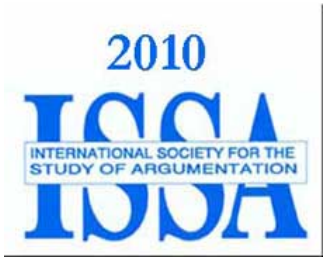
ISSA Proceedings 2010 – The Inferential Work Of The Addressee: Recovering Hidden Argumentative Information



In a recent book (Lo Cascio 2009) was suggested that people from the south of Europe leave a lot of information unsaid, requiring of the decoder the very arduous task of filling the non given or unwritten information, and of recovering the content of the real, or deep meaning of the surface sentence or message. Actually, for somebody who comes from the Mediterranean area or Middle East, there are three ways of communicating:

1. The encoder gives only a partial message and the decoder must be intuitive enough to recover and to complete the remaining missing information. This gives the opportunity to the encoder to partially manifest his thoughts and hence the possibility to change his message according to the situation.
2. The encoder says something, but the real meaning of the message is something else. The decoder must then be capable of understanding the real message, i.e. of decoding the surface message but recovering its deep meaning. The advantage of this way of communicating for the encoder is enormous on the condition that the right decoder understands the real message. Understanding is based a) on the knowledge that the decoder has at disposal regarding the encoder's background as well as b) on the evaluation he is able to give of the message he receives, according to the particular situation. Imagine for instance that somebody at a dinner says to someone else:

(1) I think they forgot to invite Heineken

in order to say:

(2) I am missing a glass of beer

3. The encoder does not say anything, but expresses his idea exclusively by means of his facial expression. The decoder then must be able to understand the situation and act accordingly.

Certainly, not a very easy way to communicate, one which requires a very good

knowledge on behalf of the decoder, of the encoder and the situation. It requires a strong inferential competence, which is a very hard and risky work, a good inferential exercise that not everyone is able to carry out successfully. As a matter of fact the encoder takes into consideration the potential knowledge of the decoder, knowledge, which enables the addressee to complete his message. This is the reason why the encoder gives partial rather than complete information to his addressee. The addressee must not only interpret the message, but also recover the remaining or presented implicit information. He must also (and he cannot avoid doing so) fill the gaps in the information with data of his own. The encoder speculates in other words on the addressee's capacity to fill the unsaid or not mentioned information. For instance if an encoder says:
(3) There is no use to continue the discussion
or
(4) Let us change the subject
or
(5) Were you not going home?
or
(6) Enough!

the addressee has to interpret the kind of discussion that should not be continued. In addition, on his own, he must trigger the conclusion that he is to stop arguing, a conclusion, which was not explicitly given by the encoder. Actually, in communication a lot of information would be redundant or unnecessary. This allows to save time, space and to keep conversation down to the essential. A message is in fact always incomplete. The encoder only gives the information he considers sufficient to the addressee, and in particular to that specific addressee. As Ducrot (1972, p.12) states "le problème général de l'implicite est de savoir comment on peut dire quelque chose sans accepter pour autant la responsabilité de l'avoir dite, ce qui revient à bénéficier à la fois de l'efficacité de la parole et de l'innocence du silence".

In this paper I want to show that argumentation as well as narration always require a lot of inferential and reconstructive work from the receiver since a lot of information remains hidden. In the narrative or argumentative reconstruction the decoder is free to follow his own path on the condition that he is respectful of congruence principles and of linguistic rules. In other words, as it will be shown, a sophisticated inferential argumentative competence is needed.

1. Argumentative and Narrative Strategy

Let us state that the encoder is always speculating on the inferential capacity of the addressee, using it as an argumentative or even a narrative strategy. The "argumentative" encoder uses this type of strategy because he doesn't need to give (exhaustive) argumentative justifications, taking a stance, in the expectation that the decoder will find justifications on his own. It could also be a narrative strategy, because the encoder gives to the addressee the opportunity to personalize the story by filling it with personal information, freely, but on condition that it is congruent with the prior information given to him by the encoder. Every addressee is, as a matter of fact, accustomed to constantly developing inferential work. The quantity and quality of this inferential work depends on the knowledge, fantasy, cultural background, emotions (Plantin 1998), and inferential capacity of each addressee. For example in the following passage (Christie 1971, pp. 13-14):

(7) he snapped the case open, and the secretary drew in his breath sharply. Against the slightly dingy white of the interior, the stones glowed like blood.

"My God!, sir,", said Knighton. "Are they – are they real?".

"I don't wonder at your asking that. Amongst these rubies are the three largest of the world ……..You see, they are my little present for Ruthie".

The secretary smiled discreetly.

"I can understand now Mrs. Kettering's anxiety over the telephone," he murmured.

But Van Aldin shook his head. The hard look returned to his face:

"You are wrong there," he said. "She doesn't know about these; they are my little surprise for her."

The character Knighton infers that Mrs. Kettering was anxious because of the quality and the size of the jewels she was about to receive. A possible logical inference, which nevertheless unfortunately appears to not correspond with reality. According to Mr. Van Aldin, Mr. Knighton formulated the wrong hypothesis since Mrs. Kettering didn't know that she was going to receive the jewels as a gift. Mrs. Kettering's anxiety then, must be based on something else.

By means of narrative text, the decoder may at every step anticipate the coming events. He may also imagine the situation in which the events take place, using a great deal of the information, given to him by the encoder, and filling the rest with his own reasoning, knowledge and imagination. As a matter of fact, he can

imagine a lot of things and in other words weave everything into a personal story. Let us take the incipit of a novel (B. Moore 1996, p.1):
(8a) R did not feel at home in the south. The heat, the accents, the monotony of vineyards, the town squares turned into car parks, the foreign tourists bumping along the narrow pavements like lost cows.

Step by step the decoder must follow the linguistic profile of the message. He may imagine a southern region (of America or of Europe or elsewhere), a warm south, far too warm, perhaps, for character R to feel home. It is not clear whether he/she is a man or a woman, whether he/she is young or old. Perhaps an adult man. As a matter of fact "the heat, the monotony, the cars, the tourists" could be the reason for the character not feeling at home. The decoder imagines that maybe R comes from the north. It must be a white man. Maybe at the location there is the sea. This information is inferred from the fact that, tourists are mentioned, even if there is no specific indication about the presence of water and beaches. Nevertheless this is information, which, even if not present in the text, it can be recovered in order to complete the scenario. There is then an obliged interpretation and an optional filling in of the details in order to complete the scenario. The story nevertheless continues:
(8b) Especially the tourists they were what made it hard to follow the old man on foot.

The information: "*to follow the old man on foot*", triggers questions such as: Who could the old man be? Why follow him? Is he a criminal? Is he someone who is being searched? Perhaps he has committed a homicide? Otherwise, why follow him? And who is character R anyway? Could he be a policeman? A detective? Someone hired to follow the old man? And so on. But suddenly the following information is given:
(8c) R had been in Salon de Provence for four days, watching the old man. It looked right. He was the right age. He could be the old man who had once been the young man in the photograph. Another thing that was right: he was staying in a Benedictine monastery in the hills above Salon. It was a known fact that the Church was involved.

The location is then Salon de Provence, which in turn places the story in southern France, where perhaps there is no sea, or is there? The decoder has to adjust his inferential route (from south of the Americas) and imagine himself being in Europe, with other buildings, in a complete different atmosphere.

The author of the message does not give a great deal of details. How, for instance, does the old man look? It is not clear whether this is important or not, but the decoder cannot refrain from giving him a vague shape, one which is adaptable to the role of an "old" man who is being followed. Of course, as the story progresses the decoder will gather more details but in the meantime he cannot avoid wondering what the person did in order to be shadowed in this way. If he is old maybe the story has to do with something that happened many years ago.

For this argumentative inferential work he can imagine an interlocutor whom is presenting his reasoning. As the story progresses a mental change takes place at every step (Gardner 2004). The modification forms the basis for understanding and decoding the rest of the message. Everything is plausible and personal. At every step the decoder, as a matter of fact, can construct a world where all the events and situations he imagines are possibly true, as long as they are congruent with the information he has thus far received. That is, he waits for corrections on behalf of the encoder while he continues on reading the story. But how does the inferential work takes place? Which constraints are involved?

2. Narration argumentation and the congruency principles

Narration is characterized by two main categories: *Event* (E) and *Situation* (S). The difference between the two categories is an aspectual one. Events are states of affairs presented as closed time intervals. Therefore they have a starting point and an end point. Situations on the contrary are states of affairs presented as open time intervals. Situations always mark and refer to an event in the same world. They include in other words the time interval of the event they are marking (cf. Adelaar & Lo Cascio 1986, Lo Cascio & Vet 1986, Lo Cascio 1995, Lo Cascio 2003). A sentence as

(9) *It was very warm (S1) and she went out to buy a ice cream (E1). Then she saw John (E2) going to the station (S2). He was carrying a big suitcase (S3)*

In (9) the situation S1, it was warm, includes and covers the event E1, *she went out*: S1≥E1. Situations, in other words, can indicate properties, or, so called, characteristics, of a world to which an event belongs. (9) can be analyzed as (Figure 1):

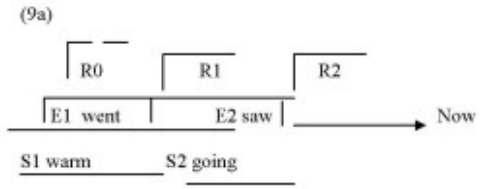


Figure 1

In (9a), S1 and S2 are open time intervals. E1 takes place within the time interval R0 (reference initial) and delivers the starting point for R1 (reference time for E2). E2 takes place within R1 and delivers R2 (reference time 2 where an other event can take place), and so on. A chain of events and situations forms a story. Situations describe the world and are the background of it, while events change that world.

Every event or situation in order to take place or to be true must meet a *Congruency Principle.* The congruency principle defines the semantic, encyclopaedic, pragmatic conditions according to which a type of event or situation is allowed in a specific world. Every new state of affairs must meet that principle, i.e. must be compatible and acceptable for the specific world to which it will belong. According to the congruency principle:
an event or situation can take place in a world W or belong to a world W, or can be imagined to take place in a world W, at the condition that it is in harmony and coherent with the already existing states of affairs and characteristics of that world.

Every event or situation, as a matter of fact, delivers the conditions or bases, which are needed in a specific world in order to understand and make possible that a new event comes, or is allowed to change that world. After events have taken place, the world is changed and a new situation is created as a result, which is determinant, within the new reference time, for which new specific events or situations can take place. The events changing into situation in the world, become, so to say, part of the memory of that world where they have left a trace.

According this analysis, in narration, every event, after having taken place and having created a reference time (or world), becomes a background information for another new event, which will be added to the same time axis and anchored within that reference time. It could be said, in cognitive terms, that our

knowledge is, in this way, built up as a form of addition, of a piling up.

Every addressee (reader or listener) at every stage of the story can imagine or guess which events or situations are going to take place, choosing between all those that are allowed according the congruency principle (cf. Lo Cascio 1997). The set of possible states of affairs, which can belong to a specific world, is part of the encyclopaedic knowledge of each speaker, but the set changes, in entity and quality, according the specific knowledge a speaker has. Nevertheless, in the reality the encoder often makes a different choice than the decoder, so that it is frequently a surprise for the reader, or the listener, the way a story continues and develops. This is the nice play in the interaction between encoder and decoder(s).

Argumentative texts show the same behaviour. They are characterized by three components: 1) a statement, 2) at least a justification for that statement, and 3) a general rule on which the justification is based. In the argumentative and inferential reconstruction procedure, the main guide is then the congruency principle, with the help, for argumentative text, of the general rule, the warrant, which makes it possible and justifies that a specific argumentative relationship holds.

It is evident that, normally, the imagination of the decoder works very arduous and quickly in the process of logically reconstructing or constructing the reasoning or the story. For some readers or hearers this work is much harder than for others. It depends on the inferential habits, attitude, and compulsory need of being involved in a story or reasoning. It also depends on whether the addressee has an interest in continuing with filling in the story or the reasoning in his own way or not.

In oral communication the time span for a reaction is decided by the encoder, while in a written communication the decoder can take time and “enjoy” the story or reasoning according to his desire and choice. The longer he takes the more possible reconstructions and constructions he will be able to make. In the activity of interpreting, the text must be analysed step by step. A number of inferences can be drawn and a lot of them must remain personal. Other inferences must be congruent with the intention of the encoder, and follow the same course of the encoder even if the addressee anticipates it. Every addressee has to make conjectures in order to fill in information not provided with the intention of reconstructing the context in which things happen, and in order to anticipate

things, which are coming. In other words, what the decoder needs to do is choose between a course he is guessing the encoder could follow or any other courses his fantasy allows him to follow or that his personal emotions suggest he follows. The inferential operation can be placed at any step of the interpretation. His journey can go anywhere; however, ultimately, he must return to the starting point in order to go on with the next information given by the encoder. So there is:

a. An "obliged" inferential work to do in order to meet the intentions of the encoder who leaves some information implicit but recoverable. The decoder must therefore make an evaluation of the communicative situation.

b. A "free" inferential work, on condition that the inferences are congruent with semantic and encyclopaedic principles.

c. A "corrective" operation by the decoder on the basis of the information he receives. As a matter of fact, at every step the encoder, has the option of following a different course. The decoder must then adjust his journey in order to be on the same track as the encoder.

d. And finally, if the communication is oral, a possible "reaction with a comment" on the standpoints and statements made by the encoder, and even coming up with a possible proposal or counterproposal and therefore entering the discussion now as a protagonist.

3. The behaviour rules

We can then formulate some behaviour rules for the decoder of an argumentative or narrative text:

1. Give the situation suggested by the encoder, a shape according to your fantasy, imagination, or preferences, but on the condition that congruency is maintained.
2. Interpret the situation and fill the missing information gaps, which you are able to reconstruct, as much as you want and according to the time span that is given.
3. Follow your general knowledge of the world, and especially the kind the encoder has.
4. Be prepared to stop with the inferential work you are doing in order to recover possible worlds from the elements you have been given.
5. Also be prepared to drop the results of your inferential work as soon as other alternatives are presented as the communication proceeds.
6. Create your own story or reasoning and wait until the encoder brings you back to the right course i.e. the course he (the encoder) prefers or chooses.
7. At each new step, repeat the same operation always with the expectation that things will go differently from the way you imagined they were supposed to go.

But enjoy your
personal journey
8. In case of oral communication you might wish to take the opportunity to negotiate possible trips and journeys.

Of course as long as the decoder proceeds forward in the communicative situation, either argumentative or narrative, he gets closer to the route the encoder has chosen. Nevertheless he must expect that in case of a narrative text the plot will be surprisingly different from the one he imagined, or preferred, based on his own world or imagination.

Actually, this is less true for the argumentative text, which leaves less freedom in reconstruction or imagination but requires strict deductive work. As already mentioned, arguments are often suggested or must be found or imagined. The latter corresponds to one of the strategies of the encoder that of not revealing it, nor providing his own justification for it in order to avoid counter-argumentative moves making sure, however, that his statements will be accepted and will be taken as true. On the other hand in the argumentative course the decoder can think about filling additional arguments, or possibly counter-arguments, or stating doubts about the truth or the convincing force that the encoder's statements have. In oral communication, after his inferential work, the decoder must enter the debate as an antagonist.

If in oral communication the decoder does not react, the encoder needs to adjust his message to make it more explicit. In argumentative communication the reaction by the decoder is stricter and more compulsory than is required in the telling of a story. Let us take the reaction to an observation made in the novel *Life with Jeeves* (Wodehouse, P.G. 1981, p.195) by the character Jeeves.
(10a) You say that this vase is not in harmony with the appointments of the room – whatever that means, if anything. I deny this, Jeeves, in toto. I like this vase. I call it decorative, striking, and, in all, an exceedingly good fifteen bobs worth".
"Very good sir".

The counter-argument against Jeeves standpoint is then that the vase is decorative and striking. The character then, without a real counterargument, goes on providing more information about his reasoning:
(10b) On the previous afternoon, while sauntering along the strand, I had found myself wedged into one of those sort of alcove places where fellows with voices

like fog-horns stand all day selling things by auction. And, though I was still vague as to how exactly it had happened, I had somehow become the possessor of a large china vase with crimson dragons on it.…

I liked the thing. It was bright and cheerful. It caught the eye. And that was why, when Jeeves, wincing a bit, had weighed in with some perfectly gratuitous art-criticism, I ticked him off with no little vim. Ne sutor ultra whatever-it-is, I would have said to him, if I'd thought of it. I mean to say, where does a valet get off, censoring vases? Does it fall within his province to knock the young master's chinaware? Absolutely not, and so I told him.

The second part (10b) of the text is not addressed to the character Jeeves, anymore, but to the reader who has to evaluate the reasoning without having the opportunity to react to the character that is telling the story and giving his justifications laden with fallacy.

4. What is argumentation?

Now the question is: is argumentation a kind of reasoning, which allows on the grounds of some data to make inferences? Or is it a procedure for resolving a dispute in order to establish an agreement between two parties in relation to the truth of a standpoint?

In my opinion, argumentation is not only a matter of a contrast and of basic disagreement between two speakers. Rather it is the inferential work intended to establish the possible truth about standpoints. Inferential work constitutes the real procedure of reasoning, that which establishes on the ground of warrants a relationship between two statements. In other words, the issue is that inferential work is not just a matter of resolving differences of opinion but primarily that of the seeking the truth based on possible arguments. According to the ideal pragma-dialectical model of a critical discussion, argumentation (F.H. van Eeemeren, P. Houtlosser & F. Snoeck Henkemans 2007, p.4 and F.H. van Eemeren 2009) is supposed to resolve disputes. I believe that argumentation is intended to resolve the problem of stating and finding the truth, with or without dispute. The capacity of reconstructing, or completing a message and of developing a text is at the base of communication. Every speaker must be able to carry out inferential work since no message is so complete that no filling in on the part of the addressee is needed. Nevertheless, even if we agree that argumentation is a procedure to resolve a dispute, inferential competence is

ultimately needed in order to complete the message, to understand the premises of a standpoint, to trigger conclusions from statements or to find out arguments in favour or against a standpoint. Unsaid or implicit messages, as a matter of fact, play a major role even in the critical discussion meant to resolve a dispute.

