

# ISSA Proceedings 2014 - Dialectical Reasoning In Critical Social Analysis And Critical Discourse Analysis

*Abstract:* Methods of critical social analysis can be understood as deliberative dialectical reasoning whose main argument type is practical argumentation, with explanation embedded. How then does dialectical argumentation fit into critical method overall? I address this issue in terms of the relationship between dialectical argumentation and other facets of dialectic identified within Hegelian-Marxist dialectics, questioning the assumption in argumentation studies that the two are not connected.

*Key words:* critical method, deliberation, dialectic, explanation, practical argumentation

## 1. Introduction

In Fairclough & Fairclough (2012) I argued that critical discourse analysis (CDA) needs to incorporate analysis and evaluation of argumentation because political discourse - a focus for CDA - is primarily practical argumentation and deliberation. I also argued that critical social analysis more generally needs to do the same in order to go beyond just claiming *that* discourse may contingently have constructive effects on social reality, to showing *how*: discourses provide reasons for/against acting in certain ways, and they may have constructive effects in so far as practical arguments stand up to critical evaluation, and lead to decisions, which lead to action, which has transformative effects on reality.

In Fairclough (2013), I also suggested that critical social analysis, including CDA, is itself (self-evidently) a form of discourse, and that it is centrally a form of practical argumentation. Thus (practical) argumentation and its analysis and evaluation are relevant in two ways to critical analysis of political discourse: as a primary feature of the discourse being analysed, and of the discourse - and method - of critical analysis.

In this paper I offer an account of how practical argumentation connects to other

components of the method of critical social science and CDA, how the components are integrated, in terms of relations between dialectical argumentation and other facets of dialectic identified within Hegelian-Marxist as well as classical dialectics. One other component of the method is explanation; another is an orientation to and aspiration to contribute to transformative action to change existing states of affairs in broadly emancipatory ways. If, as I propose, the methods of critical social science and CDA have a dialectical character, in what way are they dialectical, and how might the dialectical character of argumentation be articulated with other dialectics which are distinguished in critical social science? Bhaskar's work on dialectic (1989, 1993) is especially useful here. In part this argument is addressed to argumentation theory and analysis, which we draw upon extensively in the book. "Dialectic" for argumentation analysts is a facet of argumentation alongside logic and rhetoric. Yet a significant tradition in critical social analysis aims to be dialectical in a wider and broadly Hegelian-Marxist sense. From this point of view, dialectical argumentation is one form of dialectic amongst others, what Bhaskar calls "epistemological dialectic"; there are also ontological, practical and relational dialectics. What I am suggesting to argumentation analysts is that, in so far as they are concerned to apply their work in social analysis, they should perhaps consider how dialectical argumentation relates to these other dialectics. The argument is also addressed to critical policy analysts (Fairclough 2013): in so far as critique is conceived in a dialectical way, what is the place of dialectical argumentation within a critical conception of dialectic? My answer is that we can conceive critical method as dialectical reasoning: an epistemologically based, which means argumentatively based, constellation of epistemological, ontological, practical and relational dialectics - giving it an essentially argumentative character.

## *2. An example: the Kilburn Manifesto*

My argument is of a theoretical nature, but I shall begin with a concrete example and introduce the main lines of my argument in a practical way.

The Kilburn Manifesto is a critical social analysis written by a team whose core members - Stuart Hall, Doreen Massey, Michael Rustin - are critical scholars in various areas of social science, in which the question of "what is to be done", of action to change existing neo-liberal social reality in emancipatory ways, is accentuated. It is a "manifesto by instalments" published in the journal *Soundings*

(from number 53, 2013) and on the Manifesto website ([www.lwbooks.co.uk/journals/soundingd/manifesto.html](http://www.lwbooks.co.uk/journals/soundingd/manifesto.html), see References for the instalments so far). I have space only for a sketch of my analysis of the Manifesto and my interpretation of it as a form of “dialectical reasoning” (see extracts and annotations in Appendix).

The Manifesto has a layered and embedded character. The first layer is argumentation for changing the existing neoliberal state of affairs on the basis of critique and analysis of it, and certain values and goals. It is a form of practical reasoning and argumentation. The second layer represents how neoliberals have changed the prior social democratic state of affairs, including their arguments for doing so based upon their own critique and analysis, values and goals. The third layer suggests the same sort of thing for social democrats changing the prior state of affairs, but without detail and without representing their arguments.

I suggest that the method of critical social science (and CDA) can be viewed as a form of dialectical reasoning, and that the Manifesto is an example. Dialectical reasoning has the four elements A-D. Its organising form is practical reasoning from Circumstance, Value, Goal and Means premises to a Claim for action, with explanation embedded within it.

- A. (Normative) critique of existing discourse
- B. Explanation of discourse as effect and cause in the existing state of affairs
- C. (Explanatory) critique of existing state of affairs
- D. Advocacy of action to change existing state of affairs

A-D include epistemological (A, C), ontological (D) and practical (D) elements. Both the first and second layers in the Manifesto include the elements A-D. I have presented extracts in Appendix 1 in a way which illustrates this, though the elements are presented as stages (1, 2a, 2b and 3) of dialectical reasoning as I suggest below.

Bhaskar (1993) characterizes the essence of dialectic as “absenting constraints on the absenting of absences”. He argues that being includes absence, a necessary assumption in the move he is making from being to becoming (change). In his terms, the “real” includes an unactualized potential as well as what is “actual”. The actual is contradictory, and includes ideas (imaginaries) for states of affairs that could and maybe should but don’t presently exist, discourses which are

different from those that presently exist, 'goods' which are different from the "ills" that actually exist etc. "Absences" subsumes all of these. Critique presupposes and is targeted at absences in this sense. Transformative action (praxis) to change the existing reality, including action for emancipatory change, seek to "absent absences" - eliminate parts of what exists, replace it, create new actualities. So procedures for working through flaws, contradictions, the coexistence of actual states of affairs and imaginaries for possible/desirable new states of affairs - all seen as absences - are the basis for transcending them, and achieving better modes of thought and forms of life. We can gloss Bhaskar's formulation as: eliminating constraints on the correction or overcoming or elimination and replacement of absences. There are constraints on eliminating absences, and part of the business of dialectic is to eliminate such constraints.

The Manifesto includes (element B, explanation) analysis of causal relations in which neoliberal discourse can be both effect and cause - cause of both existing states of affairs and associated "ills"; it advocates eliminating ("absenting") neoliberal discourse and replacing it with different discourse. This is also a move in eliminating constraints on the correction of absences: it can contribute to eliminating and replacing ("absenting") existing states of affairs and "ills", because the causal efficacy of discourses is a constraint on doing so.

Dialectical reasoning is an epistemologically-based constellation of epistemological, ontological, practical and relational dialectics. It is epistemologically based because it is a form of (primarily practical) reasoning, realized in practical argumentation and deliberation. It diagnoses through critique, beginning with critique of discourse, "absences" in discourse, in states of affairs, and in terms of "ills", as a basis for advocating action to eliminate ("absent") such absences. It is we might say focused upon error and correcting error as a contribution to knowledge. But it also has embedded within it ontological dialectic, the correction of absences in states of affairs, and is directed towards practical dialectic, the elimination and replacement of "ills"; and it includes relational dialectic, the elimination and replacement of existing relations (including cause/effect relations) between discourse (and more broadly "ideas") and material facets of existing reality. The Manifesto is not overtly presented in the form which I have suggested for dialectical reasoning (and will make more explicit in the next section), for good presentational and rhetorical reasons, but it is an example of dialectical reasoning which can be reconstructed in accordance

with this form.

### *3. Critical social analysis (and cda) as a form of dialectical reasoning*

Critical social analysis is directed towards transformative action to change existing social reality for the better, i.e. in broadly emancipatory ways. It does not itself constitute such action, it seeks to support it, it moves towards it. It is a critique of existing social reality, including discourse, through which it arrives at accounts of existing states of affairs which, together with particular values and goals, and claims about what actions might achieve those goals, provide reasons in support of particular advocated lines of action. In other words, it is a form of practical reasoning. However, this is incomplete. To reach reasoned conclusions about lines of action also requires explanation of existing states of affairs.

So the form of reasoning is practical reasoning with explanation incorporated within it, and can be characterized in terms of four stages corresponding to elements A-D above. The second and third are labelled 2a and 2b because they both appertain to explanation. This accords with the basic character of critical method, as I see it: it links together critique, explanation and action.

- \* Stage 1. Normative critique of discourse (including practical argumentation) in terms of truth, rightness, truthfulness (Habermas).
- \* Stage 2a. Explanation of normatively flawed features of discourse in terms of features of existing social reality.
- \* Stage 2b. Explanatory critique of aspects of existing social reality, focussed upon relation between discourse and other elements.
- \* Stage 3. Advocacy of lines of transformative action to change existing reality “for the better” (in emancipatory ways).

The main argumentative scheme is practical argumentation. Stages 1 and 2 appertain to the Circumstances premise, with explanation embedded in the practical argument at this stage. Stage 3 appertains to the Claim, with reasons for the advocated line of action being drawn from the Goal (and indirectly the Value) and Means premises as well as the Circumstances premise. In terms of genre, this is deliberation: critical social analysis is in dialogue with existing argumentation which it critically evaluates.

#### *3.1 Stage 1: Normative critique of discourse*

There is a lot of common ground on Stage 1, the starting point of method.

Aristotle's method was to start from *phainomena*, and from *endoxa* - generally accepted beliefs and opinions, what people say, ordinary people or "the wise" (Nussbaum 1986/2001, Evans 1977). We might now say starting from current discourse. Similarly Marx's method - Marx begins his critique of political economy from the language, the discourse, of the political economists, and shows its contradictions, thereby identifying problems which need to be resolved in systematic inquiry and analysis (Fairclough & Graham 2002). CDA also starts from, and critiques, current discourse, and there is also a wider tendency within critical social analysis to do so. Pragma-dialectics, one of the most influential current approaches to analysis and evaluation of argumentation, also proceeds from current discourse - existing arguments.

Differences arise over what methods proceed to. Pragma-dialectics proceeds I think *from* discourse *to* discourse - from different "opinions" to shared "opinions". But there is a different view of dialectic in Aristotle as proceeding to, seeking to attain, "a truth of some sort by inquiry" (Krabbe 2002), though the precise role of dialectic in the achievement of truth, its relationship to analytic in Aristotle, is a matter of debate (Smith 1997, p. xviii). And for Marx, as well as CDA and critical social analysis more generally, dialectic proceeds from discourse to, or towards, truth, in a practical sense: the right thing to do, the right action to take. In the version of dialectical reasoning I am proposing, dialectic proceeds from existing discourse and normative critique of existing discourse to advocacy of a line of action as the right action to take, on the basis of explanation of existing discourse in terms of existing social reality and explanatory critique of aspects of existing social reality.

### 3.2 *Stages 2a and 2b: explanation and explanatory critique*

Explanation is an essential component of critique with emancipatory aims; we cannot get from critique of existing discourse, or of social reality more generally, to or towards emancipation, without explaining their normative flaws; without explanatory comprehension of existing reality, we have no basis for identifying, deciding upon and taking, action which may contingently transform existing social reality (Bhaskar 1989, 1993[i]). For instance, we can't assess the likely consequences of action.

Bhaskar's position is that "beliefs" represent/interpret "social objects", which is their epistemological facet and a relationship open to critique, and are both effects and causes of "social objects", which is their ontological aspect and

requires explanations. Therefore (normative) critique alone is not sufficient for critical social analysis, it must be combined with explanation. Or, in the terms of the following quotation, “criticism” (normative critique) needs to be combined with “comprehension” (“begreifen” as well as “be- und verurteilen”):

*This passage [from a text written by David Urquhart] shows, at one and the same time, the strength and the weakness of that kind of criticism which knows how to judge and condemn the present, but not how to comprehend it (Marx 1954, p. 474 footnote 1).*

Explanation is – usually implicitly – present in existing frameworks for evaluating argument (Fairclough & Fairclough 2012): in critical questioning of arguments in terms of sincerity as possible rationalizations, of truth and rightness, and of consequences of advocated action. So it’s not just a matter of bringing explanation in from outside, so to speak, it’s also a matter of drawing out what is already present. Embedding explanation in practical argumentation (deliberation) extends the object of critique from (normative) critique of discourse to (explanatory) critique of existing states of affairs (including relations between discourse and other elements). So CDA – and this is perhaps a general model for critical social analysis – starts from a critique of discourse, but its critical object is not just discourse but existing social reality, using discourse as a “point of entry” into this wider critique.

In the case of rationalizations, Fairclough & Fairclough (2012) adopt Audi’s (2006) view that they fail to meet normative criteria for good argumentation and are open to critical evaluation on those grounds, which is compatible both with a pragma-dialectical view of a sincerity condition for speech acts and Habermas’s view of sincerity as a precondition for rational discourse. Rationalizations are cases where the reasons that are offered in support of a claim are *not* the reasons that support the claim from the viewpoint of the arguer. An example we discuss in the book (pp. 178 ff.) is Brian Griffiths’ – Vice-Chairman of Goldman Sachs International – arguments for paying high “compensation” and bonuses to bankers and tolerating the inequality entailed as a means for achieving the goal of prosperity and opportunity for all. One *Guardian* reader’s response to a report about this was that Griffiths’ “trickle-down” argument is a “scam for a bunch of ... greedy incompetent lying bastards to justify their outrageous salaries”. This is normative critique – it’s a “scam”, a deception, in our terms a rationalization – but also a partly implicit explanation, which is twofold: the real cause of inflated

“compensation” and inequality is greed; and the cause of the rationalization is the need to provide justification and to hide the real cause. This is the basis for explanatory critique that connects stage 2b to stage 3: the state of affairs which allows bankers etc to get away with such greed and such rationalization is a flaw in existing social reality which should be eliminated.

Critical evaluation of the premises of arguments in terms of truth or falsity includes ideological critique, which is a form of explanatory critique: the claim that inflated “compensation” leads to prosperity and opportunity for all can be normatively criticized as untrue, but also explained as necessary to sustain the existing state of affairs, i.e. as ideological. It can be subjected to explanatory critique: a state of affairs which requires such untruths is a flaw which should be eliminated.

Another way of critically questioning a practical argument is by showing that the action advocated in its Claim is likely to produce consequences which undermine important goals. But claims about what the likely consequences are need to be supported by explanations of what causes what in the existing social reality.

#### *4. Dialectical character of critical method*

I have already introduced Bhaskar’s view of the essence of dialectic as “absenting constraints on the absenting of absences” and his distinction between epistemological, ontological, practical and relational dialectics. Epistemological dialectic is concerned with eliminating (“absenting”) errors and so advancing knowledge through argumentation, ontological dialectic is changing (“absenting”) states of affairs, practical dialectic is eliminating/replacing (“absenting”) ‘ills’, relational dialectic is “absenting”/replacing existing relations between discourse and other aspects of reality. Bhaskar (1993, p. 3) also claims that “in its most general sense, dialectic has come to signify any ... process of conceptual or social ... conflict, interconnection and change, in which the generation, interpenetration and clash of oppositions, leading to their transcendence in a fuller or more adequate mode of thought or form of life ... plays a key role”.

Dialectical argumentation and deliberation is epistemological dialectic. Dialectic as dialogue, dialectical argument, is social interconnection and sometimes conflict in which different standpoints and arguments are opposed with an orientation to moving towards the truth and the right thing to do. This may be dialogue in the most basic and direct sense, face-to-face dialogue, or monologue which draws



different standpoints and argument into indirect dialogue. The opposition or clash between standpoints and arguments involves a process of normative evaluation of all the standpoints/arguments at issue. One focus of evaluation is upon contradictions within arguments; the focus more generally is upon, in Bhaskar's (1993) terms, "theory-practice" contradictions, contradictions between what is said and what is really the case.

