are taken as good arguments; they are not demonstrated as good by the method of reduction, but assumed as good, and needed for the method to work.
2. The method works by relating arguments whose logical status is unclear to arguments that are taken as logically good.
3. This 'relating' is done by argument reduction; that is by 'weakening' the premises, 'strengthening' the conclusion, or by argument transposition. Lastly,
4. it is a feature of Aristotle's syllogistic reduction system that non-basic good arguments reduce to both good and bad arguments whereas bad arguments reduce only to other bad arguments.

3. Generalizing Aristotle's idea
Aristotle's reduction system is a system of argumental deduction. Such systems contrast with sentential deduction systems. Corcoran explains the difference as follows.

Opposed to the sentential deductions (which are lists of sentences) there are those which are lists of arguments. Systems which consist entirely of lists of arguments are called *argumental deductive systems*. ... In creating an argumental deduction one does not start with premises and proceed to a conclusion but rather one takes *ab initio* certain simple arguments and constructs from them, line-by-line, increasingly complex arguments until the argument with desired premises and conclusion is reached. In argumental systems the rules produce

arguments from arguments (not sentences from sentences) (Corcoran 1974: 176).

With this distinction in hand, the observations made earlier about our logical practices can be restated. Our dominant logical practices are methods of sentential deduction. (The term 'statemental deduction' is preferable for us, since we will be concerned with natural language argumentation.) Aristotle's system of syllogism reduction, however, is a method of argumental deduction. Argument by logical analogy should also be thought of as a kind of argumental reasoning since it turns on evaluating an argument by comparing it to another argument. Logical analogies do not, however, seem to be a kind of argumental deduction.**[iii]**

4. Johnson's intuition
Let us now turn to an important point made by Ralph Johnson. In his essay on theories of evaluation Johnson lists a number of intuitions which he thinks any worthwhile theory of rational argumentation must accommodate. One of these is that "arguments exist in a continuum from strong to weak" (Johnson 1992: 149). Johnson explains:

A theory of evaluation that accommodates this intuition must have more possibilities than just good and not-good. It should provide a spectrum with points along the way. It should turn out that arguments can be very strong, strong, moderately strong, weak, poor, etc. (Johnson 1992: 149).

I agree with Johnson on this point. Strange it is that automobiles, students's essays, works of art etc. – all human artifacts – are ranked from the abysmally abominable through a fair number of intermediate grades right up to the perfectly wonderful, and that arguments aren't. Or, rather, we should say, that although we do recognize the fact that arguments exist in a continuum from bad to good, our extant logical practices, both formal and informal, provide only scant guidance on how to incorporate this fact into a logical theory.

5. Two senses of 'informal logic'
Since its inception a number of distinct, albeit related, senses of 'informal logic' have been advanced. Here I shall be concerned only to distinguish what I will call the wide and the narrow senses of 'informal logic'.

In the wide, or dialectical, sense of 'informal logic' the term denotes an approach to natural language argumentation that takes these three criteria as definitive of a good argument.

(C1) The argument's premises must be relevant to the conclusion

(C2) The argument's premises must be sufficient for the conclusion

(C3) The argument's premises must be acceptable

Here premise acceptability is considered to be a *logical requirement*,**[iv]** indicating that 'good argument' is being construed as 'good dialectical argument'. There is reason to take this approach since public arguments – most of them, at least – fit in a dialectical or rhetorical context, even if these contexts are sometimes rather indefinite. And it is precisely such arguments that the informal logicians want to tackle and make pronouncements about.

However, in order for an argument to be dialectically good it must first be logically good, and in determining logical goodness we ignore for the most part the question of whether the premises are acceptable. 'For the most part' because questions of premise acceptability nearly all fall under the heading of epistemology. The logician, *qua* logician, *can* ask *some* questions about the premises independently of their relation to the conclusion; namely, whether they form a consistent set, and if they don't, they can be deemed unacceptable.**[v]** But this is as far as logic can go in pronouncing on premise acceptability.

Hence, shorn of the premise acceptability requirement, we have 'informal logic' in the narrow or logical sense. The project of informal logic in this narrow sense is to see how far we can develop logic without availing ourselves of the plentiful resources of logical form as it figures in formal logic. Our main resources will be the intuitive notions of 'relevance' and 'sufficiency'.

These then are the three points of departure: Aristotle's method of argumental reduction, Johnson's intuition about the continuum hypothesis, and the narrow version of informal logic just explained.

6. Implicit uses of argumental deduction

Earlier I claimed that the method of logical analogies was one of our logical practices, albeit perhaps an imperfect one, and that it was a kind of argumental reasoning. I now want to suggest that other elements of argumental reasoning, are embedded in some of our thinking about good and bad arguments.

Sometimes we speak of improving or weakening arguments; for example, we say, "you could improve your argument by getting more information" or "the argument is weaker if the authority turns out to be unreliable". This is consistent with Johnson and Blair's remark that "Rarely is an argument so good that it cannot profit from criticism and seldom is an argument so bad that it cannot be

improved by criticism" (Johnson and Blair 1993: 43). Implicit in this view is the idea that an argument is something you can work on – add something to, change a part of, leave something out of – and end up with an improved version. From the argumentation theorist's point of view this observation is entirely correct but from the logician's point of view it is objectionable. We would do well here to hang on to these two necessary conditions of argument identity:

Argument A = argument B only if (i) the premises of A = the premises of B and (ii) the conclusion of A = the conclusion of B.

If we stick to the concept of argument identity, then we see that an argument cannot be changed any more than the number two can be changed; therefore, strictly speaking, talk of improving arguments (or weakening them) won't do at all. But, what then is going on when we are 'improving' our arguments? The answer is that we are composing or discovering new arguments that we believe are better than the argument we began with. Every 'replacement' of one proposition by another 'in an argument', every 'deletion' and every 'addition' is really, from this point of view, the creation of *another* argument. We are already, then, in the habit of making new arguments stemming from other arguments.

Some of the elements needed for an argumental logic are most readily obvious in the rules we give for good inductive and analogical arguments (not arguments by logical analogy).

In analogical arguments two subjects are compared. Common properties are identified along with a projected property. A simple rule of analogical arguments is that argument strength is a function of the number of common properties that are relevant to the projected property. Whereas we might be inclined to say that the argument is improved by identifying more common properties, what we really should say is that the increments in common properties leads to a sequence of arguments, each one stronger than the one before it.

```
S1 has C1 and P              S1 has C1, C2 and P
     S1 has C1-C3 and P
S2 has C1
S2 has C1 and C2
S2 has C1-C3
S2 has P                     S2 has P
     S2 has P
```

The sequence is, of course, extendable as more common properties are adduced.

Another rule for analogical arguments is that their strength is a function of the sweep of their conclusions: the less sweeping the conclusion, the stronger the argument. This consideration could give us a sequence like this:

S1 has C1-C3 and P
S1 has C1-C3 and P
S1 has C1-C3 and P
S2 has C1-C3
S2 has C1-C3
S2 has C1-C3
Certainly S2 has P Very probably S2 has P Probably S2 has P

Similarly, it is easy to see that sequences of inductive generalizations, both universal and statistical, can be constructed in a very similar way. Each time another white swan is observed the size of the sample is increased, and a new argument is added to the series; and every weakening of the conclusion is also a new argument.

Other elements of argumental deduction may be found in a nascent state in some of our other logical distinctions. For example, another way we can strengthen premises is by making changes within modalities.

