

# ISSA Proceedings 2002 - Two Ways Of Analysing A 'Light Mix' Newspaper Article



In most communication situations, the pragma - dialectic rules are violated in a more or less flagrant way. Most of the time, people do not talk or argue as reasonably and rationally as they want to or believe they do. This is a problem, not for most communication situations, but for the above mentioned rules. In a 'normative' approach, the most common ways of talking and communicating are treated as deviations. As analysis contains more than determining the correctness of an argument, this polarization - along with the dialectical system of protagonist versus antagonist - might leave us helpless in the grey zone where arguments are more or less right or wrong.

Perelman & Olbrechts Tyteca show that the assumption of logical arguments is questionable. They distinguish so called quasilogical arguments: arguments that are based upon the status of logic. Many others have tried to describe the complex and often ambiguous ways of argumentation and persuasion, and to take into account the variety of situations in which they occur. They have developed ways of reasonable thinking adapted to different fields. Others propose to broaden the general scope and for instance to make room for 'emotional' arguments in argumentation theories, next to the 'rational' arguments of allegedly 'calm and cool' speakers (Gilbert: 1995). Roman Jakobson pointed out the six different functions in language, which are always at work at the same time in the same utterance. As a consequence, when an argument is analysed as if it were limited to the rational aspect of the message, we have to consider the fact that this kind of analysis takes place on a more or less abstract level. It is important to develop analysing methods that take full account of the complexity and variety of concrete everyday arguments. In this paper, I compare different kinds of analysis. One could argue that more methods are all for the better, as this reveals the richness and possibilities of human language and scientific research. On the other hand, the question arises what to do when different forms of analysis reveal seemingly contradictory statements or sterile conclusions.

Different ways of analysis may seem to stand apart from each other, but we should take a critical look at the supposition that any text or utterance can be submitted to any form of analysis, and that any analysis of any text is as valuable or significant as any other analysis. We could look for possibilities to detect indications in (con)texts that suggest how they should be analysed, or which analysis might be better suited for certain kinds of text. Or we could try to develop schemes that show us which links are possible between different methods and which are not. In this way, we can leave room for complex but essential phenomena like humour and irony. Before we plunge into a text, we could run through a systematic checklist in order to decide when a pragma - dialectic approach is asked for, and when rhetorical or other ways of reading are more appropriate.

All these questions and proposals can never be answered or realised. In the following paragraphs, I will show a couple of possible ways to look at one text, and reveal some connections that are not clear at first sight. The text I analyse is a media commentary upon a heated debate about the freedom of press, or more accurately: artistic freedom. An Antwerp fashion designer felt insulted by the vulgar language in which an author described her in a satirical novel, and took the matter to court. This led to a courtroom decision to forbid the sale of the novel called Guggenheim Publishers. It became a short intense hype, and the media enjoyed this storm in a teacup. The book itself is an open satire on the Flemish; one of the 'characters' in the novel felt personally insulted. So far, so good.

Looking at the enormous production of newspaper articles on the matter in only a couple of weeks, one is at first disillusioned by the absolute low quality of the argumentation. Statements and arguments turn out to be loose and poorly worked out. This might have to do with the simplicity of the juridical case: it sets two basic rights in opposition towards each other, namely insult contra the freedom of speech. But it also is part of the journalistic game to produce this light mix of information and argumentation.

When one tries to throw a rhetoric light on those texts, one can deduct underlying argumentation that doesn't present itself as such, but might for precisely that reason be all the more persuasive.

There is for example, to start with, this article with the title 'Women with an IQ take position in the Brusselmans case.' The subtitle runs as follows: 'Ex-victims read from Brusselmans oeuvre at the book fair'. A fairly large picture of two famous female Flemish tv-stars makes the confusion complete. From the very

start the article enacts two camps that supposedly split up Flanders: pro or contra B. The group of protesting women get some two paragraphs of text (which is attention), where the other 10 or 15 paragraphs consider at length the actions of the other 'camp', the ex-victims of B.'s verbal brutalities and their reading event. From a rhetorical point of view, one could consider this a way of putting the matter into a case of polarisation, or false dilemma. This means that the presentation is limited to two positions, whereas in reality, almost any situation can be considered from a number of viewpoints. The technique of false polarisation is very popular in the media, since readers are attracted to controversy (and newspaper publishers want a lot of readers). The idea that discussion and controversy is a way to sharpen one's views and argumentation, is right, of course, but at the same time it contains a possible misunderstanding. In this article, the writer first creates confusion, and then presents himself as the one with the clear, but polarized, view. As for argumentation schemes, not much argumentation of any level can be detected in this article, as it merely describes the happening. The way in which the descriptions take place, however, is less innocent, but this topic would lead us too far away from my subject (Van Belle: 2000).

I want to concentrate upon another article about the same subject that does develop some argumentation, although minimally, and that in this way gives me the opportunity to develop my statement. It is a text that was published in a Dutch paper by a Dutch reviewer. (The public should know that Flemish and Dutch indeed are one and the same language, that B. has readers in Flanders as well as in the Netherlands, and that Flemish newspapers are rarely read by the Dutch and vice versa). I will look at the text from different viewpoints. It starts with a short description of the situation, focuses within the lead upon an argument that considers the selling conditions of the book in The Netherlands.

A fairly long review of the novel follows: the plot, the genre (a satire), the main character, who endlessly attacks minorities and Flemish celebrities. Those attacks are called 'not funny' and 'boring', all the more since most Flemish celebrities are unknown in The Netherlands. Also the style apparently lacks sharpness and power. A new element in this review is the statement that the novel is more shocking for its cruelty than for its sexually coloured insults. Some examples are added: at first descriptions and citations of cruelties, then citations of the insults thrown at the above mentioned fashion designer: she has frog eyes, she's a fashion designer of rags. The following paragraphs contains two sentences which

I translate literally. 'Next, Guggenheimer says he has had sexual intercourse with her. 'Toad eyes', by the way, is a Flemish word for frog eyes.'" The text seems to drop dead here, lost in a minute and boring detail. But in the next paragraph, the reviewer briskly goes on: 'The judge of course had better kept out of the discussion', and adds some arguments to this. The article ends with a repetition of the initial statement that Guggenheimer Publishers is not a good book, and advises the reader to buy another book from the 'great oeuvre' of B. He suggests 'The come back of Bonanza', which is 'a lot funnier, less shocking, and everywhere available.'

In the course of the article, five different conclusions are drawn. I will first give them in the actual order of presentation.

*One:* The booksellers and publishers in the Netherlands shouldn't stop the sale of the book, because a courtroom decision in Belgium can in no way have any juridical value in The Netherlands, and even if the Dutch judges would decide to forbid the selling of the book in The Netherlands as well, they can never imply this law with retrospective effect. / Good and clear argumentation.

*Two:* The novel is of low quality, because the satire is boring and the style is not sharp enough. The evaluation is negative, / because of certain elements; a form of argumentation typical for book reviews.

*Three:* A lot more shocking than the insults, is the violence in the novel, / because of the following examples: quotes.

*Four:* The case shouldn't have been taken to court, because the freedom of speech is an elementary right in our western democracy.

*Five:* The novel is not morally wrong, because the insults are part of a satire, which is a literary genre.

*Two b.:* (repetition and elaboration of the second conclusion): the novel is of low quality, but other work of B. is great, / again with examples, this time with a title of a great book by B.

One could judge that these argumentations contain no real mistakes or fallacies. The rules for reasonable discussions claim for instance that the statements should have sufficient arguments, which in this text, they have. Those apparently different arguments have a more or less loose connection. But at a closer look, many underlying connections are to be discovered. For instance, the relative weight that is given to the insults in comparison to the violence that other famous Flemish people had to endure (in the novel). The reviewer first quotes the

violence and then the denounced insults, although some of them have been omitted. In this way, the reader feels a bit shocked by the quoted violent scenes indeed, and not by the insulting scenes that follow. In this way, the reviewer achieves again an anti-climax.

This technique of anti-climax is once more being used in another statement, number 4, where the reviewer formulates a statement about the juridical aspects of the matter. He says: 'the judge should have kept out of this matter'. By putting the judge in a grammatical subject position at the beginning of the first sentence of a paragraph, this person is being given a very active role in this 'play'. It suggests a judge taking decisions. This way of writing is typical of journalistic style: you give your article more human interest by giving actual persons an active role. This style is a lot more appealing than passive constructions and impersonal subjects. At a closer look, this shifting of acting subjects is also the case in the lead paragraph. After the first sentence, where the writer and this allegedly scandalous book are mentioned; the second sentence gives the judge a similar active position to occupy. It says 'The Belgian judge forbid the sale of the book, because it appears to be insulting for the fashion designer Anne Demeulemeester'.

It is striking that the whole article never mentions the fashion designer in the active position the judge gets. This way of putting things gives the reviewer the possibility to avoid Anne Demeulemeester as a person, although she's the one that took action: she took the matter to court. For some reason or another, her action gets understated, and her name only occurs in object position.

Only when the argumentation about the violence is being developed, she gets a grammatical subject position twice: once, by name but not in the beginning of the sentence, and once at the beginning, but with the referential 'she'. What is interesting here, is the fact that this more explicit naming of the fashion designer coincides with the above described anti-climax in the argumentation. Her name does appear more visibly, but only at the moment the insults are ridiculed.

Many tactics are used in this article. Under the heading 'review', it supposedly speaks about the literary value of book. It is generally accepted, though, that, given the constellation of the media hype, the reviewer formulates an opinion on the B.- case as well. At first sight, he moves from information about the book and the case (2 sentences), to adaptation to Dutch law (4 sentences), to review (4 paragraphs), to further review within argumentation about the violence in the book (3 paragraphs), to argumentation about the case (2 paragraphs), to

conclusion (opinion: it's a bad book, but B. has done better before). The second paragraph of the review part opens with the sentence 'Guggenheimer Publishers is a satire', and explains that the main character is an unreal out-of-proportion figure who's bullying everybody around him without ever being unhappy or being punished. In this way, B. plays with our moral standards, because, according to the journalist, deep down, everybody likes to see evil punished. The rest of the review part vaguely elaborates this idea of satire, along with more and more negative evaluation (see statements 3 and 4).

When the reviewer takes position for B., he can easily repeat the fact that's a satire. Here, he doesn't need much time anymore to develop this argument, because it's been there all the time. This makes the actual overt argumentation shorter and stronger.

Until now, we discovered only a few tactics in this text, namely the avoidance of Anne Demeulemeester, and the tendency to build up anticlimaxes. In this way, the reviewer reveals a certain attitude towards the case: he suggests the whole case is indeed a storm in a teacup. Moreover, he is honest enough to admit the book is bad, but uses this statement at the same time to put up an underlying defence for B. Overtly, he doesn't spend much time on the juridical aspect, but he uses his evaluation for preparing his argument that the book is a satire.

This minimal analysis of one aspect of a very short and banal newspaper review article leaves open a lot of questions and work.

The look at the argumentation was a way to start the analysis, but it could show us nothing more than statements and arguments. Other elements that show the richness of the underlying argumentation had to be captured by less defined ways of reading and searching.

In the '*inventio*', the writer or speaker decides what he will say. It is the selection process that prepares the decision upon the few things that will be said against the background of the vast amount of elements being left unsaid. An argumentation analysis claims rightly that it only takes into consideration the words or sentences that in effect are being written or spoken, considering texts as separated closed entities where statements can be made upon. A more rhetorical way of analysing gets along with the fact that not

one analysis is right or wrong, that texts as well as contexts are complex and have more than one meaning, in the same way that language is part of a larger reality. The idea that we can stand at the side and give neutral comment is only possible

from the viewpoint of a closed analytical system that doesn't wish to talk about the complex reality while we're part of it. In a pragma - dialectic approach, argument is caught into a matter of right or wrong. This leaves many matters unsaid. And here I repeat one of my initial questions: how can we develop a way of thinking with room for more variation, more layers?

Gradually, I realised that the choice of these banal media texts is not as arbitrary as I had first assumed myself. I had to take into account that this case about the value of words reveals something about my initial point in question as well. As for the study of argumentation, our business and our task is to try to keep in touch with both worlds: the ideal world where words have only one meaning, where arguments (and actions) are either right or wrong, where people in certain circumstances can think and act purely rationally, and on the other hand the real world, where words and meanings always are shifting, where arguments are part of a process, an age-old discussion, a fundamental debate. In this serious game of text and context, we are not to be put into separate little holes or disciplines, because we should always be looking for more possibilities and more meaning.

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# ISSA Proceedings 2002 - Cut-Ups, Slams And Jabs: Verbal Aggressiveness Or Politeness?



There is no such thing as human nature independent of culture.

(Geertz, 1973, p. 49)

What does it mean to be a “polite,” “supportive,” “non-aggressive” interpersonal communicator? What is the significance behind communicators who engage in ways of speaking that explicitly contradict traditional ways of interpersonal “competence” and, yet, construct and maintain group solidarity? The intersection of these questions is where I locate the Upward Bound case.

In this essay, I explore the ways of speaking of the Upward Bound speech community. Upward Bound is a government-assisted program that gives high school students from poor socioeconomic statuses the opportunity to earn early college credit for free. A goal of this program is to allow for the student to make a smooth transition into college once they graduate from high school, and then to boost their level of preparation and thus success once in the college setting. In order to qualify for the program, students must come from low-income households, and households in which the parent/s do not hold a college degree. Group members were familiar with one another, as they had spent the last three years in the program together.

Through my fieldwork, I realize that these students use talk in culturally distinctive ways. Their communication styles illustrate a norm of “politeness” that is strikingly antithetical to the germinal “politeness” universal proposed by Brown and Levinson (1987) and valorized widely by scholars who study interpersonal communication. As a result of this discovery, I begin to problematize the notion of “Politeness Theory” and normative theories pertaining to “defensiveness” and



“verbal aggressiveness” and communication scholars reliance on linguistic universals in general.

The following study is an attempt to “reverse” my scholarly ways. Following Pike’s (1954) lead, I use an emic (rather than etic) approach to focus more on the reports of the participants and to let conclusions emerge from the data. In line with Philipsen’s (1977) discussion on “linearity” in research protocol, I begin this analysis with some theory in mind (e.g., “Politeness Theory”). In this sense, I am curious about how this speech community enacts “politeness,” “defensiveness,” and “verbal aggression.” However, I make a deliberate move to first discover this group’s (potentially distinctive) methods of communicating *prior* to employing (i.e., embracing and/or challenging) traditional theory.

### *1. Brown and Levinson*

“Face,” according to Goffman (1967), is:

the positive social value a person effectively claims for himself [or herself] by the line others assume he [or she] has taken during a particular contact. Face is an image of self delineated in terms of approved social attributes. (p. 5)

In *Interaction Ritual* (1967) and preceding this work, his *The Presentation of Self in Everyday Life* (1959), Goffman detailed the extent to which “social actors” painstakingly and, yet, naturally, felt compelled to “impression manage” so that their “face” (which is “presented” “front stage,” where most risky communication occurs) is subjected to the wills of various audience members, who are simultaneously doing similar “facework” of their own (so they, just like the performer, can construct and maintain a “socially desirable face”). Admittedly, this brief summary is far from complete. It is in no way intended to be representative of Goffman’s impact on sociology, anthropology, social psychology and communication studies. Actually, Goffman (1959 & 1967) has significantly influenced the field of interpersonal communication for many years.

Brown and Levinson’s (1987) “Politeness Theory,” perhaps the most influential extension of Goffman’s (1967) work, contends that all communicators are concerned with and use “politeness” to protect their face and the face of others in social interaction. Brown and Levinson (1987) state:

[. . .] normally, everyone’s face depends on everyone else’s being maintained, and since people can be expected to defend their faces if threatened, and in defending their own to threaten others’ faces, it is in general in every participant’s best interest to maintain each other’s [. . .] face [. . .].” (p. 61)

Additionally, Brown and Levinson (1987) argue that the function of “politeness” extends beyond the social interaction itself. They suggest it is an “expression of social relationships [. . . ] part and parcel of the construction and maintenance of social relationships and addresses the social need for the control of potential aggression within society” (p. 5). Thus the ethical and, in their terms, “rational” social character (AKA the “Model Person”) (p. 58) will communicate with “politeness” in mind, lest she/he wish to face interpersonal conflict and/or sanctions for not communicating in such a way.

Similar to Goffman (1967), Brown and Levinson (1987) conceptualize “face” as “something that is emotionally invested, and that can be lost, maintained or enhanced, and must constantly be attended to in interaction” (p. 66). Thus, “face” is a vulnerable part of social interaction, dependent on the influence of self and the other. Additionally, “face”:

consists of two specific kinds of desires (‘face wants’) attributed by interactants to one another: the desire to be unimpeded in one’s actions (negative face), and the desire (in some respects) to be approved of (positive face). (Brown and Levinson, 1987, p. 13)

“Face wants” then relate to a communicator’s expectation to be autonomous and confirmed in social interaction. Cupach and Metts (1990) suggest that face is critical to all types of interpersonal relationships and offer a similar description to that of Brown and Levinson (1987):

*Positive face* refers to the desire to be liked and respected by the significant people in our lives. *Negative face* pertains to the desire to be free from constraint or imposition. Messages respecting one’s autonomy are supportive of negative face, whereas messages interfering with one’s desired actions are threatening to negative face. (p. 5)

Face and thus politeness is a personal notion. In turn, it is co-constructed by communicators in social interaction. It would follow then that an element such as communicators’ personal identity and, more specifically, their self-concepts are subject to whether their conversational partners abide by the universal (constitutive) rules incorporated with the communicating of politeness.

While Brown and Levinson (1987) argue that it is in human nature to use politeness, they also concede that this is not always possible. Some talk “run[s] contrary to the face wants of the addressee and/or the speaker” (p. 65). That is,

communication inherently contains “face threatening acts” (FTA’s), speech acts that challenge the positive and negative face wants of the communicators. Brown and Levinson (1987) contend that communicators formulate their approach to politeness based on three factors: social distance (communicators experience greater face threats when interacting with those with whom least familiar); power or status of the hearer (in relationship to the speaker) (with increased power comes an increased face threat to the communicator); and the rank or degree of imposition (the extent to which the speech act will take away from negative and positive face wants). Put simply, interacts with less power than their partners, those with increased relational intimacy, and those situations posing a higher degree of threats will be approached with a greater concern for politeness (Brown and Levinson, 1987; Eelen, 2001).

Brown and Levinson (1987) also provide five “hierarchical” “superstrategies” that communicators generally use to approach FTA’s. The authors use “hierarchical” to mean that these strategies are rank ordered; they each vary based on the level of threat posed to the “face” of the other. Concurrently, the strategies vary based on the amount “redressive” action (“facework”) the communicators employ.

First, a communicator may choose to speak “baldly on record” (Brown and Levinson, 1987). On this occasion, the speaker does not focus on the “face wants” of the hearer and, thus, takes no “redressive” (“facework”) action. Given this, “bald on record” is considered a FTA with the highest threat. A communicator, Linda, needing groceries, might speak “baldly on record” by stating, “Go to the store for me.”

Second, the communicator may employ “positive politeness,” a move in which he/she addresses the positive face wants of the hearer. In other words, the communicator shows appreciation for the hearer and the desirability of the hearer’s needs and wants. Again, in need of groceries as in the previous example, the speaker might say, “Linda, you have always been such a helpful friend to me, would ya’ consider running to the store for me?” In this instance, “redressive” work is employed so as to include Linda (“friend”) as a socially desirable person and the speaker’s approval of her (“always...helpful”).

