ISSA Proceedings 2010 – Argumentation In The Context Of Mediation Activity

This paper examines interaction in the course of dispute mediation to explore argumentation in the context of mediation activity. The mediation sessions involve divorced or divorcing couples attempting to create or repair a plan for child custody arrangements. A practical problem participants face when attempting to deliberate is that out of all the possible ways the interaction could go they must create this activity out of their conflicted circumstances. The empirical aspect of this project provides material for reflecting on mediation activity and understanding argumentation.

An existing collection of transcripts from audio recordings of mediation sessions at a mediation center in the western United States serves as a source of interactional data. The transcripts are from sessions held in a public divorce mediation program connected with a court where the judge approves the decision (Donohue 1991). The participants in the mediation sessions are couples going through a divorce or divorced couples (re)negotiating their divorce decrees. The sessions involve one mediator. The mediation sessions are mandatory for participants. If they cannot reach a settlement they can opt to go to court to resolve their dispute. The participants can also choose to have more than one session. The mediation sessions under study took place 2 hours prior to the court hearings. The length of sessions varied but in the majority of cases it was about 2 hours.

Argumentation scholars sometimes equate mediation with a certain type of argumentative activity (Eemeren & Houtlosser 2005) or a kind of dialogue type (Walton 1998). Walton (1998), for example, considers mediation to be an example of negotiation type of dialogue that presupposes conflict of interests. The aim of this type of dialogue is personal gain. It has its specific features such as the commitments of participants towards some course of action, the structure similar to the critical discussion, and moves that fit its structure and goal (e.g., threats). Eemeren and Houtlosser (2005), in their turn, distinguish mediation as a

conventionalized type of argumentative activity that is distinct from negotiation and adjudication. They argue that mediation involves a difference of opinion rather than conflict of interests. Like critical discussion, it develops through four stages of argumentation.

Dispute mediation, however, is a more complex activity than pictured in either of these two approaches. Clark (1996) points out that one "activity can be embedded within another" (p. 32). Examining mediation activity as it occurs naturally shows that this process is multidimensional as it is accomplished through various dialogue activities. It involves negotiation, information exchange, recommendation giving, and clarification among other dialogue activities. The point of models such as Walton's or van Eemeren's is to simplify the complexity of an activity in relevant and meaningful ways. In some sense, different stages of an argumentative activity imply that other kinds of activity are necessary for this activity to develop. However, all these stages are argument oriented. The problem is that both models take an argument to be a primary activity as opposed to Jacobs and Jackson's (2006) idea of argument being subordinate to some other kind of activity. In dispute mediation, not all dialogue activities involve argument. When it arises, it serves as a repair mechanism for the mediation activity.

Another problem with these approaches is that they are normative and consider mediation in terms of some ideal type of interaction, whether an argumentative activity type or dialogue type. However, activity types are never given, they are produced. This production is a joint achievement of all the participants. Speaking about joint activities, Clark (1996) states, "One reason joint activities are complicated is two or more people must come mutually to believe that they are participating in the same joint activity" (p. 36). The development of the activity involves constant negotiation of the interactants of what they are doing in a given moment and of what they are trying to accomplish. The participants of the activity have different sets of responsibilities (Clark 1996). These responsibilities and the actions participants perform "depend on the role they inherited from the activity they are engaged in" (Clark 1996, p. 34). In the course of the mediation session, the mediator has a leading role and tries to design talk in a certain way, to institutionalize it in the sense that mediators are disciplining the performance through language use. The institutional goal of the mediation session puts constraints on what can be done in this interaction and how the disputants can manage their disagreement. The mediator makes moves to institutionalize the talk in the moment of the session by advancing certain dialogue activities and

preventing others. However, all the participants contribute to constructing the way the interaction unfolds.

Walton and van Eemeren and his colleagues emphasize the use of discourse as a basis for realizing what the arguments are in a dialogue, that in turn is a way of doing informal logic analysis of argument quality. The focus of the current study is on argumentative conduct and the qualities of reasoning realized in the joint performance of activity. This draws a different kind of attention to understanding and evaluating argument, that is, evaluating argumentation and the actions performed to construct a dialogue quality.

Another feature of joint activities is multiple goals. While one goal can be dominating (e.g., for the mediation activity it is an institutional goal of making arrangements for the children), participants can also pursue procedural and interpersonal goals and have private agendas. Thus, disputants can have agendas of their own and engage in shaping an interactivity that is different from what the mediator is designing. This can lead to interactional tensions.

In this respect, what is of interest here is how disagreement is managed and how the mediator's contributions construct a preferred form of interactivity. This paper will address this issue at the level of dialogue activities participants initiate with the special focus on the dialogue activity of having-an-argument.

O'Keefe (1977) makes a distinction between making-an-argument and having-an-argument. In the first case, an argument is a speech act "which directly or indirectly support or undermine some other act by expansion along … a set of logically related propositions known as felicity conditions" (Jacobs & Jackson 1981, p. 126). In the second case, an argument is an activity that presupposes "some exchange of disagreement that extends an initial open clash" and does not necessarily involve reason-giving (Jacobs & Jackson 1981, p. 127). Having-an-argument is institutionally dispreferred as it does not contribute to resolving a dispute and creating arrangements and is likely to lead to escalating the conflict. The content of having-an-argument would revolve around the issues of negative features of one's personality and actions. Although the topic is a common characteristic for these dialogue activities, what distinguishes this dialogue activity is mutual performance of the participants, the stance they take towards each other through the use of language and different moves they make. When the disputants engage in having-an-argument, they would take on the roles of people in conflict and become oppositional. In the prototypical case of having-an-

argument the disputants would hit each other verbally[i] and focus primarily on the character of the other party. They would use offensive language, make insults, accusations, challenges, threats, and the like. There will be exchanges of disagreement but the following moves would not provide support for the claims and would not be necessarily connected to the preceding moves in any rational way. The moves can be also recycled in an aggravated form. This type of performance is off-task as name-calling affects the quality of interaction. The way the interaction unfolds does not allow the participants to share opinions. These moves also present a threat for the image of the disputants. Thus, the disputants focus on the restoring their image rather than working out an arrangement.

In more subtle cases, the opposition described above would not be so obvious. The disputants would try to prove who is right or wrong by bringing evidence that depicts the other party unfavorably. It is not a pure case of having an argument without making an argument. Instead, the making of arguments is done in such a way that undermines the image of the opponent (i.e., it carries what Aakhus (2003) calls *negative collateral implications*) and treats the mediator as a judge. The disputants would make assertions, often addressed to the mediator, about the other disputant's character or actions. The disagreement would develop over the sequence of moves as the participants would provide support for their claim, objected to or countered by another participant. These subtle cases are problematic for interaction as well, as the disputants use the mediator to attack the other disputant and prove that they are bad, which is likely to develop into a primitive argument.

Example 1 and 2 illustrate how this dialogue activity unfolds. Prior to the episode in example 1, the disputants were having a quarrel about custody issues. The (ex)-wife was accusing her (ex)-husband of his intentions to take the child away from her and expressing her determination not to let that happen. In the episode below, it is the (ex)-husband who takes an accusatory position. He claims that his (ex)-wife is not acting as a good mother as she does not take care of their child all the time, which the (ex)-wife denies. The mediator makes moves to terminate the development of the dialogue activity.

1.

130M: OK now the other thing is

131H: If she's [uh you know not] a fit mother or something=

132M: [a temporary order]

133H: = y[ou know] if she's not in some way=

134W: [I'm not]

135H: = [capable of]

136M: = [Is she un- is she un] fit?

137H: = coming home,

138M: Is she u[nfit?

139H: [No she's a fit mother when she is at home

140W: Oh my [God

141H: [But you know I don't know my my [uh in laws take] care of =

142M: [Okay there's]

143H: = [him] all the time now=

144M: [OK]

145W: = [No they do not]=

146H: = [from what I understand]=

147M: = [OK let's]=

148H: = [She doesn't come home at night]=

149M: = We're not this is not a, [trial]

150W: [I have] been ho[me every]=

151M: [Kathryn]=

152W: = [single=

153M: = [Kathryn

154W: = night [Michael

155H: You would be investigated.

156M: Hey Kathryn excuse me, [we're not,] this is not a trial

157H: [What do you want]

158W: You disgust me=

159M: = Okay

160W: You are a disgusting person Michael

161M: [Kathryn]

162W: [You will] lie ah ((WHISPERED)) God=
[You're gonna get yours in the end ( ) you watch] it.

163M: [Excuse me, Kathryn excuse me please.] Okay w- we're not
trying the case, I don't wanna hear any more arguments. All I wanna do now is
see if there's any way you two can agree to some sort of temporary plan because
if you don't, then the court can help you with that.

In turns 130 and 132, the mediator (M) makes moves to refocus the interaction on

the task at hand by providing a minimal response to the preceding move and introducing a new topic, which is a temporary order. However, the (ex)-husband (H) interrupts and makes a claim that his (ex)-wife (W) is not capable of taking care of their son. In turns 131, 133, 135, and 137, he makes an attempt to justify his intentions to have the child with him by depicting Was not being a fit mother all the time, which is opposed by W in turn 134. Instead of pursuing the shift initiated in turns 130 and 132, M gets engaged in the current dialogue activity. While H shapes his accusation of W's behavior in a mitigated manner by using the conditional mood, M asks H directly if he considers W to be an unfit mother in general (turns 136 and 138). M's move opens a possibility for the current activity to continue. H makes a statement that W is fit when she is at home (turn 139). Further on, he makes a point that his in-laws take care of the child all the time (turns 141 and 143) and W is not at home at night (turn 148). He warns W that she will be investigated (turn 155). Thus, H does not call his W unfit directly but references he makes and facts he brings into the interaction depict her in a negative way. W expresses her disagreement in turns 140, 145, 150, 152, and 154. H asks W what she wants (turn 157). W attacks H's personality by using offensive language such as "a disgusting person" (turns 158 and 160) and by depicting him as a liar (turn 162). M makes a number of moves to stop the development of the dialogue activity and to make a shift in the discussion. M uses the marker "Okay" (turns 142, 144, 147, and 159) to indicate the termination of the dialogue activity and/or topic, addresses W by name (turns 151, 153, 156, and 161) to get her attention, and directly points out that H and W engage in an inappropriate activity (turns 149, 156, and 163). However, this dialogue activity continues, and M finishes the session.

In this episode, there is a clash of pursuing projects that are going on, the one that M is trying to enforce, and the one that H is initiating. H essentially makes a case that W is an unfit mother. W resists this. M gets involved in this dialogue activity, and his/ her move in turn 136 puts the disputants into antagonistic talk with each other. As the dialogue activity of proving who is right or wrong continues, H and W exchange accusations of each other. M intervenes as this dialogue activity is likely to escalate the conflict, which indeed happens later in this episode (turns 155-162). H is making a claim, W denies. Though it can be proven, M does not tolerate this exploration. According to M, the parties' moves construct a dialogue activity that is more appropriate for the trial (e. g., "this is not a trial" (turns 149 and 156), "we're not trying the case" (turn 163)). Attacking

each other and defending themselves are the moves that the participants make in the court. In order to convince the judge and win the case, they have to present themselves in a positive way and discredit the opponent by different means. However, undermining the image of the opponent is improper for the mediation session (which is evident, for example, in the mediator's statement "I don't wanna hear any more arguments" in turn 163). The mediator does not make any decisions so there is no point in convincing the mediator in their rightness. What we have here is two different designs for talk that reveal differing kinds of rationality. A classic feature of mediation sessions is focus on future. A trial, on the contrary, is about adjudicating about the past, getting the truth, distributing the blame, and assigning punishment. At the beginning of the episode, H was giving facts about the situation. However, in the progression, the talk is becoming about a character. It is not a simplistic argument the disputants engage in. In this episode, it is having an argument in the process of making an argument. As the interaction progresses, however, this dialogue activity develops into primitive argument and quarrelling. The disputants are not making arguments any more but are merely exchanging disagreements. While earlier in the episode the focus was on W's character, here, W makes moves to hit H verbally and depict him unfavorably. The conflict escalates through a challenge (e.g., in turn 157, H challenges W with his question), through insults and recycling prior moves in aggravated form (e.g., a generalized assessment of H's personality "You are a disgusting person Michael" in turn 160 is stronger than a specific one "You disgust me" in turn 160), and through an accusation ("You will lie" in turn 162) and a threat ("You're gonna get yours in the end ( ) you watch it" in turn 162).

M intervenes directly to reframe the talk. M reminds the parties what they are supposed to do during the session, namely, they have to work out a temporary plan together (e.g, "All I wanna do now is see if there's anyway you two can agree to some sort of temporary plan" (turn 163)). The words M uses create a contrast between what H and W were doing (i.e., having a quarrel, which implies disagreement and separation) and what they should do (i.e., they have to agree to a plan, which implies some kind of union). In this way, M once again emphasizes the necessity of collaboration between H and W.

This episode is an example of two lines of dialogue activities that are in clash. The disputants engage in having an argument and orient toward proving their own position. The activity of defining who is right or wrong is not appropriate, as this cannot be established. The mediator treats this as not possible and not part of

mediation. Instead, making arguments must be geared toward advancing a plan for managing the children. The mediator's moves are geared to shift this dialogue activity to the planning discussion and put the disputants into different social relations. Jacobs and Aakhus (2002a) point out that mediators often show no interest in resolving the points of clash and discourage the elaboration of the disputants' positions through making arguments. Mediators do not cut off all the arguments, however. In planning or negotiating, the disputants can still make arguments but on a different issue, that is, they can make arguments that have to do with the future focus, not the past.

In the previous example the mediator was the one who indicated having-an-argument as an inappropriate activity. The disputants themselves can recognize that they are off-task. For example, in example 2 it is one of the parties, namely the (ex)-wife, who refers to the dialogue activity of having-an-argument and points out that she would not like to engage in this dialogue activity. The disputants exchange a number of accusations. The (ex)-wife raises doubts about her (ex)-husband's good intentions to have their daughter Alison to live with him and not giving a Christmas gift to Alison. In his turn, the (ex)-husband accuses his (ex)-wife of neglecting their child and being a cause of relationship issues between her and Alison.
Finally, the (ex)-wife makes a move to stop the current dialogue activity.

2.
184W : Is that the only reason why you want her? I mean come on now or is it because you don't want to pay child support?
185H : I know this erroneous statement was going to come up let me point thus out to ya. When Alison did come over to me and signed all the papers over to me now
I have of choice of whether I want to pay child support. This is a great thing about history you can't change what's happened in the past. When Alison come and live with me I didn't stop her allowance. I could have I give half of it to her for weekly allowance I put the other half in the bank for her future education or whatever she wanted to use it for when she got older. Her mother never comes
and visited her one time in the year and a half
186W: Wait
187H : No somebody tell me I don't want to pay child support I did it of my own vol[ition nobody forced me to]

188W : [I didn't wait wait wait. I] didn't come and visit Alison in the year and a half?

189H : That's right

190W : Wait just a minute okay? How many times did I go over to the house and take Alison to the ( )? Did I or did I not go to your house and send Alison a birthday present you didn't give her nothing for Christmas this year.=

191H : After the suicide attempt you're referring to?

192W : Yes=

193H : No I'm speaking up to the point of the suicide attempt=

194W : She wasn't speaking to me

195H : Oh

196W : I made the first attempt to go over there

197H : Why wasn't she speaking to you?

198W : Because we got into an argument in the front yard she called me a bitch

199H : Holds a grudge a long time doesn't she a year and a half?

200W : Me hold a grudge?

201H : No Alison

202W : Not me

203H : If that's the problem how come she held a grudge for a year and a half?

204W : Why isn't Kelly speaking to me now did I ever do anything to hurt her?

205H : Because she sees what's happening

206W : The only thing I want to say I don't want to argue with you okay? Whatever's best for Alison

207H : My oldest daughter's first words were

((15 turns omitted as these continue the exchange in the manner of the preceding turns))

223M : [[Loretta you're saying that uh what is in the best interest of Alison?

In this excerpt, W makes a supposition that H wants their daughter Alison to live with him because he is not willing to pay child support (turn 184). H denies this accusation and brings in the facts that can be evidence that W is wrong. In his turn, he accuses W of not visiting Alison once while she was living with him (turn 185). W challenges H's accusation (turn 188 and 190) and accuses H of not giving any Christmas gift to Alison (turn 190). In turns 191-193, H and W clarify to what time period each of them is referring. In turns 194-203, the focus of the interaction is on why Alison was not speaking to W. In turn 204, W questions H why their elder daughter Kelly is not speaking to her. H's point is this happens

because Kelly sees what is going on between the mother and Alison (turn 205). In turn 206, W backs off saying that she does not want to argue with H and is willing to do anything that is best for Alison. Thus, she points out what activity they have engaged in, that is, having-an-argument, and makes an attempt to stop it. As the dialogue activity continues, M intervenes (turn 223).