For example,
Epistemic: believes p, has pretty good reason to believe p, is justified in believing p, knows p
Alethic: possibly p, contingent p, necessarily p
Deontic: permitted that p, obligatory that p
Quantitative: some, most, all

Statements also increase in strength as their probability increases, and since we can express degrees of probability very precisely, we could write a fine-grained series of arguments by increasing the probability little-by-little.
Still another way that we can write a stronger premise set is by adding more independent premises to it, making a new 'convergent' argument that exceeds the number of reasons (premises) of the original argument.

7. An intuitive system of argumental deduction
Based on these observations, let us consider a system of argumental deduction

that is both informal and general. It will be informal because it eschews all considerations of logical form, although it will make use of several semantic concepts also used in formal logic.

And the system will be general because it is meant to have application to all kinds of natural language arguments, not just syllogisms, or inductions, or relational arguments, etc. Moreover, whereas one can think of Aristotle's reduction system as an axiomatic argumental deductive system – with the perfect four being the axioms – the system to be developed here is more likely to be termed a *natural deduction* argumental system (since no particular arguments will be taken as axiomatic).

The core idea is very simple. We string together sequences of arguments such that their relative strength in relation to each other are indicated by their position in the sequence. Let us adopt the convention of writing our series such that the very weakest argument is on the left, the very strongest on the right, and the ones in between are placed in an ascending order of strength from left to right. Thus, in general, for any argument in the series, the arguments on its right are stronger than it, and the ones to its left are weaker than it.

How will this work? To write a stronger argument, take any argument and write another argument to the right of it whose premises have greater sufficiency in relation to the given conclusion than the original argument; this second argument will be stronger than the original one. Or, leave the premises as they are but weaken the conclusion and this too will result in a stronger argument. For example,

A1 – A2 – A3
Some men are mortal Most men are mortal Most men are mortal
Socrates and Aristotle Socrates and Aristotle Socrates is mortal are mortal are morta

Here A2 is stronger than A1 because the premise in A2 is stronger.
A3 is stronger than A2 because the conclusion of A3 is weaker than that of A2. Obviously, the series A1-A3 is extendable in either direction.

Read from left to right the series A1-A3, shows arguments of increasing strength. Read from right to left it shows arguments of decreasing strength, and here it is an argumental reduction sequence.

In general, any argument can be reduced to any of the arguments to its left. Moreover, for any series of arguments,

A1, A2, A3, A4, A5, A6, A7, A8, A9, A10, etc.

if, say, A7 is a logically good argument, then the ones to the right of it, A8-A10, etc, will be logically good argument also; and if A4 is a logically bad argument then the ones to the left of it will be logically bad arguments too. We may classify A5 and A6 as neither good nor bad, but middling, with A6 being the stronger.

We have to pause momentarily to clarify how we are to understand the relation 'argument A is stronger than argument B'. In the logical sense, one argument is stronger than another if it provides *more support* for its conclusion than another argument provides for its conclusion (supposing, of course, that the premises in question are true or acceptable). For example, one might hold that the cosmological argument for God's existence is stronger than Jones's argument against the abolition of slavery, or that a particular argument for free trade is stronger than a particular argument against it.

Whenever we adjudicate issues from a purely logical point of view we do so on the basis of comparative logical strength and nothing else. However, this comparative sense of 'stronger than' is too wide for the purposes of our present project.

In a narrower sense of 'argument A is stronger than argument B' we mean that the stronger argument is an improvement or development of a weaker argument; the weaker argument lacks certain logical merits that the stronger argument has. It is possible to take an argument and 'add to it' (so to speak) to make it better, and then to make even more improvements again and again. This narrow sense of 'stronger argument' implies that there is some logical relation between two arguments when one is stronger than another such that the weaker argument can be obtained from the stronger argument. I call this the serial sense of 'stronger argument,' and will attempt a clearer statement of it in sec. 9.

The requisite skill in this kind of logic is to be able to write a series correctly, with the arguments in ascending order of strength. Once this is done one can reduce any argument to any other on its left in the series.

Aristotle's insights about argument reduction have here been generalized. Argument A reduces to argument B if the strength of A's premises is greater than the strength of B's, or the conclusion of B is stronger than the conclusion of A. In addition, Aristotle's insight that good arguments also reduce to bad arguments is

preserved in this approach because there will always be bad arguments to the left of good arguments. However, bad arguments can only reduce to other bad arguments since there are no good arguments to the left of bad arguments. The present approach does differ from Aristotle's in one important respect. We are not identifying a subset of good arguments to which all other good arguments are to be reduce. This method presupposes that it will be possible to identify some arguments as good on independent grounds.

Moreover, Johnson's intuition about the continuum hypothesis fits nicely with argumental deduction: every series of argument is also a continuum of arguments related to each other in terms of comparative logical strength. Perhaps, by restricting ourselves to the serial sense of 'stronger than', we have given the continuum hypothesis a narrower interpretation than Johnson anticipated but this is not inconsistent with the idea that arguments can also be ranked in the wider, comparative sense; although how this might be done is a problem that goes beyond the reach of our present project.

Finally, we have accomplished this much logic by relying only on the notions of 'relevance' and 'sufficiency'. They are assigned distinct roles in argumental series. Relevance is the price of admission; an argument's premises must be relevant to its conclusion if it is to be included in a series. Sufficiency determines seating-order; the more sufficient premises are with respect to a conclusion, the closer the argument sits to the orchestra (the further it is placed to the right in the series). We hasten to add and admit that there are no new insights or improved analyses of the concepts 'relevance' and 'sufficiency' provided by this approach; they are used at the at the same face value they have in other informal logic projects.

8. A general system of argumental deduction (System G)

System G is designed to provide a conceptual framework for constructing series in which to place arguments that occur in natural language argumentation. It attempts to define the concepts needed for constructing the series of arguments in which argumental deduction can be carried out. The most important concept developed is that of an 'argumental series' (Df9).

We begin by defining the relative strength of two sets of statements.

(Df1) A set of statements B is stronger than a set of statements A iff B entails A, and A does not entail B.

The motivating intuition here is that a stronger set of statements has greater scope, or sweep, than a weaker set and is therefore more likely to be false. Still, the definition falls prey to the standard paradoxes: if the statements in B are logically inconsistent and those in A are not, the definition is satisfied. There is a limitation, however.

A sequence of sets of statements will be transitive with respect to 'stronger than' only if any member of the sequence that is inconsistent is the last member of the sequence. If the last two members of a sequence were both logically inconsistent, for example, then the penultimate set would entail the final member, and the final member would not be stronger than its predecessor.

If the conjunction of the premises in A constitute a necessary truth, and those in B do not, then it is true that B entails A (because any set of statements entails a necessary truth) and it is true too that A does not entail B (since necessary truths do not entail non-necessary truths). This consequence is not unwelcome since contingent propositions provide better support for other continget propositions than do necessary truths.

Definition 1 is an ingredient in the definition of 'stronger set of premises'.

(Df2) A set of premises, D, is stronger than a set of premises, C, iff
(i) D is stronger than C and
(ii) every member of D, either in combination with other members of D, or individually, is positively relevant to the conclusion of C.

We are on the way to defining 'stronger argument' (in Df4), and one of the ways that an argument can be stronger than another is by having 'stronger premises.' However, this cannot be understood simply as being a stronger set of statements. They must not only be that, they must also be a stronger set of statements that will serve as premises for the *same conclusion* as the weaker argument. This is what the second condition of Df2 attempts to ensure.

The other condition that affects argument strength relates to conclusions: the weaker the conclusion, the stronger the argument. Since 'weaker than' is the converse of 'stronger than' we have the following definition.

(Df3) For any sets of statements E and F, E is weaker than F iff F is stronger than E.

Incorporating Df2 and Df3, we define 'logically stronger argument' as follows.