Third, “negative politeness” occurs when the speaker’s talk addresses the negative face wants of the hearer. In other words, the speaker confirms the hearers need to be unimpeded and not imposed upon. The speaker, in need of the run-to-the-store favor, might say, “Linda, I wish I did not have to ask this, but I have no food and am also sick. If you’d just take only a half an hour to run to the

store, I would gladly return the favor as soon as I am well. "Redresses" action is taken to minimize the extent Michaela would feel imposed upon in this interaction (the wish not to ask the favor, the thirty minute mention, etc.).

Next, the speaker may communicate by going "off record." This is where the FTA is performed in an ambiguous way. By its vague nature, there could be multiple interpretations (and, in turn, less threat) related to the speech act. Seeking the grocery favor in indirect means, the speaker might say, "You would not believe how low my food supply is. And it could not fall at a worse time, being sick and hungry." This is less a FTA because the hearer might interpret this as casual conversation in which the speaker is simply venting and not requesting.

Finally, the communicator might choose not to utter the FTA whatsoever. Because the speaker's needs and wishes go unspoken and, thus, because there is minimal (if any) imposition on the hearer, this is considered the least threatening of the superstrategies that the speaker can engage.

Brown and Levinson (1987) contend that, with social distance, power, and degree of imposition in mind, speakers choose "politeness strategies" based on the intensity of the FTA. Thus, the more intense FTA's receive the higher ranked "superstrategy."

At this point, it is important to consider the ways in which "Politeness Theory" allows for the acceptance of cultural variation in communication style. This assumption of their model plays a pivotal role in this essay. The authors argue for an *acontextual* notion of communicative behavior. "Politeness Theory" is:

[...] the bare bones of a notion of face which (we argue) is universal, but which in any particular society we would expect to be the subject of much *cultural elaboration.*" (p. 13, emphasis added)

This notion of "cultural elaboration" seems questionable because of a later claim they make:

While the content of face will differ in different cultures (what the exact limits are to personal territories, and the publicly relevant content of personality consists in), we are assuming that the mutual knowledge of members' public self-image or face, and the social necessity to orient oneself to it in interaction, are *universal.* (p. 62, emphasis added)

Thus, politeness is a "universal" phenomenon. Everyone is intrinsically motivated to interact in such a fashion and, even more, everyone enact politeness. What then does this mean when communicators do not identify with such a

phenomenon? I will attempt to address this question below.

Researchers have studied Brown and Levinson's (1987) perspective extensively. Intriguing treatments of their model span a number of communicative contexts including: academic discourse (Tracy & Baratz, 1993); advice giving and solicitation (Goldsmith, 2000; Goldsmith & MacGeorge, 2000); argumentative interactions (Schreier & Groeben, 1995); coding practices (Wood & Kroger, 1994); compliance gaining and influence goals (Cai & Wilson, 2000; Kellermann & Shea, 1996; Wilson, Aleman & Leatham, 1998); comforting (Tighe & Hale, 1997); disagreements (Holtgraves, 1997); friendship (Cupach & Messman, 1999); gender (Baxter & Bullis, 1986); Javanese women (Smith-Hefner, 1988); "intergenerational issues" (Coupland, Grainger & Coupland, 1988); multifunctionality of discourse and message production (Leichty & Applegate, 1991; Lim & Bowers, 1991); nonverbal behaviors (Trees, & Manusov, 1998); nursing (Spiers, 1998); personal relationships (Dillard, Wilson, Tusing & Kinney, 1997); power (Graham & David, 1996); requests (Baxter, 1984; Craig, Tracy & Spisak, 1986); romantic relationships (Baxter & Bullis, 1986); and solidarity (Cupach & Messman, 1999; Lim & Bowers, 1991).

Other scholars offer a notion of "politeness." Gu (1999) overtly grounds her conceptualization in Chinese moral standards. The author sees "politeness" as "[...] a sanctioned belief that an individual's behavior ought to live up to the expectations of respectfulness, modesty, additional warmth and refinement" (p. 245). Contrasting this is the work of Blum-Kulka (1992), who honors the relationship between "politeness" and culture. She argues:

[...] systems of politeness manifest a culturally filtered interpretation of the interaction between four essential parameters: social motivations, expressive modes, social differentials and social meanings. Cultural notions interfere in determining the distinctive features of each of the four parameters and as a result, significantly effect the social understanding of "politeness" across societies in the world. (p. 270).

Blum-Kulka's (1992) approach reassures me. It affirms the likelihood that communicative meaning is co-constituted between communicators rather than representational. It would follow then that a cultural group would construct their own notion of "politeness," if their talk would even be described by the given community as "polite." Contrasting this, Brown and Levinson (1987) argue that "politeness" is a communicative ritual, a "primordial origin [. . .] omnipresent

model for rituals of all kinds” (p. 44). This seems to discount the possibility for which Blum-Kulka (1992) wisely allows. The apparent consequence of this type of theoretical move, again, seems to be that little if any room is left for the possibility of cultural distinctiveness.

It is clear that Brown and Levinson’s (1987) approach to communication entails rationally thinking one’s way through talk, so as to determine the most “polite” way possible to speak. Generously then, if Brown and Levinson (1987) believe that communicators “do” things through talk, which from their essentialistic standpoint, this seems to be the case, they gesture toward the likelihood that FTA’s function to, as the name implies, “threaten” the hearer. Thus, to employ “impolite” communication is to show threat and, more specifically, imposition (threat to “negative face”) and the undesirability or disapproval of the hearer (threat to “positive face”). Communicators wishing to avoid conflict, then, need to avoid FTAs. In turn, it seems to follow also that the communicators who avoid threatening, conflict-like talk, also might avoid the type of person who is threatening and/or conflict-oriented.

## *2. Defensiveness and Verbal Aggression*

There exists an abundance of literature regarding interpersonal communication style.

One area centers on “supportive” and “defensive” communication styles (Gibb, 1961, 1964, 1970 & Eadie, 1982; & Stamp, Vangelisti, & Daly, 1992). Messages that are “evaluative,” “controlling,” “strategic,” “neutral,” “superior,” and “certain” are believed to promote “defensive climates,” while those that are “descriptive,” “problem oriented,” “spontaneous,” “empathic,” showing “equality,” and “provisional” are said to promote “supportive climates.” It is commonly believed that the way in which a communicator interacts directly affects the communication “climate” and, thus, the extent to which a conversational partner feels threatened and/or motivated to continue speaking. This area of research is widely accepted in the communication discipline. Hybrid Introductory and Interpersonal Communication courses commonly highlight Gibb’s (1961) work, and the research that expanded on his germinal ideas (see Beebe, Beebe, & Redmond, 1999; Wood, 1999, Adler, Rosenfeld, Towne, & Proctor, 1998; & Stewart, 1999).

Researched even more extensively is the area of verbal aggression. Like Brown and Levinson (1987), “verbally aggressive communication literature covers a

number of foci including: adolescents (Roberto & Finucane, 1997); characteristics of aggressor vs. the action of aggression (Infante, Riddle, Horvath, & Tumlin, 1992); emotions (Vangelisti, 1989; Vangelisti & Crumley, 1998; Vangelisti, Daly, & Rudnick, 1991); communicator credibility (Infante, Hartley, Martin, Higgins, Bruning & Hun, 1992); gender (Infante, 1989; & Infante, et al., 1996; Nicotera & Rancer, 1994); hate speech (Leets & Giles, 1997); interspousal violence (Infante, Chandler, & Rudd, 1989; Infante et al., 1990; Sabourin, Infante, & Rudd, 1993); narcissism (Vangelisti, Knapp, & Daly, 1990); organizational communication (superior-subordinate communication) (Infante & Gorden, 1985, 1987, 1989, 1991); persuasion and receiver resistance (Lim, 1990); physical violence (Harris, Gergen, & Lannamann, 1983; Infante & Wigley, 1986); sibling relationships (Martin, Anderson, Burant & Weber, 1997; Straus, Sweets, & Vissing, 1989; Tevin, Martin & Neupauer, 1998); small group communication and cohesion (Anderson & Martin, 1999); social learning (Infante, D.A. & Rancer, 1996); and various situational factors (Onyekwere, Rubin, & Infante, 1991). For the purposes of the current essay, I am most interested in the conceptualization of verbal aggression, examples of “verbally aggressive messages,” and the proposed effects of these “impolite” messages.

Infante (1995) defines “verbal aggressiveness” as a “highly destructive form of communication that should be clearly identified by the communication discipline so that methods can be delineated for control” (p. 51). In turn, Infante and Wigley (1986) add that verbal aggression is communication “attacking the self-concept of another person instead of, or in addition to, the person’s position on a topic of communication [...] in order to make the person feel less favorably about self” (p. 61). Thus, this communication style seems to involve a communicator’s intention to harm others. Furthermore, it certainly seems like verbal aggression connotes anger and negativity. In fact, this mode of communication, as Infante et al. (1996) see it, seeks “to deliver psychological pain” (p. 317).

Common examples of verbally aggressive messages include character attack, physical appearance attack, teasing, ridicule, threat, swearing, etc. (Infante, Sabourin, Rudd, & Shannon, 1990; Infante & Wigley, 1986). Also, “verbal aggressiveness” is believed to cause hurt feelings, anger, irritation, embarrassment, discouragement, relationship deterioration and relationship termination (Infante & Wigley, 1986).

Researchers on communication style often distinguish “verbal aggressiveness” from “argumentativeness” and “assertiveness.” While the latter two are

considered to be “constructive” communicative behaviors, the former are “hostile” and thus “deconstructive” (Infante, 1987 & Infante, Rancer, & Jordan, 1996). I am reminded again that “verbally aggressive” style is believed to convey something negative and harmful to the hearer. What research does *not* seem to note is that communication that has the characteristics of “verbally aggressive” communication might actually connote messages of interpersonal warmth, solidarity, and trust. Common to the research previously mentioned is a central theme: “defensive” and “verbally aggressive” communication lessens the likelihood or terminates the chances for effective, supportive, or interpersonally rich dialogue. Various others describe potentially harmful communication style with many of the same assumptions.

Knapp and Vangelisti (2000) describe “extreme” ways of communicating, those “destructive patterns,” or “interpersonal chamber of horrors” (p 367). Wilmot (1995) discusses various findings about harmful communication styles and relationships. These include: “cross complaining,” “insults,” “put-downs,” blaming the other with high levels of certainty,” “fewer strategies for maintenance and repair,” and “giving negative information more weight than positive” (see Hays, 1989; Fincham & Bradbury, 1989; Dindia & Baxter, 1987; Beach, 1991; Noller & Ruzzene, 1991). Furthermore, Spitzberg and Cupach (1994), in *The Dark Side of Interpersonal Communication*, as if the title of this project alone was not enough, include a variety of essays entitled with similarly negative connotations including: Duck’s “Delights and *Dilemmas*”; Spitzberg’s “Darkside of (In)competence”; Cupach’s “*Social Predicaments*”; Wilder and Collins’ “Patterns of Interactional *Paradoxes*”; and Daly, Diesel, and Weber’s *Conversational Dilemmas*” (italics added).

In contrast to the above-mentioned are studies that seem to affirm nontraditional talk. For example, Labov (1972) describes the communication of a particular group of African American adolescents as “ritualized banter.” Basso (1979), studying the Western Apache, suggests a functional benefit to the use of silence (a communicative aspect that, in mainstream research, is often viewed as being troublesome). Cogdell and Wilson (1980) identify the communicative practice of “jiving.” In particular, “foolish talk jivers” and “tease jivers” seek to entertain and manage one’s credibility through talk. Expanding on Labov (1972), Culpeper (1996) and Kienpointer (1997) conceptualize “ritualized banter” as “mock impoliteness.” Katriel (1986) demonstrates the uses of “directness” (e.g., “talking *Dugri*”) among the (Israeli) Sabra culture. Finally, Wieder and Pratt (1990)



describe the “razzing” practices among the Osage Indians. This is a practice that, in part, seems to show membership and solidarity as a “recognizable Indian” for tribe members. Altogether, these “nontraditional” findings take a localized communication style, describe it for what it is and does, and, for the most part, does not seem to impose evaluation based on whether the talk is “polite,” “defensive,” etc. A common thread between these various studies is that each, in its own way, allowed for the localizing of communicative norms vs. evaluating based on a “universal” way of understanding communication.

Thus, I am concerned with what both “Politeness Theory” and “defensiveness” and “verbal aggression” researchers say about the study of interpersonal communication. Clearly both have their merits. Sometimes “universal” ideas can serve as frameworks with which to enter a research study. Yet, in Pike’s (1954) sense, these etic mentalities seem to function more to exclude rather than include diverse theories on communication and culture.

What seems to be missing in Brown and Levinson’s (1987) perspective is the possibility that not all communicators are likely to see politeness as a universal human aspect. Additionally, the authors seem to have eliminated the possibility that communication (i.e., talk and processes of talk) traditionally evaluated as threatening and, consequently, “destructive,” “negative,” and moreover “incompetent” could in fact, be “non-threatening,” “constructive,” “positive” and a sign of “cultural competence.” Moreover, they eliminate the possibility that “impolite” communication (as they describe it) could actually serve unique functions in terms of solidarity and interpersonal warmth.

Similarly, there are “missing” qualities to the preceding discussions about “defensive” communication (see Gibb, 1961, Eadie, 1982 and Stamp et al, 1992) and “verbally aggressiveness” (see Infante, 1995; 1996 and Infante and Wigley, 1986). For the sake of brevity, I simply suggest the possibility that not all communication typically viewed as “questionable” (e.g., criticism, insults, character attacks) is interpreted by the involved communicators as damaging to psyches and, more specifically, self-concepts. Moreover, and similar to my concern with Brown and Levinson (1987), I would like to suggest that there might be instances where “aggressive” communication, instead of seeming to distance the communicators (Gibb, 1961), might actually serve positive, solidarity building functions as well. In short, scholars are in need of a reminder that interpersonal communication is subject to variations in “style” based on culture. I hope to offer such insight in this essay.

### *3. Ethnography of Communication*

Hymes' (1972) ethnography of communication (eoc) approach is ideal for this study for a number of reasons. First, Hymes (1972) takes the attention away from universal theories being used to understand/explain/evaluate culture and puts it directly on the culture's members' descriptions of how communication works for them. As labels of politeness, defensiveness, and verbal aggression in the above mentioned research seem to have been prescribed by the respective scholars, ethnography of communication focuses on the voices of the participants of my fieldwork.

Being able to, in Hymes' sense, "particularize" (Saville-Troike, 1989), I will be freer to uncover and embrace a way of speaking that might otherwise not be taken favorably. Next, Hymes (1974) argues:

[I]f members of a community themselves class certain patterns of speech as deviant, mixtures, marginal, or the like, that is a significant fact; but we do not want to be trapped into having to treat phenomena that way, merely because of the limitations of the model with which we start. Where community members find patterns natural, we do not want to have to make them out to be unnatural (p. 433).

When one typically judges "politeness" or levels of "verbal aggression," there seems to be evaluative statements attached to these judgments. For instance, a communicator is "impolite" and thus "ineffective, "insensitive to the other," or "incompetent." Ethnography of Communication seems to blend quite nicely with my intentions of not evaluating the Upward Bound members communication style, a style that, by traditional folk, would be highly scrutinized.

### *4. Speech Community*

Hymes (1972) argues that a speech community is comprised of communicators who "share knowledge of rules for the interpretation of speech, including rules for the interpretation of at least one common code" (p. 19). Given that the proceeding investigation will look at the shared system of meanings for specific terms and the ways these terms are use in social interaction, Hymes (1972) conceptualization seems like an appropriate fit.

This speech community is comprised of fourteen students ranging in age from seventeen to nineteen years old. In terms of race, one student was of Caucasian decent, two from Asian decent, while the remaining eleven students were of African American decent. There was an equal number of young men and woman.

As previously mentioned, these students were members of the Upward Bound program.

### *5. Classroom as Field*

Overall, extending the eoc work of Hymes (1967, 1968, 1972 & 1974), Philipsen (1992; 1997), and Carbaugh (1989; 1992), I utilize both ethnographic fieldwork and interviews to tell the story of this dynamic group of young communicators—those hoping to foster a family and a successful life. I conducted approximately forty-two hours of fieldwork for this study. As these were my students, fieldwork consisted of the hours spent teaching my Introduction to Communication class on a regional campus of a Midwestern university. I met with these students for ninety minutes, four days a week, for a total of seven weeks in the summer, 1998. My observations and jottings were based on experiences before, during, and following class. Although the students were fully aware of my study, I attempted to make the jotting of field notes as inconspicuous as possible, so as to obtain as relatively “natural” communicative behaviors.

In the sixth week of my study, I conducted thirteen open-ended interviews with the students. One student out of the fourteen declined to be interviewed. Interview sessions took place privately, in one-on-one sixty-minute sessions (held in a separate classroom away from the respondent’s peers). I utilized an unstructured, open-ended interviewing style. I interviewed from a scheduled list of questions; follow-up probes were frequently utilized wherever appropriate. This conversational interviewing protocol allowed for “a more flexible approach, allowing the discussion to flow in a way that seems natural” (Hammersley and Atkinson, 1995, p. 152). All interviews were recorded on micro-cassette and remain in my possession. I completed all transcribing and coding work alone in order to consistently encounter the data.

What follows is an account of the ways of speaking of the Upward Bound speech community. I first present two themes that I discovered in my fieldwork and interview data. These two conclusions center on the ways in which these communicators contrast the normative ways of speaking I previously discussed. In short, this community challenges what we “know” about communication style, politeness, and “competent” communication.

### *6. “Cut Ups,” “Slams” and “Jabs”*

Apparent throughout my fieldwork was the observation that this group communicates in ways that contradict traditionally normative ways of speaking.

One way the group communicated could be described as what is typically understood as verbal aggression. For instance, I observed group members routinely teasing Jack for having a raspy voice, one that he used repeatedly to participate in class discussion. Additionally, I witnessed the group mock Harriet due to her different (somewhat quirky) style of laughing and for the ways in which she squinted her face when she smiled. She laughed with a raspy voice and a look like she was trying to not move a muscle in her face. Also, Benny was teased for being overweight. On other occasions, Tammy was continuously ridiculed merely for expressing her point in class. In turn, many group members criticized each other in a sarcastic manner if they stumbled over words. Finally, and not any less significant, I also noticed group members directing a significant amount of sarcasm at themselves as well.

When questioned about these observations, group members effortlessly provided insight as to this intriguing, and somewhat alarming, way of using communication. Nearly all respondents identified this way of speaking as using (in their terms) “cut-ups,” “slams,” and “jabs” (hereafter referred to as C/S/J). They also mentioned that much of their communication was filled with “sarcasm” and “overly critical communication.” However, this type of communication was not received negatively. A number of instances illustrate this notion.

Cliff reports: It is a smart and intelligent way to tell someone off without using profane language or degrading yourself...when someone gets smart with you, you learn more about the person so you can learn how to grow closer.

Cliff’s statement seems particularly significant for three reasons. First, he presents C/S/J as a way of speaking that is familiar to him. In turn, this leads to me speculate if there is strength to this being a way of speaking for this community. Next, and more specifically, he reports how, if one is to communicate via C/S/J, how communicators might shape such communication. That is, Cliff sees it as being “smart” and “intelligent,” and not “degrading.” It would seem to follow then that less “intelligent” communicators would speak in profane ways. Finally, although profanity is to be avoided, communicating through C/S/J should not be. This is because it seems to produce positive results for the group (e.g., learning “more about the person” or for communicators to “grow closer”). Altogether, C/S/J seems to point away from a communication style that offends and, more importantly, toward something more functional (e.g., building familiarity and

interpersonal closeness).