However, setting what is said against what really is the case requires, as I have indicated in discussing explanation, a shift to ontological analysis, analysis of states of affairs, which is the basis for explanatory evaluation of states of affairs, with a focus upon contradictions in them which involves relations between discourse and other elements of states of affairs. Ontological dialectic is "absenting" states of affairs, changing states of affairs to different states of affairs. Our account of practical argumentation in Fairclough & Fairclough (2012) takes goals in the Goal premise to be imagined possible future states of affairs which the action advocated in the Claim is advocated as a possible means of achieving, to replace the existing state of affairs as represented in the Circumstantial premise. On this account, the epistemological dialectic is articulated with ontological dialectic: "absenting" erroneous arguments, including erroneous representations of states of affairs and erroneous representations of the consequences of action, in favour of better arguments and representations, is articulated with "absenting" flawed states affairs - eliminating them and replacing them with other states of affairs which exclude their flaws.

However, epistemological and ontological dialectic are also articulated with practical dialectic, with anticipated transformative action to absent "ills" in the existing social reality, using "ills" as a cover term for aspects of it which we have good reasons - which of course have to be provided - to see as antithetical to human well-being, the "good society", and so forth. And these three dialectics are articulated with relational dialectic, "absenting" existing relations between discourse and other aspects of reality, replacing them with new relations.

Hence dialectical reasoning as I have construed it can be seen as an epistemologically-centred constellation of epistemological, ontological, practical and relational dialectics. It is epistemologically-centred in that what we are talking about, after all, is a form of reasoning and argumentation. It incorporates practical dialectic not in the sense that it actually is transformative action to eliminate "ills", which it is not, but in the sense that it anticipates and seeks to

serve and be articulated with it. It incorporates ontological analysis and dialectic not in the sense that it performs such analysis, which it does not, or in the sense that it changes states of affairs, which it does not, but in the sense that it necessarily presupposes and draws upon ontological analysis, and in anticipating transformative action to eliminate “ills” it also anticipates, seeks to serve and to be articulated with the “absenting” of existing states of affairs and the production of new states of affairs.

Let me relate this to a particular area of critical social analysis. Policy studies has made an “argumentative turn” which recognizes the centrality of argumentation in policy debate and policy-making, and critical analysis of argumentation in critical policy analysis. Its concerns are not however limited to argumentation and argumentation analysis as such, but to how they connect with diagnosis of problems in existing states of affairs and the overcoming of these problems and the “ills” associated with them through changing states of affairs, eliminating and replacing (“absenting”) existing states of affairs. Addressing the constellation of epistemological, ontological, practical and relational dialectics through a focus on dialectical reasoning could therefore be a way of approaching its concerns.

## 5. *Conclusion*

Practical, dialectical argumentation is both an important object of critical social analysis, and its method, in dialectical reasoning. Moreover, dialectical reasoning, through its deliberative character, incorporates the former into the latter. But dialectical argumentation is just one facet, an epistemological one, of change and truth arising from conflict and contradiction through “absenting”, eliminating and replacing. Other facets however - ontological, practical, relational - are brought into the scope of agency, action and change through dialectical argumentation; so dialectical reasoning is epistemologically-based.

A genre is a form with a potential which is only partly actualized. The genre of deliberation can potentially take the form of dialectical reasoning, but it rarely does, the potential is only partly actualized. I suggest that an aim of critical social analysis, and of CDA in particular, is to realize, more fully actualize, this potential, both in its own method and in “members’ methods” - those of politicians, policy experts, citizens and so forth. For everyone with an interest in emancipatory change can gain by appreciating: how discourse (and ideas and beliefs), states or affairs, goods and ills are articulated together in existing reality; that emancipatory change requires “absenting”, eliminating and replacing, all three ,

and the relations that hold them together; that emancipatory change can result from critique only via the mediation of explanation. Dialectical reasoning binds these together in an operational way.

## 6. *Appendix: the Kilburn Manifesto*

“The aim of the manifesto is to focus attention on the nature of the neoliberal settlement, including the social, political and cultural battles that have attended its emergence and maintenance – and those that might help bring about its demise” (Editorial, *Soundings* 53 2013, p. 4).

### 6.1 *Stage 1 Normative critique of discourse*

“The vocabulary we use, to talk about the economy in particular, has been crucial to the establishment of neoliberal hegemony ... [for instance] the majority of us are primarily ‘consumers’, whose prime duty (and source of power and pleasure) is to make ‘choices’. The so-called truth underpinning this change of descriptions ... is that, in the end, individual interests are the only reality that matters; that those interests are purely monetary; and that so-called values are only a means of pursuing selfish ends by other means. And behind this ... is the idea of a world of independent agents whose choices, made for their own advantage, paradoxically benefit all. That the world is not like that is evident. There are monopolies and vastly differential powers. There is far more to life than individual self interest. Markets in practice need vast apparatuses of regulation, propping-up and policing ... Moreover, this privileging of self interest, market relations and choice ... leads inexorably to increased inequality ... (which) is protected from political contest by another shift in our vocabulary ... ‘liberty’ ... defined simply as self interest and freedom from restraint by the state ... has become so much the dominant term that the resultant inequalities have eviscerated democracy, and the vocabulary of equality has been obscured from view” (Massey 2013).

So neoliberal discourse is normatively criticized because it is (a) a falsification of existing reality, (b) unjust – leads to “glaring inequality”.

Contradictions of neo-liberal discourse: “This assumption of the naturalness of markets is crucial to the insistence that There Is No Alternative ... one of the ghastly ironies (is) that we are told that much of our power and our pleasure, and our very self-identification, lies in our ability to choose (and we are indeed bombarded every day by ‘choices’, many of them meaningless ...), while at the level that really matters – what kind of society we’d like to live in, what kind of

future we'd like to build - we are told, implacably, that ... there is no alternative - no choice at all" (Massey 2013).

## 6.2 Stage 2: *Explanation*

"The language we use is one of the sources of the political straightjacket we are in ... this vocabulary of customer, consumer, choice, markets and self interest moulds both our conception of ourselves and our understanding of and relationship to the world.

These 'descriptions' of roles, exchanges and relationships in terms of a presumption that individual choice and self interest does and should prevail are in fact not simply descriptions but a powerful means by which new subjectivities are constructed and enforced. ... The new dominant ideology is inculcated through social practices, as well as through prevailing names and descriptions. The mandatory exercise of 'free choice' ... of a hospital to which to be referred, of schools for one's children ... is ... also a lesson in social identity, affirming on each occasion that one is above all a consumer, functioning in a market.

*By such means we are enrolled, such self-identification being just as strong as our material entanglement in debt, pensions, mortgages and the like. It is an internalisation of 'the system' that can potentially corrode our ability to imagine that things could be otherwise. This question of identity and identification, moreover, goes beyond our individual subjectivities. Everything begins to be imagined in this way. The very towns and cities we live in are branded in order to contend against each other, including internationally, in a world in which the only relationships are ones of competition.*

So, the vocabularies which have reclassified roles, identities and relationships ... and the practices which enact them embody and enforce the ideology of neoliberalism, and thus a new capitalist hegemony. Another set of vocabularies provides the terms through which the system describes itself and its functions. These frame the categories - for example of production, consumption, land, labour, capital, wealth - through which the 'economy' (as a supposedly distinct and autonomous sphere of life) is understood. These definitions constitute another element of 'common sense' ... As we pointed out in our framing statement ... the gains made by labour under social democracy proved intolerable to capital and a backlash was launched. Even mere redistribution could only be allowed to go so far. And one crucial element ... was the dislodging of the common sense which

underpinned these aspects of the social democratic approach - in particular the commitment to ... equality and the important role of the state and public intervention ... in achieving this. Changing our economic language was crucial in shifting our world-view" (Massey 2013).

"[T]he *aim* of the rise of neoliberalism was an active undermining of the economic and political gains made by ordinary people during the post-war social-democratic settlement. Its whole point was to engineer a class rebalancing. From this point of view it has succeeded. And the predictable crisis of its model has now become grist to its mill: it is being used as a pretext for further restructuring and redistribution" (Massey & Rustin 2014).

Changing the vocabulary (discourse) > "dislodging" (+ replacing) "common sense" ("absenting it"); replacing identities; replacing social practices > the neoliberal backlash, a new capitalist hegemony (as a precondition for it, as "absenting" constraints on its "absenting" of absences in social democracy). A *complex* and not simply uni-directional set of causal relations (e.g. changes in common sense etc > changes in practices > changes in common sense) connect changes in: discourse, common sense/identities, practices, structures ("hegemony").

### 6.3 *Stage 3: Explanatory critique*

Explanations of causal relations slide over into critique of states of affairs (the existing social reality - not just the discourse) in which they obtain - e.g. the passage in italics above. Explanations are part of analysis and are factual claims; but some factual claims are simultaneously value claims. Bhaskar (1989, p. 101): if we have adequate grounds for supposing that belief X is false, and that S explains X, then "we may, and must, pass immediately to" a negative evaluation of S, and a positive evaluation of action directed at its removal ("absenting").

### 6.4 *Stage 4: Advocacy of lines for transformative action* 'An outline of an alternative'

It follows from our argument that an economy should be a means for fulfilling social goals, and not an end in itself, and that a means of deliberating and determining what such goals should be is essential to democracy. But our political institutions do not currently serve this purpose. ... Yet there are always cracks in the carapace. Hegemony has to be constructed and maintained and is thereby always open to challenge. And most of social reproduction in fact relies on non-

financial relations, of trust, care and mutual responsibility. Not only is not absolutely everything captured, but those other feelings still resonate and resist” (Massey & Rustin 2014).

## NOTE

i. “The subject matter of the human sciences includes both social objects and beliefs about those objects” [and] “relations” [between these aspects] “are both causal” [ontological, relations of generation] “and cognitive” [epistemological, relations of critique]. “Only a discourse in which the explanatory, as well as the critical, condition” [causal as well as cognitive] “is satisfied can be intrinsically emancipatory” (Bhaskar 1989, pp. 101-2).

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# ISSA Proceedings 2014 - How To Blame In A Democracy?

*Abstract:* This paper challenges the view according to which speeches of praise and speeches of blame perform a similar political function of gathering citizens (around a hero in the case of praise and against a scapegoat in the case of blame). It is argued that the idea, seldom challenged in literature on epideictic rhetoric, that blame is merely a reverse mirror of praise, is due to an overemphasis on logos.

*Keywords:* artistic proofs, blame, catharsis, epideictic, homeostasis, homonoia, praise, rhetoric, violence

## 1. Introduction

To introduce my topic, I would like first to present George Kennedy main hypothesis in his book *Comparative Rhetoric* (1998). George Kennedy argued that the primary function of rhetoric in human societies is the preservation of existing social order. As he puts it: "The major function of rhetoric throughout the most of human history has been to preserve things as they are or to try to recover an idealized happier past" (1998, p. 216).

The history of research on argumentation and reasoning can be described as a

struggle against such a natural tendency to conservatism. This history began with sophistic exercises such as *dissoi logoi* (twofold arguments)[i] and, later, with Aristotle's studies on the various ways one can attack someone else's arguments, the identification of fallacious arguments and the definition of rules for rational discussion[ii].

In this quest for tools to correct our reasoning biases, the status of epideictic rhetoric has always been disturbing. Epideictic speeches, with their depiction of a world clearly organized between the good people, 'us', and the bad people, 'them', appear as a revival of the naïve first steps of our humanity. One might thus understand why argumentation studies did not pay much attention to epideictic rhetoric: epideictic rhetoric appears to be nothing but what all of us spontaneously do when we stop struggling against our natural tendency to conservatism.

Some scholars, however, drew attention on the central role of epideictic rhetoric for the good functioning of any society, traditional and democratic alike (Perelman and Olbrechts-Tyteca, 1958, p. 69; Hauser, 1999). Emmanuelle Danblon (2001) even argued that epideictic rhetoric is not outside of rationality: on the contrary, epideictic speeches, by maintaining a set of shared values, shape our collective intentionality (Searle, 1995), that is, our ability to agree and decide collectively. Endowed with such a political function, epideictic discourses seem worth studying.

In this respect, Aristotle's *Rhetoric* is of little help. Indeed, Aristotle does not mention any explicit connection between epideictic speeches and the restatement of shared principles in a community. Aristotle only describes the means by which the orator can perform an effective speech of blame or praise (*Rhet.*, I, 9, 1366a-68b). He does not state that those blames and praises are means to strengthen common values. Such a political function of epideictic speeches seems nevertheless plausible in view of human rhetorical practices.

As far as blame is concerned, looking for a scapegoat seems to be a widely shared human reaction to a situation of crisis (Patou-Mathis, 2013, pp. 90-96). Along with the same line, philosophers and psychologists have long analysed the need for human societies, big and small, to define themselves against "outsiders" (Freud, 1930; Schmitt, 1932; Heller-Roazen, 2009; Crisp and Mileady, 2012). As far as praise is concerned, moments of grief are, then as now, accompanied by instants



of harmony around the memory of the deceased. Remembering the deeds of glorious ancestors also seems to be an ancient and widely shared means to reinforce the links between the members of a community (Kennedy, 1998; Barry, to be published).

However, scholars who advocated for a political function of epideictic do not differentiate praise from blame in their inquiries: praise and blame are perceived as rhetorical tools to perform a similar political function of gathering citizens (around a hero in the case of praise and against a scapegoat in the case of blame). The aim of my paper is to challenge this consensually shared view: by studying a speech of blame I intend to demonstrate that praise and blame do not have the same political effect.

To do so, I will focus on a case study: Theodore Roosevelt's blame of an anarchist who killed president McKinley in September 1901 [iii]. At first glance, it would be seducing to analyse this speech as an instance of a federating function of blame. Indeed an anarchist is, by definition, out of the community of citizens: he is an *atopos*. Blaming an anarchist would offer an opportunity to gather citizens against a scapegoat. However, by looking in detail to the construction of the three artistic proofs (*logos, ethos, pathos*) in Roosevelt's speech, I will challenge the very idea of blame as an effective tool to reinforce hearers' adhesion to shared values.

## 2. *Blame without ceremony*

My first comments have to do with the framework of the speech, with the context in which the speech took place. Roosevelt issued his blame at the beginning of his first state of the Union speech, delivered on the 3rd of December 1901 that is, three months after the president McKinley was shot to death by a young anarchist (a 28 years old steel worker named Leon Czolgosz).

First of all, it is worth noting that the state of the Union speech is a genuine institution in the American democracy. State of the Union speech was instituted by the American constitution and has been delivered almost every year by American presidents since George Washington's presidency [iv]. Those speeches have often been an opportunity to reinforce the feeling of brotherhood between American citizens. To do so, American presidents use several rhetorical techniques such as idealized stories of the first steps of the American nation or the narration of the deeds of the founding fathers [v]. Since Ronald Reagan presidency, American presidents were accustomed to conclude their speeches by

the praise of an everyday hero: an officer of government, a successful businessman, a brave soldier, all of them embodying cherished American values[**vi**]. This brings me to my first point.

Speeches of blame are rare in the body of state of the Union speeches. This might be due to the fact that praise, contrary to blame, do not necessarily need to be connected to any particular current event: the state of the Union speech is itself an opportunity to deliver a speech of praise. By contrast, one does not blame just for the sake of it. In other words, I would argue that praises are ceremonial while blames are speeches for crisis. As a consequence, blames might be more spontaneous and more passionate than praises. With this in mind, I will now turn to the study of the three artistic proofs (*logos, ethos and pathos*) in Roosevelt's rhetoric.

### 3. *The artistic proofs*

In this section, I intend to provide an explanation of the absence of distinction, in most literature about epideictic rhetoric, between the political effects of praise and blame. My claim is that scholars have a strong tendency to focus their attention on *logos*. Such an overemphasis maintains the illusion of blame as a reversed mirror of praise. To dispel this illusion, I will analyse the construction of *ethos* and *pathos* in Roosevelt's blame. The diverging political function of praise and blame might thus appear.