(Df4) An argument H is logically stronger than an argument G iff either
(i) the premises of H are stronger than the premises of G or
(ii) the conclusion of H is weaker than the conclusion of G.

Now, let us add that
(Df5) Two or more arguments constitute a sequence (of arguments).

An argumental deduction is a special kind of sequence, one in which all the members of the sequence are related in a specifiable way. Such a sequence we will call a 'series' and tentatively define as,

(Df6) A series (of arguments) is a sequence of arguments such that every successor in the sequence is logically stronger than its predecessor.

But this won't quite do, especially if we want to generalize on Aristotle's methods of argument reduction that we looked at earlier (in sec. 2). One of those methods was reduction by argument transposition. An argument is a transpose of another if, and only if, the conclusion of the first argument is negated and replaces a premise in the second argument, and the evicted premise of the second argument is negated and is the conclusion of the first argument. In general,

A   A
B   *not-C*
C   not-B

for any number of premises, is what argument transposition brings about (recall the example of Bokardo, in sec. 2). Argument transposition figures in argument reduction and deduction, but the arguments are of equal logical strength; the one is not logically stronger or weaker than the other. This means that there is more than one way to write an argumental deductive sequence: one in which each successive member is stronger than the one before it, and one in which successive arguments have the same logical strength (see Hansen 1994).

Another consideration is that, in addition to argument transposition, there are argument reductions where it is misleading to say that the reduction is to a weaker argument. Aristotle's example of a reduction from Camestres to Celarent is itself an illustration of this, for it involves only the conversion of E propositions,

and statements of the form 'SeP' are neither stronger nor weaker than statements of the form 'PeS'. We would not call such converse statements identical, but they are equivalent. Hence, we need to define a concept somewhat broader than 'argument identity'. Let us say that two statements are equivalent if they entail each other; then (Df7) Argument K is equivalent to argument L iff every premise of K is equivalent to a premise in L, and vice versa, and (ii) the conclusion of K is equivalent to the conclusion of L.

We are now in a position to offer an improved definition of argumental series.

(Df8) An *argumental series* is a sequence of arguments such that for any two members of the sequence the successor is either
(i) logically stronger than its predecessor,
(ii) an argumental transpose of its predecessor, or
(iii) an argument equivalent to its predecessor.

This is the preferred definition of 'argumental series'.
Given Df8 a number of rules about comparative argument strength can be given. I shall state only two of them. First, the rule for good arguments.

Rule GA: An argument A_i in a series S is a good argument iff there is an argument A_i in S, (to the left of A_i), and A_{i-j} is a good argument. A series itself does not decide which arguments are good. Argument reduction and deduction always depends on some arguments being taken as good on other grounds; hence, what this approach to logical evaluation allows is the making of comparative judgments in view of the assumption that some of the arguments in a series have been assigned a value. In other words, the rules give sufficient conditions for good arguments, not necessary conditions. Analogous considerations apply to the rule for bad arguments.

Rule BA: An argument A_i in a series S is a bad argument if there is an argument A_{i+j} in S (to the right of A_i), and A_{i+j} is a bad argument.

9. Conclusions
I am not advocating that argument evaluation in informal logic should proceed by actually writing long or short series of arguments and then carrying out a reduction. In a very few cases this might be helpful. However, realizing that it is possible to place every argument in a series gives us a perspective on relative argument strength that is instructive. Not only does argumental deduction allow

for argument reduction, it also gives directions for argument construction; that is, it incorporates the principles for writing logically better arguments.

Earlier I distinguished between 'informal logic' in the wide and narrow senses. Our ultimate goal, of course, is to practice informal logic in the wide sense that includes the requirement that premises should be acceptable. With respect to argument series, some observations are possible in this regard.

In general, the stronger an argument's premise set the less likely it is that it will be acceptable. The desire for logical strength pushes us rightward in our series but dialectical reality creates a leftward force. Hence, the argument that is likely to be successful in a dialectical context will be one that is a compromise between considerations of logical strength and premise acceptability. With regard to conclusions of arguments, in general, the weaker they are the stronger the argument is logically. Again, the need for logical strength pushes us rightward in argument series. But the weaker a conclusion is the less likely it is to have the required dialectical bite. That is, a weak conclusion may be established by a logically strong argument with acceptable premises but the conclusion may not be strong enough to do the work required. So, dialectical considerations also put a check on the weaknesses of conclusions.

Everything Aristotle could have dreamed of in terms of showing arguments valid, and more, has found a home in modern logic. One *might* say that first-order logic is a generalization of Aristotle's insights about the syllogism if, that is, we view the syllogism as a kind of *statemental* deductive logic. However, if we consider Aristotle's logic as an *argumental* deductive logic, then the present project is an attempt to generalize his insights about reduction, and extend them to non-syllogistic logic as well.

NOTES

[i] I am not forgetting that an argument's having an invalid form is insufficient for convicting it of having no valid form, and hence for showing that it is invalid. The importance of this (the asymmetry thesis) is that it shows that the method of logical analogies is not an effective method; it does not show that it is not a useful method.

[ii] This last step is required neither by Aristotle nor by logic; it simply puts the argument in what we have come to think of as standard form.

[iii] The system developed below cannot accommodate logical analogies.

[iv] Johnson and Blair (1993: 62) say it is a logical requirement.

[v] Tapscott (1976: 80) defines 'good argument' as a valid argument with

consistent premises

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Public Argument And Civil Society: The Cold War Legacy As A Barrier To Deliberative Politics

The often dramatic happenings in Eastern and Central Europe a decade ago, as well as subsequent events in the Soviet Union which resulted in its eventual rupture, made for a revival of interest in the idea of civil society with all of its historical and philosophical meanings.

Thus, for example, Karl E. Birnbaum wrote in 1991: "In a Europe where democracy is finally writ large all over the continent, the present major tasks of political reconstruction more than ever requires the active participation of individual citizens, of civil society" (84).

In the political arena, Vaclav Havel, shortly after his election as President of the Czech and Slovak Federal Republic, affirmed the importance of the idea: ". . . the principle of civil society represents the best way for individuals to realize themselves, to fulfil their identity in all the circles of their home, to enjoy everything that belongs to their natural world, not just some aspects of it" (1992: 32).

In later years, Havel expanded the notion of civil society to serve as the guarantor of political stability. When he addressed the Parliament and Senate of the Czech Republic on December 9, 1997, partially in response to the forced resignation of Prime Minister Vaclav Klaus, Havel used the occasion to reflect on the progress of the Republic: "The more developed all the organs, institutions, and instruments of civil society are, the more resistant that society will be to political upheavals or reversals" (1998: 45). A truly democratic system would not be threatened by a scandal, a crisis or some banal event. "In my opinion," Havel said, "this can only happen because we have not yet created the foundations of a genuinely evolved civil society, which lives on a thousand different levels and thus need not feel that its existence depends on one government or another or on one political party or another" (45).

In another part of the world, former U.S.A. Senator Bill Bradley, a popular and well-regarded politician who decided not to seek re-election in 1996, views civil society as key to the American experience: "American civilization is like a three-legged stool, with government and the private sector being two legs and the third being civil society, the place where we live our lives, educate our kids, worship our God, and associate with our neighbors" (412). Like Havel, Bradley views civil society as containing the seeds for democratic renewal: "Within civil society lies the zest to deal with what ails us as a nation" (414).

Finally, in Jürgen Habermas' recent works in communication, political and sociological theory, he argues the need for an enlightened civil society in order to make deliberative politics function. To Habermas, "civil society is composed of those more or less spontaneously emergent associations, organizations, and movements that, attuned to how societal problems resonate in the private life spheres, distill and transmit such reactions in amplified form to the public sphere" (367). Without minimizing the difficulties of a viable civil society, Habermas stresses its importance to basic constitutional guarantees. He argues: "The communication structures of the public sphere must rather be kept intact by an energetic civil society. That the political public sphere must in a certain sense reproduce and stabilize itself from its own resources is shown by the odd self-

referential character of the practice of communication in civil society" (369).