Similarly, Jack stated, "...It [C/S/J] helps you feel more secure...you see eye to eye with the person and know where they really stand." Several group members concurred that this communication style allowed group members to see each other "eye-to-eye." JB adds:

I feel like it is a necessity. I think that if we didn't have [C/S/J], we would be really insecure, saying "what are they really thinking?" Hurt feelings ... sometimes you get them, but sometimes you have to have them just to feel secure and know what people think about you.

At this point, it seems logical to suggest that communicators that see "eye-to-eye" also seek to know each other, or to "authenticate" (i.e., to seek the authentic real person in the other). Perhaps more intriguingly, seeking the authentic other, a "necessity" in JB's terms, seems to create a reassurance for the Upward Bound communicators. This is a reassurance that helps keep them feel "secure." Together, these two thoughts seem to reflect my previous mention of C/S/J serving a familiarity function.

Next, Leonard states, "It takes the seriousness of the group away so we can relax more." Nicella shares this sentiment: "I think it's a benefit. We often times laugh at it. It is just something ...like certain 'cut ups' we almost hear everyday.

We are used to it." Meanwhile, Latoria explains: It's just comedy and since we spent the whole summer together, we became kind of close like a family. So it's automatically you can 'cut up' on each other.

Jessica notes: Like when you ask us for our opinion and stuff [while teaching] and people are always with a sarcastic comment to what they say...because we are used to each other. But some people still get offended. Yet, 'cause we have been together for two or three years, when we cut each other up, we all laugh at it.

Ellissa adds: I think it's a benefit. We often times laugh at it. It is just something, like certain 'cut ups,' we almost hear it everyday. We are used to it. Maybe it is something to like cheer a person up, or make you realize who you really are.

Finally, Anne states: It is not really conflict because they are just playing around. Because we know what each other is about and what...how each of us thinks and what is important to us.

At this point, it also seems that these communicators benefit directly from a strong sense of familiarity. Whether it is from spending “the whole summer together,” seemingly earning an “automatic” right to use C/S/J talk, or being “used to each other,” group members tell me that C/S/J is less hurtful because they are so tightly bonded. This is exemplified by Tiffany’s example:

Sometimes, like when Tootie talks, James always seems to find something wrong with it. [I asked her if this was an example of a “cut up”] Yes it is! It really doesn’t push us apart because we will look past it – because of the strong bond we have and we know how everybody is and we don’t pay much attention to it.

Interpersonal familiarity seems to function as a way to accept C/S/J, which at this point, seems to be developing as a commonly uttered speech act. Larry addresses the issue of Tootie:

Like with Tootie – no one really means it very seriously. It’s just a playful thing from us being together over the years. Because we have an understanding that we are all trying to get to a certain point [success in life] and the only way we are going to do that is if we work together and don’t worry about the little stupid things that go on.

These statements also lead me to realize that C/S/J regularly humors Upward Bound communicators. This is because Ellissa tells me that they hear it nearly “everyday.” Also, C/S/J, as Ellissa sees it, is in fact a “benefit” for this group. This communication style is influenced by familiarity and is a “playful” way of using talk, one that is like “comedy” and lets the group members “laugh.” “relax,” and be less “serious.” Thus, C/S/J, for many (but not all) group members seems to be a way of entertaining themselves.

Harriet states, “I don’t like them [C/S/J]. They can tear people up and sometimes they can pull people together. It shows how a person really feels.” Lenny adds, “this type of communication will cut you off and make you stop talking and not want to participate or anything...it is in our group.” Meanwhile, contrasting these statements is Jessica, speaking in terms of her public speaking ability, when she suggests that C/S/J “could be supportive; that could help you get better.”

This style of communicating, then, is not fool proof. It is not the all-doing tool with which these communicators build familiarity/closeness and entertain themselves. For some, this form of talk “does” other things (e.g., it may “tear people up” or “cut you off”). Interestingly enough, Jessica provides the first hint of the

possibility that C/S/J serves this speech community as a way to build communication skills.

Intrigued by preceding responses dealing solely with C/S/J, I questioned the group about their perceptions of the overall classroom “climate.” Seven out of the thirteen respondents used the descriptor “supportive” in their view of the communication. Other respondents used descriptors such as “fun,” “open,” “really close,” “playful,” “goofy,” “compromising,” “friendship,” “understanding,” and “togetherness.” Particularly interesting was Ellissa’s comment: Everybody gets along...no arguing and no fighting. Everybody works together. Our communication is good when we are together, but it lacks at times when we are by ourselves or we are separate.

This leads me to consider the possibility that this particular group, perhaps moreso than other speech communities, thrive (and are reliant) on their interconnectedness. It also encourages me to thematize the ways in which these members use talk to ensure this connectedness.

### *7. Monitoring*

In addition to the discoveries pertaining to C/S/J, I discovered that the Upward Bound group members communicate in ways that resemble hyper-vigilant monitors. There were many instances when I observed participants being highly concerned with their peers’ communication and overall behavior (socially and academically). These observations center on the ways in which students’ attempted to control and also show encouragement through talk.

It was well known in this community that Elaine was to be seen as a parent figure. In fact, I noticed many group members regularly referred to her with affection as “momma.” First, I observed Elaine yelling at particular group members who arrived back to class a few minutes late from a class break. Meanwhile, I observed Jack telling the group to “leave his mama alone” when they were “jabbing” Elaine for making an error in the delivery of a speech assignment. Another time, Elaine humorously, but genuinely, stated to me, “Keith, I have tried to teach my babies right.” Elaine’s “parental” status in the group seemed to set the tone for numerous other occasions when group members monitored each other’s communication.

On one occasion of monitoring, I observed Tammy communicating disgust and shame to Jack after I corrected him for never paying attention in class. Next, Andrea stated to Jimmy (regarding his messing with Harriet), “Don’t touch my

girl... so you might as well sit down.” Next, while I was teaching, Lenny stated to me, “Are you giving a hard time to my brother?” when I corrected Jack for not listening to my instructions.

These instances seem to suggest that these communicators are not only aware of their peers’ communication, but they have something to say about it if it seems out of line. In line with this, then, “monitoring” does not seem to be a sole event, one in which someone just watches. Monitoring was typically followed by some type of tempering, or “calling out” statement.

Tootie tells of her experience of monitoring:

One day someone, while we were talking, made a generalization about the Baptists and saying that they are always putting down Jehovah’s Witnesses and I said, ‘no we don’t’ [presumably do something that Jehovah’s Witnesses do] and that ‘you are stereotyping’ and that person was like, “no I am not and you are stereotyping for saying you don’t.”

In this instance, Tootie was uncomfortable about comments made regarding practices of the religion with which she identifies. Much in the spirit of what seems to be an open, confrontation norm of communication for these individuals, Tootie challenged the other’s statement and, in doing so, because the others disagreed with Tootie, there was a challenge made back to Tootie. At a basic level, if this were not an instance of monitoring, the statement would have inevitably been unnoticed. Given her apparent monitoring, her “calling out,” and the others’ return, it seems as though this group shows signs of a policing type behavior associated with their communication. In other words, if you, in using your talk, communicate something with which I do not agree, I will use my talk to challenge you.

Additionally, Craig discusses group participation and conflict and the need for intervention if not everyone is participating: For group process, I think it could be because there could be some people in the group who thinks they gonna have to do everything and they are elitist. Sometimes you have to set them straight and let them know it’s a group thing and everyone’s supposed to participate.

Finally, JB states: They [his fellow group members] encourage everybody. Like if I say something wrong, they form into a big ole’ mass. Our whole group is like leaders. They’re like honest and let you know how you are doing and what you are doing and what you are doing wrong.



Contrary to the preceding example with Tootie, where talk was used to negate the others' positions, it seems as though Craig presents a situation where talk is used to ensure the others' parts in group communication. That is, talk in this case served to "set them straight," informing the overbearing others that "everyone's supposed to participate."

There is another function to the group's hyper-vigilance. These students also monitor each other as a means of motivation for fellow group members. This was apparent during various moments during my fieldwork. This seems to be most visible when considering class "Yes" moments. In the classes I teach, a statement was considered a "Yes" moment (similar to the commonly understood "light bulb" moment) when the student successfully connected the course material with their "real" lives. The Upward Bound class was extremely excited and proud of themselves and each other whenever "Yes" moments were declared. They often asked, "is that a 'Yes' moment?" after someone posed an insightful thought or comment. Next, "encouraging" talk occurred when the group would offer emotional assistance to one another. For example, Harriet seemed to suffer quite significantly from communication apprehension. During her portion of a small group presentation in class, Harriet broke down twice. However, she was able to finish with the support of her group. Some group members offered Harriet soft pats on the back, while Leonard, who was in the audience, noticeably nodded his head upward in a sign of support when she finished speaking (and was visibly distressed). I also observed Jack stopping his "brother" Lenny from doodling when I came near their desks. This was perhaps because he wanted to protect him from my impending correction. Other, perhaps less poignant, moments of encouragement occurred when group members reminded each other to complete their journal and other various assignments throughout the semester.

In addition to these moments of encouragement, I recall a time when Benny communicated with his group in a way that stays with me to this day. In this instance, Benny reprimanded some of the group for focusing their attention on external issues, such as the disorganization of the Upward Bound staff, and being distracted in their coursework. He smiled while stating to them, "That's why you all aren't gonna make it!" In other words, because he saw his peers attending excessively to political issues - things, presumably, over which they had little or no control - they were less likely to be successful in life (i.e., to "make it"). This moment is intriguing as it seems to be a finely constructed combination

statement of both C/S/J and encouragement. Inspired by this utterance's complexity, by the overall strong sense of monitoring in this group, and the richness of Elaine being treated as "momma," I questioned the students about their apparent interdependence. Their response mainly centers on the notion of family and time spent together.

James states, "When we go to lunch, we always sit together. We eat together. We talk together. Whatever we do, we do together." In line with this, the group characterizes their time together (in addition to being filled with C/S/J), as time in which they are strongly connected. Nicella states, "Elaine stated, "... Some people in my class are considered my sisters and my brothers and it is like we play the role of the family." To this, Tootie adds: They [this Upward Bound community] are very open with how they feel. They have fun and laugh together. They work well together because they accept each other's ideas and no one has to feel nervous in the group because it is family-like. They are very close.

Finally, and perhaps most poignantly, Larry states: I think there are two types of family. One is your biological family, which you are bonded to at birth. Then there is your social families which are made up of close friends which you treat the same, and sometimes even better than [biological] family.

At this point, it is abundantly clear to me that this group talks about itself as a family. With the utterances above, I can now move beyond relying solely on the talk that Elaine is seen as then "momma" figure in this group. Here, this Upward Bound community describes themselves as "open" and "close," sibling-like, and perhaps family enough to spend nearly every moment of their lengthy time in the Upward Bound program together. Even more telling is Larry's distinguishing between "types of family," and his indication that perhaps social families (and likely, the Upward Bound family) hold more weight to him. Given the family-like quality then of this group, it would seem to follow that monitoring and subsequent "calling out" or "encouragement" talk would serve to maintain the family relationship that this group has in place.

Two additional reports from my interviews seem to solidify the notion that these group members use talk to maintain their tightly bonded relationship. First, JB states, "If one person dropped out, everybody would feel bad - like it was their fault. And if everybody succeeded as a whole, then we accomplished our goal as when we first came in." In other words, JB's success (and happiness) in Upward Bound is largely dependent on the success (and happiness) of his fellow

communicators. This is evident in his utterance about what would happen if his peers did not have success. Next, when questioned about her relationship with fellow group members, Jessica states: I love them. Before I came in here, I had a void in my life and they are like a completion of it - they complete it - because they are my friends and even though some of them get on my nerves, I still love them with all my heart.

Comments like these from JB and Jessica lead me to better understand the extent to which these individuals are connected to other individuals in their group. What seems even more important now is the emotional tie group members have for one another. Both these individuals discuss "feelings" (e.g., "feeling bad" if a peer "dropped out" or "loving" group members because they filled a "void" in one's heart). When communicators are linked to one another intellectually and emotionally, I cannot help but consider the many ways in which their talk might be affected by such a connection. As previously discussed, it seems fair to suggest that the acceptance of C/S/J and various practices of monitoring construct the bond between group members and also is informed by the already existing closeness.

I spent a significant amount of time in this essay delineating traditional approaches to studying "politeness" and the phenomena of "defensiveness" and "verbal aggression." I attempted to re-enter the Upward Bound communicative scene, so as to re-approach pre-existing data on this group's communication style with a different, hopefully more culturally enlightened lens. In doing so, I discovered that this speech community uses talk in ways that seem anything but traditional or universal. I spend the remaining sections of this essay further discussing the ways in which these communicators use unique, culturally-rich ways to a) talk about their communication (Carbaugh, 1989); b) construct family; and c) all while constructing and communicating in the terms of a distinctive speech code (Philipsen, 1997).

### *8. Terms for Talk*

Carbaugh (1989) identifies four levels of how communicators talk about their talk. I focus on three of the levels: "act," "style," and "functional" talk. Regarding the "act" level:

[. . .] a cultural term is being used to identify the verbal performance of an individual, be it a tuneful weep or religious speech. At this level, what an

individual is doing with words is identified and culturally coded. (p. 99)

In other words, talk at the “act” level pertains to descriptions of things “done.” For example, a religious speech is a type of communication that accomplishes worship, praise giving, and community building. It is a specific kind of speech act.

I noticed the Upward Bound community regularly insulting or teasing each other. When questioned about these speech acts, respondents identified this type of talk as “cut ups, slams, and/or jabs” (again, C/S/J). Granted, the combination of words was not used for this type of act. However, when questioned on various statements, and also when talking to each other about various statements communicators made in my class, group members named this talk accordingly. More significant is the likelihood that these uses of talk are, in Carbaugh’s (1989) sense, “identified and culturally coded” (p. 99). Unless I probed the respondents with jargon-type interpersonal language during our interviews, they did not refer to their talk as “insults” or “teasing.” When a person is communicating in such a way, they are labeled as using C/S/J. Their choice of this description of their talk vs. those that are more clinical or formal in nature, demonstrates to me that Upward Bound members identify their talk in terms of the “act” level. Interestingly enough, group members did not refer to their hyper-vigilant monitoring as such. They did not call this repeated talk “monitoring” as I labeled the talk above.

“Style” is an additional “level” of talk in which it, according to Carbaugh (1989), “becomes important in the study of cultural terms because it provides a sense of spoken enactment (act or event) as a selection of one rather than others” (p. 100). In other words, interlocutors have a variety of ways in which they may or may not speak. Talk about “style” pertains to that way of speaking that was chosen by communicators and, in turn, which was left unchosen.

One of the most striking discoveries from my time with the Upward Bound community relates to the notion of a “style.” There were many occasions where members would speak in ways that seemed to contradict their style of C/S/J. This was a dynamically engaged group of communication students. So, I regularly experienced full participation while teaching and trying to have a discussion. Students would often use “traditional” talk. For instance, they would state “When I think of ‘defensiveness...’ or “I feel like you are hurting my feelings...”. To use this type of talk and *not* “Man, you ‘cut me up!’” or “I don’t need you ‘jabbin’ on

me today” respectively seemed to peak the attention of those listening. The fact that these instances took place is not quite as striking as is the response that these communicators faced. On most occasions, those around the speaker of such “traditional” talk would respond back, “Oh, nice ‘school talk,’” or “Look who’s using ‘school speak.’” This leads me to believe that a) these communicators had at least two styles with which to speak, C/S/J or “school talk/speak.” To choose the former seemed to earn one the right to be in social graces. (The sociality of this group will be discussed further below.) To choose the latter entailed the “school/talker/speaker” hearing about it and inevitably being compelled to change one’s speech or bear with the C/S/J talk. Therefore, because group members had at least two styles to choose from, it would likely follow that Upward Bound members talk about their talk on Carbaugh’s (1989) “style” level.

Carbaugh (1989) describes his “functional” level of talk in terms of a “shaping,” one where “indigenous labels for speech identify powerful symbolic events in speech [. . .] indirectly and reflexively” (p. 101). Whereas the “act” and “style” may reflect the means of speech, “functional” terms are the ends, or the “various outcomes” of speech (p. 103). The “functional” claim points directly to Hymes’ (1972) argument that cultural communicators “do” or “accomplish” things through their talk. In turn, it reminds me of Philipsen’s (1992) “socially consequential” assumption of talk:

“speech is both an act of and a resource for ‘membering’” (p. 14). Thus, “membering” is one specific accomplishment. Together, Carbaugh (1989) seems to provide valuable insight as to the Upward Bound community.

First, this group does membering with its talk. Evidence for this claim is most apparent in the hyper-vigilant monitoring in which they engaged during face-to-face conversation and general class (group) discussion. And by “members,” I am arguing that they “member” not so much by exclusive terms, but rather by the processes with which they talk among each other and through the talk that they utilize to discuss their communication style. As previously mentioned, I regularly observed group members policing each other. For instance, they would reprimand each other when returning late from break, correct each other for talking in a loud voice, yell at each other if they were not paying attention in class, etc. When questioned about these behaviors, respondents spoke most frequently about this being a family; thus, these ways of interacting were family-like. I illustrated how Elaine was referred to as “momma” by group members, how respondents told me

that their peers were “brother-” and “sister-” like, and how, in ways, the Upward Bound (“social”) “family” was potentially more like a family than the respondent’s “biological” family. To me, these are all either explicitly, or implicitly, family-like things to do and say. I imagine that, if these communicators were *not* so heavily bonded, their talk might be the antithesis of that just described, perhaps non-protective, stranger-like (unfamiliar), and distant. This was clearly not the case. Incidentally, the claim that this group is a family seems reasonable to me, in addition to reasons previously mentioned, because of the group members’ pronoun use. When discussing things like Upward Bound functions, group projects, or perhaps events that happened at lunch, this community speaks in terms of “we.” The “we” pronoun was also very much present during my interviews with the group members. Granted, this is not an attempt to utilize the trite phrase, “there is no ‘I’ in ‘team’.” However, to me, “we” is more family-like talk than is “I.” Thus, while this does not present the argument for this group’s intense “sociality” (Philipsen, 1992, p. 13), it offers a possible explanation for the function of such language.

Further instances of Carbaugh’s (1989) and Hymes’ (1974) argument on the functionality of talk come to mind. Group members reported that C/S/J were regularly used to serve a number of functions. First, most group members told me that this way of speaking was “entertaining” or something to “laugh at.” Thus, this form of talk’s function was to entertain the group. This would not surprise me, as this group, although they were experiencing early college credit, often came from oppressed backgrounds. In turn, all respondents told me that they were unhappy with the Upward Bound staff. Entertainment, then, seemed like a reasonable thing to create through talk.

Second, interviewees reported that C/S/J was a way in which a) others could be “called out” or “straightened out” if they were doing or saying something inappropriate; and b) communicators could determine what the conversational partner thought of him/her. Regarding the “called out” or “straightened out” function, respondents told me that this particular communication style was a form of confrontation. If someone was wrong (e.g., acted out of place, or misspoke), then C/S/J was a way in which that person could be tempered, or put in her/his place. This makes sense to me as not saying something would seem to lead to a problem festering rather than being discussed. Next, C/S/J seemed to be a way in which group members required or forced self disclosure. That is, numerous respondents told me that this type of talk “showed the hearer where ‘he/she was’

and vice versa. Thus, C/S/J functioned to remove uncertainty and ambiguity. In its blunt nature, this style of talk promoted a climate in which interlocutors knew where the other stood.