Similar to example 1, in the excerpt above, H and W make a number of moves that aim at proving who is right and who is wrong but at the same time depict each other in an unfavorable light. W's supposition that H tries to avoid paying child support (turn 184) and her accusation that he did not give any gift to Alison threaten H's face as these moves portray H as a bad father. In his turn, H creates an image of W as an unfit mother. First, he accused W of neglecting her duties as a mother (e.g., "Her mother never comes and visited her one time in the year and a half" (turn 185). Next, he did not accept W's explanation why Alison and she had had communication problems (e.g., "Holds a grudge a long time doesn't she a year and a half?" (turn 199) and "If that's the problem how come she held a grudge for a year and a half?" (turn 203)). By expressing his lack of understanding of how one quarrel could result in a year and half of not speaking to each other and repeating the same question twice, H makes it clear that there should be a more serious reason for a relationship problem between W and Alison, and W is likely to be responsible for this. Speaking about the lack of communication between W and their other daughter, he alluded again that it might be W's fault that they have a problem ("Because she sees what's happening" (turn 205)). Kelly did not stop talking to H, so W must have been doing something wrong if she refused to speak with her. The moves that H and W make are typical for the dialogue activity of having-an-argument. W makes an attempt to terminate this unproductive dialogue activity by making a statement that she does not want to participate in it and by shifting the focus of the interaction from relationship problems back to the interests of the daughter. Her move, however, did not result in bringing the end to having-an-argument, and later on M had to intervene to stop it. Thus, participants themselves signal recognition of the inappropriateness of the dialogue activity and initiate its termination even though their attempt may fail as they do not have authority to do that. In contrast to example 1, where M was trying to terminate a dialogue activity at the early stage of its development, in the episode above M does not mind the disputants building their argument as the having-an-argument features are not so pronounced as in the previous example and the facts they bring might

be helpful for future plans. This example illustrates that forms of dialogue activity are emergent and what is going on is not always obvious. Indeed, it may have gone in a different direction but it turned into having-an-argument. As this dialogue activity progresses, M intervenes to make shift by referring to what was mentioned earlier in the interaction (i.e., W's mentioning of acting in the interest of the child). At the same time, it is not simply the primitive argument that is problematic here but the fact that the disputants are treating their turns as though they are cross-examining a case in front of a judge. The disputants interchangeably assume the role of an interrogator and question each other about the past events in the way that depict the other party unfavorably while showing themselves in a positive light. Their moves do not treat the mediator as a mediator. Their contributions construct the debate and treat the mediator as the judge. The mediator cuts this dialogue activity off to initiate a different kind of dialogue activity.

In line with work done by Jacobs and Jackson (Jackson, 1992; Jackson & Jacobs, 1980, 1981; Jacobs & Jackson, 1989, 1992) and Jacobs and Aakhus (2002a, 2002b) the present study draws the attention to the process of how reasoning between the participants is embedded in the activity. The actions used to perform a certain type of activity are related to the epistemic quality of that activity. Mutual performance of actions takes a trajectory that may not be expected. Participants may be reasonable on separate moves, but when these moves are put together they do not necessarily have this quality. Moves and countermoves give a shape to disagreement space (Jackson 1992) that is always emergent. What is taken from this disagreement space to construct the next communicative move can be beyond what is expected by anyone in the interaction. Disputants may bring reasonable things to talk about (e.g., whether the other party can be trusted if he or she violated trust in the past) but sometimes this action takes into a different direction.

Mediation is an institutionalized type of discourse in the sense of disciplining the performance of participants. The argument plays a different role there than, for example, in the court, where the aim is to establish the truth and assign responsibilities. In court, the participants bring in facts about the past to make an argument to support their claim. In the course of the mediation session making an argument about the past is discouraged, which is related to the orientation of mediation sessions on the future. The disputants can make arguments but they

should do this with the future focus for planning and negotiating the arrangements for their children. In this case the disputants are reasoning together to find a better solution for their problem. When the disputants engage in cross-examination similar to what happens in the court and a primitive argument, they are in a way reasoning against each other. What is reasonable for one type of activity (e.g., a court trial) is not acceptable in the other one (e.g., dispute mediation). Bringing in facts that depict the other party in a negative way, for example, is appropriate for trial but not for dispute mediation. Acting in adversarial roles is normal for the court, while the roles of collaborators are encouraged in dispute mediation.

Another point about an argument in the context of mediation is that although making-an-argument or having-an-argument in their prototypical form do occur, what commonly happens in dispute mediation is having an argument while making an argument. In some cases a having-an-argument part is more pronounced and easily recognized by the participants, and the mediator cuts this dialogue activity at the early stage. In other cases it is not that obvious and is terminated by the mediator when it starts aggravating.

The mediator's focal point is to try to construct a mediation activity, which involves acting strategically. The study expands the idea of strategic maneuvering beyond two-party argumentative discussion. It shows how this concept is applied to those who are not principals of dispute but who take on a responsibility for the quality of interaction. In a two-party argumentative discussion, arguers engage in strategic maneuvering to balance the goal of the discussion and their own needs. In a mediation encounter, disputants, who are principal arguers, act strategically to balance the institutional goal of the meeting and their personal agenda. The mediator's strategic maneuvering is different as it orients toward the institutional goal and the quality of interaction. They use routine institutional practices to keep the disputants on task to constrain what becomes arguable. The concept of strategic maneuvering is usually related to traditional argumentative moves. The work that the mediator performs goes beyond that. Mediators' strategic maneuvering manifests itself not just at the levels of presentational device (e.g., references and interventions they make), topical potential (e.g., topics they initiate), or audience demand (e.g., taking into consideration face concerns in framing interventions). The dialogue activities themselves that the mediator initiate and encourage are strategic moves of a higher level. With help of all these resources, mediators are doing persuasion about the nature of the given activity.

The work that the mediator performs is to structure dialogue in such a way that disputants would be able to make contributions to create the process of deliberation.

NOTES

[i] That is what Walton (1995) calls a quarrel, and Jacobs and Jackson (1981) describe as having an argument without making arguments.

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ISSA Proceedings 2010 – Argumentation In The Appellative Genre

A speech genre lies between language and speech – it uses (a) beyond-language units (utterances, not words and sentences); (b) proto-speech units (speech models, not real speech).

The Appellative Genre (AG) is a subtype of the business kind of conventional discourse. Let me first consider the genre characteristics of conventionality in this perspective.

Identification features of business written correspondence are these:

(A) social conditionality; (B) communicative-situational conditionality; (C) speech genre conditionality; (D) linguistic conditionality.

(A) Social conditionality means that business correspondence does not only function under social conditions but also is an important component of socio-practical people's activities that presuppose the presence of social-significant tasks and situations.

(B) Communicative-situational conditionality provides for these:

(1) business interaction is implemented by means of symbolic systems (language, as a rule);

(2) the symbolic system used is functionally-oriented (i.e. it corresponds to the mode of communication, which is businesslike and written);

(3) the language system used by interlocutors is means of communication;

(4) by means of that system communicants accomplish their interrelations as prescribed by the communicative situation;

(5) interrelations between the communicants are conventional and normative;

(6) communicants' aims are mapped on their norms and conventions and accomplished by strategies, tactics and techniques of communication;

(7) the communicants have socio-cultural and psychological properties.

(C) Speech genre conditionality means that communicative-situational features are manifested depending on the specifics of a speech genre within business written communication – a speech genre is thus viewed as a conventional-normative form of written discourse.

(D) Linguistic conditionality means that socio-cultural and psychological properties of communicants within the boundaries of a concrete speech genre are manifested in discourse by linguistic means – lexical, word-building, grammatical and para-linguistic.

Business correspondence has a number of specific linguistic features. A. O. Stebletsova (Stebletsova 2001) writes about thematic unity, sense integrity, coherence, informativity, communicative directionality, pragmaticity, modality, completeness, etc.

Besides these features, characteristic of claims and complaints within AG are:

a. textual mixing of the official and unofficial (in a personal complaint) styles;

b. pragmatic orientation at a certain addressee (at a higher-status in a complaint, at a equal-status or status-indifferent for a claim);

c. feedback orientation with predominantly non-verbal reaction;

d. mono-thematic character;

e. compositional and graphical completeness with possible use of para-graphemic elements (as in filling-out forms);

f. discourse coherence;

g. concreteness of locale-temporal character;

h. etiquette and conventionality of linguistic means (usually for claims);

i. chiefly co-operative modus of communication.

The written AG is subdivided into a Complaint and a Claim. Pragmatic features of AG can be considered on the basis of J. Searle's system of pragmatic description.

Preparatory conditions. Addressee is in the position enabling him to perform an action that is desirable for Addresser.

Propositional Content conditions. There is an situation unfavorable for Addresser and caused by unsatisfactory behavior of a person (the case of Complaint) or by unsatisfactory quality of something (the case of Claim). Manifestationally, the macro-subject part of the Appellative contains exposition of the preparatory and propositional content conditions; the macro-predicate part contains a request or a demand for specific actions from Addressee which could improve the situation.

Sincerity conditions. The Addresser wishes the Addressee do the requested action.

Essential conditions. First, Addresser's generating a discourse is an attempt to inform Addressee about unsatisfactory state of affairs (this is the secondary function of the Appellative). Second, it is an attempt to impel the Addressee to perform certain actions to improve the situation (this is the primary function of the Appellative).

Now let's have a look at 7 specific features of the Appellative for the Russian and anglo-saxon cultures.

1. The communicative goal. Claim and Complaint are close in this respect, but the Claim is much weaker in its emotional force (that is, want for understanding and sympathy), especially for Russian culture.

2. The Addresser conception. Addresser's ethos includes sincerity, truthfulness, responsibility and completeness of the exposition of the problem in question.

3. The Addressee conception. The commissioned Addressee has institutional ethos of honesty, objectivity (for the Claim) and empathy (for the Complaint).

4. The situational content. (A) Personal sphere parameter: AG as a written form of discourse presupposes attribution to the personal individual sphere of Addresser and to the social institutional sphere of Addressee. (B) Temporal perspective: it is both past and future: the past deals with the information of the event that caused the Appellative; the future deals with the demand to take measures. (C) Event

estimation: it is unsatisfactory character of the past event and satisfactory character of the future event – both for Addresser. (D) Number of episodes: for the Complaint it can be both single (if the problem is solved) and multiple (if the unsatisfactory situation repeats or develops); for the Claim it is usually single.

5. The communicative past. Both the Claim and Complaint are enterprising: it is the Addresser who initiates the verbal event.

6. The communicative future. The monologue character of AG presupposes only anticipated, not real perlocutionary effect that usually involves Addressee's positive reaction.

7. The linguistic manifestation. It is business-style oriented, it is institutional discourse with slight elements of personal discourse (for Complaints); the argumentative component is necessary and it is manifested in syntactically various multi-level argumentation.

Being a written monologue, AG has nevertheless dialogical potential because it is Addressee-oriented. AG discourse is constructed along certain strategies. The strategies in monologue differ from those in dialogue. The dialogue strategies are heuristic and are very sensitive to how the dialogue develops: the strategies can be modified, changed and resigned. The monologue strategies are predominantly lines of constructing coherent discourse (and persuasive for AG); they are not usually departed from.

We can describe 7 communicative strategies for AG:

1. standardizing;

2. informational completeness;

3. conciseness;

4. logical clarity;

5. politeness;

6. naturalness;

7. expressiveness.

The first 5 strategies are conditioned by general features of official-business style – clarity, accuracy, laconicism, normativity and stereotypicity. They are manifested in Claims. The strategies of naturalness and expressiveness are characteristic for semi-official style and are manifested in Complaints where self-expression and unofficiality is often the case. Complaints are thus in the periphery of the official-business style.

Each strategy has its typical linguistic exposition. According to my student N.

Cherkasskaya's observations, for Standardizing it is cliché, terminology, standard constructions. For Informational completeness it is extension constructions, complex sentences, lexical repetitions. For Conciseness it is small and medium format of the text, clichés and abbreviations. For Logical Clarity it is terms and patterns. For Politeness it is etiquette constructions, indirect speech acts, the subjunctive constructions, specific vocabulary. For Naturalness it is unrestricted vocabulary and conversational constructions. For Expressiveness it is emotive nouns, adjectives, particles, intensifiers, negative estimation words, exclamations (Cherkasskaya 2007).

It is important to give some definitions of the units and elements of argumentation on which I base my further considerations, specifically, schematizing arguments.

An argument is a discourse consisting of the grounding and the grounded parts.

Argumentation is both a process of grounding (in dynamics) and its linguistically-manifested result (in statics).

A conclusion (a thesis) is a grounded content (manifested linguistically) within an argument.

A premise is a grounding content (manifested linguistically) within an argument.

An Argumentation Step is a minimal argument, a unit of discourse level.

An Argumentation Move is a main textual unit of argumentation limited by the paragraph boundaries (it can consist of several Steps, sometimes of one step only).

The argumentation factor of AG has not been described before, to the best of my knowledge. Still, in the characterization of complex directives (Karaban 1989) we can find some useful ideas to be taken for the description in question.

V. I. Karaban views a directive as a complex speech act consisting of an argumentative act (Aa) and of a directive act (Da). Propositional content of Aa reflects a problematic/unsatisfactory situation for the addresser. An illustration to this can be the text where a problematic/unsatisfactory situation is a factual premise (taken in round brackets) for an estimation thesis (in square brackets): *I'd only been wearing them for a short while when (one of the heels fell off) and you can imagine [how awkward that was] in the middle of the High Street; The contents are (so severely damaged) as to be [unsaleable]; Although we have (followed your operating instructions to the letter) we are [unable to obtain the performances promised].*

V. I. Karaban's view cannot be regarded satisfactory because of his ambiguous

treatment of the term *argumentative speech act*. It is both a complex Premise+Conclusion, and only a single Premise. Karaban's *argumentative speech act* is not defined as to its boundaries.

On the one hand, such an act can be manifested within a whole paragraph if we have a fact description. In that case, support is given by the paragraph which is functionally a premise, and the conclusion (p. ex. estimation) can be placed into another paragraph. The *argumentative act* thus crosses the boundaries of an Argumentation Move (a basic discourse unit of argumentation).

On the other hand, the *argumentative act* can be manifested within one and the same paragraph, containing both a premise (fact) and a conclusion (estimation). In this case, *argumentative act* is within its Argumentation Move, and the former can be viewed as a speech act representing the Argumentation Move.

It is also unclear how many *argumentative acts* it takes to get one-time perlocutionary effect of directivity, and if there are several what relations between them are at work.

In our view, grounding in AG can contain more than one tactic. Critical here is that the principal *strategy* is argumentation and it is accomplished by argumentation tactics of premise giving.

These tactics are manifested in the linear text structure relating tectonically (hierarchically) to one another. The tectonics can provide for placing premises on one and the same level (the tactics of single, co-ordinative or multiple argumentation) or on different levels (the tactics of serial argumentation).

From the point of view of *speech-act strategies*, there are two basic of them: argumentative and directive. Using D. Wunderlich's (Wunderlich 1976) approach (on which V. I. Karaban's ideas are clearly based), we can say that AG comprises satisfactive and representation strategies. But since satisfactive in Wunderlich's system is explanation and grounding, the representation strategy is, as a matter of fact, its manifestation. Thus, representation is made by means of these tactics: presentation of the problem, description of the causes of the problem and explication of the harm.

Interestingly enough, Argumentation and Stimulating strategies can be accompanied by the Commissive strategy. In it measures are exposed if the demand is not satisfied. Explicitly commissives are expressed in Russian AG; in anglo-saxon AG it is done implicitly, by means of mentioning the so-called carbon copies (addressed to other people or organizations) in the ending part of the text. The argumentative function of this strategy is that of *ad baculum*.

On the global functional level, the Stimulating strategy performs the Opinion function, the Argumentative strategy – Data and Warrant functions, the Stimulating strategy – the function of Reservation.

The main strategy for AG is stimulating, the other strategy is argumentative (including expositive and some others). We can also model an ideal AG with its strategy components. Since we regard AG as an actional speech genre, the ideal in question is established on the basis of the "problem – solution" feature and can in a somewhat simplified way be represented as follows:

1. Problem.
1.1. The essence of the problem.
1.2. The damages caused by the problem.

2. Solution.
2.1. Possible solutions.
2.2. The best solution.
2.3. Positive results of the solution.

The relation between the macro-components Problem – Solution can be made more exact as "Since there is a Problem, it must be Solved". This is a macro-strategy of argumentation for AG.

Let us now take a brief look at the interrelations between the components within the macro-components Problem and Solution.

The relation 1.1. – 1.2 is causal ("if there is a problem, there is/can be harm"). The causal relation differs from argumentation and implication.

Unlike causation, argumentation does not presuppose *obligatory* presence of the cause (p. ex. physical cause) when there is a conclusion. In other words, the problem For example, bad living conditions (problem) do not have to result in family quarrels (harm) – some families having two children having moved from a studio to a two-bedroom flat feel for some time more comfortable in one room. That means that a solution of the problem does not often have to do with harm resolution proper.

Unlike causation, implication is the relation of logical necessity A ⊐ B (on a par with conjunction (A ⊓ B), disjunction (A ⊔ B), negation (A, Ā), and equivalence (A ~ B)). Some scholars also single out the relation of anti-implication (it combines features of negation and implication and is expressed by construction of concession and adversative (Melnikova 2003, p. 15). The implicative relation between the members of the judgment is true in all contexts. *(see: Figure 1)*

Figure 1

The relation 1 – 1.1 and 1.2 is informative (by its influence on the addressee) and narrative (by description of the problem).