5. The impatient addressee

But is every decoder capable to make inferences? And how far does he go with his inferential work? There can be a passive decoder. But there can be an impatient decoder or discussion partner, or antagonist who reacts immediately, anticipating information with his inferential activity. If the impatient decoder/partner fills in information or anticipates conclusions, or brings about arguments on his own, he gives the encoder/partner the freedom to agree with or explore other alternatives or to correct the decoder in order to bring him back to the right course, to the encoder's course. But with his arguments or his conclusions, the decoder at the same time prevents message completion quite a bit not allowing the encoder to complete his message and reasoning. Imagine the following dialog with an impatient addressee:

(11)

A: my passport …

B: did you lose it?

A: no, I ….

B: did you leave it at the hotel?

A: no when I was in the post office…

B: you were robbed, I know! A young man stood behind you…

A: no I know the boy, he is a good guy

B: then ….

A: wait a minute and let me finish my sentence,

B: I listen

A: when I was in the post office I showed it to the employee who told me that the passport is expiring and therefore I must ….

The impatient decoder made a number of inferences without allowing the other party to complete his thought and finish the sentence. I.e. he imagined that A was missing his passport and that he had to find possible reasons or arguments for the missing object. All reasons were plausible but did not correspond to the truth. Many political debates, especially in countries such as Italy, are conducted in this way: all participants are impatient decoders and aggressive encoders!!! Each

decoder follows his own personalized course or script. As a result there are as many texts as there are addressees and visions of the world. Interacting is a way of negotiating the course to be followed among all the millions of possible courses (Eco 1994) that could be chosen from the given data. The inferential and reconstructive work by the addressee, depends on the way objects, statements, expressions are presented. Whether they are given the absolute truth, or whether they are questionable, or semi-assertive expressions (marked by indicators such as *it goes without saying that*), etc. Consider for instance the arguments mentioned in the following text (Wodehouse, P.G. 1981, pp.188-189)

(12) The Right Hon now turned to another aspect of the matter.

"I cannot understand how my boat, which I fastened securely to the stump of a willow-tree, can have drifted away."

"Dashed mysterious".

"I begin to suspect that it was deliberately set loose by some mischievous person".

"Oh, I say, no hardly likely, that. You'd have seen them doing it".

"No, Mr Wooster. For the bushes form an effective screen. Moreover, rendered drowsy by the unusual warmth of the afternoon, I dozed off for some little time almost immediately I reached the island".

This wasn't the sort of thing I wanted his mind dwelling on, so I changed the subject.

The decoder is free to fill in all the information which is not implied, not presupposed but which can nevertheless help complete the scenario, the context. Therefore he can add: events, situations, or argumentative information, which are not there, but that are necessary for his fantasy and completeness of vision in order to personalize the message and experience it. Very often, in carrying out this task, the combination of different stages, i.e. between obliged or free stages, inevitably takes place and the boundaries between what is required and what is invented and personal, remains for the most part rather vague. Each event, situation, description, statement, argument can be the start point for the emotional chain it generates. Additional instruction for the inferential work could be then the following:

1. Analyse the sequence, establish if it is an event or a situation and fill in the missing information about the conditions the event is taking place in: protagonists, location, and so on.
2. Try to imagine on the ground of the preceding information what is about to

happen.

The story always moves forward. The decoder could of course reflect upon the last event and reconstruct possible causes or reasons, which determined the event or think about the course the event is now about to take or may follow as the story progresses.

6. Inferential competence

Every speaker possesses inferential competence, is capable of reconstructing and imagining a possible textual journey. For this, at least a basic reconstructive competence is required. The decoder also possesses inferential competence, which allows him to construct other worlds, based on personal preferences, emotions, and interests. Exercising the competence is optional and depends on a number of socially, culturally and emotionally related factors.

Not only the logical inferential ability but also the historical cultural background, allows the addressee to imagine possible interpretations and/or possible narrative or argumentative evolution. In the interpreting procedure, syntactic/semantic/textual/visual knowledge is required. Above all, textual competence allows the possibility to simultaneously carrying on with message decoding including the hidden message, or with inventing a continuation, as well as with assessing the encoder's reaction, and recovering the needed adjustments[ii].

7. The linguistic influence

But, besides the encyclopaedic and pragmatic congruency principles and constraints, let us take into consideration the linguistic constraints the inferential work imposes

7.1 Textual argumentative constraints

When a starting point is a connective, then the inferential choice is obligatory in the sense that an expression must be formulated which fits with the function that the indicator requires. Thus if the indicator is something like "*I believe that*" then the choice must be made between the possible statements which can function as arguments or as claims adapting it to the preceding information. If the connective is for instance "*unless*" then a rebuttal that is adequate for the argument given but contrary to it, must follow. If an argumentative indicator has been used (introducing a claim or an argument, or a rebuttal, or an alternative, such as: *therefore*, *because*, *since*, *although*, *nevertheless* and so on), then the inference

must contain a text which is congruent with the function indicated by the indicator. If the function of the sentence is complete and its function clear, then the decoder can proceed with completing the argumentative profile. If a standpoint is presented, he has to search possible arguments. If on the contrary an argument is presented then in that case he has to make an evaluation, to formulate a conclusion and/or to search possible additional arguments, or counterarguments (rebuttals, alternatives, reinforcements, specifications, and so on).

7.2. Language constraints

A constraint is also delivered by the type of language used by the encoder and the decoder. There are languages which give the most important information at the end of the sentence. For an Italian who receives the tensed verb immediately, there is the possibility to immediately start with his inferential work, and guessing which nominal is involved. In the case of the Italian verb: *si scatenò* (it broke out) we are able to imagine a *discussione* (a discussion) but also a *tempesta* (a thunderstorm). This is much easier than for a German speaker who has to wait till the end of the sentence to receive the main verb and thus to know something of the kind of event the sentence is about.

In Japanese time is marked by two morphological forms (*ta* or *iru*), but the forms are mentioned only at the end of the sentence. Therefore, the decoder must wait for the message to end in order to know when to place the story and hence to be able to start with his inferential work.

7.3. Lexical and syntactic constraints

Lexical collocations have a special position, a position which determines the inferential activity. In Italian, for example, the adjectives are often post nominal. It is, therefore, easier to guess which adjective follows a noun than to guess which noun follows an adjective as in German or other similar languages, where adjectives are always pre nominal.

An Italian term such as *discussione* can be associated with a small number of adjectives, whereas an adjective as *vivace* (heated, lively) has a number of options of nouns following it.

If one reads or hears a noun it immediately triggers the appropriate collocation: an adjective or a verb.**[iii]** The problem is different if we compare languages. If

an Italian speaker says:
(13) ha cominciato a tagliare … (he started to cut …)
the decoder can think about *pane* (bread), *erba* (grass), *capelli* (hair), *palla* (ball),while in English the corresponding
(14) he started to cut.…
can trigger *bread* or *hair* or ?*grass* but not **ball*. If, on the contrary, an English speaker says
(15) he began to put a spin on…
then the decoder can only think of a *ball*. While if the encoder says
(16) he began to slice…
then one should most likely infer that the slicing is related to *bread*, *roasted meat*, but not **grass*, while
(17) he began to reap…
would call to mind a *crop* before harvest time

8. Conclusion
To conclude, if in a possible world W it is true that there is a sentence p, then there are possible standard sentences that can follow this one, representing events, situations or arguments of the type q or f or g, etc, such that:
p **->** q/f/g, etc. The decoder thus, anticipating the steps and the course the encoder is about to follow, must make a choice among the following options: q or f, or g and so on, on the basis of:
– a probability calculus;
– the kind of information, which in that specific case is in focus;
– the linguistic constraints in the textual profile he is interpreting and therefore, accordingly, choosing the appropriate collocation or idiomatic sequence;
– the opportunity, or preference he has, at the condition that syntactic, semantic, encyclopaedic congruency principles are met;
– an evaluation of the intentions of the encoder;
– his findings about which courses he is allowed to follow on the basis of syntactic, semantic encyclopaedic principles, but also on the basis of his preferences at that particular moment. The emotive status is of extreme importance!
– the textual and phrasal constraints that the type of language chosen impose. The condition for instance that the lexicon imposes since the language behaves as it does because it is made of formulas and not of free combinations;
– the opportunity to react and to take over the discussion as encoder and

protagonist.

This is a hard but wonderful journey, a marvellous path, which helps both the decoder and the addressee at each and every moment to create and experience possible or invented worlds.

NOTES

[i] I am very grateful to Mrs I.A. Walbaum Robinson of the University of Roma TRE for very useful comments made on English language usage. I am also indebted to the unknown Reviewers who helped to improve the article.

[ii] One of the inferential basic laws for the decoder is to go back each time, after taking a journey to the departure point, in order to go on interpreting the whole received text. There are always deviations from the main lines of the text, thus we can consider the journeys taken as a kind of sub-story, i.e. the continuation or extension of the story. The decoder is obliged to wake up from his dreams and to go on with the interpretation, picking it up from where he started his personal journey.

[iii] So by the English word *discussion* we can think of a verb as to *take place*, or adjectives as *intense, serious*. But in English those adjectives precede, so the inferential work will be based on the search of the appropriate noun (*struggle*, *fight*), since the adjectives are given and function as starting point. In Italian, since the noun precedes then the search and inferential work will be for the appropriate adjective (*violenta* or *animata*).

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ISSA Proceediings 2010 – Improving The Teaching Of Argumentation Through Pragma Dialectical Rules And A Community of Inquiry

In this paper we reflect on how improving the teaching of argumentation following the pragma dialectical guidelines and the Philosophy for Children ideal of a "community of inquiry", also enhances ethical education and contributes to the development of a better society.

According to Pragma Dialectics, in the "practical realm" of argumentation the aim of the teaching of argumentation should be to promote reflection on argumentation and to spur critical discussion. In *A Systematic Theory of Argumentation*, van Eemeren and Grootendorst (2004, p. 37) distinguish between "first", "second" and "third order" conditions for critical discussion: the first order conditions are the willingness to respect the critical discussion rules, the second order conditions are the "internal" mental states that are pre conditions to a reasonable discussion attitude and the third order conditions are the "external" circumstances in which argumentation takes place (political requirements such as freedom of speech, non violence and pluralism).

We propose to focus on the creation of the second and third order conditions for such an education through the development of a "community of inquiry", as it is understood and practiced in Philosophy for Children, that is, by the creation of an educational environment where both students and teachers feel free to express their opinions, yet, at the same time, are compelled to abide by the procedural and critical rules that encourage mutual challenge and cooperation.

A reflection on the ethical foundations of pragma dialectical rules, in connection with the underlying ethical principles required for the building of a "community of inquiry", shows that the principles of equal respect and the common search for a provisory truth, modeled on Socratic dialogue, replace in both instances the traditional competitive scheme. The critical rationalistic ideal of reasonableness and the code of conduct based on equal respect reinforce each other to create the ideal model of a society of mutual respect and cooperation that provides the most appropriate frame for teaching both argumentation and ethics.

We argue that the connection between the concept of a "community of inquiry", the pedagogical practice of building it, and the pragma dialectical rules for a critical discussion will produce a double benefit: (a) an improvement of the teaching of argumentation in different situations, where the building of an open, tolerant and challenging environment would allow the discussion of difficult and controversial issues in a "benevolent" way and without the pressure of reaching a consensus, and (b) the improvement of the teaching of argumentation in the Philosophy for Children courses by the updating of its argumentation contents and teaching methodology through the pragma dialectical contributions to contemporary Argumentation Theory.

1. Philosophy for Children and the "community of inquiry"

The Philosophy for Children program was created as a response to the shortcomings of the North American educational system some forty years ago. Matthew Lipman (Lipman et al. 1980) observed that school had become dysfunctional to its purpose, had lost meaning for the children and failed to provide adequate tools to develop their thinking skills. Lipman's then revolutionary proposition of teaching philosophy to the children is now widely accepted and is being implemented in many places throughout the world (Cf. Montclair State University 2008)

According to Lipman's diagnosis (Lipman et al. 1980), philosophy was the "lost dimension" in education, because its characteristic search for meaning was absent from the way in which teaching was approached. The subjects were presented fractioned, in discreet and isolated quantities, leaving it to the child the titanic task of making the synthesis by himself. In addition, the contents responded to an "adult agenda", unrelated to the children's immediate interests and strongly oriented to provide scientific and historic data. This rendered the school increasingly meaningless to the children and gradually destroyed their intellectual curiosity.

In order to give back to the educational experience its lost meaning and to the children their desire to know, Lipman proposed to introduce philosophy in the school curriculum. He saw that philosophy has been traditionally the discipline that has undertaken the task of asking questions about meaning and, also, has in itself the appropriate methodology by which to conduct the inquiry: dialogue and questioning. Since its very beginning, philosophy has resorted to dialogue as a means to foster and develop thinking. Through rigorous dialogue about things that matter to us, we exercise and develop our thinking skills, thinks Lipman, but, most importantly, through philosophical dialogue we develop the ability to think cooperatively: "When children are encouraged to think philosophically, the classroom is converted into a community of inquiry" (Lipman et al.1980, p. 45).

This concept of a *community of inquiry* is one of the most powerful and influential concepts in the Philosophy for Children movement. The expression, according to Lipman (1991), was originally used in relation to scientific inquiry, to stress that scientists use similar procedures in the pursuit of identical goals. In Philosophy for Children it means that, in a similar way as scientists do, the children and the teacher form a community whose members understand each other and cooperate

with each other in a common search for truth and meaning, respecting the same rules and procedures for examining their theories and evaluating the relevant evidence. This community is characterized by mutual respect, critical and cooperative thinking, openness, the avoidance of indoctrination and a willingness to subject all views to Socratic examination through dialogue.

The members of the community challenge one another to examine carefully, to consider alternatives, to give reasons and evaluate reasons given by others, to maintain relevance and to contribute to each other's ideas. In this way, the community becomes "self correcting", avoiding fallacious argumentation and careless thinking, searching for foundations with philosophical rigor, and, in sum, acquiring the habit of thinking critically.

In addition, a special bound of empathy and mutual understanding grows between the community members, referred to as *caring thinking*: "As the children discover one another's perspectives and share in one another's experiences, they come to care about one another's values and to appreciate each other's uniqueness." (Lipman et al.1980, p.199). As this capacity for empathy is extended to include the rest of the human species, the community of inquiry becomes a privileged setting for ethical education, for the children experience in this small community the sense of belonging to the group and feeling responsible for it.

As we were able to show in our research in Chilean schools, through the building of a community of inquiry in the classroom both democratic attitudes and behaviors are developed (Vicuña & López 1995), and significant progress is achieved towards autonomous moral development (Vicuña, López, & Tugendhat 1997).

Crucial in the building of such a community of inquiry is the role of logic and argumentation. According to Lipman (Lipman et al.1980, p.131), there are three meanings of logic in Philosophy for Children: *formal logic*, *giving reasons* and *acting rationally*. In the philosophical novels used to spur philosophical dialogue, the rules of *formal logic* are presented as discovered and tested by the children characters. For instance, Harry and Lisa discover the rules of conversion in chapter one of the novel *Harry Stottlemeier's Discovery* (Lipman 1974). However, Lipman considers that it would be wrong to suppose that philosophical thinking could be promoted by formal logic alone: "While formal logic can serve as an effective means for helping children realize that they can think in an organized

way, it gives no clues as to when thinking by the rules of formal logic is useful and appropriate and when it is simply absurd" (Lipman et al.1980, p. 133)

On the other hand, *giving reasons*, or the *good reasons approach*, entails taking into account the multiple situations that call for deliberate thinking. Therefore, the emphasis of this approach is placed on *seeking reasons* in reference to a given situation and *assessing the reasons given* (Lipman et al. 1980, pp. 138-9). Thus, *giving reasons* is the core of the methodology of philosophical dialogue. Learning to think philosophically through dialogue requires becoming aware of the kinds of reasons that are suitable for a particular context and the characteristics that distinguish good reasons from bad ones. Since both the reasons to be sought and the assessments of the reasons offered are highly dependent on the context of a given inquiry, this learning "basically relies on an intuitive sense of what can count as a good reason" (Lipman et al.1980, p. 139). Therefore, in order for the children to develop this sense we must provide ample opportunity for them to be exposed to a wide variety of settings that require them to search for reasons and to assess reasons. These opportunities are provided by the philosophical novels and the teacher's manuals used by the program. It is also the task of the Philosophy for Children teacher to guide the discussion in such a way that these opportunities are created and taken full advantage of. Some of the conditions required, in Lipman's words, "include a teacher who is provocative, inquisitive, and impatient of mental slovenliness and a classroom of students eager to engage in dialogue that challenges them to think and produce ideas" (Lipman et al.1980, p. 102).

In the training of such a teacher a fair amount of this everyday language logic should be included. This is where we think that Pragma Dialectics (van Eemeren & Grootendorst 1992, 2004) can be of great help, both through its *rules for critical discussion* and the analytic tools it provides.

The third meaning of logic in Philosophy for Children mentioned above, *acting rationally*, means "to encourage children to use reflective thinking actively in their lives" (Lipman et al. 1980, p. 146). He explains this by means of several examples of different styles of thinking exhibited by the children characters in the novel *Harry Stottlemeier's Discovery* (Lipman 1974) and an analysis of how these characters apply their thinking to their behavior (Lipman et al.1980, pp. 147-151). He adds that the main purpose of these examples in the program's novels is to provide the children "with a means for paying attention to their own thoughts and

to ways that their thoughts and reflections can function in their lives" (Lipman et al.1980, p. 151).

In summary, the "community of inquiry" is built through philosophical dialogue, for which not only logical rules are important but also an atmosphere of mutual respect, cooperation and search for meaning. The logical rules and the giving reasons practice develop critical thinking, but the philosophical orientation of the inquiry is designed to develop a connection between thinking and acting, that is, introducing reasonableness in everyday actions and developing "caring thinking". Therefore, the methodology of philosophical dialogue resorts to two kinds of rules: the logical rules and the procedural rules. The first include formal and informal (giving reasons) logic, the latter, the community of inquiry's rules that demand respect for one another and for the procedures of inquiry.

In the next section we examine the ethical foundations of the pragma dialectical rules to show the connections between the ideal of reasonableness present in both Philosophy for Children and Pragma Dialectics.

2. The ethical foundations of the pragma dialectical rules for critical discussion

In our view, the pragma dialectical rules for critical discussion (van Eemeren & Grootendorst 1992), beside being practical rules directed to the goal of resolving a difference of opinion, are also the expression of an ideal way of conducting interactions between reasonable beings and, therefore, imply some moral principles. These coincide with some of the community of inquiry's features just discussed.