### *9. At the Intersection: Functional Disfunction*

I previously discussed how those who study interpersonal communication seem to have a tight grip on Brown and Levinson's (1987) "Politeness Theory" and the notions of "defensiveness communication" (see Gibb, 1961; Eadie, 1982; Stamp et al., 1992) and "verbally aggressive communication" (see Infante, 1995; 1996; Infante & Wigley, 1986). In doing so, I demonstrated how the preservation of "face" is believed to be a "universal" concern of all communicators, regardless of culture (Brown and Levinson, 1987; Goffman 1967).

In the sense of how I discussed them previously, these "universal" perspectives make sense to me. After all, with respect to "positive face wants," I often want others to embrace, affirm and approve of who I am as a person while I interact with them. Similarly, regarding "negative face wants," there are many times in which I want others to give me my space. I often want be more autonomous than interdependently engaged with others through talk. Also, I shy away from talk that is too aggressive for many of the same reasons listed by communication scholars earlier. Perspectives like those from Brown and Levinson (1987), Goffman (1967), Infante (1995; 1996), and Infante and Wigley (1986), and Searle (1976) seem reasonable enough to use them provisionally as a means with which to explore culture. Thus, in line with Rosaldo (1982) and Hymes (1990), I believe that taxonomies, with caution, can be useful tools even for the emic researcher. Regarding the universals I questioned in this essay, I am still more concerned than appreciative of these theories.

A large portion of the preceding essay highlighted the ways of speaking of the Upward Bound speech community. Through use of their terms, I discovered how they communicate in ways that traditional researchers would probably deplore. Using traditional knowledge, these group members talk in "impolite" way, modes of speaking that "should" threaten the other (Brown and Levinson, 1987). The insult-like content of C/S/J "should" threaten both the "positive and negative faces" of the hearer. This talk critiqued and mocked the other and, therefore, labeled her/him as less "desirable." In turn, C/S/J engaged the other into conversation when he/she might have wanted to remain autonomous, or uninvolved. Similarly, monitoring, and more specifically, policing talk also engaged the other and typically discredited what the other was doing.

Contrasting this is the encouragement function of monitoring talk. While this seemed to engage the other (and thus threatened negative face), encouraging talk seemed to honor the hearer's positive "face wants." This talk communicated, "You are good enough, or worth our helping you through talk." Thus, this seems to be an area where Brown and Levinson's (1987) perspective seems particularly efficacious. Communicators also spoke in "defensive" and "verbally aggressive" ways, those that "should" have damaged the self-concept of the hearers (Infante, 1995; Infante 1996; Infante and Wigley, 1986). Additionally, their talk "should" have put distance between the interactants (Gibb, 1961; Eadie, 1982; Stamp et al., 1992). Holistically, these ways of speaking "should" function in this way. However, in the communicative realm of the Upward Bound speech community, they didn't.

This group self-identified as a "family." They are "brothers" and "sisters," siblings created through talk. Communicators in this group are concerned for each other's welfare. In turn, they are worried that they would feel down if their fellow group members did not succeed. Within the world of these communicators, and based on *their* terms, the Upward Bound members were far from "incompetent."

At the intersection of linguistic universals and those who speak in ways that appear to contradict these universals is the Upward Bound speech code. According to Philipsen (1997):

Every common culture of which interlocutors might partake, and which they might use in speaking together, includes, among its parts, a part devoted to the symbols and meanings, premises, and rules pertaining to communicative conduct. *A speech code, then, is defined here as a system of socially constructed symbols and meanings, premises, and rules, pertaining to communicative conduct.*" (p. 126)

In that the Upward Bound speech community talked among each other and talked about their talk in shared ways, they personify Philipsen's (1997) notion of speech code. Perhaps these young individuals *were* in fact enacting "politeness." Yet, it was *their* norm for politeness. This does not abolish the notions of Brown and Levinson (1987), Infante (1995; 1996), or Infante and Wigley (1986) or others similarly universal in argument. As Geertz states, "there is no such thing as human nature independent of culture" (p. 49). Thus, it humanizes them. It enriches traditional, etic based perspectives with the possibilities that come from exploring cultural ways of communicating.



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# ISSA Proceedings 2002 - Legal Argumentation Theory And The Concept Of Law



## *1. Premise*

There has been wide recognition over the last three decades that argumentation plays a pivotal role in shaping the law, since practically any stage of what is ordinarily considered the legal domain involves recourse to reasoning[i]. Legal scientists put forward interpretive statements: they propose what they see as reasonable interpretations of laws and defend these interpretations with arguments. Both of these tasks requires reasoning. Lawyers, when they bring cases to court, must do more or less the same (even if the aims here are more specific and concrete): they interpret general norms and precedents, qualify concrete cases and offer reasons in support of their conclusions. Judges decide cases, an activity which makes it necessary to find and sometimes reconstruct the rule of law, interpret rules and apply them to concrete circumstances, weigh principles, settle conflicts between norms encased in the same legal order, follow precedents, ascertain and qualify facts, determine the most reasonable solution to the case at hand, and put forward justifications for their decisions. All such operations are argumentative. And lastly, in a constitutional democratic state the legislators, too, will tend to offer reasons backing their deliberations, so to make these last more easily acceptable to the people they govern. In doing so even the legislators accept to take part in the game of argumentation.

Clearly, these types of reasoning differ markedly from one another: some are aimed at finding solutions; others are intended to enable making a choice among competing interpretations of norms, qualifications of facts, or decisions of cases; and others still are designed to uphold a point of view and show it to be reasonable. But they have a general feature in common in that they are all deliberative procedures and so not entirely rule-bound. In other words, reasoning

and argumentation in law differ from a mere subsumption of concrete facts under general rules. It is precisely because legal argumentation is not entirely deductive that it warrants careful investigation and has attracted the attention of several researchers in different fields of study. Legal scholars, philosophers and argumentation theorists have shown in recent years a growing interest in legal reasoning[**ii**]. They have been concerned with legal reasoning at different levels of abstraction: philosophical, theoretical, methodological, empirical and practical[**iii**]. We owe it to their effort if legal argumentation is “no longer considered as merely a part of a broader field of research, but as an object of study in its own right” (Feteris, 1999, 13). In this essay, argumentation in law is approached from a particular perspective, that of jurisprudence. More specifically, the aim here is to make explicit the implications which the recent development of studies in legal reasoning carries for the concept of law. The argument is laid out as follows. In Section Two I introduce and point up some specific theoretical consequences resulting from the awareness that argumentation plays an important role in law. In this framework, it will be stressed that some traditional jurisprudential notions (such as source of law, validity, and norm) have undergone significant changes as a result of this focus on reasoning. In Section Three I argue that a critical revision of these notions impacts directly on the very concept of law and calls for a shift from the idea of law as a product to that of law as an activity. However, it is submitted, thus far only a handful of legal theorists have seen the need to revise the more traditional and widely accepted image of law, and they have been insufficiently coherent in pursuing this reform. So the studies in legal argumentation have hardly yielded anything like a truly innovatory rethinking of the concept of law: a more radical set of implications could (and should) have been drawn from the premise of the centrality and importance of reasoning in law. This supports the conclusion that legal theorists will profit from paying more attention to the argumentative nature of their main object of study, in such a way as will make possible a more satisfactory treatment of this object.

## *2. Traditional Legal Theory Revisited*

Only in the seventies did legal theory begin to address frontally the question of argumentation[**iv**]. But since then, significant results have been attained as several long-standing debates were taken up in a new light. One example illustrating paradigmatically the fruitful contribution given to a traditional debate by the studies in legal reasoning is to be found in the way legal-argumentation

theorists have recast Herbert Hart's distinction between easy cases and hard cases.

Hart (1958, 606-615) grounds this distinction on the structure of language. He calls "easy" the cases in which the meaning of the words is so plain that no interpretation is needed and legal rules can be applied straightforwardly. By contrast, "hard" cases arise when "the words are neither obviously applicable, nor obviously ruled out" (Hart, 1958, 607). Here, the rule cannot be applied directly, and an interpretive decision is required to set straight the meaning of the words used by those who have framed the rule. It was Fuller (1958, 661-669) who questioned forcefully the sustainability of a distinction so conceived and the theoretical validity of its linguistic foundations. He argued that Hart grounds his assumptions on the mistaken theory of meaning by which the meaning of a word is largely context-insensitive, making the ordinary usage of language an adequate basis on which to determine that meaning. While Fuller's criticism seems well-grounded (to a vast part of jurisprudence at least)[v], the issue raised by Hart is anything but futile or pointless: situations are commonly experienced in which the rules seem to dictate of themselves the solution to the case at hand, and no less common are those situations whose outcomes do not appear to flow directly from the literal meaning of the general and abstract rules making up a legal order.

The contribution of legal-argumentation theorists to a better understanding of the problems involved here has been significant. They argue that Hart's distinction, far from being grounded on the structure of language, reflects the existence of different forms and levels of reasoning: whereas deciding easy cases can be solved simply by first-order reasoning - a form of argumentation that can be reconstructed as deductive - hard cases need "external" justification and second-order arguments, meaning by this a form of reasoning whose premises need further discussion and justification[vi]. Second-order reasoning allows greater play for the interpreter's discretion. Consequently, when a hard case comes up, its decision may be perceived to be less strictly held down by legal texts and by the formal criteria set out in positive laws. As much as external justification may be discretionary, it is not necessarily arbitrary or irrational. In no form does legal argumentation depend entirely on acts of will, since it can be given course to by means of rational tools. Moreover, contrary to Hart's reading, the difference between easy cases and hard cases is in quantity, not in kind: easy cases and hard cases alike require argumentative activities to be settled, but these argumentative

activities differ as to the discretionary leeway left to interpreters. There are strong merits to this approach. First, it recasts a debate that was heading for a linguistic cul-de-sac in terms which are more adequate from a theoretical point of view. Second, it brings to light a new problem to be attacked, namely, the conditions under which discretionary argumentation can be rational, or non-arbitrary, even if not entirely bound by pre-existing legal standards. Thus, the present approach shows up the need for a two-pronged analysis, by which we can investigate more deeply the way decisions are made (analytical level) and the way they *ought to* be made (normative level).

These achievements are significant indeed, but they are only part of the story. The most innovative contribution to a better understanding of law offered by legal-argumentation theories consists in their revision of several basic notions in traditional jurisprudence [vii]. In what follows, I will sketch how three key concepts of legal theory, namely those of legal source (a), legal validity (b) and legal norm (c), have been critically revisited by those scholars who endorse the view that deliberative reasoning is a necessary component of any juridical undertaking.

(a) In traditional legal literature “source of law” is known to be an ambiguous term, used by and large to designate acts productive of law, meaning the acts by which the substantive content of rules is established. The main sources of law identified by positivistic jurisprudence are international treaties, constitutions, statutes, acts issued by governments, kindred formal normative enactments by other subjects institutionally empowered to produce legal rules, court decisions (or precedent), and customs.

However, when legal argumentation is conceived of as a central feature of ordinary functioning of law, this set of acts will have to be extended. Aware of this consequence, some legal-argumentation theorists have felt the need to expand the traditional notion of a legal source to embrace anything that may be employed in legal reasoning and may contribute to determining the contents of law in concrete circumstances. Stated otherwise, the concept of legal source is redefined as “every reason that can - according to the generally accepted rules of the legal community - be used as the justificatory basis of the interpretation” [viii]. Consequently, we can qualify as sources of law some items that traditionally are not deemed such, examples being draft statutes, legislative preparatory materials, judicial arguments used in precedents, juristic literature,

general principles and moral values presupposed by legal interpretation[**ix**].

This is not to say, however, that all sources carry equal weight. There are various kinds of legal source and they differ as to their binding force[**x**], institutional foundation[**xi**], and hierarchical importance[**xii**]: rules, principles, customs, arguments, values, and doctrinal opinions play different roles in determining the contents of legal decisions, and each is brought to bear to a different extent. Therefore, expanding the catalogue of legal sources does not amount to accepting the sceptical thesis that interpreters are free to decide cases arbitrarily. Rather, by this expansion we underline the structural complexity of law and acknowledge that the relationships between legal sources are only seemingly prefixed.

(b) The concept of legal validity is another notion requiring to be critically reconsidered once the recognition is made that the activities of reasoning and argumentation are integral part to the law's domain. According to the positivistic view, validity has to do with the observance of prefixed procedures by authorities having appropriate competence: valid legal orders exist in so far they meet certain procedural criteria. By contrast, in a perspective aware of the role played by argumentation in law, enactment by a competent authority may be a necessary condition for a rule to be valid, but hardly a sufficient condition. Apparently, the validity of laws cannot derive solely from their provenience. If laws are to be valid, they will also have to be rationally arguable from the legal system as a whole. To put it otherwise, the mere enactment of a rule by the competent authority is only a *prima facie* reason for its validity and binding force. The *all-things-considered* validity of law - the only legal validity properly so called - depends, too, on whether this rule can be derived by argumentation from the other parts and the general principles of the legal system.

This claim results in large part from a pairing of two views: that reasoning plays a central role in the legal domain, and that legal reasoning has to follow given forms and rational criteria if it is to be legitimate and acceptable. In other words, if argumentation - a major component of law - has to be reasonable, then this feature transfers over to the law, and the law will be found to be, among other things, a *product* of interpretive *rationality*. It follows from this that the validity of law is a complex notion, a balanced mixture of will, social effectiveness and reasonableness. Thus, an approach to law which takes argumentation in due account will uphold the thesis that the validity of rules depends not only on the rules' authoritative enactment and social effectiveness, but also on their

reasonableness, or rational acceptability[xiii]. This appreciation amounts to a radical negation of the positivistic idea that laws are merely acts of will, and hence announces a radical revision of traditional legal thought.

These changes in the concept of validity also call to account the positivistic distinction between moral, i.e. extra-legal, and legal discourses. The existence of a conceptual distinction between law and morality, espoused by positivistic jurisprudence, is bound to wear away in a consistent argumentative perspective. A great deal of evaluation goes into such acts of reasoning as constructing the rule of law, interpreting norms, weighing principles, and putting forward justifications, to name but a few of the commonest forms of legal argumentation. In these form of reasoning the judgements put forth will necessarily be making reference to extra-legal arguments. This being so, we will have to recognise that a conceptually necessary connection exists between law and morality: the two are only partially separated, autonomous and independent and reveal significant structural and substantive overlapping[xiv]. Hence, the thesis that the validity of laws depends on reasonableness (among other things), coupled with the idea that argumentation is a central feature of the legal domain, makes it necessary to recognise that there exists a conceptual link between law and morality. As Alexy (2000, 138) puts it, “law consists of more than the pure facticity of power, orders backed by threats, habit, or organized coercion. Its nature comprises not only a factual or real side, but also a critical or ideal dimension”[xv].

(c) Finally, when argumentation is taken seriously into account, the notion of norm, traditionally equated with that of rule, likewise undergoes significant conceptual changes. It is a settled acquisition of studies in legal reasoning that rules are not the only inhabitants or even the most important inhabitants of the normative world. Not only rules constitute the law, but also normative standards (quite different from rules) that operate in close conjunction with argumentative practices. These standards are generic and vague enough to support the claim that their real meaning can be determined only when reasoning out and deciding a concrete case. In other words, to work out which of these standards applies to a legal case - i.e. to determine the content and scope of these standards - we are required to go through an argumentative procedure that has us balance and weigh them by taking account of the factual situation and the legal possibilities involved. Therefore, some normative standards depend for their contents not only on the textual wording in which they are framed, but also on the procedure by

which we apply them. Such standards are commonly labelled “general principles of law”. They are worthy of the same consideration accorded to rules, since they are as much a necessary component of a legal order as rules are, and they too play a role in determining the overall features of law. For these reasons, it seems advisable to use the term “norm” for both rules and principles, in a theoretical pairing where “norm” designates a *genus* comprising two *species*: rules and principles[xvi]. This way the notion of norm expands to embrace standards other than general and abstract rules.

In this newer meaning, the notion of norm is understood to be semantic rather than syntactic. On the semantic conception, a norm does not identify with the text issued by the legislator, but with the meaning or meanings ascribed to a prescriptive expression: a norm is the outcome of legal interpretation (Alexy, 1993, 50-55). This semantic notion of norm results directly from the stress placed on the role of argumentation in law. The idea that the text setting out a norm is only the beginning of a story – the end and most significant development of it being the reasoning by which it proceeds – originates from the thesis that posited norms are not simply understood and described, but are “manipulated” by lawyers and by judges in the course of legal reasoning. In other terms, because interpretative issues are involved in the identification and the use of norms, it is not the posited prescriptive statement, but its meaning – the interpreted norm – which becomes the focus of legal studies.

### *3. The Concept of Law*

In the previous section I outlined the main theoretical implications of the thesis that law is deeply influenced by argumentation. On the face of it, this thesis may strike one as an inconsequential truism, but when taken seriously and pursued in full, it calls on us to recast some basic concepts that lawyers have long been using. Some legal-argumentation theorists have made the point already, but have fallen short of grasping all of what this thesis implies (not only for some specific legal issues, but also) for the concept of law as a whole. This final part of the paper is mainly devoted to arguing that the centrality of argumentation in law, and the consequent changes occurring in some fundamental notions of traditional jurisprudence, compels us to make over the concept of law.

The full scope of the thesis that reasoning affects the ordinary functioning of legal systems will perhaps prove easier to appreciate in this rephrasing of the thesis: legal norms cannot be followed without resorting to deliberative

argumentation[xvii]. As a result, legal reasoning too (and not just the rules) can be argued to contribute significantly to shaping the contents, structures and boundaries of legal orders. This is to say that reasoning, in addition to affecting specific stages in the development of a legal system, impacts incisively on the features of law as a whole. The focus on argumentation in law makes it possible to appreciate the reasoning that legal subjects engage in when seeking out appropriate solutions to concrete cases, and this reasoning is no less central to the meaning and nature of law than are the general and abstract rules making up a legal order: argumentation is part and parcel of the legal order, not something external to it. Otherwise said, law consists, in the main, of argumentative and interpretative activities which take place at different levels and are carried out by different subjects. On this ground, reasoning should be considered a defining element of law.

This view, under which the law is influenced by reasoning and by modes of argumentation, carries with it a change in the idea of law itself: the underlying argumentative processes are not only central to legal practice, they make up the bare bones of the very concept of law. Accordingly, the law is not a product – something clearly marked off from non-law and independent of the reasoning by which we come to be aware of what the law is – but rather a practice, a stream of activities. This approach constructs the law as the outcome of reasoning, as an argumentative social practice aimed at finding reasonable solutions to legal cases in a number of ways and not necessarily only by following posited rules that are general and abstract. The law is a set of activities that connect up with rules but go beyond them; it is a flux of reconstructive processes by which we manipulate, transform and determine the contents, reciprocal relationships, and applicative scope of norms. This is to say that law is a dynamic articulation of defeasible reasons, a trial-and-error process aimed at finding a right solution to the case at hand, an effort – only partly institutionalised – to seek justice, not only control and certainty. If so, law is to be conceived mainly as a reasonable enterprise shaped by legal conflicts, disputes, clashes of opinions and conflicting values. On this view, a legal system cannot be defined entirely before the argumentative activities by which it takes shape: the legal order does not precede, but rather follows, the argumentative activities carried out by judges, lawyers and legal scholars. Therefore, when argumentation is taken seriously the system of laws is to be understood as a dynamic ordering rich in potentialities, an order constantly in process and open to external influences, a set of premises to be developed by



argumentation.