#### 3.1 *Logos: a symmetry between praise and blame?*

As stated above, *logos* is, in my view, the only feature of the rhetoric of blame that can be considered as similar to the rhetoric of praise. This similarity, as far as *logos* is concerned, is explicitly acknowledged by Aristotle in his *Rhetoric*. In the 9th chapter of the first book, Aristotle details the lines of argument one should use in epideictic speeches. Most of those lines of argument have to do with speeches of praise. At the very end of his chapter, Aristotle concludes by stating that, in order to produce a speech of blame, the orator only has to do the contrary of a speech of praise: "No special treatment of censure and vituperation is needed. Knowing the above facts, we know their contraries; and it is out of these that speeches of censure are made" (*Rhet. I, 9, 1368a*).

Aristotle's comment on the symmetry between lines of argument in praise and blame can be illustrated with Theodore Roosevelt's speech. Let us take, for instance, the idea according to which "fine actions are distinguished from others

by being intentionally good" (*Rhet.*, I, 9, 1367b). As a consequence, the orator "must try to prove that our hero's noble acts are intentional" (*Rhet.*, I, 9, 1367b). It appears that, in order to blame the anarchist, Roosevelt used precisely the contrary of this line of argument. For instance, when saying: "The anarchist is a criminal whose perverted instincts lead him to prefer confusion and chaos to the most beneficent form of social order" (Roosevelt, 1901). The symmetry between praise and blame works here. The hero deserves praise because, engaged in a situation in which there was a good and a bad option, he chose the good one. On the contrary, the bad man deserves blame since he is bound to always make the bad choice because of his perverted instincts. So far, praise and blame seem to be two sides of a same coin. Let us now turn to ethos and pathos.

### 3.2 *Ethos: would a phronimos blame?*

By now analysing the ethos of the orator issuing a blame, I intend to demonstrate that blame cannot be considered as the reversed mirror of praise.

Let us begin by analysing the orator's ethos in a speech of praise. It has often been noted that not anybody is legitimate to perform an epideictic speech (Perelman and Olbrechts-Tyteca, 1958, p. 68; Kennedy, 1998, pp. 42-43; Hauser, 1999): the epideictic orator must, somehow, be a delegate of political power. I would thus argue that a speech of praise might reinforce social order because it offers the orator an opportunity to embody shared values. Indeed, by praising deeds that anybody will consider as praiseworthy, the orator will strengthen his legitimacy as a delegate of the people: he demonstrates his respect for the values cherished by his audience. In other words, the harmony between orator's ethos and the ethos of the praised hero might reinforce people's confidence in their leaders' morality and, thus, maintain social order. Now, my point is that such a way to maintain trust between members of a society only works with praise and not with blame. Indeed, in a speech of blame, the harmony occurs between the ethos of the orator and the ethos of the blamed character. As a consequence, the orator will present himself at odd with hearers' expectations about a truthful ethos. Let me now support my claim by analysing Roosevelt's ethos in his blame. The following quote is representative of his rhetorical choices:

*For the anarchist himself, whether he preaches or practices his doctrine, we need not to have one particle more concern than for any ordinary murderer. He is not victim of social or political order. There are no wrong to remedy in his case. The cause of his criminality are to be found in his own evil passion and in the own evil*

*conduct of those who urge him on, not in any failure by others or by the State to do justice to him or his. He is in no sense, in no shape or way, 'a product of social condition'. (Roosevelt, 1901)*

I would like to contrast Roosevelt's rhetoric with the qualities of the truthful ethos according to Aristotle:

*There are three things which inspire confidence in the orator's own character—the three, namely, that induce us to believe a thing apart from any proof of it: good sense (phronesis), good moral character (arete), and goodwill (euonia). (Aristotle, Rhet, II, 1, 1378a)*

All those qualities are lacking in Roosevelt's blame. There is obviously no goodwill in a speech of blame. In addition, by insisting on the reasons why one should not find any attenuating circumstances to the criminal, the orator appears as merciless and obsessed: those features are hardly consistent with a good moral character. Finally, as far as *phronesis* is concerned, the orator seems to be overwhelmed by his anger and thus unable to make a wise decision. How then could an audience be willing to be governed by such a leader? Because of fear, possibly. This brings us to the third and last artistic proof: *pathos*.

### *3.3 Pathos: can we reach homonoia by anger and fear?*

Let me begin by an explanation of the way emotions produced by a speech of praise might contribute to reinforce the links between members of a society. Following Philippe Kreutz (2001), I would argue that a speech of praise is likely to arise mainly two emotions: admiration and proudness. Those emotions might create a willingness to follow the hero's example and thus stimulate a disposition to act in accordance with shared values. I would add to this picture that praise might have a quietening effect: hearers feeling proud of what they are will not challenge the existing social order. To use a physiological term, I would say that praise maintains *social homeostasis* (Damasio, 2003, pp. 176-180): the smooth and balanced functioning of a metabolism.

On the contrary, blame is likely to raise the anger of the hearers and their impulse for revenge. I would thus argue that blame is likely to disturb homeostasis. The last sentence of Roosevelt's blame supports this view: "*The American people are slow to wrath, but when their wrath is once kindled it burns like a consuming flame*" (Roosevelt, 1901).

Let me now summarize my analysis. My first point is that seizing the diverging political effects of praise and blame requires looking beyond logos. My second point is that praise is a circumstantial discourse; by contrast, blame is a speech of crisis. By this I mean that it only makes sense to deliver a speech of blame if there is someone to blame. On the contrary, a speech of praise can be a part of a ceremony, unrelated to current events. This second point has consequences for the ethos of the orator. In a situation of crisis, such as the killing of a president, the orator might be genuinely outraged, his rhetoric might be more spontaneous and out of control than in a speech of praise. Still about ethos, my third point is that it seems difficult for the orator delivering a blame to build a truthful ethos. And I would argue that the distance that might thus be established between the orator and the audience disrupts the sharing of a feeling of brotherhood. Finally, about emotions, I suggested that praise is pacifying while blame is disquieting.

Starting from this analysis, I would express serious doubts about the opportunity to use blame as a federative rhetorical tool[vii]. Blame is, in my view, more a symptom of a lack of control in a crisis situation than a rhetorical tool to face a crisis. This brings me to the title of my paper: how to blame in a democracy? In other words, is blame worthy of interest for rhetoricians, as a kind of speech one should teach in rhetorical courses? I will conclude with a proposal on this issue.

#### 4. *Conclusion: exploring the cathartic function of blame*

To begin with, I shall go back, one last time, to Theodor Roosevelt's speech. It is worth noting that, at the time of the delivery of the speech, the judiciary institution had already fulfilled its role: the president's killer had been arrested, his case has been debated in justice court, a jury decided to sentence him to death and he was electrocuted. Why blaming a dead man? My interpretation is that Roosevelt's need to reopen the anarchist's case in the form of blame illustrates a basic need for an archaic practice of justice: a justice in which the good people can satisfy their revenge against the bad people. In the long history of the domestication of violence by human institutions (Freud, 1930; Pires, 1998; Pinker, 2011), blame appears as a regressive force. There is, however, a view in which blame might, on the contrary, contribute to a pacification of society: if blame were to be used as a tool for *catharsis* (Aristotle, *Poet.*, vi, 1449b), that is, as a harmless means to relief hearers from their violence (Tisseron, 1996, pp. 188-191).

We don't have yet any evidence that blame might actually perform such a

function. Psychological studies, so far, gave contradictory results on this issue: observing violence might increase or decrease observers' propensity for violence (Konecni & Doob, 1972; Leyens, 1977; Scheff & Bushnell, 1984; Scheff, 2007; Gentile, 2013). What would be the rhetorical features of a blame that would perform a cathartic function? Is there any way in which blame might be used as a sophisticated alternative to basic violence? Here is an interesting challenge for a rhetorician.

## **NOTES**

- i.** On the pedagogical value of *dissoi logoi* for the training of critical thinking skills, see Danblon (2013, pp. 127-148) and Ferry (2013).
- ii.** I refer here to Aristotle's *Topics*, *Sophistical refutations* and *Rhetoric*.
- iii.** Roosevelt issued the blame in his first state of the Union address, on the 3rd of December 1901.
- iv.** The third section of the second article of the U.S. Constitution states that: "He [the president] shall from time to time give to the Congress Information of the State of the Union, and recommend to their Consideration such Measures as he shall judge necessary and expedient".
- v.** The peroration of Lyndon Johnson's 1965 state of the Union speech offers telling examples of those rhetorical tools. For instance, when saying: "It was once barren land. The angular hills were covered with scrub cedar and a few large live oaks. Little would grow in that harsh caliche soil of my country. And each spring the Pedernales River would flood our valley. But men came and they worked and they endured and they built. And tonight that country is abundant" (Johnson, 1965).
- vi.** Ronald Reagan famously concluded his 1982 state of the Union speech by praising a young employee of government, Lenny Skutnik, who jumped in the water to rescue a woman after a plane crash on Potomac River. After describing the deeds of this everyday hero, Reagan attempted to spread a feeling of proudness among his hearers: "And then there are countless, quiet, everyday heroes of American who sacrifice long and hard so their children will know a better life than they've known; church and civic volunteers who help to feed, clothe, nurse, and teach the needy; millions who've made our nation and our nation's destiny so very special-unsung heroes who may not have realized their own dreams themselves but then who reinvest those dreams in their children" (Reagan, 1982).
- vii.** I am aware that there is a strong counterargument to the view expressed

above. There are many instances of political regimes grounded on fear of the leader and on a rejection of the “others”: blame therefore seems to be an effective tool to gather citizens. Against this view, I would argue that the emotions from blame, anger and fear, do not federate citizens in the same way that admiration and proudness do. Political regimes based on fear of the leader and on the opposition to the “others” (such as Hitler’s Germany, Stalin’s USSR, Khomeini’s Iran or contemporary North Korea) are more characterized by general mistrust between citizens (and by massive practices of neighbours’ denunciations) than by a generalized feeling of brotherhood.

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# ISSA Proceedings 2014 - The Role Of Pragmatic Argumentation Referring To Consequences, Goals And Values In The Justification Of Judicial Decisions

*Abstract:* In this contribution I discuss the role of pragmatic argumentation referring to consequences, goals and values in complex structures of legal justification. From a pragma-dialectical perspective I describe the stereotypical patterns of legal justification in hard cases and specify the different ways in which these stereotypical patterns can be implemented in different contexts in which judges give a decision that they justify by referring to consequences, goals and values.

*Keywords:* argumentation, argumentation from consequences, goal argumentation, legal argumentation, legal values, justification of legal decisions, pragmatic argumentation, pragma-dialectics.

## 1. Introduction

In the justification of their decisions it is not uncommon for courts to use pragmatic argumentation in which they refer to the consequences of applying a legal rule in a specific case. In a 'hard case' in which the applicability of the rule is controversial, courts may argue that the consequences of applying the rule in the standard meaning would be 'absurd' in light of the purpose of the rule. An example of the use of pragmatic argumentation referring to undesirable or 'absurd' consequences in such a hard case can be found in the decision from the US Supreme Court in the famous case of *Holy Trinity Church v. US* (143 U.S. 457) from February 29, 1892. [i] In this case the Supreme Court had to decide whether or not the act prohibiting the importation of foreigners and aliens under contract to 'perform labour' in the United States (chapter 164, 23 St. p. 332) was

applicable to an English Christian minister who had come to the United States to enter into service of the Protestant Episcopal Holy Trinity Church in the city of New York as rector and pastor.

According to the United States and the circuit judge the church was in error because the contract was forbidden by chapter 164, 23, St. P. 332, according to which it is 'unlawful for any person to assist or encourage in any way the importation or migration of any alien or foreigner into the United States to perform labour or service of any kind'. The opinion of the Supreme Court, delivered by justice Brewer, is that this immigration statute should, in the concrete case, not be applied to the act of the church, although the act is within the letter of this section (paragraph II). Brewer states that application in the broad meaning would have an absurd result, that is that the contracts for the employment for ministers, rectors and pastors would be included in the penal provisions of the act. He argues that the congress never had in mind any purpose of prohibiting 'the coming into the U.S. of ministers of the gospel'. He maintains that the meaning of a statute can be found in the evil which it is designed to remedy, in this case the practice of large capitalists who contracted their agents abroad for the shipment of great numbers of 'an ignorant and servile class of foreign labourers' under contracts by which the employer agreed to prepay their passage and the labourers agreed to work after their arrival for a certain time at a low rate of wages.

In its decision, apart from a reference to the system of the law and the historical context of the legislation, the U.S. Supreme Court uses argumentation referring to the absurd consequences of applying the rule in the standard broad meaning:

*a consideration of the whole legislation, or of the circumstances surrounding its enactment, or of the absurd results which follow from giving such broad meaning to the words, make it unreasonable to believe that the legislator intended to include the particular act.*

In its evaluation of the consequences the court refers to the purpose of the rule, that is to prevent the influx of cheap labour under contracts with poor conditions, as it can be reconstructed from the intention of the legislator in the parliamentary discussion that can be found in the reports of the committees and the congressional records. On the basis of this purpose, the court is of the opinion that the consequences would be absurd because they are not in line with what the

legislator intended with the rule.

In a legal context such argumentation referring to the consequences of applying a rule in a specific case, in argumentation theory also called pragmatic argumentation, plays an important role because the application of legal rules requires the consideration of the consequences of the application in light of the purpose of the rule. **[ii]** Especially in hard cases in which applicability of the rule is controversial, it is not uncommon that courts refer to the consequences of application of the rule in a particular meaning or interpretation in light of the purpose of the rule as it was intended by the legislator. In the justification of the U.S. Supreme Court in its decision of the *Holy Trinity Church* case we see some characteristics of the use of pragmatic argumentation in legal justification that I want to discuss here. The first is that pragmatic argumentation is used in a particular kind of difference of opinion, a so called 'hard case' in which there is a difference of opinion about the applicability of a legal rule. The standpoints in such a difference of opinion concern the applicability of the legal rule in different meanings or interpretations. The second is that in such a hard case pragmatic argumentation always forms part of a complex argumentation. The pragmatic argumentation is supported by other argumentation in which the (un)desirability of certain consequences is related to the purpose of the rule as intended by the legislator. Such a support is necessary because legal rules are a means to achieve certain purposes that are desirable from a legal, social, economic perspective. In the law, for this reason, the desirability of the consequences of application of the rule in the specific case must be evaluated from the perspective of the purpose of the rule.

In what follows, I go into the stereotypical patterns of complex argumentation in which *pragmatic argumentation* is used in the context of legal justification in hard cases. I shall discuss the implementation of pragmatic argumentation in stereotypical patterns of complex argumentation in legal justification. I explain the dialectical function of the different parts of the complex argumentation by characterizing them as argumentative moves that are put forward in reaction to certain forms of critique. Then, I give an exemplary analysis and explain the way in which the U.S. Supreme Court in the *Holy Trinity case* uses pragmatic argumentation by showing how the court instantiates general stereotypical patterns of argumentative moves in light of the institutional preconditions of the justification in the context of the specific case. I have chosen this case as an

example because it is one of the few cases in which the U.S. Supreme Court makes an exception to the standard meaning of a statutory rule. For this reason it gives an extended justification in which it uses a combination of different forms of argument, among which pragmatic argumentation referring to the consequences of the application of the rule in light of the purpose as it was intended by the legislator.

## *2. The implementation of pragmatic argumentation in legal justification as part of a stereotypical pattern of argumentation*

In order to clarify the way in which pragmatic argumentation is implemented in the context of legal justification in a hard case I proceed as follows. I explain the dialectical function of the different parts of the justification in terms of argumentative moves that are put forward in reaction to certain forms of critique that are relevant from a legal perspective. I explain how the argumentative moves in which the judge reacts to these forms of critique can be reconstructed as different levels in the argumentation and how the hierarchical ordering of these different levels results in a stereotypical pattern of argumentation.