A close examination of the rules shows (Vicuña 2005) that there are four principles underlying the pragma dialectical rules: respect, honesty, consistency and rationality. Thus, for instance, the first rule has to do with freedom of expression, therefore it appeals to mutual respect between the discussants. Other rules (2 and 9) appeal to honesty, urging discussants to take responsibility for their assertions and to acknowledge when they have been defeated, to withdraw their standpoints when they have not been able to successfully defend them, or to retract their doubts when the other party has been able to dissipate them. Other rules (3, 4, 7 and 8) appeal to reasonableness, demanding relevance or urging discussants to respect logical validity and to use the appropriate argumentation schemes correctly. Rule 10 appeals, again, to honesty, commanding to avoid confuse or ambiguous language, to abstain from manipulating the meaning of the

other party's formulations, and to represent them with maximum fidelity.

Thus, the pragma dialectical rules can be seen as protecting and promoting certain values, such as freedom of speech, responsibility, honesty (truthfulness), consistency (coherence) and "good will", which are crucial for the civilized life of a human community. All these values and principles mentioned can be expressed by the single concept of "respect"; respect for persons and respect for reason. For, if we respect our fellow human beings, we will also respect reason, because we will treat them as reasonable beings and will appeal to their rationality.

Respect for reason, understood as critical thinking, is also stressed by the "critical rationalistic" ideal of reasonableness (van Eemeren & Grootendorst, 2004), which is modeled on the paradigm of science. Just as scientific conclusions are always provisory, in that they are open to be revised in the light of new evidence, so the pragma dialectical ideal of reasonableness finds in critical discussion the appropriate way to progress in understanding by considering all standpoints open to challenge and to be put to test by the other party's questioning (van Eemeren & Grootendorst 2004, p. 125).

As we have seen, these features are also manifest in the "community of inquiry" (Lipman et al. 1980, p. 45), stressing mutual challenge and questioning, a common search for meaning through dialogue and argumentation, and the absence of indoctrination, i.e., acknowledging that no one is in possession of the truth or can impose his/her perspective on others. Underlying this ideal are the same values of respect already encountered at the base of the critical discussion rules.

We contend that these values are implicit in the "critical rationalistic" ideal of reasonableness (van Eemeren & Grootendorst 1992, 2004) that inspires both Pragma Dialectics and the community of inquiry. Its main features are a healthy skepticism regarding pretensions of acceptability and the willingness to discuss and to submit to test all standpoints that are put to doubt through an argumentation that respects the critical discussion rules. These rules, as stated, include values of respect that are made explicit in the pragma dialectical approach to argumentation, but remain implicit in the three meanings of logic in Philosophy for Children discussed in the previous section. But, as stated before, there are many instances in the novels and teacher manuals where logical rules are illustrated and ample opportunity is given to practice and develop a sense of

what are good reasons and reasonableness, and models of good quality dialogue and communication between children and adults are provided. In these instances it is not difficult to discover the underlying values. Therefore, making explicit the pragma dialectical rules would be extremely useful for the building of a community of inquiry with the children and in teacher training.

Moreover, the building of such a community permits to provide a most suitable setting for moral education and for the development of a better society, as we have argued elsewhere (Vicuña 1998), contributing to foster the development of the "second" and "third order" conditions for critical discussion mentioned by van Eemeren and Grootendorst (2004, p. 37).

In the next section we discuss the importance of teaching ethics in connection with argumentation.

3. Teaching ethics and argumentation

Ethical education is most difficult in our times, where so many different perspectives of what is good and what would be a good life coexist and compete in our increasingly globalized world. The main problem arises from the questioning of the religious and traditional foundations of morality. As Tugendhat (1988, 1997) shows, this may lead to embrace ethical relativism, which would be equivalent to accept unwittingly that "might is right".

As a way out of the trap, Tugendhat (1988) proposes a foundation of ethics on the personal decision of willingly submitting oneself to the obligation of respecting all human beings equally. In his view, this is the only possible foundation of ethics in our times. However, this foundation is weak in that it cannot appeal to "superior truths", but it appeals instead to everyone's personal interest: the desire to belong to a "moral community" governed by universal equal respect. Therefore, the foundation rests on a personal decision, and no one can be forced to make this decision.

As a consequence, ethical education ought to be approached in a dialogical way, appealing to the students' autonomy and reasonableness, so that they can freely make the decision in favor of morality. We also believe that the willingness to live in a moral community, and to work for the building of a moral community, is fostered by the experience of partaking of a "community of inquiry" such as the one described above. As we saw, in the building of it, the pragma dialectical rules

for critical discussion play a crucial role and philosophical dialogue guided by a critical rationalistic ideal of reasonableness prepare the ground for ethical education.

In what follows, we illustrate a possible interaction between the teaching of morality and the use of the pragma dialectical rules by means of an ideal fictional dialogue in the classroom. Later we point to some consequences of this interaction.

First of all, it is worth noting that in Philosophy for Children the participants in a community of inquiry are invited to freely analyze the issues according to their personal views. So, a dialogue may follow a very flexible direction. There is plenty of freedom to raise any question that the community wants to discuss, nevertheless, a dialogue is not just a simple conversation, it has a purpose and some rules must be followed. Sometimes the dialogue is exploratory, not always are we faced with a controversy, where we have to respect the pragma dialectical rules. If the participant wishes just to explore a point of view and its possible consequences, because he is only searching for a broader comprehension of the problems, the critical rules have to apply flexibly.

On the other hand, children and young people might have problems to handle controversies related to ethical issues. This is due to the fact that they normally lack the experience required to deal with the contents of such controversies as euthanasia, abortion and capital punishment (Marinkovich & Vicuña 2008). Their moral beliefs are usually dependent on the opinions of the adult models, without further questioning. This obviously makes them vulnerable to indoctrination, that is, to a dogmatic way of teaching that hinders critical questioning. Paradoxically, in Chile even after recovering political democracy, an authoritarian structure of interpersonal relationships continues to prevail, especially at school and in ethical matters.

In order to be coherent with the principles of Philosophy for Children and also to integrate pragma dialectical rules, ethical education must start from facts or situations that are meaningful for the students. The imposition of general principles, especially moral principles, would hinder the development of an autonomous moral consciousness. So, instead of starting from them, we have to search for such principles in accordance with the students' experience.

Following the analytical approach to ethics developed by Tugendhat (1997, pp. 76-93), we start from basic facts and try to reach some general principles. Instead of asking for moral principles, we can start a dialogue asking for simple facts or situations which the students judge as moral, as we do in our philosophical novel on ethics (Cf. Tugendhat, López, & Vicuña 1998). Students usually find these questions difficult and prefer to respond by pointing to instances of immoral behavior. They seem to know clearly when something is wrong and should never be done, although they are not sure about the reasons to avoid acting in this way.

So, if we ask: "could you give some examples of immoral actions?", they will find no problem in responding by pointing to situations of everyday life: (a) to harm a classmate or (b) to steal some money from my mother or father, or (c) to lie to the teacher, and so on.

Next, we should ask for reasons: "why is it wrong to do that?" This question is crucial to promote ethical reflection, because asking for reasons is an important way of clarifying the student's motives for behaving in one way or another and thus to relate to their immediate moral experience.

Some students may respond, (a) it is bad because you cause suffering to other people, or (b) it is wrong because you cause harm to other people, or, even, some students could say: (c) I wouldn't like to be treated in that way by any other person.

In order to make a distinction between harm and suffering, we could ask: "is it possible to cause harm, without causing suffering?" In this way, the students have to decide which elements are relevant or irrelevant to identify an immoral behavior.

As examples of causing harm without causing suffering, the students may point to: (a) to speak badly about someone in his back, especially of a friend. (b) To lie to someone, knowing that she cannot verify our behavior and so, she cannot realize that she is being deceived. The teacher may reinforce this point through an argumentation by analogy, by asking whether these cases would be similar to being affected by an illness without knowing that we are sick, since then we wouldn't have any symptoms that help us realize that our health is bad.

A following step could be to consider competitive contexts, in which the winner, by winning, causes suffering to the loser, but, as long as the competitors have followed the rules of the game, the winner is not guilty of that suffering. From this discussion, students may infer that "suffering" is not a crucial criterion for

judging moral behavior, but “harm” is.
We could call attention, now, to the fact that when we use the expression “this behavior is wrong, because it causes harm”, we are arguing in a more general way, we have put forward an argumentation. So, we could take time to talk about argumentation and to show how this particular assertion implies a more general one: “all behaviors that cause harm are wrong”.

We may present the students with some other cases that we judge as incorrect or wrong, yet we may be in doubt as to whether they are immoral, because they don’t cause a great harm. For instance, to wear a friend’s favorite tie without asking for his permission. We often refer to this kind of behavior as “abuse of trust”. It is difficult to say that this is immoral behavior, even though we consider it incorrect. We could say that it is a case of “lack of respect” and relate it to other similar situations, such as ignoring other people: not greeting them, for example. We could then generalize, by asking whether any behavior that can be defined as a lack of respect is immoral. Respect would, then, be the global concept that involves relevant suffering, harm and abuse of trust.
Of course, students may question this conclusion, because it implies that we must respect everybody. They might ask: “why do we have to respect every person? Is it not enough to respect only our friends?” Children and teenagers are still bound by their natural sympathies and antipathies, so that it is difficult for them to understand the moral obligation to respect equally everyone. Therefore, it is necessary to help them question and discover for themselves the foundations of morality. If we failed to do this, they may accept this principle under the authoritarian pressure of society, but this acceptance is no warranty that they will always act accordingly.

3.1 The golden rule and the foundation of moral obligation
In order to get a better perspective of morality, we need to go beyond the mere accumulation of cases and establish a foundation for moral obligations. As mentioned before, we follow Tugendhat’s (1988) foundation on the individual’s autonomous decision to belong to a moral community governed by universal equal respect.

In order to help students understand this foundation, we may propose to consider examples of the application of the *golden rule*. One of the simplest formulations of this rule is: “Don’t do to others what you don’t want to be done to you”. This is an exhortation to put oneself in the situation of any other person. Therefore, the

examples must be of a kind as to awaken feelings of empathy. For instance: “Manuel was given a cat for Christmas last year. He was very fond of it and every day talked to the cat about his joys and sorrows. Last night a truck run over Manuel’s cat and killed it. How do you think that Manuel is feeling about this? How would you feel if your beloved pet was killed?”

It is important to emphasize, however, that the *golden rule* defines behavior in terms of universal rules that affect every human being, not in terms of personal preferences. For instance, the reasoning: “I don’t like to eat chocolate ice cream, therefore nobody should eat it”, is a case of faulty application of the *golden rule*. Therefore, we must give enough opportunities to the children for assessing instances of application of the golden rule.

Since the scope and application of this rule could be very difficult to understand, we may appeal to the notion of “moral feelings” (Strawson 1968), which we experiment in correlation with their conformity to the golden rule. Thus, we feel *guilty* if we behave in a way that implies breaking the golden rule, for nobody should do this to any other person. For this reason, the person affected by this behavior feels resentment, because he/she also judges that this behavior is wrong, and, since the golden rule is to be applied universally, a person who is not directly affected by that behavior feels *indignation*, because he/she also judges that nobody can behave in such a way.
The moral feelings can also help us clarify the application of the golden rule to unclear cases, as those mentioned above in relation to a competitive context. For instance, the loser can feel sad and impotent, but we would not say that he should feel moral *resentment*, because any impartial observer can judge that he/she has lost in fair play. The winner has not broken the golden rule. Therefore, a feeling of resentment would not be legitimate in this situation: to win in a competition is not immoral. Only when there is a conjunction of these three feelings, we can consider that a specific behavior is immoral.

In this way, all the basic rules of morality can be derived from the *golden rule*: don’t kill, don’t steal, don’t break your promises, etc. Therefore, one basic goal in teaching morality is to get the students to connect with these feelings and to reflect about them.

Some important consequences of this are that (1) everyone who freely submits to the *golden rule* contributes to constitute a moral community, and (2) all members

of this community must be treated with equal respect.
As we have seen, to accept this rule requires an effort of empathy, an effort to put oneself in the situation of another person. But, as we know, some people are unable or unwilling to do that. There are people who don't feel guilty when they do something wrong. But, this doesn't mean that we don't have the right to protect us from them. So, we establish with them an instrumental relationship and not a moral one, which would imply mutual and equal respect. This puts a limit to the moral community: they cannot belong to it.

The students could raise the question: "why do we have to obey the *golden rule*?" This question must be explored. If we only had some feelings which we could ignore when the interests involved in behaving in an immoral way are too strong, we wouldn't have a firm foundation. We should not overlook that there are people who do wrong, even though they know it is immoral. This is why the real foundations of morality rest on the individual's personal decision of belonging to this moral community and this is also why this has to be an autonomous and rational decision.

3.2 The extension of the concept of morality through argumentation
Teaching argumentation and ethics in the framework of a "community of inquiry" can extend our sense of morality from the interpersonal relationships to the field of social problems. As we have seen, the basic principle of morality can be derived from the experience of students that interact with each other. In the context of the classroom, this is not so difficult. However, the question is: "how could we extend this principle to social problems, where we have to deal with the power of the state?"

We think that this can be accomplished through the analysis of complex argumentation and argumentative schemes. This could be clarified through the following examples:
Example (1)
Judith Jarvis Thompson (1983) made the following analogy: suppose you wake up one morning and find yourself connected to other person, a famous violinist. He has been plugged into you because he is very sick and only your blood can save him. To unplug you would be to kill him. Fortunately, after only nine months he will have recovered and could be safely unplugged from you. It is easy to see how this fictional situation is comparable to unwanted pregnancy. The main point of the analogy is to show that the violinist doesn't have any right to demand that you

remain connected to him. If you do that, you behave like a “great Samaritan”, but this action exceeds your moral obligations.

Thomson doesn’t make a complete analysis of the analogy. Neither does she explain the limits of moral obligations. For her purposes, it is enough to establish that if you decided to remain connected to the violinist you behave beyond your moral duties. It is insufficient as an argumentation; nevertheless, we can consider it as an attempt to formulate an appropriate point of view.

She then shifts to the problem of abortion. So, she asks: would it be fair, for any society, to require from some people to fulfill moral duties beyond their moral obligations? Any society that prohibits abortion, yet, at the same time, does not require men to fulfill minimal moral obligations, like providing basic help to others, clearly discriminates against women. Since, while it would be immoral for the men not to provide the minimal help, but it wouldn’t be illegal; in the case of women it would be illegal to interrupt an unwanted pregnancy through abortion. So, the conclusion would be that abortion should not be prohibited if we want to preserve equality before the law. Even though Thompson doesn’t follow strictly an argumentative discussion, and we can disagree with some aspects of her arguments, nevertheless, we can realize that she is successful in converting an interpersonal relationship problem into a moral social one. This is a typical result of a philosophical dialogue: to provoke a stimulus to continue thinking in a broader context, and not to settle down the discussion no matter what.

Example (2)
From 1960 to 1963, Yale University psychologist Stanley Milgram (Milgram 1974, quoted by Beauchamp 1982) conducted a series of experiments to measure the willingness of experimental subjects to obey an authority figure who instructed them to perform acts that conflicted with their personal moral conscience. The subjects were told that they would participate in an experiment on learning. They were placed in front of a complex machine and instructed to give an electric shock to the “learner” each time he gave a wrong answer. The machine had different levers and labels indicating the voltage intensity of each shock. The intensity should increase in 15 volts for each wrong answer. The “learner” was really an actor and the machine did not really give any electric shocks, but the “teacher” (subject of the experiment) was deceived and led to believe that they were real. When the “learner” protested and made believe that he was suffering, the “teacher” might ask to halt the experiment, but he was unwaveringly told by

the authority figure, the “experimenter” (the researcher), that the experiment must go on.

An analysis of the argumentative scheme of this experiment could consider that the experiment is an attempt to develop a symptomatic argumentation. The standpoint would be formulated as follows: *The personal moral principles of the “teacher” should be strong enough as to prevent him to cause harm to the “learner”.*
The reasons (symptoms) that would support this assertion would be the causal factors that permitted the “teachers” to apply the electric shocks to the “learners” up to some level and forced them to suspend them at another level.
Although in previous polls conducted before the experiment most people had anticipated that the “teachers” would stop before the 130 volts level and no one would continue to the 450 volts level, the results showed that as much as 65% of the “teachers” applied the electric shock of 450 volts.

These final results would demonstrate that the original standpoint was wrong. The Milgram experiment raised a lot of controversies about the obedience to authority and also about the ethical requirements in experiments with human subjects. They are complex to interpret and deserve much reflection; however, they seem to show that just personal values are unable to resist the influence of authoritarian power. This seems to be true even of persons with high level of education living in a democratic system. It makes us wonder whether we need to develop stronger convictions about our moral obligations and stronger democratic institutions to protect human rights. The Milgram experiment is an excellent example to analyze with students and to promote an inquiry about our moral obligations and responsibilities, and into the foundations of morality. These would not be possible without the critical discussion rules and the community of inquiry.

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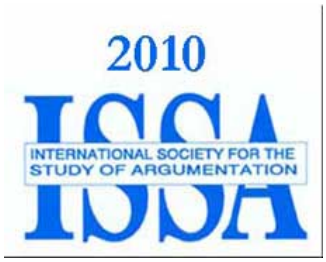
ISSA Proceedings 2010 – Probabilistic Arguments In The Epistemological Approach To Argumentation



1. Introduction: the Epistemological Approach to Argumentation and Probabilistic Arguments

In this paper I present a proposal on how to conceptualise and handle probabilistic arguments in an epistemological approach to argumentation. The epistemological approach to argumentation is an approach which aims at rationally convincing addressees or, more precisely, which takes knowledge or justified belief of an addressee to be the standard output of argumentation (Biro 1987, p. 69; Biro & Siegel 1992, pp. 92; 96; Siegel & Biro 1997, pp. 278; 286; Lumer 1990, pp. 43 f.; 1991, p. 100; 2005b, pp. 219-220; Goldman 2003, p. 58).**[i]** Therefore, this approach develops criteria for valid and adequate arguments whose observance leads, or at least is intended to lead, to the production of that output: justified belief. The general way in which this goal is achieved is by guiding the addressee through a process of recognising the truth or acceptability of the argument's thesis. An ordered sequence of judgements, i.e. the reasons, is presented to the addressee whose truths, according to a primary or secondary criterion of truth or acceptability, imply the truth or acceptability of the thesis and which are chosen in such a way that the addressee can immediately check whether they are true or acceptable (Lumer 1990, pp. 44-51; 2005b, pp. 221-224).