The upshot of these remarks is that the traditional image of law as a unitary system of posited rules is disbanded. Law cannot be presented as a stable order grounded on the existence of an impartial, neutral, authority, in the manner of traditional jurisprudence. Likewise disqualified is the conception of law as an objective entity, a finite set of social facts that can be identified and brought back to unity without resorting to complex, deliberative, and evaluative forms of reasoning. Law cannot be conceived of as an autonomous system clearly marked off from non-legal or extra-legal realms; it cannot be identified on the basis of variously elaborate formal criteria of recognition; it does not consist mainly of the rules (the finite number of them that varies over time) enacted by institutionally identifiable powers; finally, it is not to be understood as a plain fact, a fixed and predefined reality. Reassuring and comfortable as this set of images of law may be, it is false and deeply misleading because it is grounded on a misunderstanding of the role played by argumentation[xviii].

This transformation of the concept of law opens up a completely new research programme for legal theorists, calling on them to redirect the focus of jurisprudence and flesh out an argumentative concept of law, in a joint undertaking that will bring to bear the efforts of legal scholars, argumentation theorists, epistemologists and moral philosophers. With contributions from researchers having such diverse theoretical backgrounds and scientific knowledge, we may just be able to develop a comprehensive theory of law with which to understand current legal systems - their fundamental traits and the changes they have undergone with the state's constitutional evolution - and to attack the problems attendant on them.

As the reader may well know, a leading group of legal theorists set out in the 1980s to arrive at an integral doctrine of law informed by such an ideal[xix], but the research programme they laid out was brought up short at some point and failed to meet expectations. This shortfall, I believe, cannot be accounted for by pointing out any conceptual mistakes made by the original proponents: the fault does not lie with the concept of law as an argumentative practice, but rather with the insufficient coherence with which these legal theorists pursued this ideal. More to the point, they figured it enough to reform specific legal notions and so did not recast the concept of law in general, in such a way as would have made it possible to accommodate fully the element of reasoning in law.

To be sure, there have been a few attempts to question the traditional concept of law and redefine law as an argumentative practice. The most well-rounded of these are Robert Alexy's and Ronald Dworkin's. To make due allowance for the conceptual scope of reasoning, Alexy (1992, 201) has redefined law as a "system of norms that 1) lays a claim to correctness; and 2) contains norms of two kinds: norms set forth in a constitution - a largely effective and not extremely unjust constitution - and norms enacted in conformance with constitutional directives and likewise effective, or at least workable. Figuring in the latter group are principles and normative arguments designed to ground applicative procedures and support the claim to correctness" [xx]. In this definition - where the law is made to consist, not only of rules, but also of principles, arguments, applicative procedures and a claim to correctness - Alexy presents us with different kinds of norms, with an expanded notion of legal source, with an idea of validity as a balance of reason and will, and with the connection thesis. To the extent that it is so, he can be said to have endorsed the assumption that argumentation plays a pivotal role in law.

In a similar vein, Dworkin (1986, 410) writes that "law is an interpretive concept. Judges should decide what the law is by interpreting the practice of other judges deciding what the law is". Here, the law is made out to be primarily a practice: "law is not exhausted by any catalogue of rules or principles, each with its own dominion over some discrete theatre of behaviour. Nor by any roster of officials and their powers each over part of our lives. Law's empire is defined by attitude, not territory or power or process. ... It is an interpretive, self-reflective attitude addressed to politics in the broadest sense" (Dworkin, 1986, 413). Accordingly, he refuses the thesis that "law exists as a plain fact" and that "what the law is in no way depends on what it should be" (Dworkin, 1986, 7). This way, Dworkin is referring to the existence of different kinds of norms, to a complex notion of validity, and to the thesis that a necessary connection obtains between law and morality.

Innovative as these redefined concepts of law may be, their authors, Alexy and Dworkin, fail to break with traditional jurisprudence and so fall short of paying the attention due to the thesis that argumentation is central to legal practice. So they tend to uncritically follow the research priorities and main issues set out by traditional legal theory. This much is evidenced paradigmatically in what Alexy has to say about the concept of basic norm and about the traditional canons of

legal interpretation: he substantially accepts both, amending them but slightly. As concerns the basic norm, he finds the concept to be theoretically useful still, once its contents, as Kelsen sets them out, are reformulated to account for the conceptual connection between law and morality. With the traditional canons of legal interpretation, he sets them in a broader normative framework, that of discourse theory, but without questioning any of them. Likewise Dworkin: he does not push through far enough into a coherent argumentative turn, since his potentially innovative statement that law is an interpretive enterprise is couched in a framework where the strong version of the right-answer thesis is upheld[xxi]. This thesis presupposes a conception of reasoning as something by which we come to know something objectively. Hence, on Dworkin's view, arguing correctly is not any different conceptually from knowing truthfully, in that both activities are in large measure descriptive and independent from the subjects carrying them out. This analytical perspective - beside being theoretically ungrounded, as MacCormick (1984, 130) rightly observes - defeats the innovative import introduced with the definition of law as an argumentative practice. This last thesis, if coherently developed, asks us to shift from the idea of law as an objective entity, fully defined and out there only to be comprehended, to an idea of law as a slippery activity, as it were, which consists in evaluating reasons and confronting arguments. In this process, the right solution is not *discovered* and *described*, as Dworkin would have it, but *shaped* and *reconstructed*. In other words, law should be considered more akin to an exercise of rational criticism than to an act of knowledge.

To sum up, the revised concepts of law advanced by legal-argumentation theorists (Alexy and Dworkin in particular) is worthy of attention, but insufficiently coherent with the premise that argumentation is central to legal practice: if on the one hand these theorists roughly endorse the basic idea by which reasoning plays a role in law, they do not on the other hand introduce any research programme that can be understood as distinctively different from the traditional programme. But by proceeding thus, the scope of the idea that law is mainly an argumentative practice gets almost completely lost, and the consequent changes in theoretical perspective turn out to be more apparent than real. Such falling short has stunted legal-argumentation theorists' ability to effectively transform positivistic legal theory into a truly comprehensive and integral doctrine. Hence, I would urge that a more radical revision of the concept of law be develop in the near future: this to bring to fruition the valuable insights expressed in the legal-

argumentation theorists' original programme, and to complete the transition of contemporary jurisprudence from a still pervasively legal-positivistic approach to a full-fledged argumentative paradigm of law, such as may mark an improvement over the former paradigm from both an analytical and a normative standpoint.

## NOTES

\* Marie Curie Fellow at the University of Edinburgh. Funding for this research has been provided by the European Community, under the contract number HPMF-CT-2001-01171, Marie Curie Fellowship, programme Human Potential. Yet I am solely responsible for the views expressed herein.

**[i]** In this essay, the terms "argumentation" and "reasoning" are employed as synonyms. For a similar use see Dworkin (1986, VI), Alexy (1989a, 231-232; 1996, 66) and MacCormick (1991, 211; 1993, 16).

**[ii]** Some contemporary legal theorists who have investigated deeply the structure and limits of (rational) reasoning in law are Aulis Aarnio, Robert Alexy, Ronald Dworkin, Neil MacCormick, Aleksander Peczenik and Jerzy Wróblewski. Among contemporary philosophers and argumentation theorists, Jürgen Habermas, Chäim Perelman, Steven Toulmin, and Theodor Viehweg, not to mention the main advocates of the Amsterdam Pragma-dialectical School, have contributed significantly to the development of the studies in legal reasoning.

**[iii]** For an overview of the main topics addressed at diverse levels of abstraction in the literature on legal reasoning see Feteris (1999, 13-25).

**[iv]** There are ideological factors explaining why legal theorists have paid attention to argumentation only recently. Legal positivism, the dominant approach to legal questions during the past two centuries, has ideologically depicted reasoning in law as merely a mechanical rule-following, a subsuming of particular facts under general rules. Even when this view was revised in more recent times, it was only to argue that whatever falls outside deductive legal reasoning is totally arbitrary, dependent on the judge's whims and set free from all normative statements. Both of these extreme pictures of argumentation in law are not only fallacious: they also rule out legal reasoning as a subject of rational discussion. For an introduction to these aspects, see La Torre (1998, 357-360).

**[v]** For a dissenting opinion, see Marmor (1992, 124-154).

**[vi]** See MacCormick (1994, 19-73). The distinction between internal and external justification is original with Wróblewski (1974, 39), and the main legal-argumentation theorists accept it substantially. The distinction between first-order justification and second-order reasoning is laid out in MacCormick (1994,

100-108).

**[vii]** As a consequence of the fact that legal positivism has been the dominant approach to legal studies over the latest two centuries, in this essay I will refer to it as the traditional stream of jurisprudence. Therefore, here the terms “positivistic” and “traditional” will be considered largely synonyms.

**[viii]** Aarnio (1987, 78). Along these lines Peczenik (1989, 318) claims that “all texts, practices etc. a lawyer must, should or may proffer as authority reasons are sources of the law”.

**[ix]** See MacCormick and Weinberger (1986, 8 and 19), Aarnio (1987, 77-107), Peczenik (1989, 313-371), and Alexy (1992, 199-206).

**[x]** For example, Peczenik (1989, 319-322) draws a distinction between must, should, and may source: must sources are binding source that have to be proffered as authority reasons in support of a decision or a standpoint; should sources are guiding reasons which lawyers as a rule will invoke in support of a standpoint; may sources are permitted sources, meaning that it is possible, but not compulsory, to use them as authority reasons in support of a decision. See also Aarnio (1987, 89-92), and Alexy and Dreier (1991, 91-92).

**[xi]** By this criterion legal sources are classed as authoritative or substantial: authoritative sources are so regarded because of their institutional position in society, that is, because they have been posited by a competent authority; substantial sources are reasons that figure in justification because of their material significance, regardless to their origin. Cf. Aarnio (1987, 92-95); see also Peczenik (1989, 313-318).

**[xii]** This is the more traditional distinction, operative in all developed positive legal orders, between sources of different importance. Here, legal sources are distinguished as primary, sub-primary, secondary, reserved etc.

**[xiii]** See Alexy (1992, 39-44) and MacCormick (1982, 271). This is not to say that these components carry the same weight: the institutional nature of law is such that the positive and the social elements can be argued to be more important than the rational element (Alexy, 1992, 64-70). Still, however much the former may be dominant, they cannot completely overshadow the rational component.

**[xiv]** These aspects are underlined by MacCormick (1982, 282), Alexy (1989b; 1992, 39-44), and Peczenik (1989, 287-289).

**[xv]** In other words, the ideal element, meaning the “ought”, determines at least to some extent the contents, the “is”, of positive law. Here Peczenik (1989, 287) claims that “ought-making facts” should be regarded as “law-making facts”. Thus, to embrace this argumentative perspective is to call into question the

longstanding positivistic tradition upholding the distinction between what the law is and what it ought to be. A sustained argumentation for the positivistic position is to be found in Hart (1958).

**[xvi]** This is not to suggest, however, that principles and rules are conceptually akin. As Dworkin (1978, 22-28), Peczenik (1989, 74-82), and Alexy (1993, 82-86) point out, significant differences exist between these two types of normative standards. Principles are more generic in content than rules because they express values and evaluative programmes, not obligations to act in certain ways. Furthermore, the structure of principles differs from that of rules: while rules are definitive commands, principles are optimisation commands characterised by the dimension of “weight” rather than by that of validity (which is proper of rules).

**[xvii]** The two formulations of the thesis are conceptually identical, and any differences to be had are differences of emphasis: the first formulation is more general; the latter focuses on a specific consequence strictly entailed by the broader statement. Here, the adjective “deliberative” is to remind that legal argumentation differs radically from the merely mechanical application of rules because the procedures of reasoning in law are partly independent of the rules posited (cf. the premise of this essay).

**[xviii]** This concept of law, which to a large extent ignores the role played by argumentative activities within a legal system, has been theorised by Hart (1961) and Raz (1972 and 1979, 37-159), among others.

**[xix]** This programme of research has been expressly set out by Aarnio, Alexy and Peczenik (1981, 131-136).

**[xx]** My translation.

**[xxi]** The strong version of the right-answer thesis consists in the idea that for every legal case there exists one correct solution, which judges and lawyers can discover by rational inquiry. This is a two-part thesis: (1) contemporary legal systems are developed enough to provided for one solution (nothing less and nothing more than that) to each questions arising within them; (2) legal scholars and practitioners are in a condition to always ferret out this solution by bringing to bear their professional expertise and rational capabilities, since the right-answer is hidden in law and only needs to be uncovered. For an introduction to the main versions of the right-answer thesis, see Aarnio (1987, 158-161).

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# ISSA Proceedings 2002 - Technologies Of Truth And National Trauma: Revisiting The Enola Gay Controversy



It is often said that the close of the forty-four day Gulf War marked the end of one era and the beginning of another. According to then President George Bush, Operation Desert Storm effected the radical transformation of the national political imaginary by finally putting to rest the ghost of Vietnam. According to General Schwarzkopf, leader of the UN alliance, it signified a dramatic revolution in the telos of military engagement along the lines laid down in the Weinberger Doctrine: “we are [no longer] in the business of killing” (Gusterson: 51). And according to Jeffrey Records, a military analyst, it set a wholly new and impossible standard by which all subsequent U.S. military interventions will be measured: “If pre-Desert Storm U.S. military force planning was haunted by the disastrous legacy of Vietnam, post-Desert Storm planning will be plagued by the specter of falling



short of the splendid and relatively painless performance of U.S. forces in the Persian Gulf in 1991" (Dauber: 158).

Like their fierce ideological opponents, a host of cultural theorists and critics agree that the Gulf War is to be understood as having ushered in new era. However, considerably less than convinced that the operation was as bloodless as the government and media would have the public believe, they claim that Operation Desert Storm delivered not a new kind of warfare but, instead, a new rhetoric of war whose strategically selected images and carefully crafted discourse worked together to literally 'de-humanize' the cost of war. In a military conflict between the U.S., its allies, and Iraq that Anthony Giddens has described as "the most heavily mediated, reflexively organized war in human history" (Shaw and Carr-Hill: 2), human suffering and the loss of life that is the inevitable price of war was almost altogether absent. For the general public, these scholars rightly insist, the Gulf War was a war without bodies - a technological exercise executed not by men but by machines whose "surgical" "smart bombs" took out "units" not enemy soldiers, a war during which, as Paul Virilio terms it, "the aesthetics of disappearance" (11) entailed the violent erasure of both allied forces and enemy casualties alike. In short, with the Gulf War we entered what cultural critic John Taylor has deftly called the era of "'derealization', the era when the objects of violence in warfare are grouped together in fields that are rendered abstract" (158) so as to make war appear more humane to the viewing and voting public.

With many others, Elaine Scarry worries the political consequences of this new rhetoric of war. Foremost amongst her concerns is not only that the highly technological character of contemporary warfare will prompt civilians to quickly cede all authority on military matters to the state and its experts but, moreover, that the "exchange of idioms between weapons and bodies" in which the "central inner activity of war comes to be identified as (or described as though it were) 'disarming' rather than 'injuring'" (67) will discourage civilians from thinking seriously about the moral entailments of war and, thus, encourage their support in the future. As George Roeder states the case, a good deal more directly, "The high degree of public approval for the war in the Persian Gulf, with its tightly controlled news coverage, reinforced one of the supposed lessons of the Vietnam War: the more Americans see of a war, the less likely they are to support it" (5). At least on the North American homefront and from the 1990's onward, less is more.

Although I agree that a dangerous transformation of American political consciousness - regrettable above all else for its, in Scarry's terms, "infantilization and marginalization" of civilians (67) - is taking place, I am not persuaded that the palpable shift in collective sentiment and the public's consequent disengagement from public debate in a matter as grave as war can be accounted for only by detecting the singular manner in which the Persian Gulf War as well as subsequent military engagements in Somalia, Serbia and, now, Afghanistan are represented in the various news media. Indeed, as Cori Dauber has astutely noted in one of the few analysis of the news media's coverage of war during and since Operation Desert Storm that attends carefully to those rare instances in which American audiences were exposed to the embodied, human cost of war (images of the Allied pilots in Iraqi custody, Chief Warrant Officer Michael Durant in Somali custody, the bodies of American soldiers dragged through the streets of Mogadishu, and the three American soldiers taken prisoner during a patrol on the Macedonia-Kosovo border during the 1999 NATO air war with Serbia), it may be fallacious for the government and military - and I would add cultural theorists and critics - to assume or conclude that coverage which exposes the embodied horrors of war "would produce undeniable demands for a change in American policy" (667). As Dauber demonstrates, public opinion polls taken after the dramatic Mogadishu debacle clearly indicate otherwise and, in fact, suggest that "images of American and Allied POWs do not necessarily shatter public opinion or will, and might even strengthen it" (664). Furthermore, opinion polls taken over the course of the so-called War Against Terror imply that Americans made a 360-degree attitudinal turn in the nineties; not long ago, widespread and enthusiastic support for an extended engagement that is known to be taking place largely on the ground rather than from the air - a key component of "the aesthetics of disappearance" - was unthinkable.

My purpose here is not to quibble with theorists and critics with whose politics I am generally sympathetic. I do, however, want to suggest that the reading practices which have animated the analyses thus far and, thus, the assumptions that underwrite them, unwittingly short-circuit our ability to grasp that which is fundamentally at stake: what Kenneth Burke might have called the motivational complex of contemporary public and political culture and what Wendy Brown has recently termed "the emotional substructure of [our] political expressions and political formation" (2001: 21). Indeed, it is not without consequence that these analyses (including neo-psychoanalytic or Lacanian, neo-Marxian or Foucauldian,

and poststructuralist and postmodern) cohere around one of two, and in some instances both, determining, even if unstated, theoretical-critical coordinates or predicates: a representativist or undeconstructed concept of temporality and of genre that, in the case of the former, makes it possible to introduce a cleft or breach out of which is constituted both a present and a past whose discourses and practices are then taken to be irreducibly different, and in the case of the latter, makes it possible to install a system of syntactic or programmatic rules that determine the effects of particular discourses upon audiences in advance. Both coordinates, of course, are mechanisms of control. A representativist concept of temporality that forecloses on a “now” understood as complex network or weave of protentions and retentions sets the conditions for presentist accounts. An undeconstructed conception of genre that refuses to admit the always already provisional status of formal boundaries and the shifting relation of the universal and the particular, licenses a focus on a single kind of discourse and, hence, sets the stage for the production of unnecessarily reductive or formulaic explanations of the dynamic relation of texts, audiences and political culture. Speaking particularly to treatments of the recent transformation of American political consciousness and the role the new discourses and imagings of war have played in it, an under-interrogated conception of temporality, signaled by the declaration and presumption of a “new era,” has unduly simplified and limited our critical depth of field, thereby blinding us to the complex ways in which the discursively and retroactively constituted past collaborates in the constitution of the so-called present. Out of the stubborn insistence of generic classifications – namely, media coverage or news reportage and the administrative rhetorics embedded therein, on the one hand, and cultural texts on the other, between the poetic and prosaic, the world-disclosing and problem-solving – has emerged critical analyses whose over-investment in the actual or promissory power of this single technology of truth is premised on the premature discounting of others. Here I want to be very clear. I am not advocating, to borrow Habermas’s terms, “a leveling” of either temporal or genre distinctions (1987: 185) but, rather, recommending that we seek out their points of imbrication, articulation, indeed collusion, so that we may be better able to assess and address the political disposition and its entailments that characterize our re-militarized, re-patriotized, and re-masculinized age.