### *2.1 The argumentation on the first level of the main argumentation: pragmatic argumentation*

A court that refers to the consequences of applying a rule in a particular interpretation uses argumentation that can be reconstructed as pragmatic argumentation, of which the legal implementation can be specified as follows in order to do justice to the the dialectical obligations of a judge. **[iii]**

1 In the concrete case, rule R should be applied in interpretation R' (with an exception for the specific case)

1.1a In the concrete case, application of rule R in interpretation R' leads to result Y'

1.1b Result Y' is desirable from a legal point of view

(1.1a-1.1b' If in the concrete case application of rule R in interpretation R' leads to result Y' and if result Y' is desirable, then rule R should be applied in interpretation R')

### *Scheme 1: Implementation of the general scheme of pragmatic argumentation in the context of legal justification*

In a hard case in which there is a difference of opinion about the correct interpretation of the rule, in pragma-dialectical terms the argumentation is put

forward in the context of a *mixed dispute* in which one party argues that a particular rule R should be applied in the concrete case in a specific interpretation R' and the other party argues that this rule should be applied in another interpretation R". **[iv]** This implies that the main argumentation, the argumentation on the first level, should reflect the choice between the rival points of view of the parties in dispute and should therefore reflect the balancing of the two positions on the basis of desirable and undesirable consequences (Y' and Y"). In scheme 2 the different components of the complex argumentation on the level of the main argumentation are represented:

1 In the concrete case, rule R should be applied in interpretation R' (with an exception for the specific case) and not in interpretation R" (without an exception)

1.1a In the concrete case, application of rule R in interpretation R' leads to result Y'

1.1b Result Y' is desirable from a legal point of view

1.1c In the concrete case, application of rule R in interpretation R" leads to result Y"

1.1d Result Y" is undesirable from a legal point of view

(1.1a-1.1d' In the concrete case, if application of rule R in interpretation R' leads to Y', and Y' is desirable from a legal point of view, and if application of rule R in interpretation R" leads to Y", and Y" is undesirable from a legal point of view, then rule R should be applied in interpretation R')

*Scheme 2: Pragmatic argumentation in the complex argumentation on level 1: the main argumentation in legal justification in a hard case*

In scheme 2 the arguments 1.1a and 1.1b form an implementation of the positive variant of pragmatic argumentation and the arguments 1.1c and 1.1d of the negative variant, the positive variant serves to defend the part of the standpoint that the rule must be applied in interpretation R', and the negative variant serves to defend the part of the standpoint that the rule must not be applied in interpretation R". The complementing argument in which the weighing or preference is made explicit can be reconstructed as 1.1a-1.1d'. **[v]**

2.2 *The argumentation on the second and third level of the subordinate argumentation*

A judge who puts forward pragmatic argumentation has a dialectical burden of proof for answering the critical question why result Y'/Y'' is (un)desirable from a legal point of view. Since legal rules can be considered as a means to attain certain goals that are desirable from a legal, social, or economic perspective, in the law the desirability or undesirability (absurdity) of a particular result is evaluated in light of the goal of the rule.

The goal of the rule can be based on the explicit intention of the historical legislator as it can be found in legislative documents, etcetera (which is called a *subjective teleological* interpretation of the meaning of the rule). The court can refer also to what is called the 'objective goal' of the rule as envisaged by a 'rational legislator', as it can be reconstructed on the basis of the rationale of the rule in the context of the law as a whole (which is called an *objective teleological* interpretation of the meaning of the rule).**[vi]**

To justify that the consequences are acceptable/unacceptable from a legal perspective, therefore in the justification a second level of subordinate argumentation should be distinguished that reflects the supporting argumentation justifying the (un)desirability of the consequences in relation to the purpose or goal of the rule that can be reconstructed as an answer to the critical question. In legal theory this argumentation that refers to the goal or purpose is often characterized as argumentation from coherence with certain legal purposes, goals, policies, principles and values.**[vii]** In pragma-dialectical terms, it can be characterized as a specific form of *symptomatic* argumentation that is provided in support of the normative argument 1.1b. It is stated that the result Y' has a particular property that makes it desirable from a particular perspective that is relevant in that context. Here, in the justification of argument 1.1b, the symptomatic argument forms a justification of the positive evaluation of the result Y' in argument 1.1b. In this case the fact that result Y' is compatible with a particular purpose P (that is intended by the legislator) is considered as a property that makes that result Y' can be considered as desirable from a legal point of view (and for the justification of 1.1d a similar argument justifying the undesirability of Y'').

On the basis of this characterization the argumentation on level 2 of the subordinate argumentation can be reconstructed as follows:

1.1b Result Y' is desirable from a legal point of view

1.1b.1a Result Y' is compatible with purpose or goal P

1.1b.1b Purpose P is desirable from a legal point of view

1.1b.1b.1 Purpose P is intended by the legislator/Purpose P is a rational purpose objectively prescribed by the valid legal order

1.1d Result Y'' is undesirable from a legal point of view

1.1d.1a Result Y'' is incompatible with purpose or goal P

1.1d.1b Purpose P is desirable from a legal point of view

1.1d.1b.1 Purpose P is intended by the legislator/Purpose P is a rational purpose objectively prescribed by the valid legal order

*Scheme 3: The argumentation on level 2 of the subordinate argumentation*

The argument 1.1b.1b/1.1d.1b, in its turn, can be questioned. This requires a further justification that provides an answer to the critical question in relation to this argument. Depending on whether a judge has referred to the purpose intended by the historical legislator (and thus opting for a *subjective teleological* interpretation of the rule) or the rational purpose objectively prescribed by the valid legal order (and thus opting for an *objective teleological* interpretation of the rule), in his supporting argumentation he will have to put forward different arguments.

To justify the compatibility with the intention of the historical legislator, the judge will have to refer to documents, such as parliamentary discussions, in which this intention is mentioned. **[viii]** To justify the compatibility with the intention of a rational legislator, the judge will have to refer to goals, principles and values underlying the rule that constitute the ratio legis, the rationale or purpose of the rule. **[ix]** The argumentative pattern on the level of this argumentation can be reconstructed as follows:

1.1b.1b Purpose or goal P is intended by the legislator/a rational goal objectively prescribed by the valid legal order

1.1b.1b.1 Purpose or goal P can be found in the following legal documents (...)/ Purpose or goal P is underlying the following rules, principles and values of the valid legal order (...)

*Scheme 5: Argumentation on level 3 of the subsubordinate argumentation as an answer to further critical questions*

In the preceding sections I have explained the stereotypical patterns of

argumentation of which pragmatic argumentation forms part in legal justification. With this reconstruction I have clarified the dialectical obligations of a judge who justifies his decision in a hard case by referring to consequences of application of the rule in the specific case. These dialectical obligations define the dialectically relevant moves in the justification of legal decisions in a hard case: they prescribe the elements of the justification that are necessary from the perspective of the dialectical role of the judge to account for the different decisions and choices that have to be made in the discussion process. [x]

These dialectical obligations make explicit the potential forms of critique that the judge will have to react to in a satisfactory way in order for his justification to be acceptable from a legal perspective. To clarify these dialectical obligations I have translated his legal obligations in terms of the answers that he will have to give to the different critical questions that can be asked in relation to the different argumentation schemes that form part of his argumentation on the different levels of the argumentation. In this way it has become clear that the judge will have to react to several kinds of critical question.

### *3. Exemplary analysis of the use of pragmatic argumentation referring to consequences in light of the purpose of the rule in legal justification*

To show how courts may use pragmatic argumentation, and how they instantiate the general stereotypical patterns of complex argumentation, in this section I give an exemplary analysis of the way in which in which the U.S. Supreme Court in the Holy Trinity case uses pragmatic argumentation to justify its decision. I show how the court implements the general stereotypical patterns of argumentative moves I have described in the previous sections and I explain how this implementation is influenced by the institutional preconditions of legal justification. Since in U.S. law the 'core' of the decision is formed by that part that constitutes the '*ratio decidendi*' of the decision that is important from the perspective of the decision as precedent, I concentrate on the first part (I-VI) of the decision that ends with 'We find, therefore...' (The text of the relevant parts is attached at the end of this contribution).

As described in section 1, in the Holy Trinity case the Supreme Court had to decide whether or not the act prohibiting the importation of foreigners and aliens under contract to 'perform labour' in the United States (chapter 164, 23 St. p. 332) was applicable to an English Christian minister who had come to the United States to enter into the service of the Protestant Episcopal Holy Trinity Church in



the city of New York as rector and pastor. The question was whether, as was decided by the District Court, the contract signed by the church was forbidden by chapter 164, 23, St. P. 332 according to which it is 'unlawful for any person to assist or encourage in any way the importation or migration of any alien or foreigner into the United States to perform labour or service of any kind'.

The Supreme Court decides that the decision of the District Court has to be reversed because the contract was not forbidden. In its view the rule regarding the prohibition is not applicable in the specific case because the meaning of the term 'labour' should be taken in the restricted sense of 'manual labour', which implies, in the opinion of the Supreme Court, that it does not concern the activities of a Christian minister. The Supreme Court justifies this interpretation by referring to the purpose of the rule as intended by the legislator, the U.S. Congress, that is to stay the influx of cheap unskilled labour:

*We find therefore, that the title of the act, the evil which was intended to be remedied, the circumstances surrounding the appeal to Congress, the reports of the committee of each house, all concur in affirming that the intent of Congress was simply to stay the influx of this cheap unskilled labor.*

This case constitutes a 'hard case' because different interpretations of the rule are under discussion, and as the highest court the Supreme Court has to decide which of the interpretations is correct from a legal point of view. As has been explained in section 2, such a hard case requires a complex argumentation in which the court must react to certain forms of criticism. In what follows, in 3.1, I address the justification of the appropriateness of the use of pragmatic argumentation that is presented in that part of the justification that begins with 'It must be conceded that ...'. Then, in 3.2, I address the justification of the application of pragmatic argumentation that is presented in the following part of the justification that begins with 'It will be seen that words ...', and explain how the Supreme Court instantiates the stereotypical pattern of argumentation in which it refers to the consequences of application of the rule in light of the purpose as it is intended by the legislator.

### *3.1 The justification of the applicability of the argumentation scheme of pragmatic argumentation*

The argumentation of the Supreme Court that is put forward to justify the applicability of the pragmatic argumentation in the concrete case can be found in

the parts where the Supreme Court defends its narrow interpretation R' by referring to the absurd consequences of applying the rule in the broad interpretation R" in light of the purpose of the rule. As has been explained in section 2.2, in this case the Supreme Court has to defend a standpoint that concerns a preference for an adapted interpretation of the rule (R') and a rejection of a broad interpretation (R"):

1. In the concrete case, rule R should applied adapted interpretation R' (with a narrow interpretation of the term 'labour' that makes an exception for a Christian minister), implying that the rule does not apply to foreigners who perform labour as ministers of the gospel, and not in the standard interpretation R", (with a broad interpretation of the term 'labour') implying that the rule applies to all foreigners who perform labour.

The court acknowledges that the statute was applicable because the intention of the legislator was clear, but argued that an exception should be made. The court states that if the legislator had known the present situation, it would have made an exception for the concrete case on the basis of the absurd consequences in relation to the purpose of the rule and the values of the U.S. as a Christian nation. Since the court departs from the acknowledged standard interpretation of the rule and makes an exception for this case, it had an obligation to justify why this exception is justified.

From a pragma-dialectical perspective the justification offers a good example of how a court implements the stereotypical pattern of argumentation in hard cases because the different levels of argumentation are represented. In what follows, for the different levels of the argumentation distinguished in section 2.2 I explain how the various arguments are implemented in this case.

On the level of the main argumentation the justification of the Supreme Court can be reconstructed as a complex argumentation, consisting of the positive and negative variant of pragmatic argumentation as described in scheme 3 in section 2.2.1. With argument 1.1a and 1.1b the court puts forward pragmatic argumentation in which it refers to the result of application in interpretation R' and states that this result would be desirable (the desirability is, as will be explained below, defended on a lower level of the argumentation). With argument 1.1c and 1.1d the court puts forward pragmatic argumentation in which it refers to the result of application in interpretation R" and states that this result is

undesirable (absurd). This result would be that in interpretation R' the contracts for the employments of ministers, rectors and pastors would be excluded from the penal provisions of the act and that in interpretation R'' the contracts for the employments of ministers, rectors and pastors would be included in the penal provisions of the act.

To justify that result Y' is desirable and result Y'' undesirable, on the level of the subordinate argumentation the argumentation put forward by the Supreme Court can be analysed as a reaction to doubt with respect to the first critical question, whether result Y'/Y'' is (un)desirable from a legal point of view. As has been described in section 2.2, in its justification the court will have to deal with certain forms of doubt that are relevant from a legal perspective, in pragma-dialectical terms with the critical questions that are relevant for the specific implementation of pragmatic argumentation. The argumentation that the Supreme Court puts forward in defence of argument 1.1b and argument 1.1d, that the result Y' would be desirable and result Y'' undesirable or 'absurd', can be considered as a reaction to the first critical question with respect to the desirability of result Y' and the undesirability of result Y''.

In the argumentation consisting of 1.1b.1a and 1.1b.1b the court justifies the desirability of the result in light of the compatibility with purpose P of the rule mentioned in the conclusion of the decision that is 'to stay the influx of this cheap unskilled labour', pointing out that this purpose is intended by the legislator. In this case the court uses subjective-teleological argumentation by referring to the purpose as intended by the historical legislator.

To support argument 1.1b.1b, that purpose P is intended by the legislator, the court puts forward argumentation referring to certain authoritative sources from which the 'spirit of the statute' and the 'intention of its makers' can be inferred.

First, the court explains the intention of the legislature by referring to the common understanding of the words 'labour' and 'labourers' used in the first section of the act and by concluding that on the basis of the words it is clear that Congress had in mind only the work of the manual labourer as distinguished from that of the professional man, so that an exception for a Christian minister can be justified because the legislator has intended this (section III). As a support the court uses a selection of citations from precedents to justify its interpretation.

Second, the court explains the intention of the legislator on the basis of the legislative history by referring to the evil which the act was designed to remedy from the perspective of the situation 'as it was pressed upon the attention of the legislative body' (section IV). In the court's view the intent of Congress can be found in the evil the statute is designed to remedy, which can be found in the contemporaneous events, the situation as it existed, and as it was pressed upon the attention of the legislative body. The appeal to Congress was made 'to raise the standard of foreign immigrants and to discountenance the migration of those who had not sufficient means in their own hands (...) to pay their passage'. The court adds that it appears also from the petitions in the testimony before the committees of Congress that it was this cheap unskilled labor which was making the trouble, and the influx of which Congress sought to prevent. Finally the court states that the extract from the report of the Senate committee (...) reveals also that 'It seeks to restrain and prohibit the immigration or importation of laborers who would have never seen our shores but for the inducements and allurements of men whose only object is to obtain labor at the lowest possible rate, regardless of the social and material wellbeing of our own citizens, and regardless of the evil consequences which result to American laborers from such immigration.'

In its conclusion the court stresses that all these sources, 'the title of the act, the evil which was intended to be remedied, the circumstances surrounding the appeal to congress, the reports of the committee of each house concur in affirming that the intent of congress was simply to stay the influx of cheap, unskilled labor'.

The way in which the Supreme Court instantiates the stereotypical pattern of argumentation reflects the preconditions for the argumentative activity in legal justification in the U.S. in the historical context of this decision.

#### *4. Conclusion*

In this contribution I have explained the role of pragmatic argumentation in legal justification from a pragma-dialectical perspective. I have characterized legal justification as an argumentative activity that plays a role in the resolution of legal differences of opinion in legal procedure. From a pragma-dialectical perspective I have shown how the stereotypical argumentative patterns of which pragmatic argumentation forms a part can be reconstructed in terms of the dialectical obligations of a judge. These dialectical obligations define the dialectically relevant moves in the justification of legal decisions in hard case:

they prescribe the elements of the justification that are necessary from the perspective of the dialectical role of the judge to account for the different decisions and choices that have to be made in the discussion process.