In an epistemological approach to argumentation, different types of arguments can be distinguished according to the respective epistemological principles on which they are based. There are e.g. *deductive arguments* based on deductive

logic; there are *practical arguments* based on rational decision theory and its additions like game theory or philosophical theories of practical rationality; there are *empirical-theoretic arguments* for empirical laws about theoretical entities, which are based on criteria for good empirical theories; there are *probabilistic arguments* for probability judgements, which are based on probability theory; etc. To be constructively helpful, an epistemological theory of argumentation should not only develop a general definition of 'good argument' but also elaborate precise criteria for such special types of argument. Such criteria have e.g. been proposed within the epistemological approach for deductive arguments (Feldman <1993> 1999, pp. 61-80; 94-100; Lumer 1990, pp. 180-209) or for practical arguments (Feldman 1999, pp. 351-354; 420; Lumer 1990, pp. 319-433). For the realm of probabilistic arguments, criteria for certain subtypes have been developed: criteria for *genesis of knowledge arguments* (which try to show that the thesis has been correctly verified by someone), which include *arguments from testimony* and *from authority* (Feldman 1999, pp. 216-232; 418; Goldman 1999, pp. 103-130; Lumer 1990, pp. 246-260), and for *interpretative arguments* (which try to establish the causes of known facts and circumstantial evidence through inference to the best explanation based on Bayes's Theorem) (Lumer 1990, pp. 221-246).**[ii]** A general theory of probabilistic argumentation which provides exact criteria for the validity and adequacy of these arguments is so far lacking, however. Such a theory will be proposed in the following, starting from the epistemological approach to argumentation.

"*Probabilistic argument*" here always refers to: an argument with a probability judgement as its thesis. Applying the epistemic approach to such arguments presupposes primary or secondary criteria of the truth or acceptability of probability judgements. Of course, such criteria should be provided by probability theory. But, although there is a rather broad consensus in probability theory about the calculus to be used, there is significant divergence about the interpretation and conceptualisation of probability, which would also lead to different conceptualisations of probabilistic arguments. So we first have to go some way into the philosophical debate on the best concept of probability.

2. Philosophical Concepts of Probability – A Case for Probability as Rational Approximation to Truth

Philosophical theories of probability come in two main groups: first, objective or realistic theories, which maintain that probability is an objective, real feature of

the world, and, second, subjective, epistemic, or cognitivist theories, which maintain that probability is essentially an epistemic or belief phenomenon, due to our limited knowledge. The two main realistic approaches are, first, *relative frequency theories*, according to which probabilities are identical to actual relative frequencies (Venn <1866> 2006) or to limiting relative frequencies in a hypothetical infinite row of trials (Reichenbach <1935> 1949; von Mises <1928> 1981), and, second, *propensity theories*, according to which probabilities are identical to a quantitative disposition in an object or in a type of system to produce a certain result or results with a certain relative frequency (Gillies 2000; Hacking 1965; Mellor 2005; Miller 1994; Popper 1959). Propensity theories have been developed to explain single-event stochastic processes like radioactive decay of single atoms, whereas frequency theories seem to capture particularly well probabilities derived by statistical inferences.

At first appearance, only realistic or objective theories seem to be appropriate to provide what an epistemological approach to argumentation needs, namely objective criteria for the truth of probability judgements. This impression, however, is due to an ambiguity of the word "objective". A judgement may be "objective", in a weak sense, of being cognitive, i.e. of being true or of being the result of an interpersonally verifiable process of applying clear criteria. And a judgement may be "objective", in a stronger sense, of being realistic, i.e. of describing a reality that is independent of any subjective attitude. Of course, only realistic theories of probability are objective in the strong sense; however an epistemological approach to probabilistic arguments needs objective criteria for the truth or acceptability of probability judgements only in the weak, cognitivist sense. This weak kind of objectivity can, however, also be provided by some epistemic theories of probability so that the objectivity requirement is no argument in favour of realistic theories of probability.

There are many well-known objections against every single realistic theory of probability. (In theories of actual frequencies, e.g. the result of a series of experiments may strongly diverge from the true probability – think of a die rolled only three times in its life and always showing "6" (Hájek <2002> 2009). In theories of limiting relative frequency real infinite series are impossible and soon lead to radical changes of the experimental situation – what a die will look like after having been rolled a billion times? –, whereas hypothetical infinite series have left empiricism behind (ibid.). Propensity theories share many problems of

frequentism; in addition, propensities are causalist and hence asymmetric, whereas probabilities in a certain sense may be "inverted" – Bayes's Theorem e.g. implies such an inversion of conditional probabilities: P(a/b) = (P(b/a)•P(a)) / P(b) –; it may make sense to say that affluent people have a propensity to vote for conservative parties, whereas it makes little sense to say that votes for conservative parties have a propensity to come from affluent people (Humphreys 1985).). I want to stress here, however, only two general objections. The first is ontological. Of course, there are relative frequencies and these provide us with information about probabilities, and there are qualitative structures of a system underlying these relative frequencies. But what are the realistically conceived frequentist or propensity probabilities of a single event? Either the die ends up with "6" on top or it does not; and if it does this was probably determined by laws of nature. We are speaking of probabilities in such cases only because we do not know the result beforehand; we try to approach truth as much as possible before the event by speaking of probabilities. Afterwards our probabilities even change, e.g. to the probability 1 for "6". At least probabilities of single events are epistemic probabilities; and for the objective fact of relative frequencies we have precisely the notion of 'relative frequency', which is different from 'probability'. Probabilities are only an epistemic substitute in case of incomplete knowledge.

The other general objection to realist theories of probabilities is particularly relevant to our endeavour to develop an epistemic theory of probabilistic arguments. There are many epistemic uses of probabilities which do not try to capture real tendencies in the world. This holds in particular when we try to find out backward information, like the probable cause of a known fact – e.g. 'the dinosaurs probably (with a probability of 90%) became extinct as a consequence of a giant asteroid hitting the Earth' (cf. Hacking 2001, pp. 128-130) – or the probable meaning of a sentence or the fact indicated by a clue. Such probability statements do not speak of frequencies or propensities in the world but even try to fill our gaps of knowledge backwards. Hence these probabilities are quite obviously epistemic in nature.

What, then, about epistemic theories of probability? We have to dismiss rather quickly the traditional Laplacian *theory of a priori equiprobability of logical possibilities*, which has the immense disadvantage of not incorporating empirical information about relative frequencies,**[iii]** and the *theory of logical probabilities or inductive logic* (Carnap 1950; 1952). Problems of the latter theory, among

others, are that its confirmation function is arbitrary or that, contrary to what the theory presupposes, (basic) evidences do not necessarily have the probability of 1. The major remaining approach then is *subjectivism* or *personalism* or *subjective Bayesianism*, which conceives probabilities in a personal or subjective way as rational degrees of belief.

Subjectivism conceives degrees of belief in a behaviouristic manner as something revealed by preferences. In the most simple case a subjective probability p of an event e is equated with that value p for which it is true that the subject is indifferent about receiving some amount of money $p \bullet m$ for sure and a lottery by which the subject receives the complete amount m conditional on e. ($Ps(e)=p := p \bullet m \approx s <e; m; \neg e; 0>$). More complex systems make stronger presuppositions about preferences and measure probabilities as well as utilities (Eells 1982, pp. 9 f.). Behaviouristic conceptions of the degree of belief lead to well-known problems, e.g.: buying and selling prizes usually differ; the utility function of money is not linear, hence the utility of $p \bullet m$ is not identical to p times the utility of m. The general problem behind such difficulties is the behaviouristic approach, which has to find out too many interdependently acting subjective variables only on the basis of knowledge about the behavioural surface.

Let me now add to this a further and less well-known aspect of this problem, which is detrimental to the usual interpretation of subjectivism itself. The standard interpretation of subjectivist probability as degree of belief cannot, though we actually have to, distinguish between, first, a (less than certain) degree of belief or confidence (in a non-technical sense) and, second, a belief with a probabilistic content. That we have to distinguish these two things is obvious in situations where both phenomena are present. Someone has heard from an expert that the probability of some event e is p, or he has inferred this probability from his own frequency counts and hence believes that the probability of e is p. He is not sure about this probability, however, and has only a reduced degree q of belief in it – e.g.because he knows he has a bad memory or cannot recall clearly the value p or because he has some doubts about the expert's reliability. The difference between the two kinds of uncertainty is that the probability believed is part of the belief's content, i.e. the proposition believed in, whereas the degree of belief is outside this propositional content as it is something like the intensity of the propositional attitude. Instead of simply saying 'subject s believes that a' **[iv]** and thus taking 'belief' as a qualitative notion we can take it as a quantitative,

functional notion: '*s* believes that *a* to the degree *q* (or with the confidence *q*)' and we can write this as: $Bs,a=q$. If the proposition believed in has a probabilistic content, as in the example just given, we can write this as: *s* believes with the confidence *q* that the probability of *e* is *p*: $Bs,(Pe=p)=q$. This differentiation, however, constitutes a problem for the usual subjectivist interpretation of probability. The probability now shows up already in the belief's content; what does this (inner) concept of 'probability' then mean? If the probability value and the confidence value differ – as they are supposed to do in most cases – then this probability cannot be the degree of belief. At least it cannot be the degree of belief of that person at that time. The defender of subjective probabilities as degrees of belief may reply to this objection: but it can be the degree of belief of a different person or of the same person at a different time. From the several alternatives – e.g. the subject's earlier belief, the informant's belief or the belief of a rational subject – the latter seems to be the most plausible because this interpretation would be possible in any case and not only in a limited number of cases. However, this proposal faces serious problems too. First, the differentiation in believed probability and degree of belief seems to exist already just from the beginning even for very rational subjects who e.g. have determined some probability on the basis of a frequency count executed a second ago but, because of considering human fallibility, have only a confidence near to one. To what other degree of certainty shall the probability judgment refer to in this case? Second, rational subjects should be exactly the people who base their subjective probabilites on clear epistemic procedures, which are different from simply having a certainty impression (which, perhaps, might be interpreted as the degree of certainty). According to an at least slightly verificationist semantics, some of these procedures would make up the meaning or content of the resulting belief's *proposition*, so that (1) the probabilistic content would belong to the propositional content and would not make up the external degree of confidence and (2) it would have a meaning other than referring to a degree of belief. All this means we are still lacking an interpretation of 'probability'.

What then are probabilities? My proposal for answering this question is: In alethic terms, probabilities are *rational approximations to truth* under conditions of epistemic limitations. This is supposed to mean that the respective subject does not know whether the real value is 0 or 1, which are the only possible values; but his knowledge, though not sufficient to establish 0 or 1, indicates a value between these extremes, which may be nearer to 0 (or 1) to a given degree. Given these

explanations, an explanation of probabilities in epistemic terms seems to be even more adequate. Therefore, instead of speaking of "approximation to truth" one might also say that probabilities, in justificatory terms, express a certain *tendency of evidence* for the two possibilities, which we can extract from our limited knowledge. If the probability of an event *e* is *p* the tendency of evidence for *e* is *p*, with $0 \leq p \leq 1$, whereas the tendency of evidence for *e* being false is $1-p$.**[v]** In practical terms, finally, probabilities are *degrees of rational reliance* that the event in question will occur. They are values we ascribe to propositions for decisional purposes and which by maximising expected utility permit us to follow a strategy which, according to the laws of large numbers, in the long run will be the best among the strategies we can follow with our limited knowledge. These three aspects coincide because the epistemic aim is exactly to approach truth as closely as possible with the given information; and using these approximations in one's decisions in a decision-theoretic fashion implies making maximum and specific use of the information at hand.

3. Some Syntactical Features of Probabilities as Tendencies of Evidences

According to the explanations just given, probabilities as tendencies of evidences depend on a given corpus of knowledge; i.e. from different corpora of knowledge may result different degrees of probability: after having witnessed the rolling of a die the probability of showing "6" may increase from 1/6 to 1 (or decrease to 0). For nonetheless being able to be objective in the sense of being true, probability judgements have to express this kind of relativity by a respective variable that refers to the particular knowledge on which the probability is based.

Given the rationality and cognitivity of the probability striven for, the truth of a probability judgement should not depend on the identity of the believer but on the particular data corpus of which the person disposes. A different person with the same data corpus should, of course, assume the same rational probabilities. This means the knowledge variable of the probability concept should refer to data bases and not to persons (and moments). Of course, this does not exclude that the intended data base is denoted by a definite description that identifies the data with those at hand to a certain person at a certain time: 'Susan's data at that moment'. In ordinary language as well as in theoretic expositions the reference to the data base is rarely expressed explicitly; often it is simply identical to the speaker's data base at that very moment. (The probability relativised in this way, e.g. 'the probability of event *e* on Susan's data base is *q*', has to be distinguished

from the subjective, or more precisely, from the *believed probability*, which can be expressed with our probability concept too: 'Susan believes that the probability of the event *e* (on her present data base) is *p*.') A further advantage of taking data corpora as the second variable of probabilities is that in this way things like 'scientific' or even 'natural probabilities' can easily be defined. A *scientific probability* would be one where the data base is the present scientific knowledge. And a *natural probability* of an event could be one where the data base is a complete (true) description of the world's history before that event plus the (true) natural laws.

The other variable – or, in the case of conditional probabilities, the other two variables – of the probability concept refer to the things whose probability is expressed. Sometimes it is assumed that these relata are events, or more generally, states of affairs. This may be true in a realist approach to probability; however, in an epistemic approach the relata have to be what can be the content of knowlegde, i.e. propositions. To put it another way, the relata of epistemic probabilities have to be more fine-grained than events, namely propositions, because, though 'Peter's murderer has poisoned him' and 'Sara has poisoned Peter' could well denote the same event, the respective data base may not imply that Sara was Peter's murderer so that the probabilities of the two tokens may be different. And this is possible only if, given the identity of the event and of the data base, the tokens are propositions.

So, finally, the syntax of basic probability judgements is: 'The probability of the proposition *a* on the data base *d* is *x*' ($Pa,d=x$ or, if one prefers brackets: $P(a,d)=x$), and of conditional probability judgements it is: 'The probability of *a* given *b* on the data base *d* is *x*' ($P(a/b),d=x$ or $P((a/b),d)=x$). (Pa,d does not coincide with $P(a/d)$ because the *d* in the first instance is supposed to be true but in the second instance it is not. Nor does $P(a/b),d$ coincide with $P(a/d)$ because *d* does not need necessarily to imply *b*.)

4. Justifications of Probability Judgements: 1. Basic Probabilities

How can probability judgements be recognised in an epistemologically qualified way? In the realm of (more or less) certain knowledge we distinguish between basic or elementary cognition, in particular observation, on the one hand and derivative cognition proceeding by deductive inferences on the other. In the realm of probabilistic knowledge we can distinguish in a similar way between basic cognitions of probabilities via known relative frequencies (these cognitions do not

rely on probabilistic premises, hence provide basic probability judgements) and derivative cognitions of probabilities by applications of the probability calculus, which already uses probabilities as inputs.

The basic form of probability cognitions of e.g. whether e or $\neg e$ via known relative frequencies, trivially, works as follows. It, first, presupposes that we have no better information about e, e.g. no definite information that e happened. It further presupposes that we know some relative frequencies applying to e, i.e. relative frequencies of the form: 'The relative frequency of Es among Fs is x', where e has the property F and perhaps the property E. Finally, it presupposes that if there are several such relative frequencies we can identify the one which is most specific about e, i.e. entails the most detailed description F of e. In a certain sense this specificity condition is a further special case of the condition that the data base does not contain any further information by means of which we can draw stronger conclusions about e. If all these presuppositions are fulfilled we can infer that the probability of e is x. (We may formalise these conditions as follows: "$RF(E/F)=x$" shall mean: the relative frequency of Es among Fs is x; "NBI" shall mean: "no better information", i.e. the precedent information is the best in the respective data base about the proposition in question. With these abbreviations the conditions can be formalised as:
Foundation Principle:

$$P(e \mid RF(E/F)=x \,\&\, f \,\&\, NBI), d) = x),$$

for all E, F, d, e, f and x with $P(RF(E/F)=x \,\&\, f \,\&\, NBI), d) > 0$.

(This Foundation Principle is a reformulation of Hacking's Principle of Direct Probability (Hacking 1965; 2001, p. 137).

Note that this Foundation Principle does not presuppose any probabilistic information as an input of its use: relative frequencies are objective realities, which sometimes can be known with certainty; the same holds for "f", i.e. the fact that the possible event e has the quality F. Thus the Foundation Principle is really basic in the sense of newly introducing probabilities without already presupposing other probabilities.

The use of the Foundation Principle and hence the use of basic probabilities can be justified practically, i.e. as practically rational, on the basis of the laws of large numbers. If we do not dispose of certain information, probabilistic beliefs

acquired via the Foundation Principle are the most informative condensation of our information about the event in question. If we use them via expected utility maximisation, of course, this cannot guarantee success in any single case but in the long run will provide better results than the use of any other way of handling uncertain information; as can be shown in comparisons with other decision strategies expected utility maximisation will lead to the highest utility. This justification, however, does not say anything about the success of expected utility maximisation in any single case. So there may be decision situations where the large number presupposition does not hold – e.g. in decisions about life and death, where a fatal result implies simply that there will not be any further risky decision – and where expected utility maximisation may not be the best decision strategy. Hence, the just mentioned practical justification of the Foundation Principle proves the usefulness of employing probabilities calculated by means of this principle in many situations and justifies the use of the utility maximising strategy in many situations but it does not justify always weighting probabilities in decision situations according to the identity function, i.e. the probability x with the weight x.

Counting the magnitude of the population and the quantity of the positive cases is the safe way to establishing relative frequencies. This is costly, however, and not always possible. Therefore we need further ways to acquire information about relative frequencies. One less secure way is to try to remember single occurrences of the relative frequency in question and to count them. In addition, fortunately, mother nature has provided us with a not very reliable but at the same time not too bad sense of relative frequencies; on the basis of this we may consider past experiences and estimate in a holistic way their relative frequencies. This sense of relative frequencies can also lead to an uncertain degree of belief in a universal connection of two types of events. Another way to obtain information about relative frequencies, then, is to rate one's degree of certitude about such a connection and to take it as the relative frequency. This strategy may be called "propositionalisation of degrees of certitudes" because the degree of certitude, which is the intensity of the belief and hence not part of its content, is now made available as quantitative information within the beliefs proposition. This makes the quantitative information universally usable.