In this paper, I want to examine the potential for civil society to serve as a mediating force in democratic practices. I will argue that civil society is culture-specific and that its potential can only be explained, understood and utilized within a particular national or ethnic setting; that current discontent in the American situation may well be attributed to a fractured and decaying civil society. Finally, I believe that the cold war as a dominating idea had a particular and debilitating impact on American civil society, damaging the argumentative practices necessary for meaningful deliberative politics to have cogent meaning.

Christopher Bryant provides a useful and somewhat realistic notion of civil society as "a space or arena between household and state, other than the market, which affords possibilities of concerted action and social self-organization" (399). Michard Bernhard argues a similar meaning for civil society: "It constitutes the sphere of autonomy from which political forces representing constellations of interest in society have contested state power" (307). These definitions realize that civil society is more than a place where one learns associational and civic lessons, but also the sphere where contestation and concerted action find their social and political realization.

A meaningful civil society must advance beyond mere civic association to remove it from the realm of nostalgia. While not necessarily a bad thing and sometimes useful for strategic rhetorical purposes, nostalgia seldom has sustaining value for dealing with modern conditions such as an internationalized economy, market forces which have eroded community, demographic changes, and a technological transformation of leisure. Given both the excesses of the market and the distance of government, civil society must be about resistance as well as habit formation.

Having said these things, it is also important to note that habit formation in the sense of democratic practices must precede resistance. Associational membership enhances civil society. As Luis Roninger notes, "Civil society can be nurtured through involvement in participatory activities and grassroot organizations, through the establishment of centers of sociability like coffee houses, clubs and voluntary associations; through increased public interaction – in the framework of open lectures, recreational locales, and museums; by means of communication – written and electronic that empower and substantiate the citizens' sense of autonomy from the logic of regulation by the state" (208-9).

Civil society is also culture-specific. Neither its successes nor failures are easily transferable. Civil Society occurs in cultures which include their own distinct

histories, customs, mores, rituals, myths – a series of shared understandings, often taken for granted, merely assumed. Its separability from the state and the economy is never exactly distinct.

There is a final requisite for a meaningful civil society: its dependence on both a somewhat engaged citizenry with opportunities for democratic participation. Without at least a theoretical responsiveness to public opinion and arenas for citizens to express opinions, it is difficult to imagine scenarios for civil society to have a routine and sustained impact on political possibilities. As Krishnan Kumar notes, "The establishment of a democratic polity and a public sphere of political debate and political activity are the primary conditions for a thriving civil society of independent associations and an active civic life" (391). Michael Walzer makes the claim in even simpler terms: "Only a democratic state can create a democratic civil society; only a democratic civil society can sustain a democratic state" (104).

In addressing, now, the American experience, it is important to note first the limitations of traditional political settings and spaces capable of enhancing the sorts of practices necessary for the making of democratic citizens.

Charles Taylor establishes the problem in broad terms: "The average citizen feels power to be at a great distance and frequently unresponsive to him or her. There is a sense of powerlessness in the face of a governing machine which continues on its way without regard to the interests of ordinary people, who seem to have little recourse to make their needs felt" (207).

Public opinion findings confirm this sense of powerlessness and lack of confidence. In 1964, seventy-six percent of Americans believed they could trust the government in Washington to do what was right most of the time. Three decades later only twenty percent did (Sandel: 297).

Daniel Yankelovich expands this loss of confidence to other centralized and hierarchical national institutions: "In the past few

decades, the medical profession has slipped from confidence ratings of 73 percent to 26 percent. Institutions such as big business, organized labor, and the press all have confidence ratings below 30 percent" (61).

In his book on Congress, written after his self-imposed retirement, Congressman Timothy Penny relates that in 1956 five thousand special interest groups existed in Washington. By 1993, the number had grown to more than twenty-three thousand. As Penny notes, "The special interest industry employs five hundred thousand full-time workers, roughly the same number as are employed by the steel, computer or airline industry" (104).

Citing a 1990 survey of the American Society of Association Executives, Penny writes that seven of ten Americans belonged to at least one special interest group, and one of four Americans belonged to at least four (105).

These modern versions of civic association have become part of the political process. Only the nature of activism has changed. Citizens in ever larger numbers do join communities, but communities designed to protect their individual niches in a more perplexing world. Associational membership is largely designed to support some aspect of the market or some attempt to preserve a government program that may have outlived its usefulness. There are few common bonds. The act of citizenship is to write a check, and then let others argue some particular cause.

This interaction with both the market and state has created not only a perverted political process but a sameness of discourse that mimics the notion of self-governance. As Lewis Lapham writes, "The trick is to say as little as possible in a language so bland that the speaker no longer can be accused of harboring an unpleasant opinion" (30).

Thus, at election time, many Americans fall prey to the latest quick fix: prayer in schools, the restoration of family values, checks on cultural elitism, terms limitations, balanced budget amendments, the sanctity of the flag, a tougher policy towards Cuba, the death penalty. As the philosopher Richard Rorty noted, "the choice between the two major parties has come down to a choice between cynical lies and terrified silence" (87).

It is now fashionable in political circles to attribute all sorts of things to the end of the cold war. Senator Howell Heflin, for example, on his retirement from the U.S. Senate in 1997, wrote as follows: "Our victory in the Cold War did not seem to have the resonance around the country that one would expect. For decades, our entire defense and foreign policy had been formulated around the goal of fighting communism. It was truly astounding that our resources could now be channeled elsewhere. And yet, the passion, the excitement, the relief just didn't seem to be there. Almost immediately, a sizable segment of the population seemed to begin searching for another enemy" (78).

Mark Gerzon describes how Washington has become a substitute for Moscow: "No longer able to portray Moscow as the Evil Empire, some of our fellow citizens now portray Washington that way. Since the end of the cold war, we often act as if we are our own worst enemies" (xiii).

Lewis Lapham recently described the American experiment as a series of tensions

between competing interests and ideas, namely the city versus the town, labor versus capital, matter versus mind, and government versus the governed (30). Although I do not have time to develop the point here, such were the similar terms of debate between the Federalists and the Anti-federalists on "how best to constitute popular government" (Schambra, 37). In more modern times, it is to understand the tension between civic republicanism with its emphasis on citizenship and community, and modern liberalism with its concern for individuals and their procedural rights.

Mistrust of a strong central government has always been part of the American political lexicon from both the left and the right. Indeed, Seymour Lipset argues in his recent work on American exceptionalism that the failure to have a significant socialist movement in the United States is based less on class than "the lower legitimacy Americans grant to state intervention and state authority" (23).

Michael S. Joyce and William A. Schambra argue that strong faith in centralized power only works in times of national crises such as the Great Depression, World War II or the Cold War. Moral equivalents such as the war on poverty or a war on the energy problem cannot substitute for the real thing. So, they note: "Today, with the end of a long and exhausting cold war, Americans seem distinctly unwilling to rally around the 'national idea'" (25).

This is not surprising. After all, the cold war became a frame of reference through which to view and evaluate all things that happened during its life span. Additionally, the cold war needed a coherent and inclusive vocabulary in order to promote a variety of not only security concerns, but economic interests, self-images, and personal ambitions. The cold war was a dominating idea, and thus accumulated a legacy that permeated every aspect of American culture. But a rhetorical construct only works when steam is generated to fuel its engine. With the collapse of the Soviet Union, the dominating idea no longer had a rationale. With the fall of the Berlin Well, and the rapidity of events that followed, the pieces no longer fit together. Joy endures for a night, but darkness comes in the morning.