The relation 2.1 – 2.2 is argumentative: the author gives grounds why his variant is the best one out of all others. The relation 2 – 2.1 is informative (by its influence on the addressee) and narrative (by description of the problem). The relation 2 – 2.2 is argumentative (by its influence on the addressee) and narrative (by description of the problem). The relation 2 – 2.3 is informative (by its influence on the addressee) and narrative (by description of the problem).

The scheme "Problem – Solution is not always accomplished in its full form: the component 2.1 is not often used with the explication of 2.2 instead. The component 2.3 is used more often than 2.1 but more seldom than 2.2.

The Argumentation strategy is manifested through the tactics of premise giving. We observed about 40 tectonic-functional types of argumentation for AG; those tactics are manifested with two opposite tendencies – (A) to freedom of tectonics and (B) to restriction of tectonics.

Tendency (A) is conditioned by culture and by context. By culture, AG in American culture are manifested by structures with lesser branching and depth than in Russian culture. By context, the structures are very different and we failed to detect any regularity. Most common for Complaints in Russian and English is a 4-level tactic of giving premises. The same is true for British and American Claims. Russian Claims are most often exposed by a 6-level tactic of premise-giving. For Russian Complaints we observed many 2-level cases of premise-giving which is absolute minimum for Complaints; on the other hand, Russian Claims give an absolute maximum of levels in premise-giving – it is as many as 9 levels which is completely un-characteristic for British and American AG.

Tendency (B) – restriction of tectonics is due to 2 textual factors: (a) length of the text; (b) conventionality of the super-structure. A computer-printed Complaint does not exceed 1 page (A-4 format); a hand-written Complaint in a complaint-book is usually up to half a page (A-5 format). Speaking of a Claim, it is usually written according to a standard pattern which can determined by normative recommendations (in Russian culture) or to usage (see the details for my

student's and mine collaborative work in: Cherkasskaya 2009).

To see structural and semantic characteristics of AG let us consider two examples – one from the Russian culture, the other – from anglo-saxon one. These two examples do not, of course, exhaust potentialities of AG: there are typical 4-level and 6-level structures as well as 2-level arguments in short written complaints and 9-level structures in one Russian complaint (see: Cherkasskaya 2009, p. 19-20).

Complaint Example

(translated from Russian; syntax as in the original).

On 9/5/2008 I bought a North refrigerator at your store; in 6 month (1-1), within a warranty period, it got broken. I went to a warranty shop to repair it. (1-2) Because there were no necessary repair details (1-3) the master could not repair it, and (1-4) there won't be necessary details available in the shop within this month.

So,(2-1) this problem cannot be solved without excessive time waste and (2-2)is therefore essential; (2-3) I have the right to change the refrigerator to a similar product of a different trade-mark.
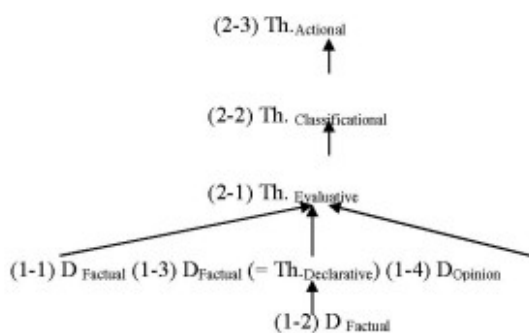

Figure 2

Claim example.

Dear Sirs,

After carefully examining the sawn goods supplied under our order of 16 October, (1-1) we must express surprise and (1-2) disappointment at their quality. (1-3) They certainly do not match the samples on the basis of which the contract was signed. (1-4) Some of the boards are of the wrong sizes and we can not help feeling (1-5) there must have been some mistake in making up the order.

(2-1)The sawn goods are quite unsuited to the needs of our customers and (2-2)

we have no choice but to ask you to take them back and (2-3) replace them by sawn goods of the quality ordered. If this is not possible, then I am afraid (2-4) we shall have to ask you to cancel our order.

We have no wish to embarrass you and if (3-1) you can replace the goods (3-2) we are prepared to allow the stated time for delivery to run from the date you confirm that you can supply the goods we need.
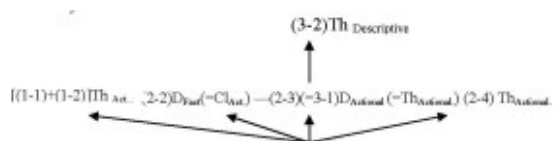
Yours faithfully,

R. Fairfax

Figure 3

Argumentation in the Complaint is manifested by a five-level structure with co-ordination on the fourth level and single subordination on the fifth level. The actional Conclusion (= argument Thesis) of the first level is sentence (2-3), the classification Thesis of the second level is sentence (2-2), the evaluative Thesis of the third level is sentence (2-1). Premises (1-1) and (1-2) are factual Data, premise (1-4) is opinion Data; (1-3) is a declarative Thesis transformed into factual Data on the closest higher level.

Argumentation in the Claim is a six-level structure with subordination between levels (6) and (5), (5) and (4), (4) and (3), (2) and (1); there is a divergence structure between levels (3) and (2) and a coordinative structure on the second level.

The functional semantics of the premises is this. Premises (1-5), (1-4), (1-3) and (2-1) are factual Data. Sentences (1-1)+(1-2) and sentence (2-4) are of actional Thesis nature. The same holds for sentences (2-2) and (2-3) which transform into coordinated factual Date for their higher level. Sentence (3-2) is a declarative Thesis.

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ISSA Proceedings 2010 – The Appeal To Ethos As A Strategic Maneuvering In Political Discourse

1. Introduction

The aim of this paper is to analyze the appeal to *ethos* as a strategic maneuver in political argumentation. In section two I review *ethos* as an Aristotelian persuasive strategy and its two components according to Poggi (2005), i.e. competence and *benevolence*; in section three I focus on two of the possible ways in which one could convince the other of being *competent* and benevolent, i.e. either emphasizing his own qualities or highlighting the differences between himself and the opponent; in the fourth section I introduce the notion of dichotomy (Dascal 2008) and focus on the arguers' possible tactical aims of presenting a mere opposition or contrast as a dichotomy. In the last two sections I briefly introduce the notion of strategic maneuvering and, while providing an example of a case of strategically

maneuvering with *ethos*, I show how employing dichotomies can be seen as an aspect of the strategic maneuvering.

2. The appeal to ethos as a persuasive strategy in political discourse
According to Aristotle, the orator in persuading makes use of three different strategies, *logos, pathos* and *ethos*. If the orator tries to persuade the audience by making use of argumentation, then he is employing *logos*. If he manipulates instead the audience's emotions, evoking the possibility for the audience to feel pleasant emotions or to prevent unpleasant ones, he is making use of the strategy of *pathos*. Finally, if the orator tries to persuade the audience by emphasizing his own moral attributes and competences, then he is making appeal to ethos. The appeal to *ethos* is, according to Aristotle, the most efficient strategy: 'the orator's character represents, so to say, the strongest argumentation' (Retorica, I, 1356a). Poggi (2005) distinguishes two aspects of *ethos: ethos-benevolence* (the Persuader's moral reliability – his being well-disposed towards the Persuadee, the fact that he does not want to hurt, to cheat, or to act in his own interest), and *ethos-competence* (his intellectual credibility, expertise, and capacity to achieve his goals, including possibly the goals of the Persuadee he wants to take care of). These two aspects are the two necessary components of trust and in order to be persuaded, the Persuadee has to believe that the Persuader possesses these two attributes.

Therefore, in order to elicit the audience's trust the Persuader has to convince them, i.e. make them believe with a high level of certainty, that he is competent and benevolent at the same time. This is an important part of the Persuader's self-presentation. To demonstrate one's competence, one may enumerate one's achievements; while to display benevolence, one may stress how one wants the audience's welfare. For example, as pointed out by Poggi & Vincze (2008), Romano Prodi, the Left Wing candidate at the function of Italian Prime Minister in 2006, in order to bring proofs of his competence, mentions the most important charges he covered (President of the Council of Ministers, President of the European Commission), while at the same time he explicitly states he is not in search of more professional satisfactions as he already had so many in his life, his only desire now being to make better reforms for the new generations.

3. Self presentation and contrast
According to general gestalt laws of cognition (Koffka 1935), people can better understand a belief if it is contrasted to another opposite belief. Therefore a quite

effective strategy of self-presentation is to contrast yourself with the opponent and show how, while you have goodwill and proved to be efficient in several situations, the opponent has proved the contrary.

When one makes use of oppositions to emphasize the differences between oneself and the opponent, we say he is employing a distancing strategy. Distancing oneself from the other is a recurrent tactic in political discourse, where the goal is to prove that the arguer indisputably represents the better alternative among the two, while the opponent, which stands at the opposite pole, is precisely the opposite of the right alternative.

Scholars such as Dascal (2008) focused on the tendency arguers have to construct oppositions in a radical manner, with the aim of distancing themselves from the opponent. As Dascal points out, during debates, by their nature agonistic, oppositions are often polarized and led to extremes, resulting into dichotomies.

4. Radicalizing oppositions : from mere oppositions towards dichotomies[i]

Logically speaking a dichotomy is an "operation whereby a concept, A, is divided into two others, B and C, which exclude each other, while completely covering the domain of the original concept" (Dascal 2008, p. 28). But not every opposition usually regarded as a dichotomy fulfils in fact the necessary condition for being considered as such, i.e. logical exclusion of one term by the other. As pointed out by Dascal, while there are very few pairs of elements that are undisputedly dichotomous, the tendency of presenting simply opposing elements as dichotomous, i.e. as one insurmountably excluding the other, is high, possibly again due to the gestalt laws above. According to the personal interests and aims of the participants within the debate, the arguer may choose to employ dichotomous pairs of adjectives characterizing the self and the opponent in order to distance himself from the other.

According to Dascal, in fact, we can speak of a dichotomization tactic when the arguer is 'radicalizing a polarity by emphasizing the incompatibility of the poles and the inexistence of intermediate alternatives, by stressing in the same time the obvious character of the dichotomy as well as of the pole that ought to be preferred'. (Dascal 2008, p. 34).

If this is the case, dichotomization, as Dascal points out, may lead to a polarization of the debate, where the two parties are presented as representing two views impossible to reconcile and as having opposing characteristics.

5. The concept of Strategic Maneuvering in argumentation

The aim of this paper is to analyze the tactic of dichotomizing oppositions as a strategic maneuver in terms of the extended pragma-dialectical theory of argumentation.

According to van Eemeren (2010), when engaging in an argumentative discussion, arguers have two contrastive goals: the *dialectical goal* which consists in maintaining reasonableness, and the *rhetorical goal* which refers to reaching effectiveness. Normally, the rhetorical goal is the one which tends to take the upper hand, jeopardizing a rational development of the discussion. Therefore, as van Eemeren puts it, people always have to maneuver strategically between the maintenance of reasonableness (if only for the sake of appearing reasonable in front of the others) and pursuing of effectiveness, i.e. having the best from the discussion. It is precisely for this reason of being divided between these two aims to reach that they have to maneuver strategically and don't allow the desire of winning at any cost to take the upper hand.

The strategic maneuvering in argumentative discourse refers therefore to 'the efforts that are made in the discourse to move about between effectiveness and reasonableness in such a way that the balance – the equilibrium – between the two is maintained'. (van Eemeren 2010, p. 41). If instead the rhetorical aim of reaching effectiveness prevails over the dialectical one, according to van Eemeren (2010), the maneuvering derails and the move results in a fallacy.

In maneuvering between the rhetorical and the dialectical goal, both arguers make some strategic choices according to the situation at hand and according to the stage of the discussion. Van Eemeren & Grootendorst (1992) and van Eemeren et al. (2002) distinguish four different stages of a critical discussion, namely: the *confrontation stage* where it becomes clear that there is a difference of opinion to be solved through critical discussion; the *opening stage* where the two participants in the discussion establish who is the Protagonist (the defendant of a certain thesis or standpoint) and the Antagonist (the attacker) and establish their material and procedural starting points; the *argumentation stage* where the Protagonist attempts to defend his thesis while the Antagonist tries to test the tenability of the Protagonist's standpoint by subjecting it to the strongest criticism possible; and finally, the *concluding stage* where the result of the discussion is assessed.

In the argumentation stage, which is the stage on which I will focus within this paper, strategic maneuvering refers to choosing, from the topical potential at

hand, the arguments which best adapt to the audience, while making a choice as to how the argumentative moves are to be presented in the strategically best way. These are according to van Eemeren (2010) the three aspects which coexist in a strategic maneuvring : *topical selection*, i.e. what arguments we choose in order to defend our standpoint; *audience adaptation*, i.e. knowing *to whom* these arguments will be presented in order to adapt them according to the audience's preferences, and finally, *the presentational devices*, i.e. *how* these arguments are to be rendered in front of the audience.

As pointed out by van Eemeren, these three aspects are always intertwined: one cannot manifest itself in absence of the others. When planning an argumentation, the arguer has to choose what to say and how to say it in the strategically best way, while taking into account the listeners in front of him.

6. A case of strategic maneuvering with ethos
In this section I apply the notions of dichotomy and strategic maneuvering to an example of appeal to *ethos* during a political interview. The politician interviewed is Ségolène Royal, the Left Wing candidate (Socialist Party) at the French presidential elections in 2007 and Nicolas Sarkozy's counter candidate. The interview I focus on was held on the 25th of April 2007 in the studios of the French TV channel France 2, three days after the first electoral tour, when Royal came out second with 25,87% votes against the candidate of the UMP (Union pour un Mouvement Populaire), Nicolas Sarkozy, who obtained 31,18% of the votes.

Before engaging in the analysis of the strategic maneuvering, I first provide the original fragments and the translations of Royal's discourse, fragments which I used in the reconstruction of Royal's standpoint and argumentation.

(1) *"Et d'ailleurs, si je l'ai mis dans mon pacte présidentiel c'est parce que je sais que ça marche, que certaines régions l'ont déjà fait et je suis une femme pratique. Je suis moi-même une présidente de région, je ne parle pas dans le vague, dans le vide. Je suis l'élue d'un territoire rurale, on l'a vu tout à l'heure dans le portrait, depuis 15 ans. Je suis aujourd'hui confrontée en tant que présidente de région aux souffrances, aux difficultés, aux délocalisations, au chômage, à la précarité et je trouve et je cherche des solutions. Donc j'ai pris ce que marchait pour le mettre dans le pacte présidentiel. "* [...]

"Voilà, je n'ai aucune revanche à prendre, je n'ai aucune revendication, je n'ai pas

d'enjeu personnel dans cette affaire, je ne suis liée à aucune puissance d'argent, je n'ai personne à placer, je ne suis prisonnière d'aucun dogme, et au même temps je sens que les Français ont envie d'un changement extrêmement profond. Et mon projet c'est eux, ce n'est pas moi, mon projet. Mon projet ce sont les Français et aujourd'hui le changement que j'incarne. Le changement, le vrai changement c'est moi. Donc là il y a aujourd'hui un choix très clair entre soit continuer la politique qui vient de montrer son inefficacité, certaines choses ont été réussies, tout n'est pas caricaturé, par exemple le pouvoir sortant a réussi la lutte contre la sécurité routière, par exemple, mais beaucoup de choses ont été dégradées, Arlette Chabot, dans le pays, beaucoup de choses… " […]

And if I put it in my presidential programme, it is because I know that this works, certain regions already made it and I am a practical woman. I am myself a Head of region, I don't talk without having solid grounds. Since 15 years I have been representing a rural territory, I've been elected by its members, as we've just seen in the reportage. I am confronted as a Head of region with the pain, difficulties, displacements, unemployment, precariousness and I find and I look for solutions. So I took what was working in my region and I put it in my presidential program. […]

I have got no revenge to take, I have got no demand to make, I have got no personal benefice in this affair, I'm not bound to any financial power, I have got no one to place, I'm not prisoner of any dogma, and in the same time, I feel that the French people desire an extremely deep change. And my project is them, my project is not myself. My project is the French people and the change I embody today. The change, real change, is me. So today there is a very clear choice between either continuing the politics which has just shown its inefficacity, some things were well done, not everything is caricaturized, for instance the former party came out successful of the fight for security while driving, for instance, but a lot of things have been degraded in the country, Arlette Chabot, a lot of things. […]

As mentioned by van Eemeren et al. (2002), in analyzing argumentation we first have to identify the standpoints at issue. Even if not explicitly stated, taken into consideration the context in which the discussion takes place, we can assume that Royal's main standpoint is 'I am the best alternative as a president'.
In analysing the strategic choices of the candidate under analysis, we will focus on the three intertwined aspects of the strategic maneuvering.

In the argumentation stage of the discussion, where she has to advance arguments in favour of her standpoint, she addresses the three aspects of the strategic maneuvering by choosing her arguments from the topical potential at her disposal. More precisely, from all the possible available arguments, she decides to emphasize the competence and benevolence side of her *ethos,* adapting this way to the audience's assumed desire of having a competent and benevolent president. As far as the presentational means are concerned, she chooses an antithetical exposition of her own's and of her opponent's qualities, where emphasis is put on the difference between them.