Propositionalisation of certitudes: $Ppf(RF(E/F)=y \mid Bs,(\text{“}x(Fx \circledR Ex))=y \,\&\, NBI),d=1$, for all s, E, F, y, d with $P(Bs,(\text{“}x(Fx \circledR Ex))=y \,\&\, NBI) > 0$,

where *Ppf* is a *prima facie* probability, which may be combined with other *prima facie* probabilities to obtain the final probability.

The final and the weakest way of acquiring information about relative frequencies presupposes that the data base contains absolutely no empirical information about the case in question. In such a situation we may establish relative frequencies in a Laplacian way by counting the logical possibilities.

The methods of establishing or estimating relative frequencies described so far scrutinise all the individuals of the population, which is often too expensive or even impossible. The range of these methods can be enormously extended if the scrutinised set can be considered as a (more or less) representative sample of a much bigger population so that the relative frequency established in the sample may be extrapolated as holding for the whole population. Statistics and considerations about projectability of properties tell us when and with which degree of confidence this can be done.

5. Justifications of Probability Judgements: 2. Derivative Probabilities

The other way to cognise probability judgements in an epistemologically qualified way is to calculate probabilities with the help of the probability calculus. Fortunately, this technical part of probability theory is much less controversial; a certain orthodoxy has been achieved. My task here is therefore only to remember some basic principles of this calculus. The basic axioms of the calculus are:

Normalcy: For all a and d: $0 \leq Pa,d \leq 1$.

Certainty: Certain propositions have the probability 1.

Additivity: If a and b are mutually exclusive then: $P(a\acute{U}b),d = Pa,d + Pb,d$, for all a, b, d.

Conditional probabilities: $P(a/b),d = (P(a\&b),d)/(Pb,d)$, for all a, b, d with $Pb,d>0$.

From these axioms follow theorems like:

Overlap: If a and b are not mutually exclusive then: $P(a\acute{U}b),d = Pa,d + Pb,d - P(a\&b),d$, for all a, b, d.

Complementarity: $P(\neg a),d = 1\text{-}P(a),d$, for all a and d.

Bayes's Theorem, extended: Let $h1$ to hn be mutually exclusive and exhaustive

hypotheses, and *e* some relevant evidence, then:

$P(e/hi),d \bullet P(hi),d$

$P(hi/e),d = ¾¾¾¾¾¾¾¾¾¾¾¾¾¾$

$j=1ån P(e/hj),d \bullet P(hj),d$

6. Rules for Derivative Probabilistic Arguments

As described in the introduction, according to the epistemological approach to argumentation, arguments should be able to guide an addressee in a process of recognising the acceptability of the argument's thesis. And they do this by presenting him reasons, i.e. judgements, which according to an epistemological primary or secondary criterion for the acceptability of the thesis imply this acceptability. The addressee may then check the truth of these reasons and of the implication relation and thus convince himself of the thesis's acceptability.

So a very simple probabilistic argument may look like this:
Thesis q: The probability of rolling a "1" or a "2" in the next cast is 1/3.

Indicator of argument: This holds because:

Reason r1: The additivity axiom of the probability calculus says that probabilities of mutually exclusive possibilities add up to the probability of the disjunctively combined event.

Reason r2: The probability of rolling a "1" (in the next cast) is 1/6.

Reason r3: The probability of rolling a "2" (in the next cast) is also 1/6.

Reason r4: The possibilities of rolling a "1" and of rolling a "2" are mutually exclusive.

Reason r5: 1/6 + 1/6 = 1/3.

Hence the thesis.

A formal version of this argument may be clearer:

Thesis q: $P(\text{“1”Ú“2”}),d_i=1/3$ – with d_i referring to a particular data base, e.g. Peter's knowledge exactly at 12 noon (five seconds later Peter may already know

e.g. that “1” is true, hence: P(“1”Ú“2”),d_j=1).

Indicator of argument: Proof:

r1: Additivity: If a and b are mutually exclusive then: $P(a\acute{U}b),d = Pa,d + Pb,d$, for all a, b, d.

r2: P(“1”),d_i=1/6.

r3: P(“2”),d_i=1/6.

r4: P(“1”&”2”),d_i=0.

r5: 1/6 + 1/6 = 1/3.

Q.e.d.

In everyday life such explicit and extended arguments are virtually non-existent. But we may find abbreviated versions of them like this: “The probability of rolling a “1” or a “2” in the next cast is 1/3 because the probabilities of both these possibilities individually are 1/6; and because the two possibilities exclude each other their probabilities have to be added, which makes 1/3.” So in this abridged version the reference to the data base is missing as well as the quote of the additivity axiom; and the mention of the mutual exclusiveness may be missing as well. Of course, for representing a valid argument the parts omitted in such an abridged argument must hold nonetheless and they must be reconstructable for an addressee. So we have to distinguish ideal, complete probabilistic arguments and non-ideal abridged versions of them whose validity is defined in terms of a corresponding ideal argument.

Following these indications, I have tried to provide a reasonably precise definition of ‘valid derivative probabilistic argument’ in two steps, by first defining what an ‘*ideal* valid derivative probabilistic argument’ is and then giving the general definition.

x is an *ideal (argumentatively) valid derivative probabilistic argument*, iff x satisfies the conditions PA0 to PA3.

PA0.1: Domain of definition: x is a triple $<r°,i,q>$, consisting of

1. a set $r°$ of judgements $r1, r2, \ldots, rn$,

2. an indicator i of argument, and

3. a judgement q.

$r1, \ldots, rn$ are called the "reasons for q" and q is called "the thesis of x".

PA0.2: Structure of the argument:

PA0.2.1: Type of thesis: q is of the form: 'The probability of a (given b) on the data base d is p.' ($Pa,d=p$ or $P(a/b),d=p$).

PA0.2.2: Kinds of reasons:

1. At least one of the reasons $r1, \ldots, rn$ is an axiom or theorem of the probability calculus, hence a general probabilistic judgement.

2. The singular probability judgements among the reasons all refer to the data base d (cf. PA0.2.1) or in part to d and the other part to a predecessor $dprior$, i.e. d without some evidence e ($dprior = d\backslash e$).

PA1: Indicator of argument: i indicates that x is an argument, that $r1, \ldots, rn$ are the reasons and that q is the thesis of x. In addition, i can indicate that x is a probabilistic argument.

PA2: Guarantee of truth:

PA2.1: True premises: The judgements ri are true.

PA2.2: Inferential validity: The axioms and theorems of the probability calculus contained in $r°$ and the other reasons perhaps contained in $r°$ imply mathematically q – i.e. according to deductive and arithmetic rules.

PA2.3: Best evidence: d does not contain information that permits stronger conclusions about a (or, respectively, about the conditional probability $P(a/b),d$).

PA3: Adequacy in principle: x fulfils the standard function of arguments; i.e. x can guide a process of recognising the truth of q.

PA3.1: The reasons $r1$ to rn are well-ordered, i.e. as chains of equations and insertions of data in general formulas.

PA3.2: Apart from intermediate results, $r°$ does not contain reasons that are superfluous for fulfilling the derivability condition PA2.2.

PA3.3: There is a subject *s* and a time *t* for which the following holds:

PA3.3.1: the subject *s* at the time *t* is linguistically competent, open-minded, discriminating and does not know a sufficiently strong justification for the thesis *q*;**[vi]**

PA3.3.2: d refers to *s*' data base at *t*; and

PA3.3.3: if at *t x* is presented to *s* and *s* closely follows this presentation this will make *s* justifiedly believe that the thesis *q* is acceptable; this process of cognition will work as follows: *s* will follow the chains of equations and insertions affirmed in $r°$, check their truth, thereby coming to a positive result.

Explanation regarding PA0.2.1 and PA0.2.2: The thesis of a probabilistic argument in the sense used here is a singular probability judgement, i.e. judgement which attributes a specific probability to a specific proposition. So general probability judgements, i.e. in particular theorems of the probability calculus, are not included for the simple reason that such theorems can be justified in deductive arguments, deriving them deductively from the axioms of the probability calculus – like any mathematical theorem. Such arguments, as opposed to probabilistic arguments, do not depend on the particular data base; their theses are general judgements quantifying over *any* data base *d* (cf. the examples given in sect. 5), they are not relative to a particular data base (as d_i in the example given at the beginning of this section). Only the dependence on a specific data base requires the particular conditions of probabilistic arguments such as the conditions 'best evidence' (PA2.3) or 'data base' (see below, PA5.5).

x is a *(argumentatively) valid derivative probabilistic argument*, iff *x* satisfies the conditions PA4.1 or PA4.2.

PA4.1: Ideal argument: x is an ideal valid derivative probabilistic argument, or

PA4.2: Abridged argument: x is not an ideal valid derivative probabilistic argument, but there is such an (ideal valid derivative probabilistic) argument *y* which to a certain extent is identical with *x* but for which the following holds:

1. The set of reasons $rx°$ of x is a subset of the set of reasons $ry°$ of y or of abridged versions of these reasons (cf. PA4.2.3).

2. The reasons perhaps missing in $rx°$ are axioms or theorems of the probability calculus or they represent intermediate results; and the chain of equations is not interrupted by these omissions.

3. In the thesis q or in some of the probabilistic reasons of x the reference to the data base d may be omitted.

4. Condition PA3.3 holds analogously also for x.

Valid arguments are instruments for fulfilling a certain function, namely the function to lead to the cognition of the thesis; like all instruments they can fulfil their function only if they are used properly. In particular the valid argument must fit with the addressee's cognitive situation. In the following the adequacy conditions for an epistemically successful use of probabilistic arguments for rationally convincing are sketched. The most particular among these conditions is that the data base referred to in the argument has to be more or less identical to the data base of the addressee (PA5.5).

A valid probabilistic argument x is *adequate* for rationally convincing an addressee h (hearer) at t of the thesis (q) of x and for making him adopt the thesis' probability for himself iff condition PA5 holds:

PA5: Situational adequacy:

PA5.1: Rationality of the addressee: The addressee h (at t) is linguistically competent, open-minded, discriminating and does not have a sufficiently strong justification for the thesis q.

PA5.2: Argumentative knowledge (of the addressee): The addressee h at t knows at least implicitly the idea of the probability calculus and the mathematics used in x.

PA5.3: Explicitness: If x is not an ideal argument such that $r°$ does not contain all the reasons of the corresponding ideal argument the addressee h at t is able to add the most important of the missing reasons.

PA5.4: Acceptance of the reasons: The addressee h at t has recognised the truth

of the reasons *ri* of *x* and, in the case of non-ideal arguments, of its corresponding ideal or is able to recognise them immediately. And

PA5.5: Data base: The data base *dht* of *h* at *t* is identical to *d* or so near to *d* that the resulting probabilities regarding the reasons *ri* and the thesis *q* remain unaltered.

The just defined probabilistic arguments are not special kinds of deductive arguments or reducible to them. One highlight of the present approach is to make the relativity of probabilistic arguments to specific data bases explicit, by inserting a reference to the data base *d*, thus resolving the problems of logical non-monotonicity. As a consequence of this *explicit* relativity to the data base, the arguments can be and have to be (cf. PA2.2, inferential validity) deductively valid; in addition their reasons can be *true* – even the singular probability judgements among the premises. The problem of probabilistic arguments, i.e. to be only a substitute for stronger arguments in case of insufficient knowledge, which leads to non-monotonicity, however, cannot be eliminated entirely. Here it has been shifted to the pragmatic adequacy conditions, where PA5.5 requires to use an argument with a data base fitting to the addressee. Of course, the addressee may be convinced by an argument that refers to a different data base d_j that the probability of an event *a* on the data base d_j is p_j; however, if d_j is not the addressee's data base at the time being he will not adopt p_j as *his* probability. Deductive arguments do not contain any comparable restriction because they are not relative to the data base; for being rationally convincing the addressee has to be convinced of their premises, yes; but this is not yet a general dependency on the data base. Instead of being logically non-monotonic, probabilistic arguments as they are conceived here are "*pragmatically* non-monotonic" in the sense of getting pragmatically irrelevant when the data base does no longer fit to the addressee's changed data base. Further irreducible differences with respect to deductive arguments then are that this relativity to the data base also shows up in the adequacy in principle condition (PA3.3.2), that references to a data base are part of the structure of ideal probabilistic arguments (cf. PA0.2.1, PA0.2.2.2) and, finally, the best evidence requirement (PA2.3).

The just provided definitions show that it is possible to develop clear, reasoning-guiding and epistemologically justified criteria for probabilistic arguments, which do justice to requirements of objective validity as well to adaptation to the specific

epistemic limits of the argument's addressees.**[vii]**

NOTES

[i] Proponents of the epistemological approach to argumentation are e.g. Mark Battersby, John Biro, Richard Feldman, Alvin Goldman, Christoph Lumer, Harvey Siegel and Mark Weinstein. An overview of this approach (including bibliography) is provided in: Lumer 2005a.

[ii] Several other forms of probabilistic arguments and fallacies have been analysed (e.g. Korb 2004; Hahn & Oaksford 2006; 2007), without however providing precise criteria for such arguments.

[iii] This dismissal as a general theory does not exclude that equiprobability settings play an important role in situations under complete uncertainty about frequentist probabilities.

[iv] Here and in the following I omit the time variable of 'belief'.

[v] The tendency of evidence should be distinguished from the degree or strength of evidence. We may have strong or weak evidence with the same tendency, i.e. for the same probability. We may e.g. have counted 30 black and 60 white balls before putting them into an urn and therefore have strong evidence that the probability of picking a white ball at random is 2/3; and, in a different setting, we may have picked (with replacement) nine balls from the urn, three of them being black and six of them being white, and because of this have the weaker evidence that the probability of picking a white ball at random is again 2/3.

[vi] That *s* is "linguistically competent" shall mean that she knows the semantics, syntax and expressions used in the argument; this includes knowledge about the probability concept and the parts of the probability calculus used in the argument. "Open-mindedness" refers to the disposition to form one's opinions by rational cognition and not on the basis of prejudices or emotions. A person is "discriminating" if she has the basic faculty of basic cognition and is able to organize respectively complex processes of cognition. (Cf. Lumer 1990, pp. 43 f.)

[vii] I would like to thank two anonymous referees for their valuable comments.

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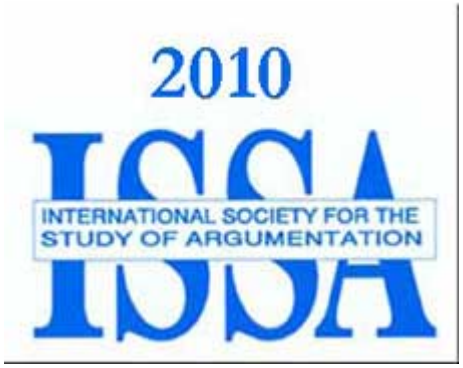
ISSA Proceedings 2010 – Commemoration And Controversy: Negotiating Public Memory

Through Counter-Memorials



Public memory continually is negotiated via competing frames of understanding such as forgetting, denial, repression, trauma, recounting and repositioning. As Stephan Feuchtwang (2006) insightfully notes, "public memory" consists of "both *result/product* as well as *process* – powers and activities of creating and erasing archives, of commemorating or denigrating or worse negating people or events, and of recording and ignoring narratives in chronicles, histories, and myths" (p. 176). Within the complexities of public discourse and argument, memorials often are established that commemorate a particular thread of memory. Such statues, monuments, and other objects are designed and located in public to communicate a set of values and an official version of the past. Yet, in response to such public memorials, art and objects often are located or circulated that challenge the dominant discourse about history and remembrance.

These "counter-memorials" – sometimes also called "antimemorials" and "counter-monuments" – function as sites of contestation, locating arguments in the public sphere that seek to discount, amend, or re-inscribe the past in alternative ways that directly challenge the idea that a single public memory is possible. In this essay I examine a variety of potential means for theorizing the rhetorical dimensions of the "counter-memorial," and ultimately suggest a theoretical path through the works of Kenneth Burke as a significant foundation for understanding public memory debates. This essay then examines the rhetorical form of the "counter-memorial" by analyzing several key instances of the establishment of this oppositional discourse in public spaces.

1. Definitional and Theoretical Quandaries

One of the challenges to understanding the rhetorical terrain of the counter-memorial is discovering a path through the variety of literatures where this concept has been employed, including communication, critical studies, history, anthropology, and sociology. Perhaps a useful place to start is to look to a further, very different, realm where the terminology is used, the International Court of Justice in The Hague. Article 49 of the Rules of Court define a "memorial" as "a statement of the relevant facts, a statement of law, and the submissions,"

essentially the affirmative case in a dispute. In these rules the term "counter-memorial" is used to designate "an admission or denial of facts stated in the memorial; any additional facts, if necessary; observations concerning the statement of law in the Memorial; a statement of law in answer thereto; and the submissions," essentially the negative case (International Court, 1978).

These definitions from the legal realm translate well into the terrain of public memory, where a "memorial" is the "case" put forward by dominant culture in the establishment of an official version of events. Here, the physical monuments established in sacred sites – especially those taking the typical modernist, heroic, authoritarian forms – are intentional rhetorical acts designed to indoctrinate and invoke a particular version of memory that suits the dominant interests. The "counter-memorial" becomes the "case" forwarded by those who deny or disagree with the version of history implicated by the official memorial either because of its placement, its form, or its exclusion of events and participants. In its most general sense, then, the counter-memorial is a rhetorical act that seeks to challenge its readers/audience to complicate their perceptions and knowledge.

Of course, things are never quite that easy: across the various literatures where the terms counter-memorial, counter-monument, and antimonument are used there are not consistent definitions or applications, nor is theory always mobilized to ground the concepts. Yet, some similarities and common assumptions emerge. Consider some typical definitions. Describing what he refers to as a counter-monument, historian James Young (1992) states: "By formalizing its impermanence and even celebrating its changing form over time and in space, the counter-monument refutes this self-defeating premise of the traditional monument. It seeks to stimulate memory no less than the everlasting memorial, but by pointing explicitly at its own changing face, it re-marks also the inevitable – even essential – evolution of memory itself over time" (p. 295). In later works, Young (2000) uses the term counter-memorial, which he defines as "brazen, painfully self-conscious memorial spaces conceived to challenge the very premises of their being" (p. 7); they are "memorial spaces conceived to challenge the very premise of the monument" (p. 98). Prominent in these statements is the notion that memory is not static, unidimensional, or univocal. Important also is the argument that counter-memorials are conceived in ways that resist traditional memorial forms.