Wars, of course, never really end. They live on in the memories of those who fought them, the generations who observed and learned from a distance, and the legacy retained as part of a national consensus and culture. Differences between the United States and its adversaries would be cast in a harsh rhetoric characterized by magnified and expansive terms; a divisive and uncompromising

tone which exaggerated differences and minimized common interests; and an active narrative which redefined events and claimed the superiority of the American experience. All of this was bound to have an impact on discursive practices.

If the cold war was meant to be real, it had to be fought as though it were an actual war, and one consistent with the nation's view of itself. As Seymour Lipset recently wrote, "To endorse a war and call on people to kill others and die for the country, Americans must define their role in a conflict as being on God's side against Satan – for morality against evil, not in its self-perception, to defend national interests" (20). The cold war tended to ignore debatable national interests, economic as well as political, because in an atmosphere of national emergency, deliberation became secondary to patriotism. Dissent over legitimate topics came at a heavy price.

The foundations for the cold war were set immediately following the end of World War II, and its details need not be repeated here. I want, however, to make special note of NSC-68, drafted by a Department of State and Defense study group in early 1950. Their seventy single-spaced page report was signed by President Truman later that year. Thomas H. Etzold and John Lewis Gaddis note its importance: "NSC 68 constitutes the most elaborate effort made by United States officials during the early Cold War years to integrate political, economic, and military considerations into a comprehensive statement of national security policy" (383).

Equally important to the policy implications of NSC-68 is the language used to describe their rationale. Nothing less than the future of mankind was at stake: "The issues that face us are momentous, involving the fulfillment or destruction not only of this Republic but of civilization itself. They are issues that will not await our deliberations. With conscience and resolution this government and the people it represents must now take new and fateful decisions" (386).

The, threat, however, was more than external. The Soviets meant to destroy us from within: "It is quite clear from Soviet theory and practice that the Kremlin seeks to bring the free world under its dominion by the methods of the cold war. The preferred technique is to subvert by infiltration." They will try to turn our institutions against us: labor unions, civic enterprises, schools, churches, and the media. The doubts and diversity that are the merits of a free system, they will use against us, making them "sources of confusion in our economy, our culture and our body politic." They will use our freedoms against us as "all are but opportunities for the Kremlin to do its evil work"(413).

NSC-68 called for quadrupling the defense budget from $12.9 billion to $50 billion. The report warned that the American government should be prepared for the adverse psychological effects of such a rapid buildup both at home and abroad. Thus, the document advises: ". . . in any announcement of policy and in the character of the measures adopted, emphasis should be given to the essentially defense character and care should be taken to minimize, as far as possible, unfavorable domestic and foreign reactions." (434).

Finally, the document warns against "internal developments" which could jeopardize and weaken these national security objectives. Among them, the authors mention: serious espionage, subversion and sabotage, prolonged or exaggerated economic instability, and internal political and social disunity (439). Although not exclusively so, devaluation of dissent and deliberation, and the desirability of secrecy and expertise are among the legacies of NSC-68. While the structures themselves were already in place for the rhetorical construction of the cold war, NSC-68 gave a comprehensive rationale for the utilization of these structures. Americans could not be trusted to deliberate about their own affairs.

Almost fifty years later, Senator Daniel Patrick Moynihan wrote about the release of the report whose committee he chaired on protecting and reducing government secrecy: "Wars used to end with homecoming parades and demobilization. Nothing so unambiguous happened after the Cold War, and so it requires an effort to think anew" (56).

The Commission report makes this conclusion: "The Soviet Union is gone. But the secrecy system that grew in the United States in the long travail of the 20th century challenge to the Western democracies, culminating in the Cold War, is still in place as if nothing has changed. The system is massive, pervasive, evasive. Bureaucracies perpetuate themselves; regulations accumulate and become even more invasive" (A-77).

The Commission defines the scope of the secrecy system in the United States. Some two million federal officials, civil and military, have the ability to classify information (xxii). In 1995, government and industry spent over $5.6 billion to protect classified national security information (10). There are over 1.5 billion pages of government records over 25 years old that are unavailable to the public because they are still classified (xxiv).

Perhaps the greatest contribution of the Commission is its exploration into the culture of secrecy: that secrecy enhances political and bureaucratic power; that secrecy is a form of government regulation; that secrecy makes government less

than accountable for its activities; that secrecy prevents meaningful scrutiny of old beliefs; that secrecy prevents the public from engaging in meaningful debate; that secrecy begets both suspicion and cynicism.

When there are too many secrets, there are really no secrets. Secrets are selectively leaked for strategic purposes: to support an administration, weaken an administration, advance a policy, undermine a policy (A-3). In reality, there are now no sanctions for such disclosure to the press. Only one person has ever been prosecuted under the 1917 Espionage code for unauthorized disclosure to the press, a civilian who leaked photographs to Jane's Defense Weekly of a Soviet nuclear-powered carrier under construction. The employee received a two-year sentence (A-3).

Althan G. Theoharis describes the result as it relates to political deliberation: "Acting in secret, cold war presidents could counteract their adversaries (whether foreign or domestic) without in the process provoking a divisive domestic debate" (4).

I reach now the argument that I want to make in my conclusion: that the significance of the cold war rested in its ability to postpone an on-going debate about the significance and meaning of the American experience. America before Pearl Harbor was still coming to terms with the effects of the machine age, urbanization, the decline of the power of the individual, the emergence of a strong federal government to deal with the ills of the Great Depression, a strong presidency, and an over-reliance on expertise. William Greider describes well how "Americans have been systematically taught to defer to authority and expertise in a complicated world" and "that those chosen to hold power have access to a special knowledge and intelligence not available to others and, therefore, their deliberations and actions are supposedly grounded in a firmer reality" (407). In the cold war period, expertise was paramount, and it was the rare politician or citizen who resisted. Indeed, given the argument that the Soviets meant to fracture basic civic institutions, their very legitimacy became questioned. Additionally, it is not so easy to pierce a culture of secrecy, but deliberative politics cannot exist without information. Demands for changes in this culture of secrecy will have to come from citizens. They will not come from government or market forces.

If it is true, as I have argued, that the significance of the cold war rested in its ability to postpone the continual American debate about its own meaning, then the end of the cold war offers opportunities for the resumption of that debate:

about the role of the individual versus the common good; about the role of government and its relationship to actual needs; about the value of expertise versus the value of ordinary experiences; about the role an active citizenry can play in forming better deliberative politics; about the meaning of self-government. The cold war took away, and then monopolized, the terrain where such debates could occur. As Michael Sandel notes, "The formative aspects of republican politics require public spaces that gather citizens together, enable them to interpret their condition, and cultivate solidarity and civic engagement" (349). Perhaps the current difficulties I described earlier reflect the battle for such space.

Since neither government nor the market will provide viable solutions, then civil society as kind of a "third way" needs to be understood, cultivated and perhaps reborn. This is not such an easy task. Michael Walzer said it very well: "Civil society is a project of projects; it requires many organizing strategies and new forms of state action. It requires a new sensitivity for what is local, specific, contingent – and, above all, a new recognition (to paraphrase a famous sentence) that the good life is in the details" (107).