Based on the dialectical characterization of the role of pragmatic argumentation and the obligations of the judge who uses this form of argumentation in a hard case I have reconstructed the stereotypical patterns of complex argumentation of which pragmatic argumentation forms part. I have done this by translating the arguments that have to be given as reactions to various forms of critique that are relevant from a legal perspective. I have reconstructed the stereotypical patterns that are relevant for the justification of the appropriateness and the applicability of pragmatic argumentation in a concrete case.

By way of illustration I have given an analysis of the argumentation of the U.S. Supreme Court in such a hard case in which it had to account for an interpretation in which it departed from the standard literal meaning of the term 'labour' in the context of a statute. I have explained how the court instantiates in its justification the stereotypical patterns of argumentation by translating the arguments that are given in terms of the arguments that form part of the argumentative pattern on the different levels of the argumentation. In this way I have clarified how the court reacted to the various forms of critique that it would be problematic to refer to the intention of the legislator and the purpose of the rule in relation to certain 'absurd consequences' to establish the meaning of a legal rule.

Further research of the way in which courts maneuver strategically in the justification of the appropriateness and applicability of pragmatic argumentation must clarify how courts adapt their choices and presentational devices in light of the preconditions of the argumentative activity in a particular legal system. **[xi]**

## **NOTES**

**i.** For the text of the decision see <http://supreme.justia.com/cases/federal/us/143/457/case.html>.

**ii.** Other terms for this form of argumentation are 'consequentialist argumentation', and for the negative form that refers to the unacceptable or absurd consequences of a decision 'argument from absurdity'. See for example Bustamante (2013), Carbonell (2013), MacCormick (1978, 2005). For a discussion of pragmatic argumentation in a legal context see Feteris (2002).

- iii.** For a discussion of the dialectical role of the judge in legal proceedings see Feteris (2012a).
- iv.** For a description of the structure of various forms of disputes see van Eemeren and Grootendorst (1992, chapter 2).
- v.** For a discussion of a pragma-dialectical reconstruction of weighing and balancing in legal justification see Feteris (2008c).
- vi.** For a discussion of a pragma-dialectical reconstruction of the various forms of teleological argumentation see Feteris (2008a). For a discussion of the pragma-dialectical reconstruction of the argumentation in which courts refer to the intention of the (historical) legislator see Plug (2006).
- vii.** See for example Berteau (2005), MacCormick (1978, 2005) for a discussion of argumentation from coherence.
- viii.** 8 For a discussion of a pragma-dialectical reconstruction of the various forms of teleological argumentation see Feteris (2008a). For a discussion of the pragma-dialectical reconstruction of argumentation in which courts refer to the intention of the legislator see Plug (2006).
- ix.** For a discussion of argumentation referring to the ratio legis see Canale and Tuzet (2009).
- x.** For a discussion of legal justification as part of a critical discussion and the role of the judge see Feteris (1990, 1993, 2012a).
- xi.** For a discussion of the strategic manoeuvring in the Holy Trinity case see Feteris (2008b).

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# **ISSA Proceedings 2014 - Ubiquity, Ambiguity, And Metarationality: Searching For The Fallacy Of Composition**

*Abstract:* "Ubiquity" is the hypothesis that fallacies of composition are ubiquitous; "ambiguity" the hypothesis that "fallacy of composition" has at least three distinct meanings, often confused; and "metarationality" the hypothesis that the best places to search for fallacies of composition are meta-arguments whose conclusions attribute this fallacy to ground-level arguments. While testing these



working hypotheses, I have found some historically important cases, for example, a step in the theological argument from design, as critiqued by Hume.

*Keywords:* argument of composition, composition, compositional argument, design argument, fallacy of composition, Hume, meta-argumentation, metarationality, parts vs. whole

## 1. *Introduction*

There are both theoretical and practical motivations for wanting to study the fallacy of composition.

From a theoretical point of view, such a study is a special case of a key and well-established branch of logic and argumentation theory. In fact, with some slight but not much exaggeration, one could reconstruct the past fifty years of this field largely as a series of footnotes to Hamblin's *Fallacies* (1970), and/or as a series of developments that culminate organically with Woods's *Errors of Reasoning* (2013). And, as we shall see, the fallacy of composition is special not only in the sense of being a specific case of fallacies, but also in the sense of being especially important.

On a practical level, getting clear about the fallacy of composition seems crucial if one wants to react intelligently to two of the greatest problems in the world today: global warming and the world-wide great recession. In fact, at least one philosopher has claimed that arguments for global warming typically involve an aggregation of temperatures from particular regions of the world, and "to group and average in this way is to commit the fallacy of composition" (Haller, 2002, p. 50); thus, it would seem to be almost a civic duty for a professional in this field to try to ascertain whether he is right. And with regard to the on-going great recession, Nobel Prize economist Paul Krugman (2013a) has blamed its persistence on the austerity policies that have been adopted by most countries with developed economies, and he has suggested that austerity has been the result of thinking that one can apply to a national economy the same policies that work for its constituent parts, such as households and individual firms; and this manner of thinking is what logicians and argumentation theorists call the fallacy of composition, a label which he himself occasionally uses (Krugman, 2013b). If Krugman is right, then such scholars have a civic duty to contribute to a clarification of this topic.

## 2. *The ubiquity thesis*

The fallacy of composition seems to be unique among the fallacies, insofar as its frequency and importance have been widely claimed, perhaps more than for any other fallacy. For example, in 1826, in the *Elements of Logic*, Richard Whately explicitly named and discussed this fallacy, saying among other things:

*... Fallacy of Composition. There is no Fallacy more common, or more likely to deceive, than the one now before us: the form in which it is usually employed, is, to establish some truth, separately, concerning each single member of a certain class, and thence to infer the same of the whole collectively.* [Whately, 1826, pp. 174-75]

Moreover, at least since the epoch-making contributions of John Maynard Keynes (who died in 1946), economists tend to regard the fallacy of composition as the single worst pitfall in economic reasoning. They also consider the exposure of it to be the greatest accomplishment of the modern science of economics. They deem the avoidance of it the most important lesson one can learn from this science. And such claims are easily found in the writings of economists of both the left and right wings of the ideological spectrum, such as Paul Samuelson and Henry Hazlitt. **[i]**

However, despite such attention and such claims, scholars in logic and argumentation theory seem not to have done much work on the fallacy of composition, although textbooks tend to pay lip service to it.

Sometimes this scholarly neglect of the fallacy of composition is explained and partly justified in terms of its rarity or infrequency. For example, in the 1973 edition of his textbook *Logic and Philosophy*, Howard Kahane has a brief discussion of this fallacy together with its reverse twin, the fallacy of division. Here are his revealing words:

*since non-trivial real life examples of these two fallacies ... are unusual, textbook examples tend to be contrived or trivial. Thus one textbook writer gives as an example of the fallacy of composition the argument that '... since every part of a certain machine is light in weight, the machine as a whole is light in weight'.* [Kahane, 1973, p. 244; cf. Copi, 1972, pp. 96-98]

Obviously, this explanation of the scholarly neglect conflicts with the ubiquity thesis reported earlier. Thus, the question arises whether the fallacy of

composition is common and important, or uncommon and unimportant. This is largely an empirical question, to be resolved by following an empirical approach.

However, such an empirical investigation cannot be conducted with a tabula rasa, for we need to be clear about what we mean by fallacy of composition, and also we need to examine real or realistic material which typically does not come with the label 'fallacy of composition' attached to it. In other words, we need to be mindful of the fact that observation is theory-laden, and that the examination of this material must be guided by some idea of what this fallacy means, and by some idea of what to do with the material under examination so as to test it for the occurrence of this fallacy. A brief elaboration of some of these ideas is thus in order.

### *3. The ambiguity of 'fallacy of composition'*

To begin with, it is obvious that we need some understanding of what is meant by fallacy of composition. Unfortunately, historical and contemporary writings on the topic contain three notions that are prima facie distinct, but tend to be confused with each other.

First, there is reasoning from premises using a term distributively to a conclusion using the same term collectively; for example, "because a bus uses more gasoline than an automobile, therefore all buses use more gasoline than all automobiles" (Copi, 1968, p. 81). Second, there is reasoning from some property of the parts to the same property for the whole; for instance, "since every part of a certain machine is light in weight, the machine 'as a whole' is light in weight" (Copi, 1968, p. 80). And thirdly, there is reasoning from some property of the members of a group to the same property for the entire group; the so-called tragedy of the commons can illustrate this notion, that is, "if one farmer grazes his cattle on the commons, that will be beneficial for him; therefore if all the farmers graze their cattle on the commons, that will be beneficial for all" (Govier, 2009, p. 95).

Now, the association of the second and third notions with each other is very common. On the other hand, the association of all three is relatively rare, but does occur. One example may be found in the following textbook definition:

*The fallacy of composition consists in treating a distributed characteristic as if it were collective. It occurs when one makes the mistake of attributing to a group (or a whole) some characteristic that is true only of its individual members (or its*

parts), and then makes inferences based on that mistake. [Halverson, 1984, p. 73]

#### 4. *The metarationality hypothesis*

Besides this three-fold distinction and the ubiquity thesis, there is a third guiding idea that needs to be at least mentioned and tentatively stated before we proceed. In a previous work, I criticized textbook accounts of fallacies, and on its basis I formulated a problem and advanced an hypothesis. The problem was formulated in terms of the following questions: “do people actually commit fallacies as usually understood? That is, do fallacies exist in practice? Or do they exist only in the mind of the interpreter who is claiming that a fallacy is being committed?” (Finocchiaro, 1980, p. 334; 1981, p. 15; 2005, p. 113).

Although these were not meant to be rhetorical questions, but rather open questions that required further investigation, it is perhaps unsurprising that some readers (e.g., Govier, 1982) did view them as rhetorical questions. Moreover, I did express “the suspicion that logically incorrect arguments are not that common in practice, that their existence may be largely restricted to logic textbook examples and exercises” (Finocchiaro, 1980, p. 333; 1981, p. 14; 2005, p. 111). Thus, some readers thought that I was claiming that fallacies are merely figments of critics’ imagination, and “are in fact an illusion” (Jason, 1986, p. 92; cf. Govier, 1982).

Later, I tried to be more explicit and constructive about this issue when I elaborated a general approach to the study of fallacies. One element of that approach was connected to, and extracted from, Strawson’s *Introduction to Logical Theory* and his notion of “the logician’s second-order vocabulary” (Strawson, 1952, p. 15); that notion was extended to include ‘fallacy’ terminology, “since it ordinarily occurs when someone wants to comment about some logical feature of a first-order expression of reasoning. This means that the best place to begin with in the study of fallacies, or at least a crucial phenomenon to examine, is allegations that fallacies are being committed” (Finocchiaro, 1987, p. 264; 2005, p. 130).

In this vein, some elaborated the idea that fallacies are more like theoretical entities such as quarks in physics, rather than like concrete objects such as buttercups in everyday life (Grootendorst, 1987; Woods, 1988). This elaboration was a constructive suggestion and critical appreciation, and I am far from denying its viability.

However, I now believe that the project can be articulated more clearly, incisively, and constructively in light of the notion of meta-argumentation (cf. Finocchiaro, 2013b; 2013c). That is, I distinguish a meta-argument from a ground-level argument, and define the former as an argument about one or more arguments, or about argumentation in general. Then a ground-level argument can be defined as one about such things as natural phenomena, historical events, human actions, mathematical numbers, or metaphysical entities. A prototypical case of meta-argumentation is argument analysis, in which one advances and justifies an interpretive or evaluative claim about a ground-level argument.

What I am proposing is that we search for fallacies of composition primarily in meta-argumentation rather than ground-level argumentation. However, this is not meant in the sense that we should be looking for meta-arguments that commit the fallacy of composition, but rather that we try to find meta-arguments advancing explicit conclusions that some fallacy of composition has been committed, i.e., that some ground-level argument embodies or commits a fallacy of composition. The working hypothesis is then that, at least as a first approximation, the fallacy of composition is primarily a concept of meta-argumentation, useful in the context of understanding and/or assessing ground-level argumentation.

##### *5. Hume's critique of a step in the design argument*

Let us now begin our empirical search for real or realistic material pertaining to the fallacy of composition. A memorable example of the fallacy of composition occurs in the design argument for the existence of God, at least according to the critique advanced in Hume's *Dialogues Concerning Natural Religion*. This charge is only one objection in the complex and multi-faceted criticism which Hume formulates; and correspondingly, it affects only one particular step of the design argument. Thus, even if cogent, this Humean meta-argument is not the end of the story; nevertheless, it is a crucial element of the over-all evaluation of the design argument.

It should be noted that Hume interprets the design argument primarily as inductive and empirical. In so doing, he is trying to abide by the principle of charity, for if one were to reconstruct the design argument as deductive and *a priori*, then according to Hume it could not even get off the ground, since it would be trying to prove a factual matter - that God exists and created the universe - from *a priori* considerations; and this for Hume is an inherently impossible task.

One version of the design argument is this: the universe was created by an intelligent designer (called God), because the universe is like a machine, and machines are made by (human) intelligent designers. This is, of course, an argument from analogy. Now Hume questions the analogical premise. How could one show that the universe is like a machine? Well, in Hume's own memorable words, spoken through the character Cleanthes, the answer is this:

*Look round the world, contemplate the whole and every part of it: you will find it to be nothing but one great machine, subdivided into an infinite number of lesser machines, which again admit of subdivisions to a degree beyond what human senses and faculties can trace and explain. All these various machines, and even their most minute parts, are adjusted to each other with an accuracy which ravishes into admiration all men who have ever contemplated them. The curious adapting of means to ends, throughout all nature, resembles exactly, though it much exceeds, the productions of human contrivance – of human design, thought, wisdom, and intelligence. [Hume, 1947, p. 143]*

This does seem to provide empirical, observational support for the claim that the universe is like a machine. However, there are problems with this reasoning. In Hume's words, spoken through the character Philo:

*But can you think, Cleanthes, that your usual phlegm and philosophy have been preserved in so wide a step as you have taken, when you compared to the universe houses, ships, furniture, machines, and, from their similarity in some circumstances, inferred a similarity in their causes? Thought, design, intelligence, such as we discover in men and other animals, is no more than one of the springs and principles of the universe, as well as heat or cold, attraction or repulsion, and a hundred others, which fall under daily observation. It is an active cause, by which some particular parts of nature, we find, produce alterations on other parts. But can a conclusion, with any propriety, be transferred from parts to the whole? Does not the great disproportion bar all comparison and inference? From observing the growth of a hair, can we learn anything concerning the generation of a man? Would the manner of a leaf's blowing, even though perfectly known, afford us any instruction concerning the vegetation of a tree? [Hume, 1947, p. 147]*

Here, Hume is finding two things wrong with the subargument supporting the claim that the universe is like a machine. One problem is that although many

parts of the universe are like machines, produced by intelligent design, many other parts (even when orderly arranged) are produced by natural causes such as attraction and heat. That is, Hume is charging that the subargument is a hasty generalization. But this is not the only problem; for even if all parts of the universe were machine-like, we could not be sure that the same would apply to the universe as a whole. In this second criticism, Hume is charging a fallacy of composition.