Although it may be a coincidence, it is not without consequences that the visual and verbal “derealization” of war in news reports is taking place alongside its

hyper-realization in blockbuster movies, made-for-television docudramas and mini-series, best selling autobiographies and memoirs, and museum exhibits that are, with striking regularity, about World War II. From Steven Spielberg's Academy-award winning *Saving Private Ryan* (whose twenty-five minutes of meticulously chronicled mass slaughter on Omaha Beach are credited with having set new standards for realistic film-making) to HBO's *Band of Brothers* (a subsequent Spielberg-Hanks collaboration aired in September of 2001 that Christopher McEvoy, writing for the popular press, calls a "daringly adapted... story" in which "there is no shortage of artillery blasts, separated limbs, head wounds, and morphine injections, which usually precede a soldier's death" [2001]) to the similarly stylized *Enemy at the Gate*, *Pearl Harbor* and, most recently, *Windtalkers*; from Tom Brokaw's *The Greatest Generation* and its multiple spin-offs, including his 2002 documorial, *The Price of Freedom*, to Time/Life's *Our Finest Hour*, from *Schindler's List* to the collection of discourses as well as still and moving images that are the National Holocaust Memorial Museum on the Mall, embodiment is the central conceit. In every case, it is through bodies - allied bodies and enemy bodies, whole bodies and severed bodies, dead bodies and live bodies, well-fed bodies and hungry bodies, bodies that are clean and dirty, strong and weak, young and old - that meaning is made. However, to claim that the meaning or message of these texts is largely made manifest through an aesthetics of hyper-embodiment is to fall considerably short of accounting for their rhetorical force or effectivity, a somewhat clunky but useful term used to designate the effects of discourses, images and practices that extend well beyond the production of meaning by virtue of their relationship to formations whose elements have no essential relation. How, then, are we to understand the relation of these concurrent and seemingly diametrically opposed discourses of war? And what is their cumulative effect? Operating in tandem, albeit at some distance apart, what kind of rhetorical work is being done?

An answer to these questions begins to emerge through a critical interrogation of the *one* exception to the rule or rein of hyper-embodiment that gives shape to this cultural assemblage. In contrast to all of the other rehabilitations of WWII since the early 1970s when it fell out of favor and, thus, disappeared from the public cultural scene, only the short-lived but none the less notorious 1995 *Enola Gay Exhibit* at the Smithsonian's National Air and Space Museum breaks with convention by substituting the aesthetic of disappearance or derealization for the aesthetic of hyper-embodiment. This was, without question, a very deliberate act.

Indeed, on January 30, 1995 and at the bequest of eighty-one members of Congress, the Air Force Association and the American Legion, Smithsonian Secretary I. Michael Heyman cancelled the National Air and Space Museum's planned fiftieth anniversary exhibit of the historic flight of the *Enola Gay*. Coupled with the cancellation of "The Last Act," conceptualized under Martin Harwit's directorship, was the promise that another exhibit would open in its place, one that would take away from its stillborn predecessor a simple but significant rhetorical lesson in the art of museum display: exhibits must be timely *and* appropriate. Although, according to Heyman, the director and curators of the original exhibit had rightly recognized that the fiftieth anniversary of the *Enola Gay*'s historical flight was a particularly opportune moment to unveil the restored B-29 Superfortress, they had tragically misunderstood how to do so in a manner befitting the occasion. As the Secretary put it at his press conference that day:

We made a basic error in attempting to couple an historical treatment of the use of atomic weapons with the 50th anniversary commemoration of the end of the war. . . . Veterans and their families were expecting, and rightly so, that the nation would honor and commemorate their valor and sacrifice. They were not looking for analysis, and frankly, we did not give enough thought to the intense feelings such an analysis would evoke (Harwit: 435, reported in newspapers the following day).

Holding true to his word, an exhibit titled simply "The Enola Gay" opened in June 1995.

If about nothing else, there was one point about which all parties embroiled in the extended controversy over how to display the Enola Gay in the nation's single most frequented museum could agree: namely, that the differences between Harwit's "The Last Act" and Heyman's "The Enola Gay" were differences that mattered. Unlike Harwit's six part exhibition that would have staged, according to the final script, the movement from "the ferocity of the last year of the war in Asia [to] the development of the bomb [to] the unfolding imperatives behind the U.S. decision to use the weapon against Japan [to] preparation for the Enola Gay mission ... [to] the human consequences of the bombs in [Hiroshima and Nagasaki], and [finally to] the nuclear legacy to the post-war world" (Dower, 338), Heyman's surrogate exhibit had only two parts: a meticulous, step-by-step, chronicle of the Superfortress's renovation followed by a noticeably less meticulous recounting of the production and deployment of the bomber. In

addition to its scope, self-anointed “conscientious objectors” to Heyman’s exhibit fought voraciously with the director, curators, and consultants over the inclusion or exclusion of estimations of the human price of both a massive U.S. invasion undertaken in the Pacific and a nuclear explosion; original documents, including statements from Eisenhower, Leahy, Wallace and Truman, demonstrating a reluctance, on both tactical and moral grounds, to deploy the bomb as well as a July 17, 1945 petition penned by several Manhattan Project scientists imploring the President to “consider the moral responsibilities” of dropping the bomb and to entertain the possibility of doing so only after Japan had been given both a warning and “an opportunity to surrender” (Harwit, 234); photographs of and personal objects recovered at ground zero, most notably, images of women and children as well as a child’s metal lunchbox that contained the charred remains of rice and beans; and a wall mural that visually documented the proliferation of nuclear warheads along with accompanying script that closed with the statement, “The [nuclear] dilemma is not about to disappear.”

What are we to make of Heyman’s surrogate and bifurcated exhibit that, by nearly all bipartisan accounts, enacts the displacement of a visual and verbal rhetoric of historical inquiry, punctuated by instances of ethical and political open-endedness or undecidability and executed through an aesthetics of hyper-embodiment, by a visual and verbal rhetoric of technological progress and aesthetic of derealization, staged first as a magnificent renovation narrative and second as success story about American scientific innovation? A vast number of responses to the exhibit were made public, but all generally fall out along two lines. On the one side, Heyman’s exhibit was regarded as populist victory for the nation and a strong sign, as New Gingrich put it to the National Governor’s Association, of “a reassertion and renewal of American civilization. The Enola Gay was a fight, in effect, over the reassertion by most Americans that they’re sick and tired of being told by some cultural elite that they ought to be ashamed of their country ” (Harwit, 406). On the other side, it was looked upon as a disgrace, a painful because shallow reminder, in historian Mike Wallace’s words, of “the successful campaign to muzzle the Smithsonian.” Indeed, against Secretary Heyman’s claim that the “aircraft speaks for itself in [his] exhibit,” Wallace asserts that ... in fact, it is the Enola Gay’s’ pilot and crew who speak on its behalf, in a sixteen minute concluding video presentation. It is certainly appropriate to include the crew’s reminiscences as part of the story. But why should their ringing retroactive justification of their mission (and that of their colleagues over

Nagasaki) be privileged ...? (335)

In his otherwise bold and illuminating essay, it is precisely this concluding question that Wallace leaves largely unanswered, perhaps is unable to answer, since it asks not about history but about rhetoric, not about historical truth in its narrowest sense but about truth in its general sense, as an effect of power. Indeed, why? What were the conditions of possibility for the privileging of the Enola Gay's pilot and crew? What play of forces set the stage for this singular authoritative voice to emerge?

It would seem reasonable to presume, as did both enthusiasts and detractors of Heyman's exhibit, that the aesthetics of "derealization" had a good bit to do with it, that the power of the statements made by the Enola Gay's crew was aided and abetted by the deliberate absenting of competing material and embodied accounts - the casualty projections, the statements from Eisenhower, Leahy, Wallace and Truman, the petition, the visual rem(a)inders of ground zero, and the wall mural. But what, exactly, made all of them so certain then and makes all of us so sure now? What presumably insures, for example, that those doubly-displaced bodies and their material traces - first vaporized or wounded by the blast and then later disappeared in the historical account - are, to borrow Judith Butler's phrase, bodies that always already matter? Counter-intuitively, perhaps, I want to suggest that they are not. It is not only a logical error but, more crucially, a hazardous political mistake to presume, as we have been habituated to do, that in this instance, as in any other, competing embodied experiences *per se* will challenge, compromise, or threaten the authority of the statements with which they come into contact. Indeed, although the presumption that the inclusion of what James E. Young terms "countermonuments" (48) will trouble the dominant discourse *may* be an enviable liberal communicative norm/ideal, to bank on it now is to turn a blind eye not only to remote and recent history but also to a future that, I want to argue, is in the making. More specifically, I want to suggest here that a conjunctural analysis of the Enola Gay exhibit and controversy - one that reads the text not against the backdrop of its occurrence but, instead, as part and parcel of that "dispersed but structured field of practices" (Grossberg, 70) within which it takes place - shows that the relative authority or power of different or, more precisely, differently positioned embodied experiences, the privileging of some and the discounting of others, is exactly that which is at stake and being produced. Even more specifically, I want to suggest that a critical engagement

with that ever-proliferating cultural assemblage of historical and commemorative texts about World War II (of which the Enola Gay controversy is a part) has already begun to lay the groundwork for the emergence of a new and “fearless” “truth-teller” or “*parrhesiastes*” (Foucault 2001) for our multicultural age, and whose evolving social, cultural and political authority is predicated on *his* long-kept but recently unveiled secret - a singular but universalizable embodied experience of war.

In what I now take to be a rather prophetic essay first published in the summer of 1991 and since then reprinted several times, feminist theorist Joan Scott argues that “one of the foundations that have been reintroduced ... in the wake of the critique of empiricism” (26) is experience. Having had our proverbial transcendent carpets torn out from under our feet, we have turned to experience for support. Such a turn, Scott notes, has been as productive as it is always already risky: although experience as an analytic category has produced numerous histories that “have provided evidence for a world of alternative values and practices whose existence gives the lie to hegemonic constructions of social worlds” [i.e., orthodox history] (24), the act of uncovering also covers over, as she puts it,

[q]uestions about the constructed nature of experience, about how subjects are constituted as different in the first place, about how one’s vision is structured—about language (or discourse) and history. . . . The evidence of experience then becomes evidence for the fact of difference, rather than a way of exploring how difference is established, how it operates, how and in what ways it constitutes subjects who see and act in the world (25).

If in her original article Scott expresses a healthy but general concern for the way in which “experience” threatens to become a reified category and, even more, the bedrock of identity, Wendy Brown and Lauren Berlant (among others) have queried some of its specific political entailments as it plays out in the U.S. Brown has begun to probe the potentially debilitating consequences of the disenfranchised subject’s investment in his or her own experience of injury (1995), and Berlant has begun to think through the limits of the tactical use of experience or “trauma to describe the effects of social inequality” (2000: 45). Both of their analyses have signaled a warning that the short-term relief of successful injury-based rights claims may prove disastrous over the relative long-haul in so far as they play into “the fiction of the autonomous, willing, reasoning,



rights-bearing subject convened by modernity” and “articulated in a host of... liberal institutions” (Brown 2001: 10) that are “as likely to entrench existing powers as to redistribute power” (Brown 2001: 12).

Notwithstanding this critique of the politics of experience and its useful embellishments, there is a sense in which I want to claim that the future has already arrived, that at least one of the unwitting political entailments of the politics of experience, identity politics, or victim politics is already making itself felt by way of its cunning expropriation on the part of already empowered subjects. To state the matter directly, one of the very real limitations of suffering, injury or trauma based claims is that their logic and terms may be deployed by and pressed into the service of the privileged and powerful. Particularly in our own multicultural context in which “diversity” talk has rhetorically leveled a multiply divided and hierarchical social and political field and the experience of injury is taken to speak for itself, what Antonio Gramsci once called “the war of position” is, by way of this vast cultural assemblage, morphing into a battle between competing survivor stories whose victor reappears time and time again in various guises on our movie screens, television sets, radios, bookshelves, and coffee tables. Put somewhat differently, we are now bearing witness to a certain “coming out” of a twenty-first century truth teller or parrhesiast: the (almost always white, male, heterosexual) voice of “the greatest generation” (Brokaw 1998) whose newly-made visible and hyper-embodied experience of suffering rhetorically renders all others pale by comparison. As Matt Damon, who played the young Ryan in Spielberg’s extravaganza, put it for *The Buffalo News*, *Saving Private Ryan* helps “put some things in perspective ... ‘You can see us on Sally Jessy Raphael talking about how tough our lives are because we weren’t breast-fed long enough. Try taking a *beach*’” (Charles: 162). What injury-based claim can trump “the hell” that is the “Good War”? The political deck, I am suggesting, is being stacked as lines of visibility and invisibility are being culturally redrawn.

It is this thematic of the visible and the invisible that brings me back not only to the Enola Gay exhibit and the controversy that surrounded it, but also to those representation of contemporary war. I noted above that the WWII formation positions American audiences as witnesses to the “coming out” of a truth-teller for the twenty-first century. My choice of terms was far from capricious. To the contrary, it is worth nothing that time and again these discourses of remembrance that blur the boundaries between fact and fiction, history and

commemoration, and world-disclosing and problem-solving, call attention to their own history of self-imposed secrecy and silence. Now what might this repeated invocation of secrecy and silence secure? In addition to rhetorically forging a direct link between the now and the then, a link that passes over rather than through the anti-war years of post-Vietnam, as well as helping establish the individual remembrance as revelatory, it more generally constitutes WWII - or a certain version thereof - as the secret, thereby encouraging the proliferation of its logics and terms. And what might all this have to say to scholars seeking to calibrate the truth effects of news media representations of wars taking place in the present? That a reading of today's rhetoric of war that attends not only to what can and cannot be seen but also to the play of the dialectic of derealization and hyper-embodiment of which it is a part, may get hold of the contours of the secret in the making whose truth effects need not govern our future.

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# **ISSA Proceedings 2002 - Expert Advice And Discourse Coupling: Context-Dependent Validation Of Model-Based Reasoning**



### *Abstract*

Expert judgements often involve a coupling of different discourses, in the sense that conclusions from one discourse are transferred to another. Results from one scientific field are brought together with results from other scientific fields, and are applied to yet another field, namely that of a practical problem at hand.

As far as significant uncertainties are involved (as is almost always the case in practical problem solving), the validation within these different discourses may be very different. Sciences differ in the way claims are validated. Even much more significant differences are involved in the transfer to practical problem solving, since accepting or rejecting assumptions depends upon the consequences of whether these assumptions will later turn out to obtain or not.

I propose to explain some very common patterns of incomplete or fallacious reasoning in expert advice, patterns that involve implicit shifts of the burden of proof, as failures to notice these differences in validation context. Furthermore, I suggest that by taking into account the possible consequences of making a certain assumption (and also the evaluation of those consequences) the quality of discussions involving expert advice can be considerably improved.

#### *1. What is so special about expert advice?*

Expert advice plays a prominent role in contemporary (western) societies. Consultation of experts has become custom for almost any significant decision beyond the personal sphere (and even in the personal sphere a host of counselors is ready to offer its services). It has been known for a long time that this dependency raises a number of questions (Benveniste, 1972; Fischer, 1990). Is expert advice always directed at the common good? Have experts not become an elite that has taken over much of the effective decision making power from those who should legitimately make the decisions? Has the involvement of experts not resulted in a bias towards technocracy and reductionism? Has it not reinforced forms of bureaucracy?

From the point of view of argumentation studies, involvement of expert advice also introduces specific problems. A non-expert appealing to expert opinion cannot take full responsibility for its adequacy. The non-expert is principally incapable to check every link in the expert's reasoning chain. This "black box" aspect implies a quality control problem: on what grounds can the non-expert assume that the expert's opinion can be trusted? As far as the matter is beyond

the arguer's cognitive competence, the non-expert arguer has to resort to some kind of source credibility argument. And this directly leads back to the general questions concerning expert advice mentioned before.

These questions concerning the reliability of expert advice have become increasingly pressing since it became clear that the quality of expert advice is not only threatened by simple inaccuracy on behalf of the expert, but also by the structures of power and influence in which the advisory process is embedded. Scandals of biased, partisan or even outright corrupted expertise seem to become more and more prominent (Rampton, Stauber, 2001).

Whereas the intricate implications that the inherent asymmetry between expert and non-expert has for argumentation appealing to expert opinion have been extensively dealt with by Walton (1997), in this paper my primary focus will be on a different aspect (that will turn out to be strongly related to the issue of asymmetry and quality control), namely the fact that scientific expert advice usually involves the coupling of different discourses. In the first place, practical problems for which expert advice is sought often involve the domains of various forms of expertise. In drawing conclusions for actual problems, results from these different fields of expertise will have to be combined. Second, applying scientific results to a practical situation means that results from the discourse of one or more scientific fields have to be transferred to a different context, namely that of the practical problem at hand. As we will later analyse in more detail, the validation criteria in these different domains will in general not coincide (cf. Birrer, 2000). This means that translation steps are necessary. Unfortunately, differences in validation context are often overlooked. They tend to slip unnoticed through the loopholes of intransparency due to the asymmetry between expert and non-expert; and they are further reinforced by the persistent preference of many scientists for universalism and by their fear of relativism. One of my objectives in this article is to demonstrate that it is possible to give up this simplistic form of universalism without falling into the trap of extreme relativism. I also intend to show how these differences in validation context in principle could be accounted for, and how this account provides a systematic way to examine these differences in order to improve the quality of argumentation involving expert opinion. At the same time, quality control and quality improvement of argumentation cannot be enforced by fixed formal rules only; it needs some open ended feedback loops of non-formalized human judgement as checks and balances as well. The latter could be an interesting breeding ground for sociological inputs

in argumentation studies.

My main example in this paper is drawn from the use of mathematical models, as a more or less paradigmatic case of modern scientific expertise. Models represent an abstraction from reality or experience to some kind of formal structure, a device that makes it possible to draw some new (yet unobserved) conclusions about that reality or experience. It is this use of abstraction that presents the crucial argumentative step. In the following, I will be talking mainly about empirical science using mathematical models; many of my conclusions, however, hold for any case of formal conceptualisation, mathematical or otherwise.

## *2. Validation under uncertainty and the coupling of discourses*

Though science has answered quite a number of questions in a more or less definitive way, we are still facing many practical questions that science cannot tell us the answer for with a considerable degree of certainty. These are of course precisely the ones that are most debated, and therefore most relevant to argumentation studies. In most policy areas, like environmental issues such as greenhouse gasses, or social policy, issues tend to revolve around cause and effect relations that cannot be predicted with high confidence (and that often even cannot be established post hoc).

Fundamental uncertainty (i.e., uncertainty that is not due to a phenomenon with a known probability distribution) is in itself by no means an uncommon phenomenon in science. As long as a certain question is not yet definitively resolved, various hypotheses and explanations usually circulate, and only continued research will possibly one day provide us with a final answer. An individual researcher is free to favour one particular explanation (in fact, in designing experiments one has to focus one's effort, usually on the hypothesis one thinks most likely to be true). And though the stakes in making the right guess may be enough to arouse some passion, they are limited to intangible awards such as honour and prestige; no lives are in danger, nobody will get physically hurt. In real life decision making, this is all very different. Issues of health policy or environment may indeed affect the lives of many people in a radical way. The costs and rewards are not, as in science, simply institutionally defined, they are coming to us from the real world. They may also be not matter of individual choice; some decisions have to be made collectively, and therefore the consequences of that decision have to be somehow acceptable to the collective. In real world problems, whether we want to act upon an uncertain

assumption or not is very much dependent upon the consequences that it would have when that assumption later turns out to fail, as well as the consequences when it turns out to hold. When the consequences of failure would be very bad, we will be less inclined to accept that assumption as valid; we may not even be prepared to accept the slightest chance of failure, even if there are considerable benefits in case it holds. On the other hand, when the consequences of failure are insignificant, the benefits when the assumption holds might lead us to accept that assumption.