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ISSA Proceedings 1998 – Argumentation And Public Debate

1. Introduction

Arguments play a role in public debates. Nobody will contest this statement. Disagreement starts when trying to specify what roles arguments play. In order to simplify I would like to distinguish two extreme positions. At one extreme, public debates can be conceived as argumentation. That means that each public debate can be understood as a complex process in which disagreements concerning a standpoint are settled or confirmed with the help of arguments and counter arguments. In this view, public debates are rational resolutions of conflicts of opinion with the help of proper arguments. The ultimate nature of public debates is made up by some form of collective rationality. Such a conception can be elaborated in various ways, such as by Habermas (1981) or by Van Eemeren (1987) and Grootendorst. These elaborations will give some attention to possible disruptions of the rational resolution process. As public debates take place in contexts of social, political, religious and economic confrontation, these approaches will admit that there may be all kinds of disruptions and breakdowns of public debates, which can be explained by unequal power relations, by lack of suitable information or by the adoption of dogmatic positions.

Another extreme position will understand public debates as expressions of power struggles. Any move is suitable as long as it helps to win. In other words, debates are just continuations of fights or disguised forms of war. Fights and wars can also be conducted in a rational way. Machiavelli could be seen as a proponent of such a view, or in modern social science, the french sociologist Bourdieu (1982). In this view, public debates are disguised forms of fights, and the proponents will not deny that arguments are used in such a process. However, the arguments used do not have any intrinsic strength as such. They serve for manipulation and maybe for easy victory. As soon as arguments will not be sufficient to guarantee victory, they will be replaced by other means, such as exclusions of some participants, formulating new agendas, the necessity to decide at once, etc.

The aim of this contribution is rather modest. I will not try to reject one or the

other of these conceptions. Anyway, both offer useful and suitable instruments of analysis which have proven to be fruitful in some contexts of research. I will restrict myself here to analyze how arguments and other means of intervention are used in public debates and how they can be combined. In the conclusion I will outline how elements of the two mentioned conceptions can be integrated.

I will start by presenting a working definition of public debates and present some of their characteristics. In the central parts I will discuss forms of exclusions from public debates and their incidence on arguments and also mechanisms of participating in public debates and the role of arguments in these mechanisms.

2. A working definition of public debates

Public debates in modern times presuppose a public sphere which can only exist if formally or de facto there are conditions of public discussion of issues of general interest. These conditions can be guaranteed formally by a constitution and/or by general rights such as civil or human rights or be established de facto by social movements. As the point of public debates is not restricted to discuss matters of general interest but also to influence decisions of general interest, some form of democracy will be needed in order to enable the full development of public debates. The existing forms of democracy in present time do not really match the various ideal models of democracy which have been formulated by philosophers and social scientists. Held (1987) offers a good overview of models of democracy.

The model of deliberative democracy is particularly interesting when considering public debates, because a large participation of citizens in decisions is one of the main features of this ideal model. Deliberative democracy presupposes that all citizens participate in one way or another in the process of formulation of standpoints of policy. This participation does not mean that all citizens will directly influence the decisions, but it offers at least the possibility to do so. Any citizen or group of citizens should be able to bring his/her standpoints and arguments in the public sphere. These standpoints and arguments may be rejected in a public debate, but they may sometimes influence to some extent the opinions of others and in the long run have some impact in decisions of policy of general interest. As we shall see further on, at present, the existing forms of democracy realize some aspects of this ideal model but they cannot guarantee an effectively an equal participation of all citizens in public affairs.

Public debates can be understood as social arenas where different parties formulate and discuss issues with the aim to influence the other parties and

general decisions. The arenas have various forms, to begin with there were rather small – but in principle open for everybody – gatherings of people in cafes discussing issues of general interest. With the development of the media quite different forms of arenas exist at the present (Habermas 1990). With the Internet a new type of medium starts to play an important role.

The parties which participate in public debates can be individuals or groups. But groups are always represented by one or more individuals. These individuals participate in their quality of citizens, in other words they have in principle equal rights, and their wealth, race or other particularities should not play any role. However, equal participation is an ideal which is far from being realized in practice.

Can the parties bring in any issue whatsoever in a public debate? This is a very contested issue. According to some authors, inspired by Rousseau, parties may only put forward issues of general interest, and not problems or standpoints which they hold as private individuals. But this limitation would entail that there is some kind of control when entering the public sphere with explicit criteria what questions will be allowed and wich ones have to be refused. As it is extremely difficult to define universally such criteria there is a general agreement that no strict restriction can be defined. Recent studies of the public sphere and of public debates (Gutmann and Thompson 1996, Van Kersbergen and Propper 1995, and the special numbers of the journals 'Raisons Pratiques' and 'Hermes') permit to characterize public debates as open, dynamic and heterogeneous.

Public debates are open in the sense that the parties participating can change. There may be individuals and groups which did not take part in any discussion for a long time who can at one moment start to participate. For example, the participation of women was marginal for a long time, but in recent decades a growing number of women does play a role in the public sphere.

Public debates have also a quite dynamic character, because not only the participants can change but also the issues which are discussed. Even a single issue or problem can over time be transformed quite radically, for example by being related to other issues or by being split in several distinct problems. Moreover, public debates are quite often heterogeneous, which indicates the fact that one given issue can be discussed at the same time in several arenas, for example in different media, with various accents and by different parties.

A further characteristic should be mentioned here. Public debates can be

restricted to strictly local issues concerning a small village or a quarter of a city or bear on issues which concern potentially all human beings, such as for example the issue raised by indigenous people that human rights cannot be defined for every individual in the world in the same way.

There are three criteria of successful participation in public debates. These criteria are generally acknowledged because they formulate in fact only general preconditions.

The first one simply specifies that a party succeeds to get in the public sphere. To get in means that a party will be able to formulate a standpoint and to present it in one or the other arena where public debates take place. This elementary conditions is so minimal that it seems hardly worth mentioning. But as we shall see in the next section, this first step constitutes a very difficult handicap for many individual and groups. Indeed, this criterion entails to begin with that parties are capable of recognizing if decisions and propositions under discussion will have problematic consequences for their life. That already presupposes to be well informed in the first place, and to be able to foresee the possible consequences of decisions to be taken. Furthermore, the concerned party must have the capabilities of analyzing critically the issues at hand with the aim to formulate at least some critical arguments and eventually alternative courses of action. Finally, this party must be able to present his/her critical arguments and alternatives in a suitable way, which means that it will be acceptable in one or the other arena of public debate. These remarks underline that the first criterion is after all not so elementary at all. It involves being well informed, being able to analyze critically complex states of affairs, to formulate critical arguments and alternatives and finally to present these arguments and alternatives in a way which fits into the habits of a given arena of debate.

The second criterion goes a step further. It involves acknowledgment of a given contribution. A simple formulation would be: *getting discussed*. Once a party succeeds to get in the public sphere with a standpoint the game is not over. Other parties which were already present can simply ignore this new contribution. This contribution can only play a role in the public debate if at least one party acknowledges this new contribution, for example by discussing it or by rejecting it partially or completely. This second criterion means that a contribution in a public debate is taken seriously, that is discussed in a critical way. By being discussed, even if the discussion will lead to partial rejection, a standpoint of a party can exercise some influence. First of all, being discussed means that the standpoint

will be better known in some arena. Second, being analyzed will involve that the new party which has formulated the standpoint will be scrutinized to some extent in order to understand the possible interests involved. Third, even a partial or total rejection offers to the new party the opportunity of response. In other words, the party which succeeded to get into the public sphere in the first place will have the possibility to manifest itself again by engaging into a critical discussion about the standpoint and the issues at hand. Finally, being acknowledged will also offer the possibility to a party to relate to other parties in the arena, for example by comparing or combining the original issue with already acknowledged issues. A newcomer can therefore become an important participant in the arenas of public debates.