The ideas set forth by Young are echoed in other definitions attached to similar

constructs. For example, in describing antimemorials, Ware (2004) states, " antimemorials critique the illusion that the permanence of stone somehow guarantees the permanence of the idea it commemorates. In contrast, antimemorials formalise impermanence and even celebrate their own transitory natures. Antimemorials encourage multiple readings of political and social issues, and prompt a different level of physical interactivity" (para 3). Key to most definitions of "counter-memorial" is this kind of argument about intent and form of the monument.

Definitions of the concept of counter-memorial also share a focus on the processes of memory: how memory is stimulated, its nature as transitory and malleable, and its relation to a collective/public meaning. The discussion of counter-memorials coincides with a wide scholarly interest in the concept of memory, especially as linked to traumatic events and sites; as Klein (2000) notes, "for some scholars interested in memory as a metahistorical category, 'trauma' is the key to authentic forms of memory, and memories shaped by trauma are the most likely to subvert totalizing varieties of historicism" (p. 138). Hence, many of the rhetorical acts that critics categorize as counter-memorials are connected with questions about how a culture should best remember its traumatic history and avoid totalizing explanations; the literature particularly has been focused on remembrance of the Holocaust and how to memorialize significant sites and acts associated with this history.

But, what, precisely, is meant by "memory" in its public sense, as related to the practices of memorializing? Certainly, zeroing in on a definition of memory is a very complex undertaking, but for the purposes of thinking about the rhetorical act that is the counter-memorial, beginning with the important distinction made by Aristotle can provide a useful launch. As Kasabova (2008) interprets Aristotle's *On Memory and Recollection* in regard to the functions of memory, he distinguishes between "the retentive and retrieving functions of memory: the former preserves an event from forgetting and erasure, while the latter recalls it and brings it back to the present" (p. 336). Here, "memory" marks the thought and the space where it is retained in an individual; "recollection" is the intentional act that retrieves the memory and situates it in a current context (Aristotle, trans. 2006). What I find intriguing about this definition is that "recollection" is described by Aristotle as an active process, an aspect greatly clarified by considering Murphy's (2002) further interpretation of Aristotle on this

point: “It is the perception that is the object of memory, or the retention of what was known in the past. Habit, or the tendency to act in a certain manner, derives from memory in that unrecollected choice creates a potential motion of the soul in advance of recollection. Recollection, Aristotle says, is ‘actualized memory’. Since it is a kind of motion, then, from potentiality to actualization, the study of recollection examines how this motion is caused” (pp. 218-219). In sum, Aristotle proposes that memory is a potential in advance of motion, which then becomes actualized in the act of recollection. The question of how the process of recollection is stimulated – via memorials and counter-memorials – becomes the province of rhetorical action. Indeed the question of what stimulates memory, and how, is at the crux of the debate over counter-memorial practices. Following from Kasabova’s (2008) conclusion that “the notion of memory implies that we consider ourselves as agents” (p. 335), I turn to Kenneth Burke’s dramatistic theory as the foundation for a theoretical framework to define and understand the rhetorical action of counter-memorials.

2. Counter-memorials in a Dramatistic Frame

Burke (1969) defines dramatism as a critical approach that “invites one to consider the matter of motives in a perspective that, being developed from the analysis of drama, treats language and thought primarily as modes of action” (p. xxii). Two aspects of Burke’s rhetorical theory are particularly useful to define and understand the concept of the counter-memorial, his theory of pentadic terms and his discussion of the four master tropes.

First, in regard to the five terms of act, agent, agency, scene, and purpose, Burke (1969) famously notes that: “They need never to be abandoned, since all statements that assign motives can be shown to arise out of them and to terminate in them. By examining them quizzically, we can range far” (p. xvi). The pentad is used to understand the processes engaged in rhetorical action, and how “acts” are explained in association with individual intents (agent), environmental and scenic forces (scene), tools and mechanisms used to achieve the act (agency), and the reasons for the commission of the act (purpose). Through application of the pentad, the critic can discover the key causal connection between pentadic terms that explains the perspective underlying a rhetorical account; as Burke (1969) describes its employment: “We want to inquire into the purely internal relationships which the five terms bear to one another, considering their possibilities of transformation, their range of permutations and combinations –

and then to see how these various resources figure in actual statements about human motives" (p. xvi). In relation to the question of counter-memorials, I argue that these rhetorical acts can be understood through three different pentadic ratios: agent-act, agency-act, and scene-act, where the "act" in each case is the act of stimulating recollection. Each of these ratios will be explained and illustrated below.

Second, in this study I apply the "four master tropes" of metaphor, synchedoche, metonymy, and irony, to reveal the varieties of thinking about history and the symbolic power of monuments in the public space that are at play in discussions of counter-memorials. As Burke (1941) succinctly defines them: "For metaphor we could substitute perspective; for metonymy we could substitute reduction; for synecdoche we could substitute representation; for irony we could substitute dialectic." (p. 421). By applying the tropes, a critic is not concerned, as Burke says, with "their purely figurative usage, but with their role in the discovery and description of 'truth'" (p. 421). For each of the ratios revealed in relation to counter-memorials, I also discovered a corresponding tropic framing: agent-act reveals synecdochal thinking; agency-act is related to irony; and scene-act reveals metonymic conceptions. The following section expands upon and illustrates these arguments by linking them to examples from the literature on counter-memorials.

2.1 Agent-Act [Synecdoche]

First, some descriptive accounts of counter-memorials emphasize the rhetor who creates the counter-memorial, variously placing emphasis upon the political stance or their personal stake in memorializing. The key focus here is on the rhetorical agent who intentionally designs a work to convey their political or personal perspective; the agent/rhetor is described as the determining force that shapes the act of remembrance. The rhetorical frame activated here is that official or dominant viewa of history and acts of memorializing are wrong or incomplete; hence the counter-memorial is deemed necessary to voice an alternative view of the past, or, an alternative means for understanding it. Consequently, this is synecdochal thinking; as Kenneth Burke (1941) notes in regard to synecdoche, it is "an integral relationship, a relationship of convertibility, between the two terms" (p. 427). Further, he notes, "We might say that representation (synecdoche) stresses a *relationship or connectedness* between two sides of an equation" (p. 428). Commonly construed as a part to whole, whole to part relationship, in regard to counter-memorials, the

intervention of alternative voices is deemed necessary to include a part of history that is suppressed or missing from public memory. Hence the central emphasis in these definitions is on the question of whose memory is defined as valid in the public arena.

A review of the instances in which rhetorical acts are labeled counter-memorials reveals two variations. One set of accounts emphasizes the political stance of the rhetor, and thus sees the counter-memorial as the expression of a marginalized or subaltern group. Although the link is not explicitly made in studies of counter-memorials, this definition can be profitably understood via the concept of "counterpublics". As Hauser (2001) defines this notion, "a counterpublic sphere is, by definition, a site of resistance. Its impetus may arise from myriad causes, but its rhetorical identity is as an arena for hearing proscribed voices, expressing proscribed ideas and entertaining the alternative reality they advance to the existing order." (p. 36). Here, counter-memorials can be understood as the expressions from counterpublics who seek to "voice oppositional needs and values not by appealing to the universality of the bourgeois public sphere but by affirming specificity of race, gender, sexuality, ethnicity, or some other axis of difference" (Asen & Brouwer, 2001, p. 7). These counterpublics often intervene in public discourse by bringing specific experiences of trauma into the cultural arena.

An interesting example of this agent-act ratio can be found in designations of performance artist Ralph Lemon's rhetorical acts as "counter-memorials". Lemon's works combine dance and video to create commentaries about slavery and lynching, including filmic accounts of his travels to locations that are central to the experience of African Americans in the U.S, such as sites related to the 1955 lynching of Emmitt Till in Mississippi and the Edmond Pettis Bridge in Selma, Alabama. Regarding Ralph Lemon's counter-memorials expressed through performance art, Nicolas Birns (2005) notes: "Lemon's processes are reminiscent of the school of memory-historians led by Pierre Nora, as well as theories of trauma and mourning developed in response to slavery and the Holocaust. These occurrences of inhumanity cannot easily be chronicled in conventional narrative leading to cathartic reparation. Artists have long struggled with the challenge of bringing history into their works, without that history being undigested or monumental. Lemon's work is a model for how art can register the burden of history without claiming a bogus historical self-importance. His work makes clear

that any reckoning with the past must be both traumatic and incomplete." (p. 81). Lemon's performances are a kind of "revisiting" of history that documents his visits to sites where violence against blacks was perpetrated in order to open it up to center on his positionality as a marginalized rhetor: "he seeks to ritualize the past, not to monumentalize it" (Birns, 2005, p. 81).

Related to this definition of the counter-memorial that emphasizes the expression of a rhetor's perspective, a variant attaches this term to rhetorical acts that emanate from a more specifically personal, rather than an explicitly counterpublic, sense of agency. Within the literature about counter-memorials a good example of this personally-motivated agent-act ratio is found in Angela Failler's (2009) analysis of Eisha Marjara's film *Desperately Seeking Helen* as a ''counter-memorial'': "Interweaving an account of her mother and sister's deaths on Flight 182 with the story of her family's immigration to Quebec from [the] Punjab in the 1970s and a current-day quest for her Bollywood idol Helen, Marjara posits a different relationship of the present to the past; that is, one less anxious to establish so-called historical truth in order to bring about a sense of closure. The film complicates the temporality and politics of remembering by attending to the inconclusive and fragmentary natures of memory, loss, and diasporic subjectivity. In doing so, it challenges official interpretations of the Air India disaster and serves as an example of how working through personal memory can be a means of both psychical and cultural regeneration" (p. 151). Here, Fallier points to the interweaving of the personal with the political; one is not divorced from the other, but this definition of counter-memorial definitely foregrounds the individualized nature of memory in light of the trauma of loss and the question of remembrance.

2.2 Agency-Act [Irony]

Within the literature about counter-memorials, many invocations of the term place primary importance on form – specifically artistic and architectural elements – in regard to what is the appropriate mechanism for remembrance. I see this as an agency-act ratio, where the emphasis in explaining the concept centers on the question of the nature of memorials and their ability to invoke specific kinds of recollections for audiences. In this sense, the key feature that defines the counter-memorial is the agency used to express memory, which is not necessarily related to the rhetor's association with a counterpublic. Indeed, many of the rhetorical acts defined as counter-memorials in this sense are "official"

installations that are fully validated by the state, often the product of public competitions to select an artist to create a particular commemoration. But those viewed as counter-memorials differ in important formal ways from traditional means of memorializing; as historian James Young describes this kind of remembrance, it is "art that questions the premise of the monument, and doubts whether the monument could provide stable, eternal answers to memory" (Gordon and Goldberg, 1998, para 6).

This rhetorical move is related to the impulse characteristic of post-structural analysis, wherein the counter-monuments can be understood as a discursive move that interrupts and subverts the dominant "code" of monuments. In relation to media representations of memory and trauma, for example, Allen Meek (2010) describes this post-structural view using the theories of Roland Barthes, in which the preferred political gesture is "one that disrupts the signifying force of the image with the violence employed by the state" (p. 109). For Barthes, the *studium*, the everyday detachment associated with consumption of images, had to be interrupted by the *punctum,* "the contingent detail that provoked deeper forms of memory" (Meek, 2010, p. 122; Barthes, trans. 1981). Hence the *punctum* as a stimulation for recollection could only be activated "once the image was released from cultural discourses of technique, art realism, etc. that encased the photograph within cultural codes and conventions of meaning." (p. 123). Echoes of this post-structuralist faith in the power of signs to interrupt and stimulate new perspectives underscore much of the descriptive literature about counter-memorials.

This conception of history as a narrative that requires destabilization and doubt invokes the ironic frame. About irony as a master trope, Burke (1941) notes: "But insofar as terms are thus encouraged to participate in an orderly parliamentary development, the dialectic of this participation produces (in the observer who considers the whole from the standpoint of the participation of all of the terms rather than from the standpoint of any one participant) a 'resultant certainty' of a different quality, necessarily ironic, since it requires that all the sub-certanties be considered as neither true nor false, but *contributory*" (p. 433). Scholars familiar with Burke's dramatism also will note a relationship to what he calls "perspective by incongruity," the rhetorical act that, in taking concepts from their habitual contexts and inserting them into others reveals "unsuspected connectives" and exemplifies "relationships between objects which our customary rational

vocabulary has ignored" (Burke, 1984, pp. 89-90).

This agency-act perspective is prominently forwarded by historian James Young in his studies of Holocaust monuments in Germany. In describing the emergence of counter-memorials in recent decades, Young notes: "But once the monument has been used as the Nazis or Stalin did, it becomes a very suspicious form in the eyes of a generation that would like to commemorate the victims of totalitarianism, and are handed the forms of totalitarianism to do it. For young German artists and architects in particular, there is an essential contradiction here. So they have begun to turn to forms which they believe challenge the idea of monumentality, and have arrived at something I'd call the "counter-monumental," or the "counter-memorial" – the monument that disappears instead of standing for all time; that is built into the ground instead of above it; and that returns the burden of memory to those who come looking for it" (Gordon & Goldberg, 1998, para 2-3).

The "disappearing monument" in Harburg, a neighborhood of Hamburg, Germany is a prominent example of this agency-act ratio and ironic perspective in discussions of counter-memorials. In 1983 Jochen Gerz and Esther Shalev–Gerz submitted the winning design in a competition held by the local council for a monument against fascism. The Harburg monument was a four-sided steel column, twelve meters high, built to be lowered over time into the ground and eventually disappearing from view. The outside of the column was coated with lead where visitors were invited to write on the surface. By 1993 the monument completely disappeared underground, with only a small portion visible through a window on a staircase. In essence, this kind of counter-memorial seeks to challenge traditional forms of expression and invoke new meanings via rejection and inversion.

2.3 Scene-Act [Metonymy]

Still other uses of the concept of counter-memorial examine the site as of primary importance in the consideration of the process of memory. This places the causal emphasis on the scene as the force that determines the dimensions of rhetorical acts, creating the scene-act ratio. In regard to counter-memorials, much of the literature that seeks to define these acts focuses upon how the act of memorializing interacts with the historical location, particularly when the site is considered sacred to the culture or is associated with trauma and tragedy.

This investiture of special meaning in sites of trauma has been described by

anthropologist Lynn Meskell (2002) as “negative heritage,” the significance that resides in the materiality of certain sites such as European concentration camps or the World Trade Center ruins in New York. She argues that this kind of negative heritage location functions as “a conflictual site that becomes the repository of negative memory in the collective imaginary. As a site of memory, negative heritage occupies a dual role: it can be mobilized for positive didactic purposes (e.g. Auschwitz, Hiroshima, District Six) or alternatively be erased if such places cannot be culturally rehabilitated and thus resist incorporation into the national imaginary (e.g. Nazi and Soviet statues and architecture)” (p. 558). Such negative heritage sites also can incite counter-memorials that challenge the authority of the official memorials installed or invoke formal accommodations that recognize the importance of the site for instigating public memory processes.

This conception of history and memory invokes metonymic frames. The disputes over memorials, counter-memorials, and the proper means to remembrance all circulate around the idea of the memorial as a “reduction” of an abstract or complex historical construct into a single form. As Burke (1941) notes, “the basic ‘strategy’ in metonymy is this: to convey some incorporeal or intangible state in terms of the corporeal or tangible” (p. 424). The monument, as metonymy, is placed in the location as a condensation of the meaning of the site; in this sense, counter-memorials either emerge as alternative interpretations placed on that same site to dispute the sanctioned memorial or seek to distill the meaning of the site into the memorial via alternative forms of expression. In both cases, the rhetorical act of recollection is governed by the scene as the determinant factor.

Two analyses from the literature about counter-memorials illustrate the first construction of this scene-act ratio, where the site invokes an alternative installation to the sanctioned memorial. First, Ware (2004) describes a set of Australian memorials: “A striking example of a counter-memorial is ‘Another View Walking Trail’ by Megan Evans and Ray Thomas. In 1989, they strategically placed Indigenous symbols and markers alongside traditional government-built memorials in the Melbourne CBD [central business district], highlighting another version of the history of colonisation and subverting the traditional memorials’ meaning. For example, underneath the statue of Captain Matthew Flinders, the artists buried a cross-shaped glass box of bones and ribbons. The cross symbolised local Indigenous beliefs about spiritual connections to the Southern Cross constellation” (para 9).

Second, anthropologists Simpson and de Alwis (2008) describe counter-memorials established in Sri Lanka following the tsunami: “The most infamous one, near the site where a train carrying over 1500 people was swept off the track, is now locally referred to as the ‘Fernandopulle Memorial’ after the minister who oversaw its construction. However, a collective representing those who perished in this train has erected a counter-memorial next to the Fernandopulle Memorial, on a site where around 300 bodies lie in a mass grave, declaring that the deaths were due not merely to the tsunami but also to ‘those in authority neglecting their responsibility’” (p. 10). In this instance, the official black granite monument’s triangular shape is echoed in the whitewashed, flimsy, hand-lettered counter-memorial erected nearby. This kind of counter-memorial is motivated by the site and disputes about what should be the proper memory associated with it.

The alternative iteration of the scene-act ratio and the metonymic frame describes rhetorical acts of counter-memorializing that are rooted in the sacredness or the negative heritage of the scene, such that the scene is regarded as the determinant factor in the design and instillation of the memorial. Unlike the first instance of scene-act expression where a counter-memorial is placed by local or indigenous rhetors in opposition to a sanctioned memorial, this second instance of scene-act counter-memorials exists free of the links to a counterpublic or a pre-existing official memorialization. A prominent and often-cited example of this type of scenic counter-memorial is the Aschrott-Brunnen monument in Kassel, Germany. The counter-memorial was designed by artist Horst Hoheisel to be installed on the original site of the Aschrott-Brunnen fountain that was a gift to the city in 1908 from Sigmund Aschrott, a Jewish businessman, but subsequently was torn down by Nazi forces in 1939, with only the sandstone base remaining. The effort to restore the fountain or establish some kind of monument on the site was initiated in 1984 by the Society for the Rescue of Historical Monuments. Hoheisel proposed recreating the original fountain as a hollow concrete shell, then burying it upside down in the exact location of the original fountain and covering it with glass which visitors could walk across and where they could hear water dripping below. About his design, Hoheisel stated, “the only way I know to make this loss visible is through a perceptibly empty space, representing the space once occupied. Instead of continuously searching for yet another explanation or interpretation of that which has been lost, I prefer facing the loss as a vanished form” (“Aschrott-Brunnen,” 2010, para 8). The rhetorical act of the counter-memorial thus was determined by the original site, yet rendered in a way that

complicated the invocation of memory in public space.