The main thesis that I want to propose in this paper is that the acceptability of judgements under uncertainty is much dependent upon the consequences that can be expected when such judgements later turn out to be right or wrong, and upon the normative evaluation of those consequences. This dependence of 'truth' under uncertainty upon consequences runs against the intuition of most scientists. They tend to believe in universality: a statement is true or not, irrespective of the consequences. There is nothing wrong with this point of view as long as no uncertainty is involved; but when significant uncertainties are involved, and the consequences of a failing hypothesis are considerable, this perspective becomes entirely inadequate. Nevertheless, this dependency on consequences is often completely ignored. Assumptions that are acceptable in one discourse are thoughtlessly transferred to another discourse without a proper re-validation according to the consequences that prevail in that new context. Many fallacies involving scientific expertise can be analysed as due to disregard of differences in validation context.

My hypothesis (that I will illustrate in this article) is that significant differences of expert opinion often (if not always) can be reconstructed in terms of either different consequences being considered, or different normative evaluation of those consequences (or both). If this hypothesis is true, then differences of opinion can be explained without taking recourse to extreme relativism as regards to 'facts'.

### *3. Case: the 'limits to growth' report*

The 'Club of Rome' was a group of industrials and intellectuals formed in the late 60's, and concerned about global world problems. They were interested in the use of computer models to investigate such problems at a world scale, and the relations between various types of problems and domains, such as economy, population growth and pollution. Jay Forrester (who had already established some fame with integrated computer models of complex phenomena such as

urbanisation) made a first draft of a model, which was then elaborated by a team headed by Dennis Meadows. In 1972 the team produced a report which was published in many countries all over the world (Meadows et al.,1972). The conclusion of the report, based on model studies, was that shortly after 2000 big crises would occur in several parts of the world with respect to issues like pollution and food supply.

Though the warnings for disaster and the summons for reflection met approval from various sides, there was also criticism with regard to the methodological basis. E.g., it was pointed out that many parts of the model lacked data for sufficient testing, and included insufficiently supported assumptions, and that certain aggregations led to serious misrepresentation. The most elaborate instance of such critique came from the Science Policy Research Unit of Sussex University, who made a detailed analysis of various parts of the model, by specialists in the field. In the book that collected these analyses (Cole et al.,1973) the editors also included a reply by the Meadows group (Meadows et al.,1973). It is this reply that I want to focus on in my analysis.

In this reply, some crucial lines of reasoning can be identified are the following:

1. Decisions on the basis on an explicit model are better than intuitive decisions **[i]**
2. If we use a model, we use the best model **[ii]**.
3. Those who want to criticize a model should propose a better one **[iii]**.

A lot can be said about these premises. For instance, what is meant a 'better' or the 'best' model **[iv]**? In this article my main focus will be on (2).

Let us for a moment accept the authors' assumption that it can be decided which of the available models is the 'best'. Yet, given the very high complexity of the modeling area and the state of the modeling art, this 'best' available model will be very remote from a faultless description of reality, and its predictions will be far from reliable. Other models and outcomes may be slightly more unlikely, but they can certainly not be ruled out as insignificant. In science, one could imagine that a scientist would decide to explore and elaborate the most promising model first, and for the time being ignore the other possibilities. For real life decisions, on the other hand, the situation is very different. Outcomes other than the ones predicted by the 'best' model should certainly be taken into account as well. In fact, a decision maker has to consider all possible outcomes (and the estimated likelihood of each of them). Basing strategies on the most likely scenario only,



thereby ignoring all other possibilities even if their likelihood is only slightly smaller, would be highly irresponsible. It is precisely the conflation of these two very different contexts that can make (2) look very plausible or even obvious at first glance, whereas second thought reveals its fallacious character.

#### *4. Further analysis*

The line of reasoning presented above is actually very common as a defense of models and modeling results. It can be seen as a form of reversing the burden of proof (cf. also my remarks in footnote nr. 4). Whereas one might argue that a rule saying that one should not criticize a theory unless one has a better one is unreasonable already within the discourse of science, it would definitely be misguided to base real life decisions on only one possible scenario among many others. Complex modeling such as used in the 'Limits to growth' study involves many and high uncertainties. As mentioned before, there may be insufficient data for testing, and aggregation may lead to misrepresentation. Usually, there are only highly imperfect models available. When models from different domains, such as economy and the natural sciences, are coupled, the combined result cannot be attributed to one particular approach or theory anymore; this makes their validation even more difficult. With the knowledge of today we might even add that nonlinearity may generate system behaviour that is highly unpredictable, and that nonlinear models are notoriously hard to test. Under such conditions, there is a great danger that all kinds of implicit assumptions of the modelers creep in, untracked in the complexity of the modeling process. As a matter of fact, it was shown several years later by Thissen (1978) that the complex model of the 'Limits to growth' study could be simulated with a very simple model with only a few equations and variables. Many variables and equations in the original model turned out to be redundant in the sense that they did not affect the outcomes in any significant way at all. The crises that the model predicted simply originated from the fact that certain variables were assumed to grow exponentially, and would necessarily hit some also assumed ceilings. The main issue in the context of this paper is not whether these assumptions were reasonable or not, the point is that the crucial role of these assumptions in arriving at the conclusions was not clear. The conclusions seemed to derive as apodeictic outcomes from a big impressive computer model. Stories like these are not uncommon in complex modeling, see for another example the discussion of the IIASA energy model in (Keepin, Wynne, et .al., 1984).

One might ask whether the argument by Meadows c.s. does not rest on an implicit appeal to what today we would call the precautionary principle: if we have indications that we might be entering a scenario where something goes seriously wrong, we should take preventive action, even if the evidence presently available does not yet give us a final proof that it will actually happen. The precautionary principle today plays an important role in issues such as the greenhouse effect and many others. However, it turns out that similar shifts of the burden of proof as shown above also occur in the reverse direction, that is, running counter to the precautionary principle. In issues such as the risks posed by applications of genetic modification, one can often observe the defense that those risks have not yet been observed, and therefore cannot be assumed to exist. Though the lack of concrete observations is not very surprising for such a very new technology, and do not seem a particularly strong argument for ruling out the possibility of risk, proponents of the application of these new technologies often treat the issue of risk as a scientist would treat someone who says that unicorns exist. In the case of unicorns, the scientist might say: then bring me a unicorn, I will examine it to see whether it is not a fake, and if it is real I will believe you. Some arguments on risk seem to follow the same pattern: risks can be said to exist (and legitimate to take into account) only if there have already been observations that that risk has materialised, or at least observations of mechanisms that directly imply the existence of such risks (cf. Birrer, Pranger, 1995). All these instances of (failing) argumentation can be explained in the very same way: in science, one is used to make uncertain assumptions into preliminary hypotheses, and one can afford to do so because the consequences of the assumption later turning out to be wrong would not be too dramatic; this habit is then thoughtlessly transferred to the discourse of practice, where these consequences are very different. It is the very common belief among scientists in universal truth that makes them prone to this fallacy (aided, no doubt, by a certain amount of wishful thinking and by the desire to get to the conclusion that is already preferred for other reasons).

## *5. Conclusions*

It is hard to provide, or even imagine, an incontestable proof that the explanation that I put forward in terms of the discourse coupling fallacy is correct. It would take numerous interventions of asking whether arguers were in fact applying that particular reasoning scheme. But even that would not constitute a real proof. Some subjects may not want to admit that they did use the scheme I suggested, or even that their argument is fallacious. Or they might simply not be aware

themselves which particular scheme of reasoning they were using to fill the gap between arguments and conclusions. Similarly, when arguers actually would recognize the discourse coupling fallacy as a scheme they were using, we would still not be entirely sure whether their perception of their own reasoning process is correct either.

The use of identifying the discourse coupling fallacy, and of the hypothesis that differences in conflicting expert opinions can to a significant extent be explained from differences in the consequences taken into account, and/or from differences in the normative evaluation of those consequences, rather seems to me to lie in that it could be of more practical help: discussions involving expert advice might be lifted to a more fruitful exchange when the discussants (problem holders as well as advisers) would be asked to specify the consequences that they are taking into account, and the way they evaluate those consequences. It can add to the quality control that is so badly needed in the face of the problem of the asymmetry between expert and non-expert. The approach has the advantage that it does not on beforehand cast divergent expert opinion in terms of extreme relativism and absolute incommensurability: How far the approach that I propose would bring us can only be found out in practice.

## **NOTES**

**[i]** 'We suggest that our theories appear to be more comprehensive and more objective than the mental models of long term population and economic processes which currently guide the formulation of social policy.' (Meadows et al., 1973: 221)

**[ii]** Our primary concern, however, is that the best possible models available be criticized, revised, and used, so the quality of social decisions can progress with the quality of our models.' (Meadows et al., 1973: 238; emphasis by the authors)

**[iii]** 'The Sussex critics point to the unsatisfactory nature of the data underlying the World models. They do not point out where better information can be found; in fact they generally admit that it cannot be found. They point to assumptions in the model that are imperfect; they seldom suggest how more perfect alternatives might be developed. (...) They disagree with the conclusions we have derived from our models, but they do not put forward an alternative model in which they have more confidence. They complain that system dynamics is not a perfect methodology, but they do not suggest a better one.' (Meadows et al., 1973: 221)

**[iv]** A partly answer can be found in the quotation in footnote three, but it seems

to come close to a reversal of the burden of proof. Moreover, if the critic should come with a model that is at least as comprehensive, only those critics are allowed to enter the arena who have enough resources to match such a laborious effort.

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# ISSA Proceedings 2002 - Discursive Collisions: A Reading Of “Ellen’s Energy Adventure”



Located near the center of Walt Disney World, near Orlando, Florida, is the 550-acre Epcot Center. Epcot, thematically evocative of a world’s fair (Nelson, 1986), is comprised of two major elements. The first of these is World Showcase, which includes eleven pavilions representing what the 2002 Birnbaum’s, the “official guide” to the Disney World themeparks, characterizes as “Disney conceptions about participating countries in remarkably realistic, consistently entertaining styles. You won’t find the real Germany here; rather the country’s essence, much as a traveler returning from a visit might remember what he or she saw” (Safro, 2001, 135). The second, and more important part of Epcot for our purposes, is Future World, a set of nine pavilions that thematize corporate problem-solving and technology’s contributions to major issues confronting humanity[i]. As Birnbaum’s also notes,

A mere listing of the basic themes covered by the pavilions at Future World - agriculture, communications, car safety, the ocean, energy, health, and imagination - tends to sound a tad academic, and perhaps even a little forbidding. But when these serious topics are presented with that special Disney flair, they become part of an experience that ranks among Walt Disney World’s most exciting and entertaining. (Safrom, 2001, 123)

The pavilion upon which this essay focuses is the Universe of Energy, sponsored by ExxonMobil corporation. It offers the Epcot visitor an extended “educational” message in its hybridized film/theme park ride, “Ellen’s Energy Adventure,” (“EEA”) featuring Ellen DeGeneres and Bill Nye, the Science Guy, as well as other recognizable entertainment personalities.

Our interest in “EEA” is grounded in Goodnight’s observation that,

Many forms of social persuasion are festooned with the trappings of deliberation, even while they are designed to succeed by means inimical to knowledgeable choice and active participation. The increasing variety of forums, formats, styles, and institutional practices - each claiming to embody the public will or to represent the public voice - demands careful attention. If such practices continue to evolve uncritiqued, deliberative argument may become a lost art. (Goodnight, 1982, 215)

We believe that “EEA” constitutes the near-perfect example of such efforts and deserves critique for two reasons. First, it illustrates how corporations seek to participate in and influence discursive practices in the public sphere. Walt Disney World and ExxonMobil rely upon sophisticated techniques of multimedia production, fragmentary deployments of Western mythologies, and allusions to popular culture to “educate” audiences through entertainment. It is our claim in this essay that such practices seek not to enhance deliberative argument, but rather to diminish participation. As Fjellman observes, “What is important is that our thoughts are constrained. They are channeled in the interests of Disney itself but also in the interest of large corporations with which Disney has allied itself, the system of power they maintain, and the world of commodities that is their life’s blood” (Fjellman, 1992, 13).

“EEA” interestingly relies upon the appearance of technical discourse to accommodate itself to the public sphere but does so in ways that denigrate the value of both domains of argument, expanding corporate influence at their expense. Such efforts at influencing public discourse certainly are not new. Cheney and Christensen note that many organizations, “but especially those in the embattled industries of oil, chemicals, and tobacco,” engage important sociopolitical issues, particularly those affecting their own survival (Cheney & Christensen, 2001, 237). However, they add that, “When the social space is saturated with corporate communication asserting social righteousness, only the indirect or more unusual messages are able to stand out and attract attention” (Cheney & Christensen, 2001, 256). “Ellen” constitutes an exemplar of such messages.

Second, ExxonMobil’s message at Walt Disney World is important in its own right - significant both for the size of its audience as well as for the context within which it occurs. According to the International Association of Amusement Parks and Attractions, more than nine million visitors attended Epcot in 2001, making it the sixth most frequented theme park in the world[**ii**]. Epcot’s target audience -

adult, well-educated, middle-class consumers - are placed "in the middle of scenes that unfold in a carefully choreographed manner as they move through them on foot or strapped into Disney's various ride vehicles" (Fjellman, 1992, 399). This "envelopment-by-theme," described by Fjellman, focuses the visitor "on countless coordinated details passing by at high velocity, to the point that one's powers of discrimination can be overwhelmed. [Walt Disney World] is organized according to the principle of cognitive overload; it is with the overriding of visitors' capacities for making discriminations that Disney metathemes may take effect" (Fjellman, 1992, 23). Fjellman's description generalizes the Disney strategy; "EEA" exemplifies it.

"EEA" appears to be just a simple, entertaining narrative of competitive conflict and resolution, but it is anything but simple in format. The levels of virtuality are breathtaking: a television show and historical recreation embedded within a dream, which is reproduced in a film, which is introduced by a secondary, film framed in direct address, all within a pavilion at a theme park. But the complexity of "EEA" does not end with the multiplicity of media it incorporates. Even as it presents itself as an entertainment narrative, it embeds a serious, public policy argument about the feasibility of alternative fuels.

Emerging from the layered narrative of "EEA" is a set of arguments that work together to serve the corporate interest of ExxonMobil, advocating continued reliance on fossil fuels without appearing to advocate much of anything. The complexity and entertainment value of the attraction mask the near-irrelevance of over half of the narrative (in terms of time on each segment) to learning about energy in general and to ExxonMobil's arguments specifically. While these segments are argumentatively and educationally tangential, they do serve important rhetorical ends, so it seems important to attend to them as well as to the argument as the narrative unfolds.

Ellen's "adventure" - and ours as well - begins with our entrance into the Universe of Energy pavilion and into a large, oval-shaped, carpeted anteroom with a giant screen on one side. At either end of the room are signs that inform us that ExxonMobil sponsors the Universe of Energy. A film begins with Ellen DeGeneres speaking directly to the audience, introducing herself, asking us questions, seeming to wait for our responses, even admiring the hair style of an audience member in the back. She also introduces the remainder of the show, in which we will learn about how she became the "spokesperson" for this venue, an "expert" on energy. She transports us into her living room where she (a second Ellen) is

sitting down to watch her favorite television program, *Jeopardy!* Ellen's next-door neighbor, Bill Nye, the Science Guy enters to borrow a candle, aluminum foil, and clothespin for one of his experiments, and he too expresses his excitement about *Jeopardy!*

As the game show begins, Ellen is astonished that one of the contestants is her former college roommate, Judy Peterson, now a "Professor of Energy" (Jamie Lee Curtis). Ellen expresses a clear aversion to the Professor, saying that her nickname for her former roommate was "Stupid Judy." Bill objects: "That makes no sense. She has a Ph.D." Ellen informs Bill that she doesn't care about energy, to which he responds, "Energy is the most important thing in the universe. Without energy, nothing would go. Nothing would happen. I mean, there'd be nothing." Bill Nye leaves with his experiment paraphernalia, while Ellen mutters about "stupid energy; Stupid Judy." She drifts off to sleep only to begin dreaming that she, too, is a contestant on *Jeopardy!* along with Judy Peterson and Albert Einstein, and that all the categories are about energy.

Ellen performs terribly. We watch her attempt only one question, in which she is unable to identify the substance "formed from microscopic plants and animals trapped... in sediment millions of years ago." Judy, however, immediately provides the correct response, answering in a petty tone, "What is petroleum, Alex?" We watch as Judy smugly provides correct responses to multiple items in turn. She ends the first round with what host Alex Trebek labels "a commanding lead." Ellen is tied with Einstein - who never speaks and looks continually puzzled by the events around him - with no money on the board. At this point, Ellen notes that it's her nightmare, and she freezes the action and asks Bill Nye for help. Nye had shown up on the set to see Einstein. Bill agrees to help by taking Ellen "way back" in time.

This introductory segment of "EEA" is important to the narrative, for it sets Ellen up as a slightly daft but congenial protagonist. And it establishes Bill Nye, the Science Guy as her knowledgeable sidekick and straight man. But it "teaches" us only two things about energy. First, we learn from Bill Nye that it is "the most important thing in the universe." Second, in case we were not already aware of it, we that petroleum is formed from fossilized plants and animals. The remainder of the *Jeopardy!* sequence is simply a series of decontextualized, correct questions from Judy Peterson. Because we do not see or hear the answers to which Judy's questions respond, there is nothing to learn. Indeed, the short sequence seems



only to reinforce the need for Ellen to find a way to defeat her rival. Judy seems to fit precisely Ellen's earlier characterization of her as a "smarty-pants, know-it-all." Jamie Lee Curtis's elaborate acting of Judy Peterson as unlikable offers her up as the antagonist Ellen must overcome. But Judy's "commanding lead" by the first commercial break in the dreamed Jeopardy! game represents a daunting obstacle, providing the motivation, indeed the urgency, for Ellen (and us) to learn about energy and learn it quickly.

At the end of this first film, two doors open beneath the screen and audience members file into a large room where trams are aligned with seating for more than 500 people. After the audience is seated, the room grows dark, and another film opens with Bill and Ellen appearing on a nearly blank, dark screen. They (and we) are at the beginning of the universe, and a small spot of light (the material from which the Big Bang emerges) appears in the center. Bill places ear protection devices on Ellen, handing her two flashlights like those used to guide airplanes as they taxi to jetways. Ellen, acting like a ground crew member, informs the Universe that it is "cleared for takeoff." Bill Nye pulls Ellen through a doorway, just as the spot of light, which has been increasing in size, explodes into galaxies, planets, and stars rushing toward the audience at high speed. All of this is accompanied by enormous sound delivered through a state-of-the-art audio system. As we move through the universe, we settle onto one planet using a low-aerial shot that shows computer-generated animation of mountains thrusting up from the earth's crust, along with the newly formed oceans and beaches, until we land in a primeval forest. It is here that the lessons on energy begins. Bill informs Ellen that the plants and animals that surround them are "soaking up energy from the sun. When they die and get buried, time, pressure, and heat will cook them into the fossil fuels we rely on today, like coal, natural gas, and oil." Ellen wonders aloud if the gas in her car is "dinosaur soup," and Bill answers: "Not exactly, but dinosaurs *did live* when fossil fuels were developing in the earth. Dinosaurs are just cool! Let's check them out!" Ellen expresses trepidation at that notion and tells us to go ahead with Bill.