Following the pragma-dialectical model of reconstruction of the argumentation, I reconstructed Royal's argumentation as a coordinative argumentation, supported by two main arguments advanced in defence of her main standpoint 'I am the best alternative'. The two main arguments, none of them explicitly stated, are *I am benevolent* and *I am competent.*

I interpreted them as constituting a coordinative argumentation and not for instance a multiple one, as, in my opinion, both arguments are needed in order to support the standpoint 'I am the best alternative'. According to van Eemeren et al. (2002), a multiple argumentation "consists of more than one alternative defense of the same standpoint" (van Eemeren et al. 2002, p. 63). Therefore, in case one of the arguments is rejected by the Antagonist, the standpoint may still stand because it is still defended by the remaining argument. This is not the case with coordinative argumentation, where "several arguments taken together constitute the defense of the standpoint" (van Eemeren et al. 2002, p. 63), and where one argument only is not capable of assuring a conclusive defense of the standpoint. In order to gain the audience's trust and persuade them that she is the best alternative, Royal has to make them believe that she is both competent and benevolent, these being, according to Poggi (2005) and Falcone & Castelfranchi (2008), the two necessary components for trust. In fact, the Persuadee only decides to entrust his goals to the Persuader if he believes that the latter is both competent and benevolent, therefore both arguments employed are needed in order to conclusively support the standpoint.

These two main arguments are, in turn, supported by a range of sub-arguments. The first main argument, *I am benevolent*, is supported by the following sub-arguments:

(2) "I have got no revenge to take";

(3) "I have got no demand to make;
(4) "I have got no personal benefit from this affair";
(5) "I am not bound to any financial power" (i.e. I am not supported by any financial power which when I will be elected will expect a favour in return);
(6) "My project is the French people";
(7) "My project is not myself";
(8) "I do not have an ultimate step to reach".

The second main argument, *I am competent* is again not explicitly expressed, even if all the sub-arguments she advances support it. Actually, to explicitly say that she is competent, might even backfire because it could be interpreted as showing off, or worse, as if there were a need for her to specify it, because people do not actually believe it is so. In fact, as mentioned also by van Eemeren et al. (2002), leaving premises or standpoints unexpressed is quite a common thing in argumentative discourse. The addressees of the discourse can nonetheless understand the unexpressed items with the aid of the Communication Principle (Grice 1975) and communication rules.

The 'competence' argument is supported by two sub-arguments: *I am a practical* woman and *I am experienced*. On the experience side, she decides to support her being experienced by sub-arguments such as:

(9) "I am myself a Head of Region",
(10) "Since 15 years I have been representing a rural territory",
(11) "I have slowly built my carrier step by step".

As far as the practical side is concerned, she appeals to the following sub-arguments:

(12) "I find solutions";
(13) "In my presidential program I only put things which work and which were previously tested";
(14) "I do not speak without having sound grounds for what I say".

6.1. Topical choice and audience adaptation in Royal's argumentation

Every argument advanced to support the standpoint 'I am the best alternative' has a perfectly corresponding argument which emphasizes the opposite trait in the opponent. As she puts it, while she is benevolent and runs for the candidacy of France for the sake of the French people, Sarkozy is doing so for his own interest;

while her competence has been proven during the years she was Head of the Poitou-Charentes Region, during the government of the Right Wing politicians (and therefore indirectly of Sarkozy, as the representative of the Right Wing), "a lot of things have been degraded in the country".

In order to prove Sarkozy's self-interest, Royal resorts to arguments available from electoral events. In fact, while mentioning that she is not after revenge ("I have no revenge to take"), she is alluding at the Clearstream issue**[ii]**, indirectly implying that the reason why Sarkozy is running for the presidency is because he wants to acquire power to get even with his enemy, namely Dominique Villepin.

A second argument defending the thesis that Sarkozy has a personal interest – again extracted from the topical potential at hand – concerns the fact that he is doing it for his ego. We learn from Royal that Sarkozy has previously asserted having 'a last step to reach' ("I do not have a last step to reach for myself, as he says"), and this last step consists exactly in becoming the president of France. She exploits his affirmation and turns it against him, by explicitly stating that, contrary to him, she does not have a last step to reach, emphasizing therefore her disinterest in becoming a president for herself.

I argue that she not only decided to exploit in her favour these events which put Sarkozy in a bad light, but that her choice from the topical potential was mainly influenced by them. Considering the situation at hand, Royal took the opportunity of emphasizing the benevolence side of her *ethos*, again on the basis of an opposition, by alluding to the Clearstream trial and by mentioning Sarkozy's "last step to reach", being certain that the audience would grasp what she implies, namely, that Sarkozy has a personal interest in becoming president. As often happens in adversarial debates, the topical selection of one of the arguers is influenced by the previous arguer's sayings or doings. In this case, Royal picked up from the topical potential at her disposal those events which best supported her standpoint 'I am the best alternative' and which best adapted to the audience's preference of having a president who puts the peoples' interests before his own.

As already mentioned, arguing that the Persuader is benevolent is not enough to persuade the public to vote for him. He must also convince of his competence. These two aspects cannot hold without one another. As you would not entrust your goals to a benevolent but incompetent Persuader, you would not be persuaded by a competent, cunning Persuader but one for whom you are only a

tool in achieving his own goals. Therefore both aspects need to be emphasized in order to gain the Persuadee's trust.

Royal in her argumentation focuses on the competence side as well, advancing arguments such as *I am a practical woman* and *I am experienced,* arguments aimed at supporting the sub-standpoint *I am competent*. This sub-standpoint has as well a negative counterpart aiming at discrediting the results obtained by the Right Wing and therefore by Sarkozy, as the representative of the Right Party. While mentioning the politics which has "shown its inefficacy" and the big amount of things which "have been degraded in the country", she refers of course to Right Wing politics. After mentioning the negative results of the opponent's party, she does not refrain from admitting that "some things were well done, not everything is caricaturized, for instance the former party came out successful in the fight for security while driving". In this way she emphasizes again her image of a fair candidate who acknowledges the other party's successes and does not aim at denigrating him at any rate.

6.2. *The dichotomizing strategy as a presentational device*
So far we have seen Royal's choices as far as the topical selection is concerned, more precisely the fact that she chooses her arguments from the events which shed a negative light on Sarkozy during his electoral campaign. We have also seen how she adapts to the audience's preference of having a disinterested and competent president. As far as the third aspect of the strategic maneuvering is concerned, Royal makes extensive use of dichotomies: her personal and moral traits are always contrasted with those of Sarkozy. As we have already seen, Royal's argumentation is antithetically construed: for every positive trait she adopts for herself, there is a negative counterpart which applies to her opponent:

I am competent versus *the Right Wing (and Sarkozy as major representative) is incompetent;*
I don't have a personal interest versus Sarkozy is doing it for revenge and for "reaching the final step".

Her use of polarizing terms can be seen in terms of a dichotomization strategy where the arguer wants to distance herself from the opponent as much as possible.
Her strategy is aimed at emphasizing her image as the best candidate for president, while in the meantime distance herself from the opponent, who is

portrayed as the worst option.

Royal defines her position as incompatible with and antithetic to that of the opponent and tries to exploit the dichotomous position in her favour and against the opponent.

It is important to notice the way the dichotomies are stylistically presented. Royal chooses to present the dichotomies tacitly, without any direct reference to her rival and often with merely denying charges (*I have got no revenge to take, I have got no demand to make, I have got no personal benefice in this affair, I am not bound to any financial power*) letting the public infer that while Royal has no revenge to take, no demand to make, no personal benefits in this affair, there is someone who does have a revenge to take, a demand to make, or a personal benefit: namely Sarkozy. If none of the candidates had no personal interest in running for the presidency, there would be no need to emphasize the lack of interest in her case. Therefore, if Royal felt the need to emphasize this, we are dealing with important information for the public, (cf. the Gricean Quantity Maxim). Due to the political backgound, there is no need for Royal to explicitly state who exactly is the person she refers to, the public is perfectly capable of drawing the correct inference.

Similarly to the example analyzed by Dascal, in fragment (1) as well, Royal presents her opponent as not being a contender worthy of the audience's trust. The dichotomy is therefore presented as unbalanced rather than a problem to be solved: it's already pre-decided in favour of the arguing party.

6.3. Linguistic versus non linguistic presentational devices

Communication and therefore persuasion, as a subfield of communication, are multimodal. Gestures, gaze and facial expression contribute to the persuasion process.

We have seen how Royals employs a dichotomizing strategy in order to distance herself from Sarkozy with the aim of persuading the audience that of the two candidates, she is the best alternative.

We analyzed Royal's appeal to *ethos* from the strategic maneuvering perspective and interpreted the dichotomizing strategy as one of the three aspects of the strategic maneuvering, namely the presentational devices.

I argue that linguistic presentational devices can be reinforced by non verbal strategies.

During the same presidential interview Royal employs hand gestures in a way that is revealing of her aim of distancing herself from her opponent. I interpreted these gestures as non linguistic presentational devices employed in order to reinforce the distance between herself and her opponent, a distance, as we have seen, already highlighted by a dichotomous characterization of the moral traits of the two parties. By making use of gestures as presentational devices, Royal helps the audience to clearly distinguish and differentiate between one candidate and the other. In most of the cases where she mentions the Right Wing and Sarkozy, she gestures with the right hand, while when mentioning her own party (Left Wing), she employs the left hand. Interestingly enough, the right hand is used also when negative concepts associated to the Right Wing are mentioned, such as: people who became rich because of real estate speculation, rich people who prefer not to work because they support themselves thanks to private incomes, and rich people in general, as opposed to the poor who are signalled instead by the left hand. Left hand gestures are also used when speaking about the working class and about work in general.

In Royal's use, the right hand is therefore associated to the Right Wing and to the rich people and in general to negative concepts such as speculation, while the left hand generally stands for her own party and positive concepts such as work.
Royal encourages the audience to draw these correlations by helping them to reach the desired inference through the use of hands. Gestures in this case are not only a presentational device which reinforces the distance between the two candidates, by assuring the two participants a well delimitated and fixed spot in the audience's mind, but fulfil a substitutive function as well. What is not explicitly stated (i.e. that voting for the Right Wing candidate equals to favouring the rich people who get richer and richer from real estate speculation and not by honest work) is nonetheless expressed by means of gestures.

Here are a few examples(3) from the interview in which Royal uses gestures to draw a line between the two parties and the values they defend. (an asterisk followed by R or L follows the word corresponding to a gesture of the Right (R) or Left (L) hand.

(15) *Je ne veux plus de cette injustice-là. Il y a trop de riches (*R) d'un côté et trop de pauvres (*L) de l'autre.*
I don't want this injustice anymore. There are too many rich (*R) people on one side and too many poor people (*L) on the other side.

(16) *Alors que quand j'entends le candidat de la droite (*R) dire qu'il va faire un bouclier fiscal...mais où va aller cet argent ? dans l'immobilier (*R), dans la spéculation (*R).*

When I hear the candidate of the Right (*R) saying that he is going to make a tax measure to limit tax paid by taxpayers... But where is that money going? In the real estate (*R), in the speculation (*R).

(17) *Faire revenir qui ? De toute façon tous ce qui veulent partir (*R), tous ces riches[iv](*R) [...] La promesse du bouclier fiscal n'as pas empêché certain d'entre eux à partir (*R), alors qu'il promet le bouclier fiscal. Mais où va cet argent ? (*R) Il va dans la spéculation immobilière, c'est-à-dire que les catégories moyennes (*L) ont de plus en plus mal (*L) à se loger, parce qu'il y a de la spéculation (*R). Des gens très riches (*R) qui sont de plus en plus riches, avec le pouvoir actuellement en place (*R) [...] Et c'est ça qui détruit l'économie (*R). Parce que à partir du moment où la rente (*R) est avantagée par rapport au travail (*R comes towards L), comme c'est le cas aujourd'hui (*R comes to the center) et comme c'est le cas dans le programme du candidat de la droite (*R returns to initial position to the Right), à ce moment-là, c'est l'économie qui est sapée (*R). Parce que si la rente est d'avantage récompensée que le travail, comment voulez-vous motiver les gens pour travailler, comment voulez-vous motiver les petites entreprises, si elles gagnent plus d'argent (*R) par la spéculation immobilière, qu'on créant des activités industrielles (*R comes towards L) dont la France a besoin?*

Who to come back ? Anyway, all those who wanted to leave (*R), all those rich people (*R) [...] The promise of a tax measure to limit taxes didn't stop some of them to leave (*R) when he promised them the tax measure. But where is that money going? (*R) It's going into the real estate speculation, that is, the middle class has difficulties to buy a house, because there is speculation (*R). Rich people (*R) who become even richer, because of the party on power at the present time (*R) [...] And that's what destroys economy (*R). Because if having a private income is more rewarding than working (*R comes towards L), which is the case today (*R comes towards center), and which is the case in the programme of the candidate of the Right, (*R goes back to intial position, to R), then economy is ruined (*R) Because if the private income is more rewarding than work, how do you want to motivate people to work, how do you want to motivate the small enterprises, if they earn more money by real estate speculation, then by

creating the industrial activities (*R comes to the L) which France needs**[v]**?

A similar use of hands has been observed already by Calbris (2003) concerning Lionel Jospin's gestures: "The Left in politics is situated at the locutor's left. Jospin refers to the Left by systematically exploiting his left hand. Every allusion to the left government, such as the Left's objectives, the Left's political programme, are represented by the left hand. [...] In a general way, the Leftist government is mentally situated on the left." (Calbris 2003, p. 67, my translation).

We can say that in both cases but especially in Royal's case, gestures have an active role in reinforcing the polarized positions of the two candidates, supporting therefore the dichotomy and emphasizing the distance between them, distance which cannot be bridged in any possible way.

7. *Conclusion*

In this paper I presented a case of appeal to *ethos* as a strategic maneuvering in political discourse. I showed how the candidate under analysis chooses her arguments while taking into account the intertwined aspects of the strategic maneuvering: topical potential, audience adaptation and presentational devices. As far as the third aspect is concerned, I showed how Royal's arguments are subservient to a dichotomizing strategy. I argued that the linguistic dichotomization strategy is reinforced by a non verbal presentational device having the same goal of delimiting and distancing the two parties. Moreover, I showed how gestures not only reinforce the verbal component, but also have a substitutive role, helping the audience to infer what has not been explicitly stated in the verbal discourse.

My tentative hypothesis is that one of the reasons why Ségolène Royal lost the elections is precisely because of this permanent reference to the other party. Either through verbal or through non verbal means she always used to mention her opponent or his party. Besides the fact that mentioning the negative qualities of the opponent while not present could be interpreted by the audience as speaking bad of the other behind his back and therefore perceived as an unfair tactic, permanently mentioning Sarkozy – whether positively or negatively – allows him to be somehow permanently 'present' in the audience's minds, even if not in the studio at the time being. Because as Lakoff puts it, the very mention of a thing or character irresistibly activates a frame in which that thing or character is dominant, and therefore makes it salient and powerful in the Receiver's mind.

NOTES

[i] I am indebted to Bart Garssen for the suggestion about dichotomization tactics.

[ii] The Clearstream issue refers to an accusation of having obtained illegal kickbacks from arms sales, accusation directed at Nicolas Sarkozy by Dominique Villepin, the previous French First Minister. The list brought to Villepin's attention, containing 89 French politicians, businesspeople and public figures involved in the illegal kickback money from arms sales and containing Sarkozy's name as well, later proved to be a fake. Sarkozy accused Villepin of having used the forged list in order to derail his presidential bid and of having continued to use it even when he knew that it was fraudulent. Villepin denies any such accusations and says Sarkozy is using his influence in order to pursue a personal vendetta.

[iii] The examples were already mentioned in a previous paper (Poggi & Vincze 2009)

[iv] For this paper's purpose a standard transcription is not necessary, therefore I developed a transcription method in order to signal the precise moments when right (*R) or left hand (*L) are employed by the speaker.

[v] All the translations from French into English were made by the author.

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ISSA Proceedings 2010 – Argument Schemes, Topoi, And Laws Of Logic

1. *Introduction*

For the reconstruction of implicit elements in argumentative discourse, the pragma-dialectical account of "argument schemes" serves as an important heuristic tool[i] Consisting of a description of the various ways in which an arguer may transfer the acceptability of the argument to that of the standpoint, the account enables the analyst to reconstruct the "unexpressed premise"[ii]. However, in reconstructing implicit elements, the analyst may also benefit from other accounts of the transfer of acceptability of the argument to that of the standpoint, such as *topoi* and laws of logic. These alternative accounts are especially helpful in the reconstruction of academic argumentation – scholarly, scientific, philosophical argumentation – in which the notion "necessity" plays a pivotal role.

In this paper, I will present a formal framework that encompasses the three

theoretical accounts of acceptability transfer principles just mentioned (argument schemes, *topoi*, and laws of logic)**[iii]**. First, I will discuss some insights from speech act theory that underlie the pragma-dialectical account of argument schemes and that will serve as a starting point for the development of the framework (§2). Next, I will introduce the notion "acceptability transfer principle" (ATP) and describe the four types of this principle that make up the framework (§3). Finally, I will briefly indicate how the existing accounts of argument schemes, *topoi*, and laws of logic fit into the framework (§4).