The third criterion of success in the public sphere points to the possibility to influence the issues of general interest and to participate to some extent in the process of decision making. This criterion presupposes that the first two have been successfully completed. Simply put it means to *participate in decision making*. By influencing issues of general interest a party can contribute to maintain and transform dominant forms of discours or in other words values, norms and themes which are considered as important by a majority of the participants in the public sphere. Decisions can be taken either formally, by changing laws or institutions, or informally by establishing new standards of conduct concerning norms, values and customs.

These criteria resemble quite strongly some of the traditional characteristics of argumentation. The first one, to get in, is similar to ethos formulated by Aristotle as a precondition of successful participation. One has to be recognized to be knowledgeable and to present oneself – socially and verbally – in a suitable way in order to be taken seriously as a discussion partner. The second criterion means acceptation as a discussion participant, which is similar to the well-known agreement between parties to settle a conflict of opinion with the help of arguments, already formulated by Plato, for example in the 'Gorgias' or by the pragma-dialectical theory of argumentation. It involves minimally an agreement on the ways by which a conflict of opinion should be settled by specifying certain rules and procedures. The third criterion resembles what is called evaluation in argumentation theory. In an evaluation the parties involved in an argumentation conclude which standpoint can be considered as accepted or rejected.

Public debates have been circumscribed and specified sufficiently in this section. In the following parts of this contribution I will analyze forms of exclusion and

mechanisms of participation in public debates, with the question in mind which factors play a role in public debates and how these factors are related to arguments.

3. Forms of exclusion

In Ancient Greece, in Athens, there already existed a kind of democracy with a specific form of public sphere. But only the citizens of Athens could participate, women, foreigners, slaves and children were in principle excluded. In modern times, the establishment of democratic states and appropriate forms of public spheres was a long and difficult process. According to Foucault (1972) a very important process in the constitution of a public sphere was the establishment what can be called normality. In terms of the enlightenment one would say it is the birth of the autonomous individual. This new individual is the cornerstone of the modern social organization, together with a constitution and with the formulation of civil rights. The establishment of normality is based on a categorization of individuals in two categories: the responsible ones and the irresponsible ones. This last category comprises the fools, the morons and the psychopaths, who cannot be considered as full individuals in the new social order. Only 'normal' individuals can participate in the public sphere, the others are in principle excluded. This form of exclusion has been called by Foucault en Habermas a *constitutive* exclusion. In other words, the exclusion appears as a necessary precondition for a certain type of organization. For example a lecture or a concert can only take place if there are no barking dogs and no crying babies present, just to name two examples. Dogs and babies are therefore excluded from lectures and concerts in a constitutive way.

Quite different from constitutive exclusion are the usual forms of exclusions which can be more or less severe, and which are often designated by the term *inequality*. In our case, we would be interested in the various forms of unequal participation in public debates. In terms of the previous section, constitutive exclusion means that some individual or group can in principle not get in the public sphere. Inequality means that for some individuals or groups it is more difficult to get in and being acknowledged than for others.

Let us consider first constitutive exclusion. This form of exclusion is a very important test case for our question, because if constitutive exclusions occur it would mean that there are factors at work which have nothing to do with arguments. If it can be shown that there are various groups of individuals who

cannot participate in public debate because of constitutive exclusion, we will have a very strong argument for the thesis that argumentation does not always play an important role in public debates. This was exactly one of the conclusion of Foucault and also of many feminists.

According to Foucault, the establishment of the categories of 'fools', 'feeble-minded', 'monsters', etc, allowed the establishment of modernity with its public sphere. The rationality characteristic of autonomous individuals has been denied to these categories of exceptional individuals. By the way, to begin with, also other categories of individuals have been excluded from the public sphere, such as criminals, women or foreigners.

Two different questions arise, which are important for our problem. The first one has to do with rationality and the capacity to argue. If individuals who cannot argue at all and who move outside of the usual range of rationality are excluded from public debate, the consequence should not be really serious. It would only mean that the capacity to argue and to act rationally is a necessary condition for participating in public debate. In other words, the exclusion will only confirm that argumentation is a necessary ingredient of public debate. If however, the capacity to participate is denied to some categories of individuals on the basis that they cannot 'seriously' be rational and argue according to some purely 'ideological' standard and in order to justify the dominant position of other groups, another conclusion will follow.

It should be evident that a clear answer would permit to choose between the two extreme positions on public debate and argumentation which have been formulated in the introduction. Unfortunately, there does not seem any simple solution to the problem raised. At present, it is certain that to begin with too many categories of individuals and groups have been excluded from the public sphere, such as women and fools. During the last two centuries, the shape and the arenas of the public sphere have changed a lot as a result of many struggles and transformations. Habermas (1990), in the new lengthy introduction to his study on the public sphere, published originally in 1962, discusses critical remarks by feminists and Foucauldians. He recognizes on the one hand that his original thesis, that everybody could participate in the public sphere, was a bit simplistic. However, he defends himself against his critics by stating that at least the emergent public sphere had from the beginning a kind of dynamic force which has permitted to include progressively more and more of the initially excluded

categories for dubious reasons, such as women. The same argument can be used also for fools. Indeed, modern legislation does not deny any more civil rights to psychiatric patients in general; only in very specific circumstances which are strictly defined and guarded by the law can civil rights be denied to psychiatric patients. In other words, according to Habermas, the public sphere contains a kind of self-correcting mechanism, which will over time eliminate all the unjustified forms of exclusion.

His opponents do not refute this argumentation, but they consider it as very one-sided. They argue that the changing social conditions of living in last two centuries, such as working conditions, family life, political organization, welfare, and social confrontations going hand in hand with these transformations, caused the changes in the public sphere. It is impossible to go here into any further detail of this debate. According to me there are very good reasons to accept partly both positions, and to reject the fact that they reject each other. How can one clearly distinguish between the inherent dynamic of the public sphere on the one hand and social factors on the other? Even if it can be established that social struggles and changing economic, social and political conditions necessitate a transformation of the public sphere, this does not mean that these struggles are not also fought – at least partly – in public debates. The only conclusion which seems definitely justified is to say that there are social forces regulating the domain of the public sphere and that these forces are not necessarily congruent with one or the other ideal of rationality.

A similar conclusion can be established when considering the problem of the so-called democratic deficit. In a full democracy all the individuals who are concerned by collective decisions should be able to participate in making these decisions. For national states that would mean that all the inhabitants should have a right to participate. However, in most cases, only the national citizens (with the exception of Chili and New-Zealand) have the right to participate in general elections. In other words, there may be a gap between those who at one very specific level participate in decisions through elections and those who are concerned by the same decisions. The magnitude of the gap gives the measure of the democratic deficit. In this case, the logic of the Nation State with its norms of citizenship is in contradiction with full participation on all levels of the public debate. Once more, there is a social factor which limits full participation, because foreigners are excluded from one level of decision. But if these foreigners have a

legal status, they can participate on all the other levels of public debate, and in this sense they can at least to some extent influence the process of decision making. In particular, they – and other participants – can put this issue forward in the various arenas of public debates. That is exactly what happened in many countries. This discussions have motivated new compromises, such as the new rights of foreigners to participate in local elections.

As far as unequal participation is concerned, in other words the usual forms of exclusion, the discussion can be kept very short. First of all, the existence of deliberative inequalities has been established by many studies, and cannot be contested. There are many individuals and groups who participate only marginally in the public sphere. For some groups, such as women, the degree of participation has increased in a significant way during this century in many countries, whereas others still have a lot of difficulties to get in and be acknowledged, such as religious minorities. That should not be astonishing, after having established that social factors and forces regulate the public sphere.