Hume's criticism of this subargument of the design argument is a meta-argument, and as such it is open to analysis, interpretation, and evaluation. Note, for example, that Hume's critical conclusion is based partly on an interpretation of the subargument in question, partly on a definition of the fallacy of composition, and partly on some evaluative principle. The interpretive claim is a reconstruction of this step of the design argument as transferring to the whole universe the same property which it claims to be able to observe in all (or many) of its parts; the property is that of being caused by some intelligent design. The evaluative principle is that it is illegitimate to transfer any such property from parts to whole in this case. Hume seems to give two reasons for this evaluative principle: first, the disproportion between such parts and whole is too great, presumably because the universe is infinite or indefinitely large; second, the transference from parts to the whole universe would be like reasoning from what happens to a human hair to what happens to a whole human body, or from what happens to a leaf to what happens to a whole tree. And this second reason amounts to a meta-argument from analogy, in which Hume argues that this subargument of the design argument is illegitimate because the subargument is an argument from analogy and is as illegitimate as the analogies from hair to human body or from leaf to tree. **[ii]**

## *6. Concluding remarks*

My empirical and theory-laden search has found other important historical cases, which cannot be elaborated here, but which deserve a brief mention. One of these other examples is Aristotle's geocentric argument from natural motion: that the natural motion of terrestrial bodies is straight toward the center; and therefore the natural motion of the whole earth is straight toward the center. Galileo objected by arguing that if 'center' means center of the universe, Aristotle's argument begs the question; but if 'center' means center of the earth, the premise is empirically true, but the conclusion is inherently false. And the latter is a

memorable counterexample that deserves further logical analysis, because it seems to undermine the formal validity of not only Aristotle's particular argument, but also of any argument from parts to whole (Aristotle, *On the Heavens*, 296b7-297a1; Galilei, 1997, pp. 83-84; cf. Finocchiaro, [1980, pp. 353-56; 2014b, pp. 59-63]).

A third case involves Robert Michels's argument for the so-called "iron law of oligarchy": that political parties inevitably become oligarchic even if they claim to have democratic aims; and therefore, a democratic society inevitably becomes oligarchic. Political scientist Robert Dahl objected that such reasoning fails because there is a crucial disanalogy between such parts and such a whole: a democratic society allows competition among its parts, but a particular party does not. Similarly, sociologist Seymour Martin Lipset objected that there is another crucial difference: a democratic society has an anti-tyrannical system of checks and balances in its written or unwritten constitution, but political parties and labor unions do not (Michels, 1962; Dahl, 1989; Lipset, 1962; cf. Finocchiaro, 2013b).

Such examples are certainly real and realistic. They are obviously also historically important. The ground-level arguments are clearly compositional; i.e., they are arguments of composition, if I may be allowed to introduce an obvious term for a type of argument that leaves open the question whether it is incorrect or fallacious; that is, an argument from premises with distributive terms or about parts or members to a conclusion with collective terms or about the whole or class. And the ground-level arguments are more or less inferentially incorrect: incontrovertibly and memorably so in the case of Aristotle's geocentric argument from natural motion; arguably and cogently so in the case of the compositional step of the theological argument from design; and arguably and plausibly so in the case of Michels's support for the iron law of oligarchy.

However, some qualifications are in order. First, even if we take these claims as acceptable, one important conceptual qualification needs to be kept in mind about such examples of the fallacy of composition. For these claims amount to saying that we have found important historical examples of arguments of composition that are inferentially incorrect. However, as John Woods (2013; cf. Finocchiaro, 2014a) has recently stressed, the traditional concept of fallacy is that a fallacy is a common type of reasoning that appears to be correct but is actually incorrect. This conception contains five elements: frequency, generality, reasoning,



apparent correctness, and actual incorrectness. Now, in my three examples, the ground-level arguments obviously meet the condition of being reasoning; they also meet the generality condition since they are arguments from parts to whole; and they possess apparent correctness, since the exposure of the flaws of the ground-level arguments required meta-argumentation by thinkers such as Galileo, Hume, Dahl, and Lipset. But I am not sure about their common occurrence and their actual incorrectness. In fact, the same features that make these examples historically important may suggest that they are relatively uncommon; and their actual incorrectness could perhaps be questioned by questioning the critical meta-arguments of Galileo, Hume, Dahl, and Lipset. On the other hand, while such considerations would show that we have not found three examples of fallacies of compositions, they do not undermine the claim that we have found three important historical examples of seductive (i.e., apparently correct) arguments of composition. This problem required further reflection.

Another problem for future investigation concerns an issue which has received some discussion, with some promising and insightful results. The issue is that of the evaluation of the correctness of compositional arguments, and the formulation of useful evaluative principles. A key principle which I gather from this literature (e.g., Ritola, 2009) is that the evaluation of compositional arguments should not be limited to deductive evaluation, but should include inductive evaluation; for even when compositional arguments are deductively invalid, they often possess some plausibility, cogency, or inductive strength. Another principle, advanced by van Eemeren and Grootendorst (1992, p. 177; 1999), urges us to distinguish between absolute and relative properties (e.g., square vs. heavy) and between structured or heterogeneous and unstructured or homogenous wholes or aggregates; and it claims that properties are transferable from parts to whole (or vice versa) only if the properties are absolute and the wholes are unstructured. However, the 'only if' in this formulation should be taken literally and strictly, as not including the 'if', that is, the principle at best states necessary but not sufficient conditions for transferability; thus, more work is needed to find and formulate sufficient conditions.

## **NOTES**

i. See, for example, Hazlitt, 1979; Nelson, 1999; Samuelson, 1955, pp. 9-10, 237, 273, 350, 374, 505, 550, 693; Samuelson & Nordhaus 1989, pp. 7-8, 183-84, 399-404, 666-67, 972, 993; and Wray, 2009. Cf. Woods, Irvine & Walton, 2000,

pp. 262-83; Finocchiaro, 2013a. For a revealing and emblematic piece of evidence, which in the present context may also acquire aspects of so-called cultural tourism, one may view a sculpture labeled “The Fallacy of Composition”: it adorns an outside wall of the building of the Faculty of Economics at the University of Groningen, and it was created in 1988 to commemorate the 50th anniversary of the foundation of that Faculty and to celebrate Keynes’s epoch-making contributions to the science of economics; cf. <http://www.rug.nl/science-and-society/sculpture-project/sculpture1998?lang=en>, consulted on July 24, 2012; I owe my first information about this sculpture to Govier (2007; 2009).

**ii.** There is much more to be said on this aspect of the Dialogues, namely Hume’s employment of meta-arguments from analogy to criticize or strengthen various ground-level arguments from analogy. See Barker, 1989; and Finocchiaro, 2013c, pp. 201-203.

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# ISSA Proceedings 2014 - On The Persuasive Power Of The Best Explanation Argument

*Abstract:* Scientific realists claim that scientific realism must be accepted because it is the best explanation of the success of science. But arguments to the best explanation are objectionable. We explore the possibility that the greater or lesser resistance to those inferences depends on differences about the persuasion criteria that correspond to each context: participants of philosophical discussions usually apply stricter criteria than the ones considered to be persuasive in other kinds of argumentation.

*Keywords:* argument to the best explanation, non-miracle argument, scientific realism.

## 1. Introduction

This paper focuses on the inference to the best explanation (IBE) as a kind of argumentation in philosophy of science. Several scientific realists argue that scientific realism is the best explanation for the success of science. But serious objections have been raised against IBE. Given the controversy generated by the IBE argument, this paper explores the possibility of the fact that the degree of resistance to accepting the inference to the best explanation depends on differences which are related to the persuasion criteria that corresponds to each context. We distinguish four different contexts in which IBE is used:

- a) the common sense knowledge context;
- b) the scientific research context;
- c) the philosophy of science context: when talking about scientific theories some philosophers contend that the truth of a theory and the existence of the unobservable entities it posits are the best explanation of its success;
- d) the philosophy of science context again, but in a higher level: when some philosophers argue that scientific realism is true because it explains the success

of science better than the antirealist claims.

According to our hypothesis, participants of philosophical discussions often apply criteria that are stricter than the ones considered to be persuasive in other kinds of argumentation, but many realists seem not to be aware of that. As they do not make any distinction amongst different contexts, they carry on IBE from every day belief formation to higher levels of philosophy.

We will start with a presentation of the no miracle argument (NMA) as an emblematic instance of IBE and we will try to show how realists use IBE simultaneously at different levels of argumentation. We will examine various formalizations of both NMA and IBE and we will compare the strength of IBE in different contexts. As a result, we hope to show that, contrarily to what realists believe, IBE is not a powerful tool for supporting their doctrine.

## 2. *The canonical formulation of the non miracle argument*

The so-called no miracle argument (NMA) is one of the most widespread beliefs amongst scientific realists. It can be synthesized, broadly speaking, in the idea that the explanatory and predictive success of our best scientific theories implies that they are true or approximately true because, if they weren't, their numerous successes would be a coincidence so surprising as miracles are. Putnam says it with the following words:

And the typical realist argument against idealism is that it makes the success of science a miracle. And the modern positivist has to leave it without explanation (the realist charges) that 'electron calculi' and 'space-time calculi' and 'DNA calculi' correctly predict observable phenomena if, in reality, there are no electrons, no curved space-time, and no DNA molecules. If there are such things, then a natural explanation of the success of these theories is that they are *partially true accounts* of how they behave [...] But if these objects don't really exist at all, then it is a *miracle* that a theory which speaks of gravitational action at a distance successfully predicts phenomena; it is a *miracle* that a theory which speaks of curved space-time successfully predicts phenomena; and the fact that the laws of the former theory are derivable 'in the limit' from the laws of the latter theory has no methodological significance (Putnam, 1978, pp.18-19).

Probably, many people would be persuaded by this argument because it has certain similarities with inferences that we make in everyday life. Some authors

would try to justify this reasoning proclaiming that it is a special kind of inference, which Peirce called abduction or retroduction and after Harman is often identified under the name of inference to the best explanation.

### 3. *The IBE in everyday knowledge and scientific knowledge*

The incorporation of IBE in the second half of the twentieth century as an important concept for understanding the process of knowledge is mainly due to Hanson. He represented IBE as follows (Hanson, 1958, p. 86)

[1] The surprising fact C is observed

[2] But if H were true, C would be a matter of course

[3] Hence, there are reasons to suspect that H is true

As we have said, this type of inference is often used in common-sense knowledge. Van Fraassen, proposed an example that illustrates this: if you hear little noises that come from the interior of the wood walls, if in addition you see that a piece of cheese that had been left the night before on the table has disappeared and there are mouse droppings on the floor, you will accept the hypothesis that there is a mouse in the house. It is not fully clear whether van Fraassen would be willing to admit that in situations like these it is fair to say that the hypothesis is accepted as true (or probably true) or only that it is accepted as empirically adequate (Psillos, 1999, pp. 211ff); but in any case he rejects that a reasoning of this kind is valid in the scientific context. Recall that for van Fraassen the goal of science is not to find true theories but empirically adequate theories, i.e. find theories whose observational predictions are effectively met. According to van Fraassen, then, a scientist would not be entitled to believe that the predictive success of his theory implies that it is true and that the entities postulated by it, for example, the atoms, do exist.

Psillos suggests that if the reasons for van Fraassen to object the use of IBE in the scientific context are intended to prevent unwanted ontological commitments with new classes of entities because they allow inferring the existence of unobservable entities, then van Fraassen is wrong. Because the IBE is also used to infer the past existence of extinct species, i.e, a new kind of entities, from the discovery of fossils, and these animals, although unobserved by us, are not unobservable entities.

On our part, we believe that anyway there is a difference between the mouse and

a possible extinct species. Although van Fraassen considers it appropriate not to draw any distinction between a theoretical vocabulary and an observational one, it seems undeniable that asserting the existence of an extinct species is very far from our everyday experience. There is a much more hypothetical and uncertain character in the former assertion. In the event of having observed the behavior of mice, a prehistoric man surely would have reached the same conclusion as that a person of our day would, had he found the same indirect evidence of their presence. And, in fact, the finding of a fossil is a pretty different situation, to name one of the reasons because its identification as a fossil implies a controversial theoretical supposition. The case of the "Piltdown Man" is a good example.

Psillos extends the use of IBE from everyday life to scientific research very naturally. But at the scientific level, the postulation of theoretical entities, even though they might serve to explain and predict phenomena, has often been rejected. This was the case for atoms, which Mach never accepted. In addition, the entities of everyday life, such as the mouse that has eaten the cheese or the weasel that has eaten the hens during the night, belong to kinds of things that have remained unchanged for a long time, while theoretical entities have frequently resulted to not exist or their concepts have been modified so much that the realists have to make desperate efforts to sustain that the old theories were to some extent true and the entities they posited are eventually the same as those that are postulated today.

#### *4. The IBE in the philosophical argumentation*

Now let us consider the use of IBE at the philosophical level. According to what we have already seen, the example proposed by van Fraassen would have this form:

- [1] The surprising fact C (the indications of the presence of a mouse) is observed
- [2] But if H were true (if there is a mouse in the house), C would be a matter of course
- [3] Hence, there are reasons to believe that there is a mouse in the house

But Putnam's argument about realism is considerably more complex. To begin with, in the text we quoted above there are overlapping arguments that operate at different levels of analysis. On the one hand, in a first meta-scientific level (MS 1), it is argued that the predictive success of scientific theories can be naturally



explained if it is thought that theories explain properly how things really are in the portion of reality they deal with. On the other hand, Putnam climbs to an upper epistemological, a meta-meta-scientific level (MS 2) when he applies a similar form to argue not directly about scientific theories but about certain epistemological conceptions, in this case, realism and antirealism.

To facilitate the analysis, we will adopt a more precise formulation of the argument corresponding to MS 1. Magnus and Callender, for example, offered a schema that seems to pick up the core of Putnam's argument (Magnus and Callender 2004: 320-338):

- [1] The theory  $h$  is very likely to be successful
- [2] If  $h$  were true, it would be very likely to be successful
- [3] If  $h$  were false, it would not be likely to be successful
- [4] Therefore, there is a high probability that  $h$  is true

At first sight, Magnus and Callender's formulation of IBE differs from the one proposed by Hanson, because they do not make any explicit reference to the relationship between the explanatory and predictive power of a hypothesis and the likelihood of that being true. However, we can establish the connection because the success of a theory would be measured precisely according to its ability to explain and predict phenomena.

On the other hand, oddly, although Magnus and Callender's schema aims to clarify the non-deductive form of IBE, it can easily be transformed into a deductive reasoning without adding any assumption. In fact, from the premises [1] and [3] of previous argument, that is,

- [1] The theory  $h$  is very likely to be successful
- [3] If  $h$  were false, it would not be likely to be successful

by *modus tollens* we can infer:

\* Theory  $h$  is not false

And from there we can deduce the conclusion Magnus and Callender had reached:

\*\* Theory  $h$  is very probably true

In this case, the crux of the matter is not in the kind of inference that leads to the conclusion but in the justification of the premises that associates the success of a hypothesis with a high probability of it being true. This situation was shown also by Musgrave, who feels that the classic formulations of IBE are deductively fallacious. If you want to avoid the fallacy, he suggests, you should express the argument in this manner (Musgrave 1999: 285):

- [1] If hypothesis H is the best explanation of the fact to be explained, then it is reasonable to accept H as true
- [2] H is the best explanation of the evidence
- [3] Therefore, it is reasonable to accept H as true

On the other hand, some authors -like Magnus and Callender- say that IBE is inductively fallacious. If all that is true, if IBE can't be justified either in an inductive or a deductive way, proponents of the idea that there is a relationship between the explanatory value of a hypothesis and its truth should think that the statement "If hypothesis H is the best explanation of the fact to be explained, then it is reasonable to accept H" is a reliable assertion on its own right, perhaps because it possesses a sort of intuitive evidence. In fact, it looks like some conclusions reached in everyday knowledge, as in the case of the mouse, rely on the implicit acceptance of that belief.

As we have shown, IBE is used at the meta-meta-scientific level (MS 2) to justify the scientific realism. Kukla expresses the argument as follows (Kukla: 12):

- [1] The enterprise of science is (enormously) more successful than can be accounted for by chance
- [2] The only (or best) explanation for this success is the truth (or approximate truth) of the scientific theories
- [3] Therefore, we should be scientific realists

This argument may be reformulated so that the assumption that the virtue of being the best explanation involves the truth becomes explicit. This is achieved by adding the premise:

\* If the scientific realism is the best explanation for the success of science, then realism is true.

The explication of this premise drives us back to considering the value of IBE in

those different contexts in which it is used. Next, we will develop our conclusions in this regard.