2. *Standpoints and arguments*
In the pragma-dialectical view, statements are reconstructed as standpoints when the speaker or writer (henceforth: the "arguer") meets or anticipates doubt of the listener or reader (henceforth: the "addressee") with regard to that statement. Among the felicity conditions of putting forward a standpoint are the condition (I) that the arguer believes that the standpoint is acceptable and (II) that the arguer believes that the addressee does not already deem the standpoint acceptable.

In the same view, statements are reconstructed as arguments when they may be assumed to contribute to the realization of the aim of the arguer to render the standpoint acceptable to the addressee. The felicity conditions for putting forward an argument can be derived from this assumption. Among these are the condition (I) that the arguer believes that the argument is acceptable and (II) that the arguer believes that the argument has justificatory force – that is, that accepting the argument renders the standpoint acceptable. The second condition can be further differentiated in the condition (IIa) that the arguer believes that the argument is relevant and (IIb) that the arguer believes that the argument is sufficient. In this way, the felicity conditions correspond to the three criteria that are generally used in order to evaluate the soundness of arguments: An argument has the potential of realizing the aim of the arguer when it is acceptable (A), relevant (R), and sufficient (S)**[iv]**.

In actual argumentative discourse, it is often the case that elements that are relevant for the evaluation remain implicit. In order to make these elements more explicit, the account of the felicity conditions for putting forward standpoints and arguments may serve as a heuristic device. The account is especially helpful for the reconstruction of the so-called "unexpressed premise". From the felicity conditions it can be derived that an arguer, having put forward a standpoint and an argument, is not only committed to the acceptability of both the standpoint and

the argument, but also to the justificatory force of the argument. By expressing the latter commitment in the form of a statement, the analyst has provided a theoretically motivated reconstruction of the unexpressed premise in the form of what I will call the "acceptability transfer principle" (ATP)[v]:

Accepting the argument renders the standpoint acceptable.

Abbreviating the standpoint as STP and the argument as ARG, a fully explicit reconstruction of a standpoint and an argument then consists of the following elements (*Figure 1*):


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1      STP
1.1    ARG
1.1'   ATP (1.1→1)
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Figure 1

Apart from serving as a heuristic device for the reconstruction of the unexpressed premise, the account of the felicity conditions for putting forward standpoints and arguments may also be helpful for the reconstruction of other elements of the discourse. From a theoretical point of view, the addressee is assumed not to already accept the standpoint, but to accept it after (I) having deemed the argument acceptable and (II) having deemed the argument to have justificatory force. Of course, the addressee is not obliged to act accordingly. He is entitled to doubt or criticize the acceptability and/or the justificatory force of the argument or – in terms of the reconstruction above – the explicit argument (1.1) and/or the acceptability transfer principle (1.1'). These theoretical insights can be used in order to reconstruct the attempts of the arguer to meet the real or anticipated response of the addressee. Such an attempt can either be reconstructed as an argument in support of the original explicit argument (1.1.1) or as an argument in support of the acceptability transfer principle (1.1'.1). Any of these two types of arguments come with new acceptability transfer principles, so that a fully explicit reconstruction consists of the following elements (*Figure 2*):

Figure 2

Of course, all the arguments may be further supported by other arguments, thereby repeating the same pattern.

3. *Acceptability transfer principles*

Having spelled out the theoretical insights that form the basis for the development of the framework, I will continue with a closer analysis of the content of the acceptability transfer principle. Standpoints and arguments express an attitude (positive or negative) with respect to a proposition, consisting of two elements: a referent (R) and a predicate (P). The referent of the standpoint may either differ from the referent in the argument or be the same, and the same applies to the predicates. So, from a formal linguistic point of view, there are exactly four possible combinations of a standpoint and an argument *(figure 3):*

Figure 3

In line with these possibilities, the general acceptability transfer principle formulated in the previous section can be further specified by substituting "standpoint" and "argument" by the propositions mentioned above. This amounts to a description of four different acceptability transfer principles:

(I) PROPOSITION TRANSFER

In this case, the acceptability of the argument is transferred to that of the standpoint while the propositional content of the argument differs completely from that of the standpoint. This principle reads as follows: "Accepting that Q is true of S renders acceptable that P is true of R."

(II) PREDICATE TRANSFER

In this case, the acceptability of the argument is transferred to that of the standpoint while the propositional content of the argument only differs from that of the standpoint with respect to the predicate. This principle reads as follows: "Accepting that Q is true of R renders acceptable that P is true of R."

(III) REFERENT TRANSFER
In this case, the acceptability of the argument is transferred to that of the standpoint while the propositional content of the argument only differs from that of the standpoint with respect to the referent. This principle reads as follows: "Accepting that P is true of S renders acceptable that P is true of R."

(IV) REPETITION TRANSFER
In this case, the acceptability of the argument is transferred to that of the standpoint while the propositional content of the argument is exactly the same as that of the standpoint. This principle reads as follows: "Accepting that P is true of R renders acceptable that P is true of R."

In figure 1 below, the four acceptability transfer principles are presented in terms of the reconstructions in the previous section.

	different referent	same referent
different predicate	**(I) PROPOSITION TRANSFER**	**(II) PREDICATE TRANSFER**
	1 P is true of R 1.1 Q is true of S 1.1' Q is true of S à P is true of R	1 P is true of R 1.1 Q is true of R 1.1' Q is true of R à P is true of R
same predicate	**(III) REFERENT TRANSFER**	**(IV) REPETITION TRANSFER**
	1 P is true of R 1.1 P is true of S 1.1' P is true of S à P is true of R	1 P is true of R 1.1 P is true of R 1.1' P is true of R à P is true of R

4. Conclusion

Having presented the framework, I will briefly indicate how the pragma-dialectical argument schemes, topoi, and laws of logic might fit in to it. I will do

that by giving some examples of each of the four possibilities.

Proposition transfer seems to occur very rarely in the mentioned accounts of acceptability transfer principles. A reason for this might be that in this type of transfer, the argument does not share one of its terms with the standpoint and that this feature has traditionally been deemed necessary in order for the transfer of acceptability to take place. However, if there is a specific relation between the referent of the argument and that of the standpoint, and there is a relation of the same kind between the predicates, a transfer of acceptability in fact does take place. An example of a standpoint and an argument in which such a relation occurs is mentioned in Aristotle's list of general *topoi*: "Temperance is beneficial, for licentiousness is hurtful." (*Rhetorica* 1397a). The *topos* involved is called "from opposites" and functions as an argument supporting the acceptability transfer principle – or, more specifically, the relevance – of the original argument:

1 Being beneficial (P) is true of temperance (R).
1.1 Being hurtful (Q) is true of licentiousness (S).
1.1' Accepting that licentiousness is hurtful renders acceptable temperance is beneficial (Q is true of S **->** P is true of R).
1.1'.1 The *topos* "from opposites" applies.

As far as laws of logic are concerned, in the example below, an instantiation of the law of the excluded middle functions as an argument supporting the relevance of the original argument *(Figure 4)*:

Figure 4

Predicate transfer corresponds with two of the argument schemes described in pragma-dialectics – symptomatic argumentation and causal argumentation. The statement that something is a symptom or a cause for something else functions as an argument supporting the relevance of the original argument:

1 P is true of R
1.1 Q is true of R
1.1' Q is true of R à P is true of R

1.1'.1 Q is a sign of P (symptomatic) / Q leads to P (causal)

The most famous example of reasoning can also be subsumed under the heading of predicate transfer. In this case, the *topos* functions as an argument supporting the relevance of the original argument:

1 Being an animal (P) is true of Socrates (R).
1.1 Being a man (Q) is true of Socrates (R).
1.1' Accepting that Socrates is a man renders acceptable that Socrates is an animal (Q is true of R -> P is true of R).
1.1'.1 The *topos* "What belongs to a species, also belongs to the genus" applies.

Referent transfer corresponds with the argumentation scheme that completes the pragma-dialectical typology – argumentation based on a comparison. The statement that something is similar to something else functions as an argument supporting the relevance of the original argument:

1 P is true of R
1.1 P is true of T
1.1' P is true of T -> P is true of R
1.1'.1 R is similar to T

Finally, repetition transfer is included in logical approaches (one may derive p from p) but not the pragma-dialectical typology (it is evaluated as a fallacy of circular reasoning / begging the question / *petitio principii*). Nevertheless, since the evaluation should always be preceded by a reconstruction, an analysis in terms of acceptability transfer principles might still be of help. Consider the following example (van Eemeren, Grootendorst & Snoeck Henkemans 2002, p. 130):

1 Being a punishable offense (P) is true of racial discrimination (R).
1.1 Being against the law (Q) is true of racial discrimination (R).
1.1' Accepting that racial discrimination is against the law renders acceptable that it is a punishable offense
(Q is true of R -> P is true of R).
1.1'.1 Being against the law implies being a punishable offense.

This example of circular reasoning is reconstructed as a predicate transfer in which the identity of the predicates P and Q is revealed by 1.1'.1, thus resulting in a repetition transfer. One could imagine that are also examples that can be

reconstructed as referent transfers in which the identity of the referents R and S can be revealed in the same way. And also examples in which the identity of both the predicates and the referents can be made more explicit. In fact, the analysis shows that there are three types of referent transfer, one of each of the other types of acceptability transfer principles proposed in this paper.

By reconstructing these examples and, in some cases, abstract schemata, I have indicated that the framework developed is in principle capable of hosting other accounts of acceptability transfer principles, notably those developed in the pragma-dialectical typology of argument schemes, the traditional lists of *topoi*, and the laws of logic. It might therefore be a fruitful starting point for further research concerning types of argumentation and the critical questions that are associated with these types (e.g. sign argumentation, definitions, analogy argumentation, pragmatic argumentation).

NOTES

[i] I would like to thank two anonymous referees for their helpful comments on a previous version of this paper.

[ii] For an explanation of the pragma-dialectical insights mentioned and used in this paper see van Eemeren, Grootendorst, and Snoeck Henkemans (2002).

[iii] The present paper is an extended and refined version of Wagemans (2008).

[iv] Cf. Johnson and Blair (1977). Since their definition of "argument" includes the conclusion or standpoint, they would not say that an argument is or is not A, R, and S, but rather that an argument passes or fails the conditions of A, R, and S. For a "dialectification" of the criteria A, R, and S and their relation to argumentation structures see Snoeck Henkemans (1994, ch. 4).

[v] The ATP differs from other formulations of the "unexpressed premise" (like Toulmin's "warrant", the pragma-dialectical "pragmatic optimum", etc.) in that the ATP is a general expression of the speaker's commitment with regard to the justificatory force of any explicit argument. Cf. Toulmin (2003, ch. 3); Van Eemeren and Grootendorst (1992, ch.6); Govier (1987, ch. 5), Garssen (2001).

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ISSA Proceedings 2010 – Burdens Of Persuasion And Proof In Everyday Argumentation
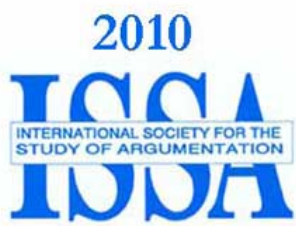
The concept of burden of proof is fundamentally important in argumentation studies. We know, for example, that it is very closely related to, and necessary for the study of informal fallacies, like the fallacy of argument from ignorance. But procedural methods for dealing with issues of burden of proof in argumentation have been worked out and applied in most detail in the field of law. There is controversy, however, concerning the extent to which legal methods for defining and determining burdens of proof can be applied to the study of problems of burden of proof arising in everyday conversational argumentation, and other context like forensic debate **[i]**.

In the recent literature doubts have been expressed about whether the model of burden of proof in law can be transferred to the study of how burden of proof operates in everyday conversational argumentation. In this paper we argue that the two different settings of argument use share an underlying dialectical structure that brings out some common elements that are useful to know about with regard to studying burden of proof. We argue that knowledge of these common elements enables us to derive many important lessons for argumentation theory as applied to nonlegal settings

Even in law, burden of proof is a slippery and ambiguous concept. Law is divided on how precisely to define burden of proof. Some experts in law distinguish between two types of burden of proof, whereas others take the view that there are three types. We are not in a position in this paper to attempt to give any answer to the question of how burden of proof should be defined or ruled on in law. Still, we think that some of the ways law has worked out for dealing with issues of burden of proof, over a long tradition of practical experience, are useful for building a model of burden of proof can be useful for helping us to analyze and evaluate everyday conversational argumentation outside the legal setting. In this paper we present such a model, and argue that it is structurally similar to the concept of burden of proof used in law in some interesting and important ways, but also different in certain ways.

1. *Doubts about Transference from Legal Argumentation*
Hahn and Oaksford (2007) have argued that the notion of burden of proof has been inappropriately extended into argumentation studies from its proper domain of application in law. They describe this extension as a "hasty transference" of legal concepts to less structured contexts of everyday conversational argumentation, citing Gaskins (1992) and Kauffeld (1998) as supporting their view (2007, p. 40). Kauffeld (1998, p. 246) argues that the procedural formality of courtroom argumentation has been responsible for the lack of progress in investigating burden of proof in everyday conversational argumentation outside the legal setting.

On Hahn and Oaksford's description of the historical background, Whately is accused of being the culprit who first carried out the attempted transference of the legal notion of burden of proof through his introduction of the notion of burden of proof in his writings on rhetoric. They cite difficulties and confusions in the way burden of proof is understood and operates in law. Among the chief items

of evidence for their view, Hahn and Oaksford cite the historical analysis of Gaskins (1992) to show how the US Supreme Court of the Warren era used creative shifting of burden of proof as a vehicle for progressive social change (p. 42). Gaskins (1992, p. 3), sees the argument from ignorance as forming the tacit structure of an increasingly common style of public argument: "I am right, because you cannot prove that I am wrong". He links the argument from ignorance to the way burden of proof is used as a device in law, characterizing burden of proof as "the law's response to ignorance, a decision rule for drawing inferences from lack of knowledge"(p. 4). Gaskins claims that burden of proof works in law as a shadowy device used by skillful advocates in legal battles to direct arguments from ignorance against each other. On his view, public argumentation is deteriorating badly through the use of shadowy devices of burden-shifting and arguments from ignorance.

In a rebuttal of Gaskins views about burden of proof, however, Allen (1994) showed through many examples of cases how American evidence scholars have studied burden of proof in depth and have built a body of knowledge about how it works in legal reasoning about evidence. Allen showed (1994, p. 629) that in the common law system, burden of proof is the tool for structuring the orderly presentation of the evidence, and that since the defining trait of litigation is the problem of arriving at a decision under conditions of uncertain knowledge (p. 633), argument from ignorance is a legitimate form of argument in that setting. Arguments are evaluated by standards of proof, like preponderance of the evidence, that are not shadowy but precise. He argues that standards of proof are well articulated and made known in advance to all participants in a trial, and that they work in a trial in a precise way to moderate the argumentation on both sides in a way that is fair to the litigants and that allows the evidence on both sides to be presented.

2. *Wigmore's Example*
Wigmore (1981, p. 285) has a simple example of burden of proof in everyday conversational argumentation. It is interesting to note that the example is a three party dialogue. The two opposed parties A and B are at issue on any subject of controversy, not necessarily a legal one, and M is a third-party audience or trier who is to decide the issue between A and B.

Suppose that A has property in which he would like to have M invest money and that B is opposed to having M invest money; M will invest in A's property if he can

learn that it is a profitable object and not otherwise. Here it is seen that the advantage is with B and the disadvantage with A; for unless A succeeds in persuading M up to the point of action, A will fail and B will remain victorious; the "burden of proof", or in other words the *risk of nonpersuasion*, is upon A.

This example is used by Wigmore to show that the situation of the two parties is very different. The risk of failure is on A, because M will fail to carry out the action that A is trying to persuade him to carry out if M remains in doubt. Moreover, M will remain in doubt unless A brings forward some argument that will persuade him that investing in A's property is a profitable object. In other words, B will win the dispute unless A does something. However, as Wigmore points out (p. 285), this does not mean that B is "absolutely safe" if he does nothing. For B cannot tell how strong an argument A needs to win. It may be that only a very weak argument might suffice. Therefore to describe burden of proof in this example, Wigmore calls it the risk of nonpersuasion, describing it as "the risk of M's nonaction because of doubt". The example shows that the burden of proof is this risk that falls on one side or the other in the dispute. In this example, it falls on A. This example is a very good one to help us grasp in outline basically how burden of proof works in everyday conversational argumentation: "this is the situation common to all cases of attempted persuasion, whether in the market, home, or the forum."(Wigmore, 1981, p. 285). However, there are several problems with it that need to be examined.

The first problem with Wigmore's example with respect to studying burden of proof in it is to classify the type of dialogue that it is supposed to represent. To determine whether Wigmore's example best fits the framework of a deliberation dialogue or persuasion dialogue, we have to look at the characteristics of each of these two types of dialogue and perhaps also contrast them with other types of dialogue of the basic types described in (Walton & Krabbe, 1995). The six basic types of dialogue recognized there are persuasion dialogue, inquiry, negotiation dialogue, information-seeking dialogue, deliberation, and eristic dialogue.