3. Conclusion: Commensurate Frames and Public Memory

The concept of "counter-memorial" is complex and varied in its applications across the scholarly literature, yet lacks a consistent definition. In this essay I have suggested that this rhetorical act can best be understood dramatistically, as a rhetorical action that is as differently motivated within three different rhetorical frames. While it is not possible to have a single definition of "counter-memorial" what this analysis suggests is that the varieties of applications share a common emphasis, with the focus on the act of recollection as the central bond. As Burke (1969) notes about the pentadic terms, "certain formal interrelationships prevail among these terms, by reason of their role as attributes of a common ground or substance. Their participation in a common ground makes for transformability" (p. xix). Indeed, I do not mean to suggest that the distinctions I have made among the agent-act, agency-act, and scene-act frames are rigid boundaries, but rather they demarcate useful points of clarification that reveal the motivations underlying various rhetorical acts of counter-memorializing. Perhaps the overarching pentadic term that unites inquiry into the rhetorical dimensions of counter-memorials is that of purpose – we are fascinated by a mystical sense of how memory can be marshaled for the purposes at play in the present; "memorials" and counter-memorials ultimately dispute each other across these grounds.

The tropic understandings of counter-memorial also merge into a constellation of possibilities for understanding how we, as scholars and critics, seek to come to terms with rhetorical actions that are intended to intervene in our processes of recollection and shape the retention of particular memories. As Burke (1941) notes, "It is an evanescent moment that we shall deal with – for not only does the dividing line between the figurative and literal usages shift, but also the four tropes shade into one another. Give a man but one of them, tell him to exploit its possibilities, and if he is thorough in doing so, he will come upon the other three" (p. 421). In the case of counter-memorials, the tropes of synecdoche, irony, and metonymy all shade into the dominant trope of metaphor, as each variation of the act of memory seeks to offer a perspective, framing for its audience a unique, reductive, or problematic view of history.

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ISSA Proceedings 2010 – Rhetorical vs. Syllogistic Models Of Legal Reasoning: The Italian Experience

1. Introduction

The aims of this paper are (1) to outline the historical path that gradually led to the formation of a meta-discursive space founded upon argumentative accounts in Italian jurisprudence after the end of the Second World War, but without entering into detailed criticism of these accounts and their applications; (2) to identify, within such space, a peculiar approach (at once metaphysical and practice-oriented) which started from some universities in North-East Italy (Padua, Trento, Verona, Trieste). Following the basic studies of Francesco Cavalla, this approach has to date produced a research centre (CERMEG: *Research Centre on Legal Methodology*) and numerous scientific and

experimental initiatives. Its representatives are known in Italy for their activities in the specific field of legal rhetoric – that is, the rhetorical method applied to legal reasoning – and for their cooperation with lawyers' associations.

2. An historical reconstruction of Italian Jurisprudence after the Second World War

After the Second World War and the experience of legal positivism as an instrument of political coercion, the world's ideological division in two opposing blocs – liberal-democrat and social-communist – produced in Italian jurisprudence an antagonism between proponents of natural law (understood as a limit to the state's power) and those favourable to legal positivism (understood as a guarantee of the rule of law). The tradition of legal thought connected with neo-idealism, and considered excessively compromised with the fascist regime, disappeared. The phenomenological, existentialist and intuitionist currents of philosophy that developed between the two world wars resisted precise translation into the terms of legal philosophy. Curiously, the new supporters of legal positivism, all connected with the Turin School founded by Norberto Bobbio, mainly relied on the logical neo-empiricism of the Vienna Circle, despite the already ongoing crisis of neo-positivism. As a consequence, the theoretical and methodological formalism distinctive of nineteenth-century legal positivism and Kelsenian theory continued to characterize Italian jurisprudence, encountering only very weak opposition (also political) from the supporters of natural law.

The legal positivism inspired by Bobbio thus tended to convey into legal science a sort of 'resurgent scientism' apparently unaware of the discussions (as conducted by Edmund Husserl for example)**[i]** concerning the crisis of the sciences. It was dominated by the desire to furnish scholars of theory of law and specialists (in civil, criminal, constitutional, etc., law) with a rigorous method able to give the same logical certainty distinctive of the sciences, especially the formal ones, to jurisprudence.

We can therefore distinguish the following main features in this new legal positivism: axiom of axiological neutrality (based on David Hume's Great Divide)**[ii]**; adoption of the analytical method (formalism), or, in some cases, of the empirical method (legal realism, sociology of law). These scholars believed that the certainty of the law, also in theory, could be ensured by assuming the postulate that by 'law' is meant a 'set of positive legal norms' – a postulate favoured by the codified regimes typical of the continental civil law countries.

Bobbio himself applied the normativist formalist scheme developed by Hans Kelsen**[iii]** as the guarantee of a scientific jurisprudence. We may therefore say that the experiment proposed by Bobbio consisted in a merger between Kelsen's normativism and neo-empiricist doctrines, that is, between normative rationality and logical rationality. A problematic undertaking indeed.

However, it was again Bobbio**[iv]**, in his preface to the Italian translation of *Traité de l'argumentation* by Chaïm Perelman and Lucie Olbrechts-Tyteca (1966: the same year in which the so-called 'crisis of legal positivism' began), who opened a small breach in the rigid neo-positivist separation between rational certainty (the exclusive preserve of demonstrative reasoning) and the irrationality of all other kinds of discourse (ethical, political, artistic etc.). Bobbio wrote:
"The theory of argumentation refutes such too-easy antitheses. It demonstrates that between absolute truth and non-truth there exists room for truths to be subjected to constant revision, thanks to the technique of adducing reasons for and against" (Bobbio 1966, p. 322).

Bobbio's position represents the first and most authoritative acknowledgement in Italian jurisprudence of the 'argumentative turn' which came about in philosophical thought following publication of Perelman's *Traité* and Stephen Toulmin's *The Uses of Argument*, both of which appeared in 1958 (this position was then carefully cultivated by Uberto Scarpelli)**[v]**. The authors of the argumentative turn evinced the weakening of the Cartesian separation between what Charles P. Snow**[vi]** called in those years (1959) "the two cultures": humanistic knowledge (emotional, irrational) and scientific knowledge (neutral, rational). As recently pointed out by Adelino Cattani**[vii]**, the term 'argumentation' (and its derivatives) is simply a politically correct form of the ancient term 'rhetoric', which is still viewed with suspicion. It serves to introduce the idea of one or more kinds of rationality distinct from the formal-demonstrative one.

What Bobbio does not explain, however, is the relation that can be established between this or these kinds of rationality and Kelsenian methodological formalism in the field of legal science. In substance, he does not tell us in what sense the "truths subjected to constant revision" are truths, and how this "revision" is performed. For formalist legal positivism, legal reasoning is a type of logical inference whose premises are authoritative in nature: the legal norms established by the legislator. Ultimately, the will of the legislator is exempt from the

deductive and, therefore, logical procedure. Rationality intervenes subsequently by operating on the system of the sources. The logical control of normative statement does not necessarily have legal weight, since the value of the norm does not reside in its intrinsic or systematic consistency, but rather in the 'fact' that it has been legitimately promulgated. Hence, rationality and normativity are not perfectly synonymous.

On the other hand, Perelman himself believed that argumentative rationality is 'quasi-logical' or 'analogous to empirical reasoning'. That is to say, it has more persuasive efficacy the more it *resembles* the deductive and inductive procedures, which are therefore the most certain forms of reasoning. The *nouvelle réthorique* must therefore be understood as the study of the factors that make a discourse persuasive: it is measured not (a priori) by the *method* used, but (a posteriori) by the *results* produced, by the 'fact' that it orients the audience's judgement in a particular direction. This is a form of utilitarian empiricism that restricts argumentative theories to a subordinate level 'weaker' than science from the logical point of view.

I shall explain later why this point is crucial, and I shall propose a way to deal with it. What is certain is that all the authors of the argumentative turn took the same line: that rationality is 'weak', and that persuasion is a 'fact' rather than the result of a logical procedure in the proper sense.

From the 1970s onwards, 'attempts at dialogue' proliferated between theorists of the law tied to the analytical form of legal reasoning and the proponents of various non-formalist approaches. Perhaps the more evident of them is legal hermeneutics. According to Cattani**[viii]**, hermeneutics, as the "art of *understanding* the text" (i.e. of interpretation) is "the other side of the rhetorical coin (which is instead the art of *constructing* the text)" (Cattani 2009, p. 23). This is therefore an argumentative theory which confronts legal positivists with the problem of decoding the prescriptive content of normative statements: for the hermeneuticists the premise of a judicial syllogism is not a *given* (as are definitions in the formal sciences), rather, it must be 'found' (*Rechtsfindung*) in the context of application. It is therefore necessary to illuminate interpretative processes, which are almost always implicit, in order to assess their rationality.

During the 1980s, the spread to Europe of the Hart/Dworkin debate**[ix]** directed attention to the question of the principles (political, ethical, social, constitutional)

that should yield knowledge of the meaning of legal norms, especially for the judges that must apply them. The theme of justice thus re-entered the field of studies on law, after being excluded by the formalism of the legal positivists.
Also very influential were other philosophical and epistemological currents of thought: in particular those connected with the linguistic pragmatics introduced by the early Ludwig Wittgenstein (of the *Philosophical Investigations*)**[x]**, which showed that the meaning of a normative statement necessarily depends on the context of reference and the subjects participating in the discussion. The subject thus returned to the philosophical debate, after the term 'subjective', as opposed to 'objective' (i.e. scientific), had for centuries been considered synonymous with irrationality. We may say that through these various processes of de-objectivation – which are very evident in contemporary epistemologies – the field of knowledge descended from an abstract to a concrete level.

Today, although all proponents of the analytical philosophy of law still profess legal positivism, they are prepared to admit that normative material does not constitute given premises with well-founded content. Rather, it is still raw material on which the judge works in an interpretative and 'constructivist' manner. Most of them no longer believe that legal reasoning can be reduced to a perfect syllogism, but instead that it is a composite and complex set of rational procedures. From this point of view, they regard argumentative theories as more or less attractive attempts to study legal interpretation**[xi]**.

3. The argumentative turn
The opening in Italy, even if only partial, of legal positivism to the argumentative turn exhibits what I consider to be a very interesting feature: it tends to shift the legal philosopher's attention from the field of encoded law to the activities of the judge. One might say that the 'heroes' of the legal sciences are no longer *only* the legislator, the state, and the law in the books. To a greater or lesser extent, now also of importance are the time and place in which we effectively know the norms: the domain of their application – that is the trial, which is the main semantic context of legal language.

In Italy, the scholars who have most forcefully posited the trial (and not norms) as the fulcrum of juridical experience have been Giuseppe Capograssi, Salvatore Satta and Enrico Opocher**[xii]**. These are authors who have tenaciously fought against formalist legal positivism, albeit from different perspectives. Capograssi and Opocher in particular, both of them legal philosophers, have adopted a

perspective influenced by existentialist philosophy characterized by identification of the law as a value essential for human coexistence. The law is not neutral but has a positive axiological valence. (In truth, even a highly authoritative Italian scholar like Sergio Cotta has devoted his studies to the existential value of the law**[xiii]**, but we cannot say that Cotta's philosophy of law is expressly processual). Perhaps, however, it is precisely the existentialist emphasis of these philosophies that has prevented more direct and fertile contact with those scholars of legal positivism willing to consider anti-formalist accounts, like the *nouvelle rhétorique* or legal hermeneutics, which are less 'compromised' by metaphysics.

It is in this context that, since the 1970s, Francesco Cavalla**[xiv]**, a pupil of Opocher (and in many respects Cotta) has worked at the University of Padua. Openly opposed to natural law theories, which he terms rationalist and dogmatic, Cavalla has developed an original body of thought focused on the logic of decision-making in the trial. He criticises the authors of the argumentative turn, and Perelman in particular, for lacking a rigorous theory on the rationality of argumentation. Persuasion, according to Cavalla, is not a factual (psychological, emotional) question but a methodological one. It is necessary to identify a logic of persuasion able to produce reasonings that are rationally verifiable in the same way as the results of proofs are rationally verifiable. Cavalla identifies this logic in classical thought, in authors like Plato, Aristotle, St. Augustine and, later, Cicero and Quintilian. Between the mid-1970s and the 1990s, Cavalla deepened his studies on the dialectic, the topic and rhetoric, producing numerous publications and forming a school of young scholars. In 2004 he took part in the foundation of CERMEG (Research Centre on Legal Methodology)**[xv]**, expressly devoted to the study of judicial rhetoric, at the University of Trento.

This school of legal philosophy has innovated the field of legal studies by introducing into the analysis of legal reasoning not only the rational activities of the judge in the final stage of taking the decision, but also those of the other parties to the trial, principally the lawyers. Because the logical model is that of the dialectic, in which the reasoning begins and develops from the discourses of the parties that propound conflicting opinions, it seems incorrect to restrict verification of rationality to the decision alone. For this reason, the CERMEG has undertaken an unprecedented series of projects and experiments with lawyers' associations.

However, as I have said, although Cavalla's account is practice-oriented, it has a solid metaphysical basis due to his studies on the notion of "principle" (Gr. *arché*) drawn mainly from the pre-Socratic philosophers (Thales, Parmenides, Heraclitus) and from Aristotle**[xvi]**. On the basis of this conception, developed by his scholars in various directions (e.g. theory of punishment, bio-law, legal epistemology, artificial intelligence and law, study of metaphors and brocards, etc.), "rhetorical truth" (and therefore trial truth) is established by a logical non-axiomatic method. The pragmatic conditions which distinguish the formation of rhetorical truth are dissimilar from those of formal and empirical procedures.

Consider the following table:

	LANGUAGE	CONTEXT	PREMISES
SCIENCE	FORMALIZED LANGUAGE (artificial)	MONOLOGIC (no discussion during the proof)	AXIOMS (stipulated)
RHETORIC	VAGUE LANGUAGE (natural or semi-natural)	DIALOGIC (constant discussion)	COMMONPLACES (found in public discourse)

The conditions that characterize every scientific reasoning are essentially those relative to the language, the context, and the type of premises. The language of science is a language whose terms have meanings established through nominal definitions (e.g. 'point' or 'number'); these meanings are never discussed during development of the proof. Finally, these meanings are conventional in nature and they are used to obtain particular practical results. A scientist, for example, can assume the (opposing) definitions of 'light' as an electromagnetic wave or as a corpuscle depending on the purpose of his operations. However, once one definition has been assumed, he cannot interrupt his logical operations and introduce the contrary definition.

By contrast, the rhetorician uses for his logical operations terms whose meanings are not the result of nominal definitions, but which are 'found' already associated with certain meanings that hold in a circumscribed space-time context *x* (e.g. 'appropriate clothing' in the context of a scientific conference may or may not include a tie, but not a tie worn around the neck without a shirt, although no formal definition on the matter has been stipulated). These terms, moreover, can be constantly disputed during the logical operation (for example, I can protest that a tie worn with a shirt but decorated with a frivolous and garish pattern is

admissible as 'appropriate' to a scientific conference). Hence semantic fluctuation must be governed by the rhetorician, who must justify his semantic choices at every point of the logical operation. The question is: *how* can he/she do so?

As we know that the answer of argumentative theories is: through the forms of argumentation**[xvii]**. But the forms of argumentation produce *persuasion*: does this also mean that they produce *truth*? The problem becomes clear when conflicts arise among forms: what criterion obliges me to choose one form rather than another, a criterion which is not that of simple efficacy? (For this reason I previously said that argumentative theories risk being reduced to a kind of utilitarian empiricism).

If we really want to build a bridge between the "two cultures"**[xviii]**, we must find a criterion of truth to associate with the use of the forms of argumentation. Cavalla believes that this is possible if one takes as 'true' every reasoning whose conclusions do not encounter logically consistent oppositions in the space-time context *x* in which it is developed. This logical consistency, exactly as in deductive or empirical reasoning, is governed by the principle of non-contradiction: if I have assumed premise *p*, I cannot reject conclusion *q*, regardless of whether the premise is axiomatic or non-axiomatic. The only difference consists in the fact that the conclusions obtained from axiomatic premises, being abstract, last as long as the nominal definition is accepted (and not disputed), while rhetorical conclusions must be defended whenever doubt is cast on the meanings of the terms (e.g. If *p* = tie, then *q* = appropriate; but now *p* = tie worn around the neck, or = decorated with a frivolous and garish pattern, so it is necessary to reformulate the meaning of 'appropriate' to maintain consistency between premises and conclusion). Varying the premises does not make rhetorical reasoning less logical (and verifiable) than formal reasoning: in both cases, the truth is founded on non-contradiction. This fact enables Cavalla to extend his argumentative theory into the metaphysical domain (on the base of the question: what is it that compels us to accept a non-contradictory conclusion?), but this point will not be discussed in this brief paper.