### 5. *The scope of IBE*

According to what we have said so far, IBE is an instrument which has been used at least in the following contexts:

- a) in the common-sense knowledge context;
- b) in the scientific knowledge context, especially as a way of legitimating the belief in the existence of theoretical entities postulated by a specific scientific theory;
- c) in the philosophy of science context, as a sort of generalization about scientific theories and the existence of theoretical entities (“successful scientific theories are approximatively true and theoretical entities postulated by them very probably exist”);
- d) in the philosophy of science context, but at a higher meta-philosophical order (“scientific realism is true because it is the best explanation for the success of the science”).

We have already advanced that IBE probably has a different persuasive force depending on the context in which it is being used, that is, depending on the circumstances in which it is applied and the intended audience to which it is directed. In general, this remark seems to be true of any kind of inference, except perhaps those that are strictly deductive. It would seem that, for example, a simple enumerative induction would be more easily accepted in everyday life than in the context of scientific research, where it must comply with certain special conditions about the extension of the sample, its representativeness, etc. Inductivist philosophers often point out that the inductive inferences are used constantly in both common sense knowledge and factual sciences. But they have found it difficult to justify these inferences in the face of objections from Humean criticism so they had to elaborate more refined versions of the induction to reconstruct and validate their use when justifying scientific theories. From a philosophical point of view, Popper has not hesitated in sustaining that even if it were true that in everyday life and in the scientific research induction is continuously used, all who do so can be wrong. But even under the assumption that a persuasive defense of inductive inferences in factual sciences has actually been achieved, there is no room for them in, for example, formal sciences. The so called mathematical conjectures do not cease to be only conjectures no matter

how many favorable cases they accumulate. Precisely, their interest lies in the fact that they seem to have no exceptions. But only a deductive demonstration could convert a mathematical conjecture in a theorem. Despite Mill's attempt to show that the laws of pure mathematics have arisen inductively and despite Quine's suggestion on the possibility that such principles are revisable in extreme cases, the prevalent conviction is that mathematical truths belong to the field of a priori knowledge. In the same vein, the fact that a kind of reasoning can be admitted in the context of common-sense knowledge or in factual sciences does not imply or makes it more likely that it is equally acceptable in the domain of philosophy.

Now we must ask ourselves: What relevance and validity the non-deductive inferences and in particular IBE could have in philosophical contexts? Philosophical discourse, even if we focus only in the philosophy of science, is so varied that trying to identify ways of justifying philosophical thesis seems more difficult than to agree about how to reconstruct the methodology of the factual sciences. But if we put aside the claim of naturalizing epistemology to the point where it would become simply one more of the empirical sciences, philosophy of science seems to depend essentially, although perhaps not exclusively, on a priori analysis. Notorious examples are the statements of Putnam about his well-known argument of the brains in a vat. After confessing that for several years he had many doubts about its validity, Putnam relates that his argument came to his mind while he was studying the Löwenheim-Skolem theorem and he saw a connection with some arguments developed by Wittgenstein. He points out that, even when some elements of his own argument have an empirical origin, it has a kinship with Kant's transcendental reflections because he developed it by thinking a priori about the conditions of the possibility of knowledge (Putnam 1981)

Another valuable testimony in favor of the independence of the philosophical inquiry with respect to the factual knowledge comes from Kuhn. Despite having been one of the creators of the so-called "historical philosophy of science", he confessed in his late works that his doctrine, also partially related to that of Kant, had been since its very beginning rooted in philosophical principles rather than in empirical data extracted from the history of science.

Philosophical discussions have a *sui generis* status. They cannot be empirically contrasted, as it is assumed that it can be done with common sense beliefs about

the world or the hypothesis of factual sciences, neither can they be solved as problems of mathematics or pure logic. This does not mean, of course, that certain principles associated with inferences, such as the principle of induction or the argument to the best explanation, become useless in philosophical discourse; but this shows that they deserve at least a special justification that so far seems to be out of our reach.

As an illustration of the difficulties involved in applying to philosophical theories concepts forged with the purpose of analyzing scientific theories, it should be noted, for example, that while the predictive success of a scientific theory could be a strong indication of its empirical adequacy, such an approach could not be extended to philosophical theories. It would be inapplicable because we can't even understand what empirical adequacy means for theories which, by its own origin, do not purport to describe the world in the same manner of the factual sciences. Similarly, while IBE presupposes a notion of explanation which, as in the Hempelian models, allows us to establish the truth or the likelihood of the *explananda* as a consequence of the truth of the *explanans*, it is not clear in what sense a philosophical theory constitutes an "explanation" or a "best explanation". In addition, if we assume that the truth of a scientific theory means something like a correct description of both, the observable and non-observable characteristics of nature, it is not very clear in what sense we can say that a philosophical conception, as the scientific realism or its rivals, are "true" or "false".

## 6. Conclusion

In summary, logicians have identified the use of IBE in common-sense thought and scientific research and that discovery has inspired its explicit use in philosophy of science to underpin scientific realism. However, this maneuver, especially when IBE is expressed in the no miracle argument, far from overcoming the resistance of scientific antirealists, seems to offer evidence that the persuasive power of IBE becomes increasingly weak as we move further away from the domain of the beliefs of common sense.

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# **ISSA Proceedings 2014 - The Strategic Function Of Argumentative Moves In Corporate Social Responsibility (CSR) Reports**

*Abstract:* A CSR report may be viewed as part of a virtual critical discussion in which the company acts as a protagonist claiming that their behaviour is responsible towards society. Social actors may be represented as virtual antagonists in the critical discussion who (virtually) doubt or critique this standpoint. This paper presents several argumentative moves used in CSR reports to build a better image of the business and persuade various audiences that the company acts responsibly towards society.

*Keywords:* adjudication, appeal to emotions, argumentation, argumentative move,

audience demand, critical discussion, CSR report, organizational rhetoric, pragma-dialectic approach, strategic maneuvering.

### *1. Introduction*

CSR is defined as the attitude companies adopt towards society, consisting in responsible business practice. CSR discourse has become lately a strategic issue for companies and their marketing operations. The methodological framework of this study is the pragma-dialectical approach to argumentation. In this framework, businesses and other social actors are represented as parties in a difference of opinion. CSR discourse may thus be viewed as a fragment of a virtual critical discussion in which the company acts as a protagonist and claims that their corporate business behaviour is responsible. Other social actors may be represented as virtual antagonist(s) who doubting or critique this standpoint. They may be held as having not agreed to the main standpoint at issue.

This study identifies several argumentative moves used in CSR reports to help the company prove to stakeholders and to the public opinion that the company acts responsibly towards society.

### *2. The CSR report*

A CSR report is a discourse genre or subgenre which pertains to organizational communication. It opens with a CEO's letter and lists the most important contributions made by the company to social welfare, environment protection and sustainability.

CSR reports are meant to show how much, in which ways and with which effects a company invests in environmental and community protection. Responsibility towards sustainability and well being is the main focus of CSR discourse. CSR reports are usually issued in the first five months of the year for the previous year of the company's activity. A CSR report would tell mainly about the company's activity and operations with respect to their impact on human, social, technological and natural environment during the previous year. This account is to show all those interested in the existence and the activity of the company that, although interested in making profit, the company may yield various benefits to communities and contribute to sustainability and well-being.

When the CEO is not Warren Buffet himself, the CEO's letter introducing a CSR / sustainability report or an annual report is most often written by a free lance

professional, also known as a 'writer-for-hire'. For instance, Andrew Wilson is reported to have a special formula for writing CEO's letters:

A company's product is pitted against its competitors. But a company's annual report is pitted against the business media and the analyst community, which are susceptible to "groupthink in the way they look at companies," Wilson says. The CEO's letter can and should challenge the storyline with a more compelling, more in-depth, more accurate narrative. There's a double requirement to achieve this: "honesty, and a willingness to deal with the challenges the company faces." Wilson recommends that you "dramatically make the case for where the company wants to go and how it will get there despite the difficulties." (Murray, 2008)

More recently, a CSR report of good quality is written by a specialized agency, on the basis of a writing protocol obeying reporting regulations set by the Global Reporting Initiative (GRI). This is seen by Walmart, for instance, as a "multi stakeholder approach" (*Walmart 2012 Global Responsibility Report*, back of the front cover).

Writing a CSR report is part of the job of a specialist in what may sometimes be called *strategic writing*, a subfield of Marketing and of the Business Administration area. Courses, seminars, workshops are being held to train professionals in reporting about sustainability and corporate responsibility. It may be presumed that not all companies have the capacity of choosing the right means by which to have a report issued. The title of the report, usually mentioned on the cover, states the type of CSR report (it may a sustainability report) and the year(s) for which the report was drawn. Walmart, for instance, mentions 2012 on the cover of its CSR report for 2011, that is, the publication year of the report instead of the activity year reported about. To this adds another inconsistency or negligence in the first descriptive paragraph, "About the report", where the year 2012 is mentioned again instead of 2011:

(1) The report reviews our progress and performance *during fiscal year 2012*, reflects areas where we have achieved tremendous positive results and specifies areas of opportunity we must continue to focus on. The reporting timeline covers the period of *Feb. 1, 2011 - Jan. 31, 2012* and builds on our last report, issued April 2011. (*Walmart 2012 Global Responsibility Report*, front cover; my italics.)

The company has a clear advantage in using the CSR report as a strategic tool



since it may present its actions and activities with no direct interference from any opposite party or media bias. If some years ago CSR reports of large companies obeyed to the GRI standards, but also to their own marketing goals, the latest CSR reports obey quite strict standards and they mention it at the end of the report, giving precise indications on which particular GRI issue they are concerned with and also mentioning the place in the CSR report the issue is addressed (see *Wells Fargo & Company CSR Report 2011*). Therefore, it may be assumed that more recent CSR reports are less adapted to discourse analysis since they no longer reveal much of the companies' marketing and branding strategies which were more transparent in previous CSR reports.

### *3. The CSR report discourse in the framework of pragma-dialectics: strategic maneuvering*

This study proposes to add to the list of domains relevant for argumentative analysis the field of organizational discourse, and mainly its subfield *strategic discourse*. There are many argumentative practices within the organizational domain which can be analyzed from the rhetorical and dialectical perspectives. Organizational rhetoric is considered to be "the art of reacting to rhetorical situations" arising in the company's activity, and dealing with these also involves "proactively and strategically" molding such situations. (Conrad, 2011, p. 130)

CSR discourse is conceived in the framework of this study as a manifestation of argumentative practice following specific patterns. Within the pragma-dialectical framework, the CSR report may be viewed as an argumentative type or subtype belonging to the public sphere. It is a highly institutionalized and conventionalized piece of discourse, a discursive and communicative category regulated by the Global Reporting Initiative (GRI).

The text of a CSR report may be analysed with the tools of the pragma-dialectical methodology. The analyst may identify or reconstruct in such text excerpts standpoints, or virtual standpoints, expressed or unexpressed starting points for argumentation, arguments, substandpoints of a protagonist representing the company / corporation. The antagonist is virtual, being represented by the various categories of stakeholders and/or the media.

The CSR report is a good opportunity for the company to act as a protagonist by advancing its credo with respect to business practice in correlation with CSR. Its actions and activities are presented here in the most advantageous way, the more

so as the report is drawn by specialists and elaborated over a long period of time.

The extended pragma-dialectical theory introduces the notion of *strategic maneuvering* in order to allow the analysis and evaluation of argumentative discourse by looking at the efforts of the speaker or writer to pursue rhetorical effectiveness and at the same time dialectical reasonableness. This study assumes that CSR reports of important companies are written by specialists in the field of strategic writing and global reporting. It might thus be interesting to look at how strategic maneuvering is achieved in this type of discourse, or discourse subgenre. In adopting this approach, I consider that the discourse excerpts from CSR reports I am analyzing come from a writer who, in his strategic maneuvering, is combining in a systematic way rhetorical techniques with efforts to fully comply with the dialectical rules for critical discussion (cf. van Eemeren et al., 2012, p. 323).

One important assumption of this study is the idea that CSR reports of global corporations or of companies operating at a multinational level in various regions of the world may stand as very good or excellent examples of strategic maneuvering.

In a discourse analysis approach, CSR reports may be thought to act as a “descriptive” and “narrative” argumentation in favor of the standpoint *We are doing business / making profit responsibly / with responsibility* towards society and the environment. In this statement, the term *society* makes reference to all types of individual and group stakeholders, and the term *environment* points to human-made and natural environment.

Many CSR reports, mainly those published in the previous years, did not take into account closely all the standards of the GRI. This is why some of them do not advance this standpoint explicitly and it has to be reconstructed for the analysis. It may be considered as an unexpressed argumentative move: the corporation may not make explicitly the argumentative move of advancing this standpoint. Throughout the whole CSR report however, the company provides evidence to support it. The company is not only saying (implicitly) that *they are acting responsibly*, but also that they are doing this because they *have an ethical behaviour / care about the stakeholders*.

The main hypothesis of this study is that a CSR report is a well regulated piece of

discourse illustrating at its best the concept of strategic maneuvering. This means that on most occasions, strategic maneuvering has “legitimate manifestations” in CSR reports of good quality, while the fallacious manifestations of strategic maneuvering are a most infrequent case in such reports.

A fallacious manifestation of strategic maneuvering consists in an argumentative move for which, at the point in discourse where it occurs, “certain soundness conditions have not been met that apply to the mode of strategic maneuvering concerned in that activity type and argumentative situation in which the maneuvering takes place.” (van Eemeren & Houtlosser, 2009, p. 14)

In line with pragma-dialectical studies (van Eemeren, 2010, p. 269, note 5; van Eemeren et al., 2012, p. 323), I am using the term (*rhetorical*) *effectiveness* with regard to strategic discourse instead of the term *persuasiveness*. It can be considered that such discourse is more than simply rhetorical, or persuasive, since “persuasiveness is not by definition subjected to the requirements of reasonableness” (van Eemeren 2010: 269). Moreover, the discourse of the CSR report has or pretends to have communicative value to a high degree: it is informative, descriptive, evaluative, commissive. It is meant to communicate knowledge about the corporation from the inside, besides communicating the good intentions of the corporation towards society and the environment.

### 3.1 *Adaptation to the CSR report’s audience demands*

Meant to convince an audience by a combination of rhetorical techniques and dialectical efforts, strategic maneuvering is concerned, among others, with adapting discourse to audience expectations and using various presentational (linguistic) devices.

As already mentioned, the audience of a CSR report is represented by stakeholders. In one of the CSR reports analyzed for this study (*Arcelor Mittal USA Corporate Responsibility Report 2012*, written by Jeff Fraga), the following categories of stakeholders are identified: employees, customers, suppliers, investors and lenders, government and regulators, non-governmental organizations, multilateral and business organizations, media, local communities. These can be found at local, regional, national, international level. The larger and/or more multinational a company, the larger and the more diverse and diversified its audience.

In designing the CSR report, a writer should take into account the various roles stakeholders play as a unitary group or, more obviously, as distinct groups. Stakeholders, as a unitary group and as distinct groups are the addressees of the CSR report. It is however assumed that:

1. most of the stakeholders are not aware of the contents of the CSR report;
2. the CSR report is mainly designed for the media, the government and some agencies which are able to disseminate parts of it to a larger audience on various occasions.

Various groups of stakeholders are the beneficiaries of the (CSR) actions and activities of the company. Such actions are of two types: actions directed specifically to certain groups of stakeholders as part of the routine activity of the company (for job seekers and employees, the company has created jobs and given stability to the current positions) and actions directed specifically to certain groups of stakeholders as part of the company's concern for society and the environment.

As previously mentioned, from the pragma-dialectical perspective, the CSR report may be reconstructed as a critical discussion. If the CSR discourse is represented as a critical discussion, the stakeholders may be represented as virtual antagonists. Each category of stakeholders may play the role of a *(virtual) antagonist of some (sub)standpoints*. They may also play the role of a *(virtual) protagonist of standpoints*, as they are introduced / reported by the writer of the CSR report.