The kind of legal argumentation found in a trial would most likely best fit the framework of the persuasion type of dialogue. But there is also evidence that the example could be seen as a deliberation, because the argumentation in it is supposed to lead to a decision about action, namely the action of M investing the money. But burden of proof works differently in persuasion dialogue than in deliberation dialogue. Deliberation dialogue arises from the need for action, as

expressed in a governing question formulated at the opening stage, for example 'Where shall we go for dinner tonight?'. Proposals for action arise only at a later stage in the dialogue (McBurney *et al.*, 2007, p. 99), and are grounded on personal preferences or practical reasoning. There is no burden of proof set for any of the parties in a deliberation at the opening stage. However, at the later argumentation stage, once a proposal has been put forward by a particular party, it will be reasonably assumed by the other participants that this party will be prepared to defend his proposal. One participant can ask another to justify a proposition that the second party has become committed to. But when the second party offers the justification attempt, the dialogue shifts into an embedded persuasion dialogue in which the second party tries to persuade the first party to become committed to this proposition by using an argument.

A key factor that is vitally important for persuasion dialogue is that the participants agree on the issue to be discussed at the opening stage. Each party must have a thesis to be proved. This setting of the issue is vitally important for preventing the discussion from wandering off and never concluding, or by shifting the burden of proof back and forth and never concluding. In deliberation dialogue however, the proposals are not formulated until a later stage (Walton, 2009). It makes no sense to attempt to fix the proposals at the opening stage, because they need to arise out of the brainstorming discussions that take place after the opening stage. Burden of proof is only operative during the argumentation stage in relation to specific kinds of moves made during that stage, and when it does come into play there is a shift of persuasion dialogue which allows the appropriate notion of burden of proof to be brought in from the persuasion dialogue.

Wigmore tells us in the example that A would like to have M invest money in his property, and that B is opposed to having M invest money. This seems to make the argumentation in the example fit a deliberation type of dialogue, where A is making a proposal to M invest money in his property, while B is making the alternative proposal that M not invest money in this property. On the other hand, there are three significant pieces of evidence that persuasion dialogue is involved. The first piece of evidence for this interpretation is Wigmore's statement that M will invest in A's property "if he can learn that it is a profitable object and not otherwise". This suggests a persuasion dialogue in which there is a conflict of opinions concerning whether a proposition is true (acceptable) or not. The

proposition at issue is whether investing money in the property will be profitable or not. The proper type the dialogue for resolving such conflicts of opinions is the critical discussion, or persuasion type of dialogue. A second piece of evidence that the example is a persuasion dialogue is Wigmore' description of the example when he tells us (p. 285) that the desire of A and B "is to persuade M as to their contention". A third piece of evidence is that Wigmore equates the burden of proof in his example with the risk of nonpersuasion, suggesting perhaps that the persuasion type of dialogue better represents the setting he has in mind.

There is also evidence of a dialectical shift in the example from deliberation dialogue to persuasion dialogue. This type of shift is quite common in situations where two parties are having a deliberation dialogue and each party has put forward a proposal it is advocating is representing the best choice on what to do. But as each side puts forward its proposal, it gives all kinds of reasons for accepting this proposal as a good idea, based on factual considerations. For example supposing two parties are on a bicycle path are deliberating about which bike path to take next at a fork in the road, and one party says there is construction along the path leading from the left side of the fork, while the other claims there is no construction along that path. The discussion started out as a deliberation, but then shifted to a persuasion dialogue concerning the factual issue of whether there is construction on that path or not.

The issue of which type of dialogue Wigmore's example can best be seen as fitting is highly controversial. Exponents of the deliberation model of dialogue as the most important setting for burden of proof in everyday conversational argumentation (Kauffeld, 1998) are likely to portray it as an instance of deliberation, because basically it is about taking a decision for action in a situation requiring choice. On the other hand, as we have seen, there is evidence that Wigmore would see it as being of the same type of dialogue is the kind of argumentation used a legal trial, namely persuasion dialogue. The best analysis is to see it as a shift from deliberation to persuasion.

3. *Continuation of the Example*
The problem with trying to use the example to derive any lessons from it about burden of proof in everyday conversational argument as opposed to legal argument is that the example itself is too short. To study burden of proof in a legal case, we would need a more detailed example in which arguments are put forward on one side and critically questioned or counterattacked by the other

side. To remedy this defect, let's extend the example by putting some argumentation that might be used in it in the form of a dialogue.

A: I have heard from an expert town planner that the value of property in that area will increase.
B: This expert town planner is a biased source. He is your brother-in-law.
A: Yes that's true, but what he's saying is right because many other experts agree with him.

We can imagine this dialogue carrying on with each side taking its turn to present arguments and counter-arguments, but even this much of the dialogue is enough to bring out some features of burden of proof of interest.

The first thing to note is that this part of the dialogue looks like a typical persuasion dialogue in which there is a conflict of opinions about whether the investment will be profitable or not, and each side offers reasons to support its viewpoint. At his first move, A puts forward an argument from expert opinion, and B attacks this argument using argument from bias. The attack is based on the implicit premise that somebody's brother-in-law is a biased source. In this instance, the assumption is a plausible one, and hence the counterargument from bias casts doubt on the preceding argument from expert opinion. At the next move, A concedes the allegation of bias, but argues that even so the argument from expert opinion is sustainable because other experts agree with the one cited in the argument. This extension of the argumentation in Wigmore's example looks very much like a typical persuasion dialogue, or critical discussion type of argumentation. If that interpretation of it is justified, it would be evidence for the dialectical shift interpretation.

In (Walton 1988) global burden of proof that applies over all three stages of a dialogue was distinguished form local burden of proof that applies only during the argumentation stage. The second thing to note is that there is a global burden of proof distribution that is set in place at the opening stage of the dialogue that is necessary to know about in order to evaluate the argumentation that takes place in the dialogue. This global burden of proof could be found in our example in the following way. A has a positive thesis to prove, namely the proposition that investing in this property will be profitable. A has to overcome M's doubts about this proposition before he will take the action of investing in the property. B, on the other hand, has no positive thesis to be proved in order to win the dialogue.

He doesn't have to prove that the proposition that investing in this property will be profitable is false, although if he did prove that proposition, he would win the dialogue. But what he needs to do is less than that. All he has to do is create some doubts on whether the investment will be profitable. More precisely, he needs to do even less than that.

Wigmore (1981, p. 286) did pose the question of what the differences are between burden of proof in litigation and burden of proof "in affairs at large" outside the legal setting. His answer was that the procedures and penalties are different in litigation, but these differences are minor compared to what he called a single "radical difference". He called this difference (p. 286) "the mode of determining the propositions of persuasion which are a prerequisite" to the actions of the third-party trier (audience). What did he mean by this? Basically he meant that there are laws of pleading and procedure which subdivide groups of data and assign these subgroups to one or the other party as prerequisites for getting a favorable outcome from the trier. For example the law defines what needs to be proved (the elements) in order for the prosecution to win in a murder trial, usually killing and guilty intent. The law also specifies what needs to be shown by the defense in order to persuade the tribunal to reverse its action, that is, the law specifies exceptions that constitute an excuse or justification. In other words, on Wigmore's view, burden of proof works basically the same way in law as in arguments on practical affairs outside of law, except that law narrows the groups of propositions that need to be proved for one side to obtain a favorable ruling of the trier, and kinds of arguments that the other side can use to reverse a favorable ruling.

According to Wigmore's description of the example, M will remain in doubt unless A brings forward some argument that will persuade him that investing in his property is profitable. In other words, according to the example, B doesn't have to do anything at all in order to win the dialogue. In short, the argumentation in this example has the same structure of burden of persuasion as a legal trial, where burden of persuasion is set at the opening stage, and determines what each party needs to do in order to win when the dialogue reaches the closing stage.

4. *Kinds of Burden of Proof in Law*
According to *McCormick on Evidence* (Strong, 1992, p. 425), the term 'burden of proof' is ambiguous, covering two different notions, burden of persuasion and burden of production. The latter is sometimes also called the burden of producing

evidence or the burden of going forward with evidence. The burden of persuasion can be described as an obligation that remains on a party to a dispute for the duration of the dispute, and that once discharged, enables the party to succeed in proving his claim, resolving the dispute. According to Wigmore (p. 284), "The risk of non-persuasion operates when the case has come into the hands of the jury, while the duty of producing evidence implies a liability to a ruling by the judge disposing of the issue without leaving the question open to the jury's deliberations." The burden of persuasion never shifts from one side to the other during a trial. It appears, however, that he burden of production can shift back and forth as the trial proceeds.

Fleming (1961) has carefully drawn the distinction between the burden of persuasion, and the burden of production of evidence. The usual requirement of burden of persuasion in civil cases is that there must be a preponderance of evidence in favor of the party making the claim, that is, the proponent, before he is entitled to a verdict (Fleming, 1961, p. 53). This requirement is usually explained as referring not to the quantity of evidence or the number of witnesses but to the convincing force of the evidence (Fleming, 1961, p. 53). In criminal cases (p. 54), the burden is to show the guilt of the accused beyond reasonable doubt. This test is very rare as applied to civil cases, but there is an intermediate test (54) that calls for clear and convincing evidence. The burden of production first comes into play at the beginning of the trial. If neither party offers any evidence at the trial, the outcome is that one party will lose. To use Wigmore's phrase, this party may be said to bear the risk of non-production of evidence.

Williams (2003, 168) contrasts the burden of production with tactical burden of proof, which refers to the burden resting on a party who, if he does not produce further evidence, runs the risk of ultimately losing on that issue. According to Williams (2003, p. 168) ruling on the burden of production involves a question of law, whereas the tactical burden of proof is "merely a tactical evaluation of who is winning at a particular point in time". According to Prakken and Sartor (2009, p. 227), the distinction between burden of production and tactical burden of proof is usually not clearly made in common law, and is usually not explicitly considered in civil law countries, but is relevant for both systems because it is induced by the logic of the reasoning process.

Prakken and Sartor (2009, p. 228) have built a logical model of burden of proof in law, and their clarification is helpful. The burden of persuasion specifies which

party has to prove some proposition that represents the ultimate *probandum* in the case, and also specifies to what proof standard has to be met. The burden of production specifies which party has to offer evidence on some specific issue that arises during a particular point during the argumentation in the trial itself as it proceeds. Both the burden of persuasion and the burden of production are assigned by law. The tactical burden of proof, on the other hand is decided by the party putting forward an argument at some stage during the proceedings.

It is a familiar aspect of burden of persuasion that various different levels are set for successful persuasion, depending on the nature of the dispute that is to be resolved by rational argument. Here we have the familiar standards so often cited in connection with burden of persuasion: scintilla of evidence represents a weak standard, preponderance of evidence a stronger one, clear and convincing evidence still a stronger one, and proving something beyond a reasonable doubt represents the highest standard. In a criminal prosecution, the party who has the burden of persuasion of the fact must prove it according to the standard of beyond a reasonable doubt. In the general run of issues in civil cases the burden of persuasion is fulfilled by a preponderance of evidence, but in some exceptional civil cases it is fulfilled by clear strong and convincing evidence (Strong, 1992, p. 437). There is some controversy about how these standards should be precisely defined. For example, what it means to say that the proof standard is one of preponderance of the evidence, or greater weight of the evidence is open to dispute. According to *McCormick on Evidence* (Strong, 1992, p. 438) preponderance of evidence means that the argument offered is more convincing to the trier then the opposing evidence. One other standard deserves mention here. Probable cause is a standard of proof used in the U.S. to determine whether a search is warranted, or whether a grand jury can issue an indictment.

Farley and Freeman (1995) presented a computational model of dialectical argumentation under conditions where knowledge is incomplete and uncertain. This model has the notion of burden of proof as a key element, where it is defined as the level of support that must be achieved by one side to win an argument. Under this account, burden of proof has two functions (Farley & Freeman, 1995, p. 156). One is to act as a move filter, and the other is that to act as a termination criterion during argumentation that determines the eventual winner of the dialogue. The move filter function relates to the sequence of intertwined moves put forward by the two parties, often called speech acts, over the sequence of

dialectical argumentation. When one party puts forward what Farley and Freeman call an input claim (p. 158), there is a search for support for that claim from the input data. This process has been completed when the claim is supported by propositions from the input data. If no support can be found, the argument ends with a loss for the side (p. 158). Thus on their analysis, fulfilling any burden of proof requires at least one supporting argument for an input claim. If side one is able to find support for the claim it made, control either passes to other side, which then tries to refute the argument for the claim using both rebutting or undercutting arguments. If an undercutting move is successful, it may result in a change to the qualification of the claim originally made, or even to the withdrawal of the supporting argument. Put in terms of the theory of van Eemeren and Houtlosser (2002), this back and forth argumentation is characteristic of the speech acts and rejoinders made by both sides during the argumentation stage. The goal of the proponent is to generate the strongest possible arguments for its side, and the goal of the opposing side is to respond to those arguments by making appropriate critical moves, like undercutters and rebuttals.

On the analysis of Farley and Freeman (1995, p. 160) burden of proof always has two elements: which side of the argument bears the burden, and what level of support is required by that side to fulfill that burden.

5. *Burdens of Proof and Stages of Dialogue*
The distinction between burden of production and the tactical burden is important in law because there are three parties involved in the typical kind of argumentation found in a legal trial, or perhaps even four in some cases, where there is a jury in addition to the judge. As noted above, the burden of production comes into play because of the possibility of a ruling by the judge disposing of the issue without leaving the question open to the jury to decide. This is a complication which does not appear to arise in matters of burden of proof in everyday conversation argumentation. Indeed, in many examples of argumentation in everyday conversation argumentation there only seem to be two parties involved, the proponent puts forward some argument and a respondent who questions or criticizes it. In a persuasion dialogue of the type used to model this kind of everyday conversational argumentation, there are only two participants, the proponent and the respondent, although consideration has been given to including a third-party audience in models of persuasion dialogue

(Perelman & Olbrechts-Tyteca, 1989; Bench-Capon, Doutre & Dunne, 2007). Hence the distinction between the burden of production and tactical burden of proof, although it may be very important in law, may not be so significant, or even significant at all when it comes to dealing with problems of burden of proof in everyday conversational argumentation. However, there is a fundamental distinction between two main species of burden of proof that is clearly important in law and that can be, and should be, applied to the study of burden of proof in everyday conversational argumentation. This distinction can be explained by defining some formal characteristics of argumentation in dialogue that are, we argue, common to both legal argumentation and everyday conversational argumentation.

A dialogue is formally defined as an ordered 3-tuple (*O, A, C*) where *O* is the opening stage, A is the argumentation stage, and *C* is the closing stage (Gordon & Walton, 2009, p. 5). Dialogue rules (protocols) define what types of moves are allowed by the parties during the argumentation stage (Walton & Krabbe, 1995). At the opening stage, the participants agree to take part in some type of dialogue that has a collective goal. Each party has an individual goal and the dialogue itself has a collective goal. The initial situation is framed at the opening stage, and the dialogue moves through the opening stage toward the closing stage.

The distinction between global and local burden of proof (Walton, 1988) can now be defined more precisely. The global burden of proof refers to what has to be proved to remove the doubt that originated a dialogue, thus winning the dialogue. Global burden of proof is defined as a 3-tuple (*P, T, S*) where *P* is a set of participants, *T* is the thesis to be proved or cast into doubt by a participant and *S* is the standard of proof required to make a proof successful at the closing stage. The local burden of proof defines what requirement has to be fulfilled for a speech act, or move like making a claim, to be successful. The global burden of proof is set at the opening stage, but during the argumentation stage, as particular arguments are put forward and replied to, there is a local burden of proof for each argument that can change. This local burden of proof can shift from one side to the other during the argumentation stage as arguments are put forward and critically questioned. Once the argumentation has reached the closing stage, the outcome is determined by judging whether one side or the other has met its global burden of proof, according to the requirements set at the opening stage.

The type of dialogue that has been studied most intensively so far is the persuasion dialogue. The two participants are called the proponent and the respondent. There are two types of persuasion dialogue. In a dispute, the proponent has as her thesis a designated statement T and the respondent has as his thesis the opposite statement ~*T*. In a dissent, only the proponent has a thesis, and the respondent has the goal of casting sufficient doubt on the proponent's thesis so that her efforts to prove it will fail. In the dissent, the proponent's goal is to prove *A*, while the goal of the respondent is merely to show that the proponent's attempt is not successful. In the dissent, the respondent's goal is merely one of critical questioning rather proving. In a dispute, each side has what is called in law an ultimate *probandum*. It is this that will determine global burden of proof. Local burden of proof arises with respect to a move (speech act) made during the argumentation stage.

In the general theory of argumentation in dialogue, burden of proof is important at the global level of a dialogue as well as at the local level. At the global level, burden of proof pertains to a participant's goal (sometimes referred to as his or her obligation) in a dialogue. But it does not necessarily apply to all kinds of dialogue in which there is argumentation. For example, in a negotiation, there seems to be nothing corresponding to global burden of *proof*, as such, whereas in other types of dialogue, a participant's goal is to prove (or disprove) something. The investigation of burden of proof can only proceed by clearly distinguishing between local level burden of proof and global level burden of proof.