The principal features of the argumentative account proposed by the CERMEG in Italy can be summarized as follows (the s. c. "Heptalogue of CERMEG").
1. Because the rigour of the rhetorical conclusions is guaranteed by the logical principle of non-contradiction, it has the same nature as proofs; it consists in the undeniability of the conclusions with respect to the premises;

2. Rhetorical truth is not based on a psychological 'fact': persuasion is the product of a logical operation (as Aristotle maintained); otherwise one must speak, not of 'rhetoric' but of 'sophistry' (persuasion without truth);
3. It is not true, as Perelman claims, that a reasoning which uses 'probable' premises determines solely probable conclusions: if there is consistency between conclusions and premises, the result is not 'probable' but 'certain', albeit within a particular space-time context *x*;
4. If this is so, there is no reason to maintain an absolute distinction between the "two cultures" (scientific and rhetorical): also rhetoric uses rational operations; also science uses argumentative forms (e.g. when it discusses the choice of premises, attributes greater or lesser authoritativeness to a scientific journal or to a team of researchers, etc.);
5. Because the premises of rhetoric are identified within concrete discursive contexts, its logical operations adhere more closely to concrete states of affairs, and are therefore particularly suited to being applied and experimented. This is especially important in politics, the economy, and the law (where decisions are taken);
6. The use of rhetorical argumentation is functional to the 'identity of the European jurist', because it extends its roots into the Greco-Roman conception of the rationality of the law dominant in Europe at least until the modern advent of formalist legal positivism (symmetrically with Cartesianism in philosophy);
7. For this reason, rhetorical argumentation is particularly suited to the scenarios of the Third Millennium, in that it rejects both dogmatism (which imposes the premises without allowing their discussion) and radical skepticism (which holds that the premises are of equal weight): these two approaches, in fact, consign decisions to the power of those able to impose their own opinions, while rhetoric keeps the intersubjective (ethical, political, economic, juridical) relationship open to rational discussion.

4. Possible perspectives of CERMEG's approach

The above listed 7 features can be interpreted as the synthesis of a working program linking together various directions in the fields of metaphysics and logic, history of philosophy, epistemology, jurisprudence, theory of norms in legal procedure (civil, penal, labour, etc.), to mention only the principal ones. In all these fields different expertises could converge to check each single proposal.

The advantages of a rhetorical approach to the theory of legal argumentation

especially deal with a double overtaking: on one hand, that of formalism (peculiar to all syllogistical models of legal reasoning, which are hardly enforceable to the concrete trial situation); and on the other hand that of indeterminacy (peculiar to all interpretive accounts, which excessively stress the judge's role), being capable to enhance also the other actors of the trial (lawyers, prosecutor).

In Italy, such a working perspective is getting results in the field of legal education and training of young lawyers. Many established lawyers' organizations ask CERMEG for arranging seminars and courses on legal methodology and for lifelong learning, and this cooperation does help in shortening the distance between academic studies and the world of practice.

The methodological formalism being largely responsible for the separation between legal theory and practice, it is also possible that the domestic activities of CERMEG could be seen as an example for other countries. Besides that, a number of shared issues between the CERMEG's approach and the argumentative legal accounts based upon pragmatics (such as, for instance, the Pragma-Dialectical theory)**[xix]** or inspired by Wittgenstein's *Philophical Investigations* (e. g. the Dennis Patterson's account about the truth of legal propositions)**[xx]** give the chance for converging researches on the nature of legal argumentation.

NOTES

[i] See Husserl (2007).
[ii] See Hume (2010), b.III, p.I, s.I.
[iii] See Kelsen (1966).
[iv] See Perelman & Olbrechts-Tyteca (1966).
[v] See Toulmin (1969). See also Scarpelli (1976) e (1997).
[vi] See Snow (1959).
[vii] See Cattani (2009): in this essay, the authors (Cattani, Testa & Cantù) provide a brief description of the process of loss and resumption of the argumentative reasoning from the origins to the turn of 1958. After that year, they point out a renew attention for the theory and the practice of argumentation. On the same topic, are noteworthy Cattani (1994) and (2001).
[viii] *Loc.ult.cit.*
[ix] For a concise description of the Hart/Dworkin debate see Schiavello-Velluzzi (2005).
[x] Wittgenstein (1989).

[xi] For the Italian legal philosophy see spc. Villa (1999) (but *contra* see Ferrajoli (2007)).

[xii] I will confine myself to pointing out their most representative production: particularly, see Capograssi (1959-1990), Satta (1994), Opocher (1966) (1983), Cotta (1979) (1981). For a more detailed description of this approach based on trial, see Cavalla (1991).

[xiii] See Cotta (1991) .

[xiv] For a complete outline of the perspective of studies devoloped under the mastership of Francesco Cavalla concerning the argumentative topic, see Cavalla (1983) (1984) (1991) (1992) (1996) (1998) (2004) (2006) (2007), Fuselli (2008), Manzin (2004) (2006) (2008) (2008a) (2008b) (2010), Manzin & Sommaggio (2006), Manzin & Puppo (2008), Moro (2001), Puppo (2006) (2009).

[xv] For further information, see the web site www.cermeg.it.

[xvi] I am mainly referring to Cavalla (1996).

[xvii] Cf. Patterson (2010) and Manzin (2010).

[xviii] Cf. Snow (1959).

[xix] See van Eemeren & Grootendorst (2004), van Eemeren (2010).

[xx] See Patterson (2010).

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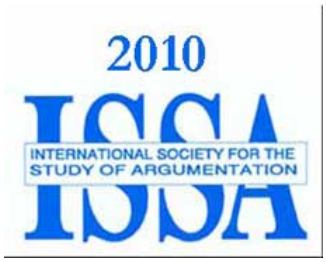
ISSA Proceedings 2010 – Argumentation, Debate And Refutation In Contemporary Argentine Political Discourse



1. Introduction

My presentation deals with political discourse but also refers to the theory of argumentation, policy theory and political debate. It has four points, apart from the introduction, the first point points out the history of a conflict in Argentina between government and the farmers lobby. The second point is a theoretical one and it is referred to in the "argumentative turn". The third point deals with the rhetoric and the concept of ethos. The fourth point tries to connect the Rhetoric with political discourse and the fifth point, the theory with the speeches of the President to show how she managed the ethos and the problems she has had to face in order to become credible. The end is the Conclusion in which I try to synthesize the mistaken attitudes that led her to the present situation in which she has been involved for some years.

I would like to present some general thoughts about multi disciplinary and multi dimensional approaches illustrated by some examples of the present political debates in Argentina.

One often uses multi disciplinary in order to characterize approaches where clearly separated disciplines are involved, such as linguistics, sociology and politcal theory, or as in my work, politics and rhetoric.

Why do I consider this multi disciplinary and multi dimensional approach to be preferable to a more mono dimensional approach? The reason is that if one wants to study and clarify a complex phenomenon of verbal as well as of non-verbal nature, like political discourse, in a better and more comprehensive way, it is necessary to add different viewpoints. The complexity of the subject, as in this case, connected with political power leads to breaking down some of the boundaries, considered as 'artificial', between different disciplines. In this context, eclecticism can be understood as the practice of selecting what seems best and more fruitful from several sets of concepts, beliefs or theories.
A researcher who wants to work with social discourses is always in permanent danger of being trapped in uncontrolled eclecticism. This is a danger in which a discourse researcher must be particularly aware of. Uncontrolled eclecticism means that one keeps in consideration different perspectives without evaluating in which way they can match and how different terminologies can be unified.

2. History of the conflict
Export duties to farmers were introduced in 2002 by president Eduardo Duhalde to cope with the country's worst financial meltdown on record that caused the fall of the Alliance government in late 2001 amid deadly riots.
The economy recovered at an average of nearly nine percent in each of the five years approximately that of which Fernández de Kirchner's husband, Néstor Kirchner, governed the country. However he maintained and even increased export taxes in which his wife refused to lower.

When Cristina Fernández de Kirchner replaced her husband on 10th of December 2007 as president, she inherited a relatively favorable position. On the heels of an economic recovery and high popularity ratings, she seemed poised to continue the policies that helped rid Argentina of its debt. Less than eight months later, she was in the driver's seat of what could become quite the lame-duck presidency in Argentine history. Much of the instability stems from the conflict between the agricultural sector and the government.
In response to tax hikes on the 11th of March 2008 on main exports such as soybeans and other farm products, with Argentina's most powerful group, El Campo and the entities that comprise it took to the streets blocking domestic and international trade routes in the largest protests against the government since the financial meltdown of 2001.

Demonstrations in favor of the government and in favor of the agricultural sector

were staged as a way of exerting pressure to support each of the two opposite positions. On the one hand farmers who demanded soybean export taxes slashed-out and on the other hand the government increasing export taxes.
The standoff was partially resolved when a controversial vote by Cristina's own vicepresident Julio Cobos voted against her various tax hikes. The situation was an embarrassment to the administration and her often criticized stubbornness succeeded in alienating the president further from her supporters. More importantly, the result of "Resolution 125", as it was known in the Argentine Congress, may be a sign that the unsustainable "Kirchnerista" policies that propelled Argentina out of its economic crisis may have reached their limit.
With more than two years remaining and a dismal approval rating hovering around 20-30%, the question remains as to whether Fernández de Kirchner can reclaim the popularity that catapulted her into the role of Argentina's second womans presidency back in October 2007.

High commodity prices, which could be of great benefit for Argentina given that they are one of the worlds largest commodity exporters, have failed to come to fruition-out the fear of out-of-control inflation. However, while she may not have the status of her husband/predecessor, the amount of time left on her term means that she has the chance to win back the hearts and minds of the Argentine people. Distancing herself from her husband's policies would be a good place to start. For Cristina´s presidency to maintain any credibility, she might have to go back to the issues that most affect her constituency base and bridge the wide gap that her unrelenting stance which the "el campo" has created.

Cristina's presidency will always be marred by the failure to reach an agreement with one of Argentina's wealthiest and most powerful entities and the embarrassing outcome of her own vice-president voting against her. However, with over almost two years left, it remains to be seen if Cristina can rebound from the onslaught of negative events that have occurred since she assumed the presidency. Working in her favor are her alliances with other left-leaning presidents in the region such as Evo Morales and Hugo Chávez who can provide cheap energy to Argentina, and a commitment to strong business relationship with Brazil. She has her work cut-out for her but all is not lost for the beleaguered Argentine president.

Mr. Cobos was forced to vote as senators from Argentina's provinces were at a deadlock with 36 in favor of the government and 36 in favor of the agricultural

sector. In his speech prior to his vote, Mr. Cobos expressed his hope that his decision would not be considered a betrayal to President Cristina Kirchner. He expressed his desire to continue his role as Vice President. It was Cobos that recommended to the President that the conflict should be decided by the legislative branch rather than an executive mandate. Beyond the political and financial impacts of the decision, the result, respected by the executive branch, sent a clear message to investors that the democratic process is securely in place.

From the very start until its closure, the conflict can be seen as a battle for control of the construction of meaning. Each sector fought to win the discursive production space in all areas. The public scene became a semiotic crusade by production, circulation and consumption of significance.
The period was rich in terms of the proliferation of linguistic and non-linguistic signs, involving the definition of distinct high value areas. The gamble was about more than a mere tax amendment.

3. The argumentative turn
I will refer to the "argumentative turn" (Turnball, 2005, p. 39) in policy theory that represents an important critique of the traditional conception of policy making. "It showed that uncertainty and contingency characterize policy discourse, and that policy making is argumentative and rhetorical rather than scientific. The scope of this recovery of rhetoric is limited because of the classical philosophical division between logic and rhetoric. These two domains also remain separate in contemporary theories of rhetoric, such as those used in the argumentative turn, preventing us from further incorporating rhetoric within policy theory. But Michel Meyer shows that the division between logic and rhetoric relates to the suppression of questioning in philosophy. By recovering questioning as the principle of reason, he establishes rhetoric upon a foundation of questioning, and thus provides a new way forward". (Turnball, 2005, p. 42).

The "argumentative turn" in policy theory digressed from the rational model of policy making by focusing on language, interpretative epistemology, and plausible reason rather than formal logic. While policy theorists only recently took an interest in argumentation and rhetoric, specialists in rhetoric certainly took notice of Harold Lasswell, one the founders of the 'policy sciences' field. Lasswell was interested in persuasion and propaganda, and the rhetorical effects of mass communication in policy making. He thought that rhetoric was important for the ancient Greek philosophers, and believed that the discredit directed towards it

ever since Plato's condemnation of the Sophists represented an obstruction to proper inquiry into it. Despite this attention to language and argumentation, the argumentative turn in policy studies did not arrive for some time. Even today we have not realized the full implications of rhetoric and argumentation for studying policy and politics.

The argumentative turn is related to the scholarly interest in discourse. Policy theorists have studied the role of language in political discourse, refusing the idea that meaning is attached to ontological truth. Political discourse is framed in ordinary language, which is capable of considerable flexibility of meaning. Policy discourse takes on different meaning in different contexts and for different audiences. Because knowledge, in particular policy knowledge, is bound within ordinary language, it is a social process and therefore argumentative. Decisions do not settle the meaning of policy, which remains subject to debate, and consequently the policy process is less than the problem solving idea proposed by Lasswell, and more of a struggle to create meaning throughout the policy process and in different locations. Policy actors try to persuade others to share the meaning they attribute to events. Political actors employ arguments to bring others around to their position and justify themselves with respect to the public interest. The double mission of persuasion and justification henceforth constitute the basis of the argumentative turn.

We need the argumentation because we do not answer in pre-programmed ways to events but can change our minds on the meaning of something, rethink our values, and vary the degree to which we support someone or some policy. This requires persuasion. Political actors usually use rhetoric to secure the assent of others to their views or their cooperation. And in this way we think that discourses pronounced during the conflict by President Cristina Fernández had the problem of persuading the audiences.

If we understand rationality as contingency, indeterminacy, uncertainty, or argumentation, problematicity defines the qualities of contemporary discourse in many fields. Problematicity is the domain of rhetoric. In general, rhetoric appears in times of crisis when stable systems of values break down and new systems co-exist with the old. It appeared in ancient Athens as a response to unresolved conflicts in pre-Socratic cosmologies, and today we see a breakdown of traditional value systems with the arrival of the 'postmodern condition'. At a general level the rhetorical or argumentative turn forms part of the critique of Enlightenment

thought. Perelman and Olbrechts-Tyteca explain this by pointing out that whereas Descartes eliminated the probable from knowledge, the non-compulsive element of argumentation is directly opposed to the idea of self-evident truth in which propositions follow upon each other necessarily and without appeal. Hence this contemporary revival of the ancient tradition of rhetoric constitutes a break with the dominant form of philosophical reason.

4. Rhetoric in political discourse

With Erik C. W. Krabbe (Krabbe, 2002, p. 29) we shall understand by "dialectics" the practice and theory of conversations; by "rhetoric" the practice and theory of speeches. Conversations, then, constitute instances of the practice of dialectics, whereas speeches constitute instance of the practice of rhetoric.

Aristotle defines rhetoric as "the faculty of discovering the possible means of persuasion in reference to any subject whatever" (Rhet. I. 2.1, 1355b26-27). These means encompass not only arguments (logos), but also display of character by the speaker (ethos) and arousing emotion in the hearers (pathos) (Rhet. I 2. 3-6, 1356a 1-20). Thus the definition covers a wide range of speech activities, be it that they must all be related to persuasion. Logos constitutes the core-business of rhetoric, but other means of persuasion are not neglected by Aristotle. The range of rhetoric is narrowed down to three main types or genres of speeches, each with its own ends: the deliberative, the forensic, and the epideictic; there is an alleged proof that these are all the kinds there are.

Aristotles remarks on the usefulness of rhetoric. Rhetoric can be used:
(1) to defend proper decisions (you may be right, but you will still need to convince others, otherwise you are to blame)
(2) to convince those who cannot follow scientific arguments;
(3) to be able to argue both for and against the same proposition; not, indeed, in order to actually do so, but in order to have a realistic view of an issue and not to be duped by fallacies.

I. A. Richards (Richards, 1950, p. 33) defined rhetoric as "the studies of the causes and the remedies of misunderstanding". This standpoint will be useful to see why Cristina's speeches had so many problems to become convincing about the justice of the proposal made about taxes.

5. Ethos in Cristina's speeches

Ethos (Greek for 'character') refers to the trustworthiness or credibility of the

writer or speaker. Ethos is often conveyed through tone and style of the message and through the way the writer or speaker refers to differing views. It can also be affected by the author or speaker's reputation as it exists independently from the message, his or her expertise in the field, his or her previous record or integrity and so forth. The impact of ethos is often called the argument's ethical appeal or the appeal from credibility.

People interpret the world more esasily through narratives and characters than legal- rational discourse, so they follow political action and debate the legitimacy of government through the ethos of the players. This is why commentators even attribute 'character' to a government and seek an identity in it which matches popular perceptions of national culture and the spirit of the times.
During the conflict, the President had a strong presence in media through demonstrations in order to explain the tax structure for agricultural products. But she, as her husband, was not accustomed to give press conferences, to have a fluid contact with journalists and distrust of interviews on radio or TV. At the end of the conflict she gave the first press conference and it was clear that she was able to answer every question made fluently even if one could be in disaccord with her. The style of the couple is weird and at the same time it seems that they make politics like gambling, building a betting system. Dialog is an activity that is not in their agenda. They are not accustomed to reach a consensus in way.

She called for major popular demonstrations. Each of them displayed the use of fiery rhetoric and at the same time, the construction of an erratic ethos. The last major demonstration was resolved with the intervention of the president's husband, former president and chairman of the Justice Party who the orated much of the discussion as the main debator.
In her first presentation she argued that nobody could do anything to persuade her to change her position. then after another demonstration she spoke to her "voters", then to her party, then to the "citizens" but in a later demonstration she remembered that at the beginning of her presidency she had said that everything will be more difficult for her because she was a woman and that for women everything in this society is more difficult. So in a short period, she used different arguments to establish her viewpoint.
At the same time, in some demonstrations she mentioned "The People" and in other demonstrations she spoke to the "citizens", in some cases she aimed at those who were always against her popular projects.

6. Conclusion

From the beginning of her presidency it was clear that she had a long and strong career in the political arena. She was a representative and senator and had a pompous eloquence in the Representative chamber and in the Senate. She was well recognized by her epic magnificent discourses but at the same time during her husband's mandate she did not try to appear frequently so not to cast a shadow over him.

In some moments she said that a political woman must not use the name of her husband to make political hay or to be recognized. But, at the same time, she uses her husband's name and everybody knows that they act like a couple acting in politics. This is not the case of Michele Bachelet, the former president of Chile, Hillary Rodham Clinton, Secretary of State of the Unites States or Angela Merkel, Germany's Prime Minister, who are political women that act alone in the political arena.

Since Cristina became president, her husband continued to doggedly make political hay from a non-located place. In January he went to Colombia to try to solve a conflict with the FARC. In February he became president of the Justice Party and in March triggered the conflict. So, problems are not only from the opponents but also from the way in which the couple split their work in order to clarify and strengthen the executive branch.

This situation contributes to weaken the president because nobody knows where the power is and who is making the decisions. The erratic ethos is a consequence of an uncomfortable place that they choose because they thought that could be a way to maintain the power for a third period.

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