By strategic maneuvering, a writer or a speaker should adapt the argumentative moves to audience demand. This means that the speaker / writer should:

- a) seek to achieve communion with the audience;
- b) privilege endoxa, by valuing at their most the beliefs of the many and of the wise;
- c) make concessions to the audience, by taking into account their beliefs and commitments concerning the standpoint and the topic of the discussion;
- d) be aware of contextual commitments of the audience, created in the particular argumentative situation.

*Endoxa* corresponds to "views generally accepted in a specific culture or subculture" (van Eemeren & Garssen, 2012, p. 52, note 1). In Aristotle's *Topics*,

endoxa points to “commonly held beliefs” and “beliefs of the many or of the wise or both”. (T. Irwin, *Aristotle’s First Principles*, Clarendon Press, Oxford, 1988, pages 8 and 57, quoted by van Eemeren and Garssen 2012, p. 52, note 1)

A specific group of stakeholders may be made reference to in the report to act as an antagonist of a company’s standpoint. If so, this move is strategic as long as the critique or doubt on the virtual antagonist’s side is brought about in the CSR report to be dissipated. In the following excerpt, the local community, the local authorities and possibly the government are categories of stakeholders which could act as antagonists. Although the company does not explicitly assure these categories of stakeholders that their dams will not fail, they show commitment to the structural soundness of the dams by pointing to / naming / evoking the most concerned category of stakeholders:

(2) It is important that our tailing dams are structurally sound to ensure they do not pose a risk to *local people’s* health and safety to the environment. (*Steel: stakeholder value at every stage, Corporate responsibility 2013, Arcelor Mittal; my italics*)

Adaptation to audience demand in strategic maneuvering consists in ensuring “communion with the people the argumentative discourse is aimed at” by “achieving certain communicative and interactional effects on the audience.” (van Eemeren & Garssen, 2012, p. 49) Therefore, it is important to take into account who the audience are and which their relevant views and preferences are. Taking the audience into account, which is the main purpose of a CSR report, means taking into account and valuing their individual and group values, views, preferences. Their views correspond to their “descriptive commitments” (idem), i.e. what they know, what they believe, what they believe they know about reality (facts, truths, presumptions, the ‘real’, in Perelman and Olbrechts-Tyteca’s terminology, as quoted idem). Their preferences are considered by pragma-dialecticians to be their “normative commitments” and to include values, value hierarchies, and loci. Several types of such commitments could be identified based on the criterion of as it were *notoriety*: explicit commitments, or *concessions*, expressed in the opening stage of a critical discussion; implicit situational commitments (pertaining to the given situation – called contextual commitments by pragma-dialecticians); implicit general commitments, or endoxa. These three classes of commitments represent the *audience’s frame of reference* (cf. van Eemeren & Garssen, 2012, p. 52). A special class of implicit situational

commitments are the *acquired discursive* commitments which turn up along the discourse as a result of the argumentative moves made.

With reference to a CSR report, these commitments may be pertaining to the party producing the CSR report, since there is no direct and immediate involvement of the other party when the report is being produced. The CSR report is thus a static discourse, it is an official document based on previous interaction and apt to subsequently yield reactions. At various points of the report, according to its sections, the target group and the specific groups of addressees may be different.

For instance, the media may be interested in all the elements of the report as a target group and as an addressee. Employees and customers are more interested in their workplace conditions and product quality and price, respectively. They are less concerned by the CSR report. The employees are most often targeted by one or several sections of the report, but are not always an addressee group, since it is not expected by the company that all employees read the report. The customers may well play the same roles as the employees, and not be aware of the CSR report contents. Nevertheless, any individual or smaller groups of these two categories of stakeholders may easily get in touch with the information in the CSR report by means of media and publicity. This is why it is important to distinguish, from a methodological viewpoint, between the target group as audience and the audience as simply audience of the report (case of the government, nongovernmental associations, etc.)

### 3.2 *Pointing to the audience*

It is assumed that in the case of a CSR report, the audience is represented by the stakeholders. A common presentational device used in the CSR reports is the *direct address to the audience* in the Introductory Section of the report, *The CEO's Letter*. This section in the 2013 Arcelor Mittal CSR report is titled *Letter from our CEO* and chairman. Lakshmi Mittal addresses the audience in a friendly and polite way: *Dear stakeholders*, by wishing them *Welcome* to the CSR report. This use of the direct address creates for the stakeholder the status of an interlocutor, an individual who is in some way given the opportunity to enter communication with the CEO. It also leads to think that the CEO envisages the CEO report as if it were written for the stakeholders. In fact, media is often the conveyor of the information included in the CSR report to the stakeholders.

Another common presentational device used in CEO letters and in CSR reports is addressing the *stakeholders indirectly*. This can be achieved in several ways.

a) *Describing the stakeholder*. The stakeholders may be defined as a whole group in the CSR report. This ensures that the company has a very positive image of the stakeholder. This move can act as a *captatio benevolentiae*, especially when it appears at the beginning of the report. In the excerpt below, the report author chose to depict intellectual and professional qualities of the stakeholders to show that the company respects and highly praises the stakeholders, no matter the category:

(3) *Stakeholders in today's digital world are smart. (Steel: stakeholder value at every stage, Corporate responsibility 2013, ArcelorMittal; my italics)*

b) *Pointing to the stakeholders' benefits*. Pointing to various benefits stakeholders may have from the company's activity is a strategic move playing the role of an argument. For this study, the CSR Report of ArcelorMittal was examined to identify discourse fragments using explicitly the term *benefit* in relationship with the stakeholders. The excerpts (4) to (11) mention explicitly that there have been various benefits affecting the local communities. Figures, mention of places and years of activities allow the report author to appeal to logos and make the argument more convincing for the local community, the government, other organizations, employees. The stakeholders are pointed to by mentioning the particular activities addressing them and the specific benefits they may have had (my italics in the quotes).

Using a dissociation in (4), by means of the phrase *real change*, contributes to distinguishing the role of ArcelorMittal compared to that of other companies. The local stakeholders are explicitly referred to so as to identify their main point of interest in the report:

(4) ... in Liberia, where we operate an iron ore mine. *We are bringing real change to the country*, but in doing so we want to ensure we are sensitive to local stakeholders and *bring them long term benefits*. We have set up 52 *local consultation forums* and last year ran *103 workshops with the local community*. (p. 3)

The appeal to logos by evidential arguments is often the case. On the one hand the GRI requests numerical information and details, but at the same time the

company puts itself in a favorable position when reminding the stakeholders of concrete measurable projects:

(5) There have also been some important *economic and social benefits*: between 270 and 600 jobs were created between 2006 and 2011; the \$20.7 million of *programme* investments during the same period generated an estimated \$45 million of *extra local economic activity*; and the area has become more attractive as a leisure and fishing destination. There is also *less risk* of flooding and harmful algal blooms. (p. 48)

When the contribution of the company to the living standard of a community is obvious, the appeal to emotions is most often the case. The CSR report may thus touch upon sensitive issues, as employment. Even if the project is not yet in place, as in (6), the company will announce its commitment for the future as an appeal to *pathos*:

(6) As part of the *Inuit Impact and Benefits Agreement* negotiated with the Qikiqtani Inuit Association, Baffinland will look first to the five closest *North Baffin communities* when it hires new employees. (p. 52)

By using the term *benefits*, the CSR report may make reference to a series of *benefits* derived from one another, in a cause to consequence relationship. In (7), employing local people leads to training them, which leads to an enhancement of their skills, which may lead to long-term benefits for the larger community:

(7) Along with our contractors, we employ nearly *3,000 employees in Liberia, 96% of whom are local*. Because we are investing in the *ongoing education and training of employees and contractors*, we also have the opportunity to raise *the skills level of the local population*. This has *long-term benefits for the country and its citizens*, as well as for ArcelorMittal. (p. 52)

The company points to the total “number of beneficiaries of ArcelorMittal Foundation projects in 2013”, which is 3.06m (p. 57). The information on various benefits is summarized in a more convenient way, then repeated in (8) and supplemented by the number of projects developed by the company:

(8) In 2013, over *three million people* benefited from *558 projects* supported by the Foundation in communities surrounding our steel plants and mines. (p. 56)



The stakeholders in poor countries and important categories of population are targeted by the projects, and explicitly referred to repeatedly as in (9) and (10), again with evidential mentions of numbers as:

(9) The Foundation promotes the exchange of best practice *across the globe*. For example, in several countries of the Americas - *Argentina, Brazil, Mexico, Trinidad & Tobago* and *Venezuela* - the Foundation supports a project *Seeing is Believing*, which focuses on testing *children's* eyesight. Detecting and addressing problems with *children's* sharpness of vision are key to supporting *pupil* performance at school. This project benefited 16,812 children in 2013. (p. 56)

(10) In Ukraine, the ArcelorMittal Foundation invested in the repair of *three schools, a kindergarten, a boarding-school for deaf children* and a *health improvement camp for children*, which will help them to play and study in a safe and warm environment. The facilities are located in the towns around *Kryviy Rih*. In 2013, 12,950 pupils benefited from these facilities. (p. 57)

If not explicitly mentioned, the beneficiaries are included in a larger group, *those affected* by the changes involved in establishing the company's operational premises and facilities:

(11) We do everything we can to avoid involuntary resettlements, and where this does prove to be unavoidable we always aim to adhere to international standards and comply with the national or relevant regional authorities' guidelines on resettlement and compensation. In practice this means *consulting those affected and devising an approach that will best benefit those affected, and offer them a better quality of life as a result*. (p. 71)

c) *Pointing to the cooperation of the stakeholders*. This kind of address is emotional and apt to create communion between the company voiced as *we* and the very heterogeneous group of *stakeholders*. Moreover, in (12) the combination between the first person plural pronoun (*we - our*) and the noun *stakeholders* in the context of a directive speech act (*we need*) is in itself emotional while creating a positive image of any stakeholder virtually capable, as the text of the report is saying, *of support and understanding*.

(12) We need the *support and understanding of our stakeholders*. Effective engagement to ensure they have a good understanding of our business and the decisions we take is vital. (Lakshmi Mittal, letter to employees, February 2014,

quoted in *CSR Report Arcelor Mittal*, 2013, p. 65.)

d) *Naming / Evoking explicitly the stakeholders*. A presentational device used in the latest CSR reports is *naming the audience*. As previously mentioned and shown in excerpts (4) to (12), the audience of a CSR report is at times identical with the groups which CSR discourse and the report itself are targeting. *Naming the audience / Evoking the target groups* is the handier presentational device for the contents of the CSR report which is mostly narrative and descriptive, with no explicit “auctorial” presence. It is different in point of narrative perspective and stance from *The CEO’s Letter*, which addresses the audience directly.

This becomes obvious from the very title of the 2013 ArcelorMittal CSR report: *Steel: stakeholder value at every stage*. The function of the colon here is ambiguous. Does it stand for a copula - is - or for a verb, such as *produces*, or for a passive structure, such as *is invested with*? This ambiguity may be voluntary and help achieve a rhetorical - poetic - effect through ellipsis.

### 3.3 *Calling upon the emotions of the audience*

A presentational device used to call upon the emotions of the audience is the *use of emotionally endowed words*.

In (12), terms such as support and understanding in connection with the notion of stakeholder (pointing to almost any recipient of the CSR report message) ensure emotional overload. To this add the repetition of the word understanding, the use of such words as to ensure and vital. If the CSR report is to be conceived as able to be fit in the pragma-dialectical model of critical discussion, then these statements act as a listing of starting points in the opening stage of a critical discussion.

Moreover, ArcelorMittal presents itself as the “world’s leading steel and mining company” (see main website of the corporation. <http://corporate.arcelormittal.com/>). The presentation of the corporation on the website homepage is strongly rhetorical, by an artful appeal to emotionally endowed words: “Guided by a philosophy to produce safe, sustainable steel, it is the leading supplier...”

## 4. *The CSR report discourse as an argumentative activity type*

The discourse of the CSR reports resembles the activity type *adjudication*. It addresses at the same time a particular class of stakeholders or the stakeholders

as a whole, and a third party. It may have as a particular goal, for instance, to show the investors that the company is acting responsibly towards them and to convince the government that the company is socially responsible. We are speaking in this case of a double fold effect, with different pursued consequences with the two categories of audience. And the same piece of discourse may have a more convincing force on the latter category than on the former or vice versa. For the examples provided, it may be judged by the government that the company has done its best to comply with social responsibility commitments, among others. The consequence may be new regulations favouring the company, and not the investors.

In this way, a CSR report fragment of discourse functions as an argumentative activity type of adjudication. The burden of proof belongs to the company: they can show by means of the CSR report that some possible allegations about the negative consequences of their activity were fought, and that the company invested a lot of its profit in activities making benefit large categories of population, economy and the standard of living in particular settings. The public opinion - through dissemination by the media -, the local and governmental authorities may play the role of the judge in an adjudication to settle the 'virtual dispute' between the 'profit seekers', the company, and "those affected" by the changes brought about by the company, and this in a reasonable way. The kinds of proof that count as acceptable are, for instance, as mentioned in the analysis of the excerpts provided in the study, the projects the company is mentioning in the CSR report, the specific targeted groups named as such and the numbers of members in target groups addressed by the projects. This is meant to convince the specific adjudicator in each case. The CSR report may be seen as a weakly institutionalised type of argumentative discourse which the standards of the GRI tend to institutionalise more by codification and formalisation of procedural and material starting points. The facts and the figures are evidential, and they have argumentative potential since they bring about a change of perspective in the dispute, by providing the other party and the adjudicator with elements responding to virtual critical questions.

## 5. *Conclusion*

This study is part of a larger research on the rhetoric of corporate social responsibility discourse. The goal of the larger research is to show that the recently established very strict standards of CSR reporting by the Global

Reporting Initiative have provided a framework in which companies may report strategically about their business. The first CSR reports played a lot upon rhetorical devices to persuade the stakeholders they were doing their job by complying with responsible behaviour towards society. The latest ones are guided throughout this endeavour by clearly delineated regulations. These regulations allow them to adopt strategic maneuvering in order to convince the society at large and any virtual adjudicator that they are acting responsibly and at the same time persuade their audience on the merits.

This study took as the main reference text some excerpts of the ArcelorMittal CSR report for 2013. It highlighted some of the argumentative moves instrumental in resolving a virtual difference of opinion. Adaptation to the CSR report's audience demands is achieved by including in the report specific data, figures, details on the company's sustainable projects, and mainly the specific actions carried for each category of stakeholders as requested in the GRI guidelines. Complying with this is explicitly shown in some reports with precise reference to the particular GRI standards (Walmart). An argumentative move contributing to strategic maneuvering is pointing to the audience by describing it (properties / qualities of the audience / stakeholders), pointing to their benefits, pointing to their cooperative behaviour, and evoking the particular groups of stakeholders in order to say which advantages the company's activity have brought them. Calling upon the emotions of the audience is as well achieved separately or by one of the previous moves, by exploitation of the audience's positive face (qualities), social status (specific groups targeted by the company's activity), and emotionally endowed words.

It also appears that the discourse of a CSR report could be represented, at least in part, as a semi-institutionalised type of adjudication, since it addresses not only a virtual antagonist which may be part of the audience, but also a third party having an upper role in the settling of the dispute. The CSR report may be considered as the testimonial of the company made to ensure adjudication of the virtual dispute in favour of the company.

#### *Acknowledgements:*

This study is funded by "Dunărea de Jos" University of Galați, under its annual research strategy. I am very grateful to Marianne Doury, Researcher, and Isabelle Veyrat Masson, Director, at the CNRS Laboratoire Communication et Politique, Paris, as well as to Frans H. van Eemeren, from International Learned Institute

for Argumentation Studies. They have always assisted me throughout the last years for documentation and research purposes. I am also acknowledging support from Agence Universitaire de la Francophonie.

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