Finally, we briefly respond to the objection that arguments are often put forward in everyday conversational settings in a situation in which there has been no agreement beforehand on what the global issue of the dialogue is. Many examples might be cited of ordinary conversational exchanges that are brief and fragmentary, where there is no evidence at all that the participants have agreed to debate a particular issue, or have made any agreement on what standard of proof should be required for a successful argument. We might infer from such observations that trying to apply the distinction between global and local burden of proof in such cases is useless. The general issue is how we can apply abstract normative models that have a global as well as a local level.

The best counterargument is to say that analyzing informal fallacies requires both levels. Argument from ignorance is a case in point, and fallacies of relevance might also be cited. Whether an argument should rightly be considered relevant

depends on the assumption that there is some issue set at the global level that it is supposedly relevant to. If we are examining an instance of an alleged fallacy of relevance, and there is no evidence of global level data, we have no basis for determining whether the argument in question really is fallacious or not. It might be said that in such case also its purpose and reasonableness are unclear. We would say that the existence of such common cases in short examples is not a good reason for rejecting the usefulness of applying normative models of dialogue to such cases, in which the goal and therefore relevance is determined by means of implicatures (Grice. 1975), which are drawn from other factors different from dialogical moves, such as context and dialogical roles.

6. *Conclusions*

In this paper we have argued that in law there is an important distinction between global burden of persuasion that applies over the whole course of the trial, and local evidential burdens that apply during the argumentation stage of the trial. We have argued that this fundamental distinction applies also to everyday conversational argumentation. We distinguished different types of dialogue. Burden of proof is not a global factor in some of these types, like negotiation dialogue. We concentrated on the persuasion or critical discussion type of dialogue. We argued that although there are differences in the way burden of proof is managed in legal argumentation and everyday conversational argumentation, the distinction between global and local burden of proof is fundamental to both.

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ISSA Proceedings 2010 – Engineering Argumentation In Marriage: Pragma-dialectics, Strategic Maneuvering, And The "Fair Fight For Change" In Marriage Education

1. *Introduction*

One of the more important innovations in communication and argumentation theory is the recognition of communication research as a design enterprise (e.g., Aakhus & Jackson, 2005; Jackson, 1998; Weger & Aakhus, 2003). Treating argumentation research as a design enterprise highlights the importance of understanding the reflexive nature between practices and processes – often the quality of argumentation reflects the conditions (individual, situational, social, etc.) under which the interaction occurs. Marital argument constitutes an ideal subject for studying communication design properties because, like most other naturally occurring conversation, it is regulated only by cultural norms and routinized practices developed by the speakers themselves. Interpersonal argumentation generally lacks purposeful design in terms of formal procedures, referees, or rules for appropriate contributions to the dialogue. These starting conditions result in participant-regulated interaction that are sometimes fraught with potential obstacles to productive argumentation. Two of the obstacles which pose particular problems for handling marital arguments are the "hot initiation problem," and the "coherence problem." Although these obstacles can get in the way of resolving any interpersonal argument, research suggests that they are particularly associated with dysfunctional conflict in marriage (e.g, Sillars & Wilmot, 1994; Retzinger, 1991).

An approach to marital argumentation that emphasizes the possibilities of designed interventions aimed at alleviating the most common stumbling blocks to successful conflict management would aid in developing theories of interpersonal argumentation as well as helping people caught in patterns of unproductive argumentation. The practical significance of a successful argument intervention system is huge considering that the consequences of poorly handled marital argumentation potentially impact the mental and physical well being of both married couples (e.g., Roloff & Reznik, 2008) and their children (e.g., Keller, Cummings, Peterson, & Davies, 2009). The "Fair Fight for Change" (e.g., Bach & Wyden, 1969) represents one attempt at communication design that aims to reduce dysfunctional marital argument. In this essay, I intend to examine the problems of hot initiation and lack of coherence, describe the Fair Fight for Change, and import concepts from strategic maneuvering and pragma-dialectics as an example of how argumentation theory can be directly applied to marital intervention strategies.

2. *Two Obstacles to Successful Marital Arguments*
Before I continue I should briefly explain what I mean by "successful" marital argumentation. Communication theory generally recognizes that messages tend to be organized around simultaneously satisfying three inter-related interpersonal goals (e.g., Clark & Delia, 1979). Firstly, people want to accomplish some task from communicating, such as gaining assistance, receiving/providing emotional support, settling a disagreement, and so on. Secondly, people use communication to present and maintain a desired identity. Thirdly, people use communication to manage their relationships with other people. The success of a marital argument, therefore, can be judged based on the same three criteria. First, does the argument result in settling the disagreement? Second, in the course of arguing, do both people emerge from the discussion able to claim a desired identity? And third, during the course of the argument, do people engage in behaviors known to corrode the relationship? Success is not taken to be a matter of either/or but one of degree since marital arguments can be more or less successful depending on the extent to which these three criteria are met.

One obstacle to successful marital argument is "hot initiation." Hot initiation refers to arguments instigated under the influence of negative emotional experiences such as anger, shame, frustration, and so forth. For the most part, interpersonal arguments arise in the natural flow conversation, rather than as a

planned or pre-scheduled activity (e.g. , Newell & Stutman, 1991; Vuchinich, 1990), and function as conversational, identity, or relationship repair mechanisms (e.g., Jackson & Jacobs, 1980). Arguments between married partners often get smuggled in with other topics that then elicit disagreement. Simple disagreements become problematic when one partner believes that the other is intentionally denying some desired outcome, resulting in feelings of anger, frustration, and rage (Clore, Ortony, Dienes, & Fujita, 1993; Retzinger, 1991). The source of hot initiation need not occur in the current interaction, however. Research suggests that experiencing stressful interactions earlier in the day at work (e.g., Bolger, DeLongis, Kessler, & Wethington, 1989) or with one's spouse (Gottman & Driver, 2005) can result in hot initiation later in the day. Emotions like stress, anger, and frustration influence cognition and message production by increasing the likelihood that messages reflect negative affective states instantiated in personal attacks, threats, and other types of belligerence (e.g., Guerrero & La Valley, 2006). Gottman's extensive research on marital interaction points to the importance of initiating arguments in nonaggressive ways. Since partners (especially distressed couples) tend to reciprocate their partner's behavior, hostility at start up strongly predicts a hostile response and the escalation of negative behaviors (e.g., Gottman, 1994; Gottman, Coan, Carrere, & Swanson, 1998; Gottman & Driver, 2005). Over time, serial hostile interactions erode married couples' love and admiration for each other thereby putting their marriage in jeopardy (Gottman, 1994; Markman, Rhoades, Stanley, Ragan, & Whitton, 2010).

Although somewhat counterintuitive, hot initiation can also result in arguers withholding arguments or refusing to defend standpoints (e.g., Johnson & Roloff, 2000). Gottman (1994) explains that unpleasant physiological responses might be to blame for the tendency of males to withdraw from arguments at a slightly higher rate than females. High physiological arousal experienced during marital arguments results in people wanting to escape the painful stimulus by withdrawing either physically or psychologically from the discussion. To the extent that males experience somewhat higher physiological arousal at the beginning of marital arguments (e.g., Gottman, Coan, Carrere, & Swanson, 1998), males are somewhat more likely to withdraw from arguing by refusing to continue engagement once an argument has begun. The anticipation of negative affect results in some people from withholding disagreement (Johnson & Roloff, 2000). Hot initiation, therefore, is an obstacle to successful argumentation because it

increases the likelihood of damaged relationships, personal identities, and resolution of the disagreement. Any designed intervention strategy that interrupts, or at least helps couples manage, hot initiation of marital arguments would represent a giant leap forward.

A second obstacle to successful marital argument involves accidental drifting, or purposely shifting, away from the point at issue in the discussion (i.e., the "coherence problem"). In more institutionalized contexts, rules exist for the kinds of contributions people can make in a turn at talk. In every day interpersonal interaction, however, people make these decisions in response to the unfolding discussion. The couple's ability to stay on topic through to resolution, in part, determines whether a marital argument is successful. Although the exact "topic" under discussion cannot always be clearly identified (Schegloff, 1990), under most conditions, people seem to orient more to the general issue or point of a conversation partner's message (i.e., issue/global coherence, Tracy, 1984). In arguments, issue/global coherence involves making contributions germane to the general point at issue whereas event/local contributions take up issues related to details of a partner's message but which remain peripheral to the general point at issue. Each message in a disagreement opens up multiple "disagreement spaces" (e.g., Jackson, 1992) only some of which pertain to the problem under discussion. Topic drift, or digressions, can occur when people take up disagreement over side issues with limited, or no, relevance to the point at issue. Focusing on irrelevant or insignificant details can come about in many ways. For example, Tracy (1984) suggests that difficulty with comprehending a message elevates the probability that a contribution to a conversation relates to some local point rather than to the main issue. Retzinger (1991) and others find (e.g., Zillman, 1993) "hot" emotions, like anger and rage, reduce people's attentional capacity and ability to comprehend complex messages. Likewise, Jacobs, Jackson, Stearns, and Hall (1991) demonstrate how personal criticism result in digressions by shifting arguers' attention from the discussion problem to repairing a damaged identity.

Besides focusing too narrowly, argument coherence can also suffer from focusing on the general issue but ignoring an opponent's specific argumentation in support of a standpoint. Jacobs and I (Weger & Jacobs, 1995) identify the "drop and shift" tactic as an example. The drop and shift is a pattern in which both arguers offer examples in support of their standpoint in which the examples fail to compete with each other in terms of their impact in deciding the issue. Neither offers

argumentation directly relevant to the other person's defense of the standpoint although each person's examples bear somewhat on the overall topic. Research suggests that a lack of topic coherence during conflict is one of several dysfunctional conflict patterns and associates with dissatisfying marital relationships because couples who fail to tackle one issue from beginning to end are less likely to resolve marital disagreements. (e.g., Sillars & Wilmot, 1994). Failing to resolve an issue can result in serial arguing in which couples rehash the same topic over and over leading to more and more hostility in interactions (e.g., Johnson & Roloff, 2000) We can see, therefore, that lack of coherence constitutes an obstacle to successful marital argument.

The example below illustrates topic drift in an argument between a husband and wife. The argument begins with the wife attempting to negotiate an agreement with her husband regarding the chore of cooking. In turn 2, the husband suggests that he is unwilling to make a deal because he considers cooking meals to be her responsibility. The argument begins to drift almost immediately when the wife takes up the issue of whether she has a responsibility to cook for a person who is sixteen years old by questioning his definition of the word "kid." Again in turn 5, the wife drifts further by questioning whether he actually cooks "all the time," and then tries to get the conversation back on track by attempting to get back to the problem. The husband in turn 6 then digresses by introducing a new issue by asserting that she does not shop for groceries. The next three turns of the excerpt deal mostly with the new issue until the wife, at the end of turn 9, reintroduces the issue of cooking by questioning the husband's motive for wanting her to be responsible for doing the cooking. In turn 10, the husband shifts strategies and suggests his expectations for meals are not being met by his wife. The wife responds in turns 11 and 13 with another digression by teasing her husband about his weight by suggesting he needs to be eating less. The example demonstrates how digressions reduce the probability that initial issue under discussion will get resolved. The wife is offering to negotiate the husband's initial request but the discussion gets off track quickly and by the time the example closes, we can see a potentially productive negotiation ends with a personal criticism of the husband's weight.

| 1 | W | Would you like me to make the meals? Then I want something back. That's all, I'll make you a deal. |

2	H	No, I think you just *do* it because it's your responsibility. You've got kids to feed and stuff.
3	W	Why do you say that "kids to feed" thing? We have *one* kid, he's a grown up. He can cook for himself.
4	H	He is sixteen. He cooks for himself all the time.
5	W	He doesn't *all the time*. Anyway, we are supposed to discuss our problem so I . . .
6	H	At least you could go grocery shopping.
7	W	I buy lots of ready to eat things that people don't eat.
8	H	Like, *what*? Like corn in a *bag*.
9	W	That is not true. There is T.V. dinners in there. There's pot pies. There's burritos. There's plenty of sandwich meat and stuff. There's *lots* of things that people if they take 10 minutes they can make their own meal. Nobody is starving here. I think you just need to see me *cook* for some reason.
10	H	I just, it's just that I grew up eating nice full healthy well balanced meals.
11	W	You don't need full meals anymore, BURT. You need little bitty meals.
12	H	Don't say my name! This is going to be broadcast on the internet (laughs).
13	W	You don't need big meals. You need little meals. You need to have salads for dinner. That's it – I'll make a salthe cooking. In turn 10, the husband shifts strategies and suggests his expectations for meals are not being met by his wife. The wife responds in turns 11 and 13 with another digression by teasing her husband about his weight by suggesting he needs to be eating less. The example demonstrates how digressions reduce the probability that initial issue under discussion will get resolved. The wife is offering to negotiate the husband's initial request but the discussion gets off track quickly and by the time the example closes, we can see a potentially productive negotiation ends with a personal criticism of the husband's weight.

3. *The "Fair Fight For Change"*

Marriage counselors and family therapists have long recognized the contribution of dysfunctional argumentation to marital discord and divorce. Over the last few decades, marriage and family therapists have developed a variety of intervention strategies designed to create more structured procedures for resolving disagreements. The focus of this paper is the *Fair Fight for Change* (FFFC) developed by Bach and his colleagues (Bach, 1965; Bach & Goldberg, 1974; Bach & Wyden, 1969). I was introduced to the FFFC when I received training in the PAIRS® (Practical Application of Intimate Relationship Skills) curriculum. I received this training to qualify as marriage education facilitator for the PAIRS® curriculum as part of a large national grant project investigating the effectiveness of marital education programs for low-income couples (i.e., the Supporting Healthy Marriage project funded by the U.S. Department of Health and Human Services). Over two years, I worked with over 70 couples using the FFFC procedure. Overall, research indicates that couples can be trained to use the FFFC and that the PAIRS curriculum as a whole seems to improve marital functioning, at least in the short run (e.g., PAIRS Foundation, Inc., 2010, May).

The version of the FFFC used in the PAIRS curriculum (Gordon, 2008) includes ten steps (see Table 1). The FFFC begins with one spouse inviting the other to engage in a FFFC. This "invitation rule" is designed to minimize the hot initiation problem by making sure each person is mentally and emotionally ready to enter a problem discussion. After thinking for a moment about how to phrase the complaint in a non-aggressive way, the initiator states the complaint in terms of a single problematic behavior. This step is designed to deal with both the hot initiation problem and the coherence problem. Stating the complaint in behavioral terms decreases the chances that the person will respond in a defensive and hostile way because the complaint doe not directly attack an aspect of the person's identity. Limiting the discussion to a single behavior also reduces the likelihood of digression to other issues since only one issue may be discussed at a time.

The next step requires the spouse hearing the complaint to paraphrase the initiator's message out loud. This step accomplishes two goals. First, a spoken aloud paraphrase of the complaint helps insure that the spouse understands the complaint. On many occasions couples practicing this step for the first time respond with inaccurate and often defensive paraphrases of the complaint. Often

the spouse hears the complaint as a broader personal attack even when the spouse states the complaint in behavioral terms. The paraphrase provides the initiating spouse an opportunity to clarify and/or correct these misunderstandings. The second goal of the paraphrase is to create a feeling that one's complaint has been acknowledged and understood. This helps maintain a low intensity argument and increases understanding between spouses about their perceptions of the relationship.

Next, the initiator clearly states a request for a different behavior on the part of the spouse. Again, the initiator is limited to a single behavior or course of behaviors that would replace the behavior in the original complaint. This step helps maintain coherence

Step	Behavior
1.	Invite spouse to use FFFC.
2.	Initiator takes a moment to think about complaint.
3.	State one specific behavioral complaint.
4.	Partner repeats/paraphrases the complaint.
5.	Initiator shows appreciation for partner accurately hearing the complaint.
6.	Initiator specifically requests a behavior that is preferred to the behavior identified in the complaint.
7.	Partner paraphrases the requested behavior.
8.	Initiator shows appreciation for partner's accurate understanding of request.
9.	Partner responds by a) accepting the request unconditionally, b) stating conditions under which s/he will accept request, or c) rejects requested behavior. Initiator paraphrases partner's response and may then begin negotiations over conditions.
10.	Continue negotiation and paraphrasing until resolution is reached. Express appreciation for each other's willingness to fight fairly.

Ten steps to a fair fight for change
Note: Adapted from Gordon, 2008.

by focusing on a single behavior throughout the discussion. In the second to last step, the spouse hearing the complaint and request for change can decide to accept the request without condition, accept the request with conditions, or simply reject the request. The last step will be discussed further below.