These observations warrant the conclusion that the arenas of the public sphere where public debates take place are not open places where everybody is welcome in principle. These arenas are also fields of power, where a multitude of groups and individuals attempt to reach and to defend an eminent position. Getting in and be minimally acknowledged will be influenced by this ongoing power play. In other words, coalitions with established parties on the one hand, and the combination and integration of issues and standpoints to be discussed is a very general practice. The various strategies used, such as agenda setting, coalition forming, the art of presentation, the manipulation of the media, the use of mediating agents, and so on, are the object of many studies. Therefore it seems evident that any satisfactory theory of public debates has to take into account these factors, to limit oneself to the quality of argumentation can be considered as innocent and largely insufficient.

4. Mechanisms of public debate

After having considered forms of exclusion from public debates which point primarily to social factors I would like now to concentrate on the dialogical mechanisms which are largely used in public debates. There are many studies of these mechanisms, such as for example the book of Hirschman (1991) who studied in particular the main fallacies used when rejecting a new issue in public debates. I follow here the terminology of Bohman (1996) who uses the term

mechanism is his comprehensive overview, but other authors use also quite different terms.

Bohman does not pretend to present an exhaustive list. As I will use the mechanisms Bohman has studied as a starting point for the present discussion, a quote is needed in order to specify the aim and the limitations of Bohman's study (Bohman 1996: 59): "Here I can only provide an open-ended list of such mechanisms for restoring ongoing joint activity. My list of five such mechanisms does not exhaust the possibilities of public deliberation based on the process of giving reasons and answering others in dialogue. The common thread to all these mechanisms is that they produce "deliberative uptake" among all participants in deliberation -that is, they promote deliberation on reasons addressed to others, who are expected to respond to them in dialogue. This uptake is directly expressed in the interaction of dialogue, in give and take of various sorts."

This quote shows that the mechanisms of dialogical uptake distinguished by Bohman serve to get in and can also play a role in getting acknowledged.

I will start by presenting the five mechanisms.

(1) Making explicit what is latent in common understanding, shared intuitions and ongoing activities. By exchanging and disputing interpretations of this common culture parties can make the underlying principles explicit in novel ways. This dialogical mechanism is appropriate when there is already a large degree of consensus, when there are shared values and when there are no large social inequalities. In terms of argumentation theory one could translate this first mechanism as the set of the argumentative moves which explore presuppositions and implicit arguments.

(2) Application of given norms or principles to a particular case. The dialogical mechanism often used in policy issues of this sort is the give and take between a general norm and its concrete specifications. In these debates on applications of general norms the problem is how to reach a consensus concerning the proper use of a norm or how to use it in new social situations. The debate can also take the form of a dialectic between institutional norms and social reality in which citizens compare justifiable rights claims with factual inequalities. This mechanism can be understood as the set of argumentative moves concerned with the proper use of argumentation schemes.

(3) The articulation of norms and rules, a process in which vague and abstract ideals are made more comprehensive through the discussion of various elaborations of these ideals. This case is different from the previous one, because

the issue is not to specify a norm but to make its content richer. The problem will be to elaborate a given norm in a more complex and differentiated way. For example, pluralism and multiculturalism can be understood as elaborations of democracy, and in this sense the debates about the various ways to understand democracy in a multicultural society show the richness of this mechanism of articulation. In argumentation theory there is no evident and simple correspondance because this mechanism make use of presuppositions of various levels, of all the schems of argumentation and also of the art of formulating standpoints in different ways.

These three mechanisms presuppose that there is a substantial common ground or consensus between the parties involved in the debate, which is less the case with the last two mechanisms.

(4) Bringing into play new perspectives and roles, or in other words shifting and exchanging perspectives in the course of dialogue. In complex interactions there are multiple perspectives and roles, such as the perspectives of organizational and institutional representatives or different perspectives related to the distribution of social knowledge, as for example in the case of the unequal distribution of knowledge between lay and expert perspectives.

This mechanism has been used with some success by ecological movements. Their argument was and is, that the perspective of future generations has to be taken into account. It runs as follows: we have a clear responsability towords future generations, and that means that we should not spoil in irreversible ways the natural environment because in this case future generations will find the world an impossible place to live in. A very interesting analysis of the ecological movement from a perspective of argumentation and debate can be found in Prittwitz (1996).

(5) According to Bohman, the most common dialogical mechanisms not dependent on shared values and commitments consists in back-and-forth exchanges around differences in biographical and collective historical experiences. Different biographical experiences can reveal the limits and the perspectival character of the understandings shared by large groups in the political community. Such differences will be particularly important in the interpretation of needs. Because in this case the instances of norms are usually identified with prototypical members of the groups of the polity, such as race, gender, or class features, with the danger of stereotypical reasoning. This mechanism does not only involve

presenting and listening to narratives. Rather, through the give and take of dialogue, the limits of the hearer's understandings become clear as the dialogue shifts between the experiences of the life histories of individuals or groups and the current framework of understandings and norms. The outcome can create new categories. For example, the assumptions of the welfare state depart from so-called 'normal' households. But is has become evident through many interventions in the public sphere that work in the household is not distributed in an equal way between men and women. The same holds for the 'normal' workplace. The feminist movement has challenged these assumptions by presenting the biographical experiences of women. Moreover, an alternative, broader framework of interpretation for understanding has been formulated.

These last two mechanisms can be understood in argumentation theory as taking into account the perspectives of potential participants on the one hand, and as a critical confrontation between general norms and laws and concrete, specific experiences. In this last case, the presuppositions and the facts on which the common norms and laws are based will be questioned in a critical way, and other facts and experiences will be presented as a new and richer basis for elaborating norms and laws.

This presentation of the dialogical mechanisms used in public debates confirms that argumentation plays a central role in public debates. These mechanisms can be understood as specific applications of the various instruments which argumentation theory has analyzed. A first conclusion must be that argumentation is a basic ingredient of public debates. This is after all not astonishing. What is more interesting is the following. In the presentation of the different mechanisms we always find references to more or less shared values and norms, to social inequalities, to prototypical members of a polity, to stereotypes, to social movements such as the feminist movement or the ecological movement. In other words, these mechanisms have a double identity, they specify the various instruments of argumentations which are used, and on the other they indicate the social conditions of use of these mechanisms. And that is exactly the second conclusion which is important for the present discussion. In public debates, argumentation as such does not guarantee any success, because in each specific case one must also take into account the relevant social factors which permit or restrain the use of argumentation.

5. Concluding remarks

In this contribution I have approached the role of argumentation in public debates in two ways. From a social point of view the various forms of exclusion have been distinguished, and from an argumentative point of view the mechanisms of dialogical uptake have been discussed. Several general conclusions can be formulated on the basis of this discussion. First of all, argumentation appears to be a necessary, but not a sufficient ingredient of public debates. In particular, in order to get in and in order to be acknowledged, a party must present in a suitable way his/her standpoint with the help of arguments. But arguments are often far from sufficient, because if other, established parties do not acknowledge a contribution it will be lost. Established parties with a strong position in the public sphere are not obliged to argue. "Totschweigen", a German term which means to kill by silence, points to this strategy. In many cases, only the constitution of social movements can help to get acknowledged.

A second conclusion can also be established. Public debates can only be analyzed in a suitable way by using normative approaches of argumentation and also rhetorical approaches. For example, the presentation of a party, or ethos, and the formation of coalitions involving the use of negotiations cannot be neglected. A third conclusion concerns the fact that in public debates norms and rules will constantly change. They can be transformed in time, by the fact that new parties will participate, or they can be variable in the different arenas where public debate takes place.

In short, a good understanding of public debates presupposes an interdisciplinary approach, where concepts and instruments of analysis of argumentation theory and of the various social sciences should be integrated. This is a particular challenge for argumentation theory, which I think can only survive if it accepts this challenge and if it engages in such an interdisciplinary adventure.

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