At this moment, our tram cars rotate and move into the world of dinosaurs, and we are transformed from spectators into participants, moving through the adventure, rather than simply watching it. We enter this world at night and see the shadows of dinosaurs looming directly ahead of us. As the "sky" lightens, we see other reptiles on either side. The tram cars move past giant Apatosaurus, which hiss and spit water at us as we pass. We then move through a diorama that

includes a “lofty allosaurus battl[ing] with an armored stegosaurus, and an elasmosaurus burst[ing] out of a tide pool with frightening suddenness – all under the vulturelike gaze of winged creatures known as pteranodons” (Safro, 2001, 134).

After our encounters with these creatures, our tram cars enter a dark room with no visual images save a radio tower and sparkling lights on the floor, walls, and ceiling. It is here that we listen to light-hearted “Radio KNRG” announcements, punctuated by dates ranging from 55 million, BC to 750,000 BC, and reporting on a meteor that hits the earth sending dust into the atmosphere, a traffic tie-up where an elephant has popped his trunk, the appearance and flourishing of mammals, dinosaurs being wiped out in the Mastodome, large ice sheets covering the earth to near the equator, and animal evolution described in a fashion report (“wooly is definitely in,” and “saber teeth are popular among cats this year”).

At this juncture, about two-thirds of the way through “EEA,” we still have learned little that is directly related to energy. We learn from Bill Nye that the matter expanded during the Big Bang contained “all the energy in the universe.” We learn – again – in the primeval forest that the plants and animals we are seeing will ultimately be forged into oil. We also are taught there how pleasing fossil fuels are, not by word, but by visual display. The lush, leafy plants represent the only form in which we will ever see “oil.” The dark liquid substance never makes an appearance in “EEA.” Here in the Universe of Energy, oil is beautiful.

The ensuing ride-through phase, introducing us to the dinosaurs, is entertaining but beside the point. Bill Nye even alerts us to its irrelevance when he tells Ellen that dinosaurs *lived at the same time as* fossil fuels were forming, but simultaneity is the extent of the connection. The dinosaur diorama and the radio tower segment together form the lengthiest portion of “EEA”, but they are nothing more than transitional moves to the next segment, where Bill and Ellen are reunited on film.

Bill introduces Ellen to the “dawn of the human age” and the discovery of fire. The discovery, Bill says, will “spark the progress of civilization.” There follows a harried montage of animated images, accompanied by frenetic music, portraying the rise of civilization. The rapid sequence of images begins with a pre-Roman façade that turns into Rome, where a Caesar-like character pulls down on a billows handle, forcing the air into a ship’s sails and moving it across the screen (and presumably the ocean). In the course of its journey, the ship is transformed

from a Roman galley into a ship from the Age of Discovery, where it sails into a building that becomes a mill-like structure showing water power driving pulleys, gears, and levers. As a human (non animated) figure drops into the mill, it is transformed into a steam engine pulling a train. Telegraph and telephone poles spring up, and a house is shown. Oil derricks sprout from the ground, and a sign, "Growing for our Future," appears. A tractor tills the soil, enters a barn, and emerges as an automobile. As the automobile begins its movement across the screen, there is a quick glimpse of an Exxon filling station in the background. The car travels into a cityscape of the early twentieth century and then into a modern city with skyscrapers and traffic lights. After this short, but intensely concentrated series of animated images, a helicopter-like vehicle appears with Bill Nye and Ellen, now in the present. She thanks Bill and suggests he return her to the Jeopardy! set, for she's ready to "kick Judy's big ol'..." Bill interrupts her: "Wait! To play the game, you have to know where energy comes from, you have to know where it's gonna come from, and how to use it more wisely."

The series of images constituting "the progress of civilization" flash by in just over a minute, but they serve an important argumentative end. All the images, but for a single exception (the oil derrick), represent consumption, not production of fuel. Indeed, the series equates "the progress of civilization" with energy consumption. It ends with Ellen and Bill appearing back onscreen in the helicopter-like vehicle. Bill explicitly marks their reentry into the present, and it is at this juncture that he also lays out the issues of the ExxonMobil case: "To play the game, you have to know where energy comes from, you have to know where it's gonna come from, and how to use it more wisely." The "game" to which he refers explicitly, of course, is the Jeopardy! game. But another way to read his statement in light of the just-completed segment is that the "game" is about maintaining the "progress of civilization." If we are to continue to progress, i.e., consume energy, then it follows that we must produce ever energy to satisfy this urgent need. The alternative, we recall, from Bill's admonition before Ellen's dream, seems dire: "Without energy... there'd be nothin'." So, the first argument composing ExxonMobil's argumentative brief, and presumably a lesson we are supposed to "learn," is about the necessity of consumption to civilization. Since consumption is dependent upon supply, energy production becomes the key to continued progress.

It is from this point in the story that ExxonMobil's primary set of arguments

finally emerges. It denigrates the viability of “alternative,” especially renewable, energy sources and minimizes the environmental effects of continued reliance on fossil fuels. Additionally, the presentation works to inoculate audience members to future critique of fossil fuels. Bill and Ellen stop at several sites of energy production. At each stop, Bill offers an explanation of each source of energy, and Ellen provides the comic “relief.”

Bill tells Ellen that most energy issues from the sun. This provides the transition to visit various energy production possibilities, or “great ideas for tomorrow,” beginning with solar power. As expansive, futuristic orchestral music plays, a wide-angle shot reveals a field of solar collectors, and we focus in to Bill and Ellen on the ground, Ellen peering into and making faces at the mirror-like surface of one collector, which seems to have a “reflective” mind of its own. Bill explains briefly that these “solar mirrors are one way to convert the sun’s energy into electricity.” But he adds that it is “not sunny enough everywhere” for solar power, and energy from the sun “still isn’t that cheap. But we’re getting’ there.”

Bill and Ellen travel from the solar farm to a wind farm, where we learn from Bill that “Today we’re using the clean energy of moving air - wind - to generate electricity.” It is worth noting here the value of image and sound to the overall message. The wind farm shots are accompanied by soft background music that blends with the sound of the wind turbines, but the music changes as the inevitable objections to wind power come up. “To power a whole city,” Bill tells us, “we’d need a whole lot of windmills.” As Ellen adds, “When the wind stops blowing, we’d be left in the dark, wouldn’t we?” As she raises the objection, the background skyline of San Francisco begins to go black. The lights come back on only when dozens of windmills sprout from San Francisco Bay to create a forest of structures that violates our aesthetic expectations of the city’s beauty. As the mills spring up in the Bay, the sound becomes piercing, cyclical, and unpleasant. Bill and Ellen continue on to Hoover Dam. Hydroelectric power, Bill informs Ellen, is “clean and efficient.” It “converts the energy of falling water into electricity.” However, while hydroelectric power is a renewable energy source, “we’ve already used many of the best sites, and sometimes building a dam can be pretty hard on an ecosystem.” As they finish their tour of the dam, Bill explains that renewable energy sources like these provide about 10% of the world’s energy. Ellen insists, “We still need a heck of a lot more energy. Where’s it coming from?”

Bill answers by flying Ellen over a train loaded with coal, suggesting that there is a plentiful supply of the “solid fossil fuel.” When Ellen inquires about global warming, he replies: “It’s a hot topic with lots of questions. It’s one of the big

reasons scientists are working on a way to burn fuels like coal more efficiently than ever." Their next stop is a natural gas plant, where Bill changes the topic from abdominal discomfort to explain to Ellen that there are sixty years of known reserves of natural gas. She expresses alarm that there is so little. Bill reassures her that more is being located all the time, but that that "we do need to use it wisely." The next site is an oil field, where Bill's instruction continues, but only after the Beverly Hillbillies theme plays, and Ellen responds: "Black gold, Texas tea, swimming pools, movie stars. What is the Beverly Hillbillies? I mean, what is oil?" Oil, Bill tells her patiently, "is our main source of energy, and we've found enough to last fifty years." He and Ellen travel into outer space where they encounter a satellite, one of the "far-out" ways of locating more oil on earth. They return to earth where he shows her one of the more unlikely locations - under the ocean. Their helicopter becomes a submersible vehicle, and they dive down for a look at an offshore drilling platform that is juxtaposed with an image of the Empire State Building, for Bill's size comparison of the two.

Bubbles in the water, created as their vehicle rises rapidly from the ocean depths, transform into free-floating particles, representing nuclear power. Bill explains: "Today, we take atoms like these and split them apart to release energy. It's called fission." Bill and Ellen spend little time among the suddenly active atoms, as Bill explains that nuclear energy is "expensive and highly controversial." He turns then to the one source of power we will never run short of - "brain power" - and suggests we might even be able to figure out how to harness the energy of the stars by fusion.

This quick excursion through energy alternatives clearly privileges three - coal, natural gas, and oil - conveniently the three energy sources in which ExxonMobil is invested (ExxonMobil, 2002). The "EEA" message is little more than an echo of the ExxonMobil corporate line. The company's board recently opposed a shareholder resolution that would have required "strategic plans to help bring bioenergy and other renewable energy sources into ExxonMobil's energy mix" (Exxon Mobil Corporation, 2002, 36). The Board responded to the resolution prior to the shareholders's meeting in May, 2002 by arguing that:

renewables have not demonstrated an ability to compete effectively on a large scale with fossil fuels, nor are they expected to reach such a position for the foreseeable future. Performance to date indicates that to have any significant impact on conventional energies, renewables must overcome significant cost and reliability disadvantages. For example, in electric power generation, solar and

wind are only as dependable as sunshine and the wind, which naturally limits their reliability for base load or peaking power needs with current technology. (Exxon Mobil Corporation, 2002, 36)

The Board's response continued:

[T]he use of renewables is not free from impact on the environment, particularly if deployed on a scale necessary to make an appreciable contribution to global energy demand. Wind power faces challenges because of the impact of turbines on wildlife as well as its inherent sight and sound implications. Large-scale solar power and bio-energy pose significant land use issues... In our view, these are significant factors with regard to the potential growth of renewables (Exxon Mobil Corporation, 2002, 37).

And, finally, "after evaluating relevant considerations, management does not believe that renewables represent commercial opportunities at this time. Instead, we will continue to concentrate on our core energy and petrochemical businesses" (Exxon Mobil Corporation, 2002, 37). ExxonMobil does recognize that climate change is a "risk" and that its consequences may "prove to be significant"; nevertheless the corporation will "work with others to develop effective long-term solutions that minimize the risk of climate change from energy use without unacceptable social and economic damage" (Exxon Mobil Corporation, 2002, 37). Such statements are consistent with the message advocated in "EEA." The only feasible energy options are natural gas, coal, and oil.

It cannot come as a surprise that ExxonMobil would push its own corporate agenda in Walt Disney World. The point, is rather how the agenda is worked rhetorically in the Epcot venue. This final segment in Ellen's dream resembles a standard "residues" policy argument: List and eliminate options to fix on the final, preferred solution. Indeed, that basic argumentative structure does emerge here, but with important twists. The preferred solutions - oil, gas, and coal, are not saved for last, as in most residue structures. Nor are they presented as "preferred." They simply emerge unscathed in an apparent random review of possibilities. And in the end, if all else fails, we can rely on the omnipresent, American optimism that defers serious planning for the future by promising that "brain power" will offer the way out of the quandary of energy production.

Missing from the energy alternatives for the future is conservation - scaling back on consumption. Since the progress of civilization is predicated upon

consumption, conservation is eliminated as an alternative before the idea of alternatives can even be raised. Also missing is any acknowledgment that energy consumption and production are global issues. There is no politics of energy consumption or production here, only that we consume, and therefore must produce. And of course, the final missing element is mention or image of environmental degradation, except as they might accompany non-fossil fuel energy sources, e.g., wind or hydroelectric power. Here, the arguments in "EEA" are hauntingly like those drafted by the ExxonMobil Board.

After Bill and Ellen's excursion, the adventure returns to Jeopardy! where Alex Trebek is marveling during the commercial break about how well Judy had done in the first round. During the ensuing Double Jeopardy round, though, it is Ellen, newly knowledgeable about energy, who responds correctly time and again. Judy, haughty to this point, now becomes agitated, as Ellen exchanges her bumbling for an overacted confidence and even smugness that further increases Judy's ire. At the end of the round, when Ellen and Judy are tied in winnings, Judy says to Alex Trebek: "How could she have learned so much during the commercial break? She's obviously cheating." Alex replies uncharacteristically: "Zip it, Judy." Einstein has earned no money and so is eliminated from the game. In Final Jeopardy, both Ellen and Judy wager all their earnings on a category about future energy sources. Judy loses all her winnings by insisting that there is no correct question to accompany the Final Jeopardy answer: "This is the one source of power that will never run out." Ellen, of course, provides the correct response: "What is brain power?" and is declared the new Jeopardy! champion, thereby offering a satisfying resolution to the narrative conflict. At the end, Ellen returns in her role as "spokesperson," saying, "So, that's how I became an energy expert. Again, 'expert' may not be the exact right word. More expert-ish." As the lights come up and we exit our tram cars, we see a sign, reminding us that "EEA" is sponsored by ExxonMobil.

The knowledge that allows Ellen to become "expert-ish" enough to defeat a Professor of Energy and the genius of Einstein is that fossil fuels represent the only viable source of energy for our immediate future. The message, too, encourages increased energy consumption except for the one line that we must "use it wisely." But how education, knowledge, and expertise are treated is more than simply a sum of the substantive "lessons" Ellen learns.

"EEA" is unambiguous about the centrality of the scientific or technological "expert" in addressing contemporary problems, like the depletion of energy resources. So, in examining how this venue "works" rhetorically, we must inquire

beyond the substance of the argument. The additional question that arises is how the attraction represents expertise and the acquisition of knowledge sufficient to become expert or at least “expert-ish,” as Ellen names her status at the end of the ride. The narrative conflict - Ellen’s struggle to beat Judy - sets up the entirety of the remainder of the “Adventure,” making the acquisition of knowledge about energy obligatory and urgent.

At the beginning, Ellen concedes her lack of expertise regarding - indeed, her lack of interest in - energy. For Ellen, learning is not something to be sought. She describes it at various points as “scary.” She refers to her dream as a “nightmare,” she is embarrassed at her inability to answer Alex Trebek’s Jeopardy! questions, the dinosaurs are “scary,” and diving underwater in the search of offshore petroleum reserves is unsettling. However, Ellen discovers that learning is a journey, an “Adventure” in this instance, that promises both a quest to overcome obstacles and to attain technical expertise.

As the journey progresses, however, learning about energy is like everything else in Walt Disney World. It is fun, playful, easy and entertaining. Ellen clears the Big Bang for “take off,” imitating the ground crew moving an airliner onto the taxiway; she learns about climate change and biological evolution through lighthearted news, fashion, and sports reports; she plays in front of solar collector mirrors and hears the “Beverly Hillbillies” theme song as she learns about oil; and she delights in her victory over “Stupid Judy” in Jeopardy! What she learns is passively acquired in a dream, and she learns it in the time frame of a commercial break on television.

Several elements are important to Ellen’s journey. First, she, and by implication the rest of us, are not allowed the standard, distanced ways of learning we typically associate with education. Instead, the acquisition of knowledge in “EEA” requires immediate personal experience, as evidenced by Ellen’s journey through the jungle and dinosaur sequences and by investigating potential sources of energy. It is this reification of personal experience, and the knowledge gained from those experiences, that allows Ellen to “win” at Jeopardy! and to “defeat” those whose expertise is acquired in more standard academic pursuits and confirmed by academic credentials, whether the Professor of Energy or Albert Einstein himself, the cultural icon of scientific knowledge.

The audience’s participation in Ellen’s Adventure results in members also acquiring knowledge through personal experience. Like Ellen, we have “seen” the



need for continued energy consumption (if civilization is to continue its progress) and witnessed the potential and obstacles to various forms of energy production. By affirming personal experience and the necessity for energy consumption, the audience member's own individual histories are also affirmed. The underlying principle of consumption enacted by our own visit to Walt Disney World and Epcot and middle-class lifestyle is both acknowledged and confirmed. The "good life," founded on energy consumption is placed in a positive counter-stance to the irrelevance of technical expertise. Thus, when audience members encounter statements from those claiming expertise on energy matters that argue for conservation and alternative sources to fossil fuels, they can be confident that their understanding of energy "questions" is equal or superior to that of alleged "experts."

Interestingly, technical knowledge and its place within public discourse is both exalted and diminished. Clearly, having the Professor of Energy and Albert Einstein as Jeopardy! contestants grants them a kind of status. Judy's success in the first half of the game show also gives credence to the value of academic knowledge. She has a Ph.D., she is a Professor, and she is winning at the first commercial break by a daunting margin. Einstein's figure as a cultural icon is even affirmed when Bill Nye tells Ellen that the reason he came to the set was to "see Einstein." Finally, it is only through the acquisition of technical knowledge that Ellen is able to "win" the competition between competing energy experts. It is not just Ellen who "wins," of course, but also the ExxonMobil arguments.

Yet, Ellen's quest relies also upon the debunking of scientific and technical expertise. Both representatives of technical knowledge turn out to be unattractive and ineffectual figures. "Stupid Judy" ends up confirming the nickname when she loses in Jeopardy! Her personal behavior is condescending, whining, and boastful. Einstein is reduced to a bumbling, befuddled figure who cannot function in the competition of ideas. He says nothing throughout the show, cannot seem to make his signaling device work, and appears incapable of interaction. At the end, after signing in as Einstein at the show's beginning, his name is reduced to a mathematical formula, and his character to a cipher.

Ellen's victory is assured not by acquiring the kind of technical scientific knowledge represented by Judy Peterson or Einstein, but by the popular knowledge represented by Bill Nye. Bill Nye is a television personality who makes science easy to learn. He does not have a Ph.D. He does not need expensive equipment or laboratories to conduct his experiments, but requires only

aluminum foil, a candle, and a clothes pin. Bill is an ordinary person. He is, after all, Bill Nye, the *Science Guy* who has the common, practical knowledge that is really all that is needed to prevail.

Certainly, no one questions the value, indeed the necessity, of technical knowledge in debate over important questions of public policy. Whether addressing issues over stem cell research, bioterrorism, or energy policy, technical expertise constitutes a critical component in informed discourse and deliberation. What concerns us, however, are the consequences that may emerge when the wealth and power of corporate voices combine with sophisticated multimedia presentations that divert audience attention from serious issues of public policy. “Ellen’s Energy Adventure” is just one such example. While appearing to address one of the most vital issues of contemporary society, “Ellen” diffuses that issue’s importance through that “special Disney flair” that Birnbaum so extolled. In doing so, we believe that public discourse is ill-served, that scientific and technical knowledge is diminished and made less important to such critical issues, and that the ability of citizens to participate in the broader public discussion is marginalized. In providing this critique of the “Universe of Energy” at Epcot, we seek to forestall that day when, as Goodnight feared, “deliberative argument may become a lost art.”

As we leave Epcot to return to the Orlando airport in our rental car, we notice that the gas gauge hovers on empty and decide that we need to refuel as soon as possible. We are not certain if we can make it Orlando, and look for the first convenient gasoline station. We find it, of course, still within the confines of Disney World (where all needs are met in form or another); and it is, as are all of the service stations within the “Wonderful World of Disney,” presented by ExxonMobil.

## NOTES

**[i]** A tenth pavilion, under construction but not yet complete at the time of our most recent visit, in February 2002, will focus on space travel.

**[ii]** It should be noted that four of the top four themeparks in attendance were Disney parks, with only Tokyo Disneyland, the Magic Kingdom at Walt Disney World, Disneyland in Anaheim, CA, Disneyland, Paris, and Everland in Kyonggi-Do, South Korea, besting Epcot. Seven of the top ten were Disney parks. See: “International Association of Amusement Parks and Attractions.”

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