Three other features of the PAIRS approach to the FFFC are important to its design. First, when learning the FFFC, either instructors or fellow students act as coaches to help the couple avoid "dirty fighting" strategies by stopping the discussion when one or both partners engage in personal criticism, sarcasm, stonewalling, and so forth (all of these behaviors are referred to as "dirty fighting" in the curriculum). The coaches also help couples formulate complaints and responses in straightforward and behavioral terms. A second feature of the FFFC instruction involves an evaluation of the "fight" based on the couple's ability to avoid digressions, avoid hostile communication (both verbal and nonverbal) and to come to a mutually agreeable solution. Although the couple may or may not have access to coaches outside of class (couples are actually encouraged to call another couple on the phone to help coach if they are having trouble following the FFFC at home), the initial coaching helps couples learn the discussion procedures. A third feature of the FFFC within the PAIRS curriculum involves the timing of its introduction. Built up hostility and a lack of goodwill between spouses can present a major challenge to successfully completing a FFFC. The PAIRS curriculum, therefore, introduces several intimacy and goodwill building exercises before couples are taught the FFFC procedure.

The FFFC is a useful tool for helping couples learn to negotiate mutually acceptable solutions to their relationship problems. The procedures outlined in the FFFC are straightforward and encourage assertive and rational participation in the resolution of interpersonal disagreements. The FFFC helps to avoid both the hot initiation and the coherence problems by reducing the amount of personal attacks and by providing a structure the couple can follow to stay on task. Additionally, it is designed to increase trust by producing mutually agreeable solutions in which each partner has an equal say in the outcome. In my experience, the FFFC is a well designed tool for marital argumentation.

4. *Potential for Re-design: FFFC and Pragma-Dialectics*

Although the FFFC as taught in the PAIRS curriculum is helpful, it is not without problems, especially from an argumentation point of view. In my limited experience teaching this structured argumentation activity, the final two steps in the process become a sticking point for many couples. Addressing two related

stumbling points could help to improve the effectiveness of the FFFC. The first obstacle can be located in step 9 of the FFFC. If the spouse accepts the initiator's request, the FFFC ends uneventfully and the couple expresses their appreciation for each other in handling the problem well. However, if the spouse being asked to change their behavior rejects the request or states conditions for agreement, problems often arise because the FFFC does not include a clear conversational structure for negotiation or dealing with rejection. Although the coaches can help suggest strategies for negotiating an agreement, frustration and old habits can derail the discussion. Step 10 simply suggests that the couple continue to communicate with empathy and understanding until an agreement is reached, but other than prohibiting dirty fighting, little help is provided to structure the spouses' conversation from this point on.

The second, broader, problem from an argumentation theory perspective concerns the lack of any discussion regarding the role of argumentation in support of standpoints. Requiring each spouse to support her/his standpoint could be beneficial in at least two ways. First, the requirement to extend an argument past rebuttal is a key procedure for moving disagreements past the initial standpoints and argumentation offered by each party (e.g., Weger & Jacobs, 1995). By requiring participants to either offer a rebuttal with new evidence/reasoning or surrender a standpoint, arguments are less likely to get bogged down by stonewalling or endless repetition of each person's position. Second, research suggests that couples who offer support for assertions enjoy the conversation more and are more satisfied with the relationship (e.g. Weger & Canary, 2010). Given these shortcomings, two main improvements to the FFFC can be facilitated by incorporating principles from pragma-dialectics.

By now many articles and books regarding about pragma-dialectics exist (e.g., van Eemeren & Grootendorst, 1992) making a fresh explanation here seem redundant. Briefly, pragma-dialectics is a theory of argumentation that introduces an ideal model of argumentation procedures. As the name suggests, the theory combines elements of discourse pragmatics, primarily speech act theory, with classical and modern theories of dialectic, rhetoric, and informal logic resulting in a set of procedural guidelines for conducting a "critical discussion." Unlike the FFFC, the critical discussion model is a critical tool for the analysis and reconstruction of argumentative dialogue and not considered a prescription for actual behavior. Strategic maneuvering, introduced by van Eemeren and Houtlosser (1999), offers as an additional tool for reconstructing argumentation.

From a theoretical standpoint, the concept of strategic maneuvering adds to the critical discussion concept by identifying rhetorical strategies people use to resolve a disagreement in their own favor. In reconstructing argumentation, analysts examine arguers' methods of strategic maneuvering to gain insight into how and why some arguments fair better than others. In addition, analysts examine the balance between an arguer's effectiveness (as indicated by strategic maneuvers) with their reasonableness (as instantiated by the arguer's adherence to the ten rules for critical discussion).

In recent work, van Eemeren (2010) introduces the concept of "activity type" to the analysis of strategic maneuvering, "Communicative activity types are conventionalized communicative practices whose conventionalization serves through the implementation of certain 'genres' of communicative activity the institutional needs prevailing in a certain domain of communicative activity" (pp. 144-145). Each activity type has its own set of conventionalized norms and practices that both constrain and enable certain kinds of messages. Understanding strategic maneuvers as rational responses to the affordances of an activity type help the analyst make sense of the moves made by arguers in context. Situational affordances that shape the possibilities for critical discussion via strategic maneuvering depend on the constellation of three components working to balance effectiveness with reasonableness. These three elements include *topical potential, audience demand*, and *presentational devices* (van Eemeren, 2010). Topical potential refers to the choices available to an arguer for constructing a line of defense for a standpoint. For example, a husband might defend his standpoint that his wife should make dinner by arguing that it is her turn since he made dinner the night before, or that his wife should make dinner because he had a rough day at work and he is too tired, or that his wife should make dinner because he believes meal preparation is women's work. Audience demand refers finding arguments that will resonate with the audience and is consistent with the audience's beliefs, attitudes, and values. Continuing the example above, appealing to the wife's sense of fairness by suggesting it is her turn to prepare dinner would certainly be more effective with more women in the Unites States compared to the argument that meal preparation is somehow women's work. Presentational devices represent stylistic choices for presenting standpoints and argumentation. Here we are talking about the exact wording, phrasing, and tone of the message (which includes nonverbal cues that accompany the message, such as facial expression, posture, tone of voice, and so

forth). Assuming the husband in the example above chooses to use the fairness strategy, his success could depend on whether he whines, talks in "baby-talk," speaks in an even tone of voice, shouts, or communicates his message in some other way. Besides the nonverbal vocalic dimension of the message, his success could also depend on whether he uses some negative or positive politeness strategy, states his case in a plain and straightforward way, states his argument in the form of a haiku, or if he uses some other linguistic presentational device. In his conceptualization of strategic maneuvering, van Eemeren explains that each of these three components are interdependent and reflexive. Each choice made by an arguer about one component creates implications for choices about the other components.

Through this lens, I want to briefly lay out the standpoint that marital argument can be considered a kind argumentative activity type. Conventionalized interpersonal associations (such as friendships, clubs, sororities, etc.) constitute cultural institutions that carry with them identifying labels and rules for membership. Marriage is perhaps one of the most formal interpersonal associations as it is usually publically recognized, legally sanctioned, and regulated by the state. People in each culture can identify shared norms and values associated with this institution. Argumentation (or conflictual interaction) is an important regulatory activity in interpersonal associations. Interpersonal associations are, in part, defined by the degree of interdependence between or among the parties (e.g., Kelley, 1979). Because people associate with each other to meet their interpersonal needs (e.g., Schutz, 1966), and because people sometimes differ in their needs, argumentation plays an important role in the relationship by communicating these differences so that the partners can change their behaviors, attitudes, and/or beliefs to better meet the needs of the other. Furthermore, at least in the United States, research suggests that people can identify commonly understood rules for conducting arguments in personal relationships (e.g., Jones & Gallois, 1989). Perhaps the most relevant genres of communication activity within this activity type would be negotiation, conflict (defined here as the attempted resolution of perceived incompatible goals, see Wilmot & Hocker, 2000), quarreling (see Walton, 2008) and complaining (e.g., Drew, 1998). Certainly marital argument has many overlapping qualities with other contexts for interpersonal argument, but the unique requirements that arguments not only solve problems but also strengthen (or at least do no damage to) the marital union adds an important twist to this genre of argumentation.

Although strategic maneuvering and critical discussion are not meant to be prescriptions for behavior in real interactions, I want to make the case that these concepts can be useful in the design of argumentation interventions for marital arguments. Perhaps the best place to begin is to reconstruct the FFFC in terms of strategic maneuvering. I will do this by laying out the FFFC using the stages of critical discussion as an organizing principle and examining how the FFFC fits into these stages. The first stage in a critical discussion is the confrontation stage in which the protagonist communicates the potential disagreement and both parties attempt to clarify the issue at hand (e.g., van Eemeren , 2010). This stage maps on well to the first step in the FFFC in which the initiator communicates her/his desire to discuss a potential problem and invites spouse to engage in the discussion. In the FFFC, topical potential, audience demand, and presentational device are constrained by the requirement that the initiator invite the spouse. The initiator is not allowed to demand or cajole because the responding spouse must freely chose to engage in the FFFC so any presentational device that appears coercive is off-limits.

The opening stage follows the confrontation stage in a critical discussion. In the opening stage, the two parties "…establish an unambiguous point of departure for the discussion. The point of departure consists of mutually accepted procedural starting points regarding the division of the burden of proof and other agreements regarding the conduct of the discussion and material starting points regarding the premises of the discussion, which can be viewed as 'concessions' that may be built upon in the discussion" (van Eemeren, 2010, p. 45). As van Eemeren (2010) recognizes, many of the tasks in each stage are accomplished implicitly or are prescribed ahead of time by precedent or by reference to a formal procedural rule.

In terms of the FFFC, steps three through eight seem to most neatly (but not perfectly) fit into the opening stage of a critical discussion. This is stage at which the initiator (i.e., protagonist) clearly states her/his complaint, where the partner (potential antagonist) communicates her/his understanding of the complaint via paraphrase, and so on up until the point in which the initiator requests a specific change to the partner's behavior. In terms of strategic maneuvering, FFFC constrains topical potential by requiring the complaint refer to a particular behavior, eliminating criticism of personality characteristics as line of argumentation. The FFFC also limits presentational devices to straight forward

complaints with one specific behavior identified. Couples are further encouraged to think carefully about how to present the complaint so that there negative implications for the partner's identity are limited. Couiples must also face each other and make eye contact. Expressing criticism or contempt through pained facial expressions are also off limits as a presentational device.

As a way to facilitate and streamline the discussion it might be helpful to add one step to the FFFC at this stage of the discussion so it more closely resembles the opening stage of a critical discussion. After the partner (i.e., antagonist) reflects the initiator's complaint using a paraphrase in step four, it would be helpful for the partner to respond to the complaint in some way. The partner can offer an explanation, justification, and/or apology for the behavior and the initiator should then reply with a paraphrased understanding of the partner's response. This step would allow the spouses a moment to talk about the problem and their feelings about it before arguing for a particular solution. In Stanley, Markman, Jenkins, and Blumberg's (2008) Prevention and Relationship Enhancement Program (PREP®), couples are encouraged to do problem talk before they engage in talk about solutions to the problem. Stanley et al. suggest this approach allows couples to connect with each other and also helps to prevent couples from taking up positions and arguing for those positions rather than searching for mutually agreeable solutions as a team. As discussed below, it would also present the couple an opportunity to decide whether argumentation about the complaint is necessary. Although each partner voices his/her feelings about the issue, no argumentation takes place at this point. The initiator and partner do not challenge each other's feelings, they simply listen and respond with paraphrasing to communicate each person's understanding of the other as well as establishing common ground for potential argumentation. By the end of the opening stage, the couple can proceed in at least four different ways:

Possibility 1: The couple decides there they do not disagree, the complaint is taken to heart by the antagonist and the couple moves to the concluding stage where the antagonist offers to accept a change in his/her behavior without further discussion.

Possibility 2: The initiator (i.e., potential protagonist), after discussion with the partner, decides that the complaint is actually a statement of grievance about some past behavior that does not require any change on the part of the partner. In this case, the couple skips the argumentation stage all together and move

straight to the concluding stage.

Possibility 3: The couple agrees to enter the argumentation stage to resolve a disagreement regarding the legitimacy of, or over facts underlying, the complaint...

Possibility 4: The partner agrees that a change in his/her behavior would benefit the initiator, the relationship, or both and the couple enters the argumentation stage with the goal of using arguments to choose a solution. For example, the couple might disagree about what sort of change in one (or possibly both) spouse's behavior would be most effective in solving the problem identified in the opening stage. The fourth possibility might follow a resolution in favor of the protagonist regarding the legitimacy of the complaint.

So far, we can see how the FFFC can be seen as a special set of guidelines in response to topical constraints, audience demands, and acceptable presentational devices. The most significant contribution pragma-dialectics makes to redesign of the FFFC involves conceiving of step ten in the FFFC (in which the couple argues/negotiates a solution) as an analog to the argumentation stage. In my experience, this is where the couples' FFFC conversations often flounder. The couples are not offered any procedural guidance for testing competing arguments. As a strategic maneuvering activity, the topical potential is generally open to any line of attack or defense as long as the argument does not threaten the partner's motives or character (i.e., audience demands) and as long as the message is delivered respectfully (presentational devices). Importing the rules for critical discussion into step 10 of the FFFC can help couples resolve issues in a more effective, efficient, and rational way because it provides some structure to this step. Critical discussion rules might also help to reduce other problems as well, such as stonewalling or simple repetition of the same argument with more volume since these behaviors would constitute rule violations and be called out of bounds by a coach or therapist assisting a couple learn the procedure. The critical discussion rules help transform the FFFC from a purely socio-emotional model of discussion to one that blends the emotional needs of the partners with a more rational approach to problem solving.

Although adding elements from pragma-dialectics to the FFFC can have some practical advantages, training couples to produce logically sound arguments and filter out misapplied argumentation schemes or other fallacies of reasoning could prove very challenging for marital education teachers. The FFFC as it is usually

requires several practice attempts for the couples to understand and feel comfortable with the procedure. Adding a layer consisting of training in argumentation would be a complicating factor. Perhaps it would be enough to first teach couples something like a "because" rule in which any statement for or against a complaint or proposed behavior change be accompanied by a "because" statement that supports it. Already some versions of the FFFC require the initiator to phrase the complaint by saying, "When you (enact some behavior), I feel (angry, sad, frustrated, etc.), because (an explanation for the link between behavior and feeling)." For example, a husband might say, "When you call our daughter lazy when she is late for school I feel sad because I can remember how much it hurt my feelings when my mother called me lazy when I was Julie's age." Without explicitly teaching argumentation theory, the couples are being taught to provide support for the substance of their complaints. The because rule usually does not appear in other steps of the FFFC so perhaps a similar formulation of this rule in the argumentation stage could help couples argumentation in support of standpoints. Of course, couples need coaching on the "because rule" since some couples will simply link "because" to some dirty fighting strategy such as, "You should make dinner tonight *because you are so lazy that I have to do everything around here.*

It might also be helpful to use some version of the pragma-dialectics discussion rules presented in an abbreviated and plain language way. Table 2 provides a list of potential rules stated in plain language. Here I have eliminated some of the rules for brevity others for practical reasons. For example, unless the marriage education program wants to include a short course on logic, it seems impractical to ask couples to submit their arguments to tests for logical fallacies. Research suggests average people can see obvious logical fallacies (van Eemeren, Garssen, & Meuffels, 2009), so hopefully couples will see problems inherent in fallacious arguments and call them out during discussion. At this point, this list is tentative at best. The development of clear and easily understood discussion rules for couples working out marital disagreements would mark an important advance in marriage education.

1. No arguments attacking the other person's character or personality.
2. Let the other person have his/her say.
3. Stay on topic by directly addressing the points made by your spouse.

4. Don't base your argument on your interpretation of the other person's behavior unless the other person agrees with your interpretation
5. All statements for or against change must be use the "because rule."
6. Only agree when you truly agree but when you are wrong, you must admit it.

Table 2

Proposed discussion rules for step 10 in the Fair Fight for Change

1. No arguments attacking the other person's character or personality.
2. Let the other person have his/her say.
3. Stay on topic by directly addressing the points made by your spouse.
4. Don't base your argument on your interpretation of the other person's behavior unless the other person agrees with your interpretation
5. All statements for or against change must be use the "because rule."
6. Only agree when you truly agree but when you are wrong, you must admit it.

Finally, once the couple has exhausted their tests of each other's standpoint, the couple moves from the argumentation stage to the concluding stage. At the concluding stage, the couple can determine whether the protagonist's (initiator) complaint and request for change stands up to the antagonist's argumentation against them. If the discussion results in protagonist's favor the topics for discussion at this point in the concluding stage should focus on setting the conditions under which the change will occur as well as how the couple will decide whether the enacted change has indeed resulted in a mutually agreeable solution.

5. *Conclusion*

Engaging communication as a design enterprise can help scholars integrate practical and theoretical issues in useful ways. In the case of the FFFC, a clear attempt is being made to engineer the way married couples argue. Of course, not all couples need to use artificial procedures for resolving their problems. For the couples who desire to maintain life-long marital relations but cannot seem to find a way to resolve their problems without inflicting mortal damage to the relationship, procedures like the FFFC have proven to be both practical and beneficial (e.g., Halford & Moore, 2002). Designing ideally rational procedures for marital argument, however, pose some challenges that will require special attention in terms of extending and refining the nature of specialized activity

types as well as posing challenges in the practical application of these activity types in everyday arguments between intimates.

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