

# ISSA Proceedings 1998 - How To Lose An Argument



Arguments are like families: the happy ones all resemble one another, but each unhappy one is unhappy in its own way. Like families, no one wants to be part of a dysfunctional one. Like families again, as a general rule of thumb, it is the unhappy arguments that are the most interesting for argumentation theorists and the most fun for non-participant spectators. There is a notable exception to this, an unhappy argument that loses its appeal to spectators rather quickly - the interminable filibuster. And yet, while filibusters may be uninteresting to spectators, they should be quite interesting for argumentation theorists.

There are many ways of conceptualizing arguments (Cohen 1995). Two stand out in particular because they are individually so common and so compelling yet they embody completely different criteria for success and failure. For many, the first thing that comes to mind when we speak of arguments is the idea of some sort of verbal warfare. This is the “adversarial” paradigm for arguments, the subject of rhetoric. Two arguers are each trying to persuade the other of something, or to do something, while simultaneously trying to resist all of the other’s attempts at persuasion. This is the notion of arguments that is enshrined in what Robert Nozick has called “coercive philosophy” - making people believe things whether they want to or not (Nozick 1981: 4). It is also manifest in the militaristic language we use to talk about arguments. Good arguments are “strong” or “knockdown;” they are “right on target” with “lots of punch,” while bad arguments are “weak,” “vulnerable to counterattack,” and easily “shot down.” And like warfare, argumentation is an art. Success can be achieved in many ways, so ready arguers should have a well stocked *arsenal* at their disposal, one whose *weapons* include the *brute force* of reason, the carefully constructed *ambush*, the verbal *jujitsu* of Socratic elenchus, the *captivating* analogy, the *deadly barbs* of satire, or perhaps even the *bombshell* of a surprise revelation (Lakoff and Johnson 1980: Ch. 1). Filibusters lay siege.

The result of a successful argument, according to the adversarial paradigm, is the end of resistance and a victory over the now converted opposition who henceforth

will believe or act in accordance with the dictates of the winner. From the other side, this means that unsuccessful arguments suffer a particularly ignominious kind of failure: *losing*. But isn't there something wrong with this picture? If someone has successfully constructed an argument leading us to a true, or at least now-warranted, conclusion, why should we feel that we have *lost* rather than *gained* something? Why are we resentful rather than grateful? The discomfort arises because there is a second way to conceptualize arguments that also appeals to us as arguers and holds sway in our thoughts. An argument is an extended chain of reasoning - a sequence of elements, propositions or speech acts, say - in which acceptance of the starting points, the premises, leads or commits one, in some logical sense, to accepting the final element, the conclusion. We subject ourselves to the less arbitrary and more benevolent "dictates of reason" rather than to those of any lesser master. This is the "argument as proof" paradigm, the subject of logic. It is the ideal of reasoning that is embodied (we like to think) in the pages of academic journals of mathematics and symbolic logic. Whether the absolute objectivity inherent in this conception is taken as transcendental proof that we are more than the sum of this mortal coil or dismissed as the incoherent by-product of hypostatizing linguistic convention, there is a normative force to this ideal that is integral to our evaluations of arguments.

As it has been characterized, the argument-as-proof paradigm is not limited to propositions or indicative sentences. As in arguments-as-war, nothing rules out arguments ending in imperatives, questions, promises, or metaphors. Since we do speak of the "logic of a situation" when considering historical circumstances and dramatic narratives, perhaps even non-linguistic acts can be seen as logical conclusions from antecedent "reasons." **[i]** What this paradigm does suppose is an irresistible path to its conclusion. Success for arguments-as-proofs, therefore, is achieved when the path has been constructed or followed to that conclusion. This concept of success allows for several different ways to fail at arguments-as-proofs: a chain of reasoning can fall short of reaching its conclusion, it can reach the wrong conclusion, or it can reach the right conclusion in the wrong way, e.g., by an illicit shortcut. That is, arguments as proofs are flawed when they exhibit any of those old familiars, the *fallacies*.

As embarrassing as it may be to lose one's way in an argument, it is still better than the indignity of losing an argument. Indeed, losing an argument is possible

only within the adversarial model. You can not *lose* an argument-as-proof argument! We do speak of someone's having been "defeated" by a tough proof, so after a fashion, there is a way to "lose" a proof, but this is hardly the same phenomenon as losing an argument-as-war argument. It presupposes the personification of logic, mathematics, or whatever body of knowledge presented the challenge, but that personification does not have to be made. The conceptual challenges that present themselves to us need not be seen as having been presented to us by anyone.

The failures that beset arguments-as-proof are peculiar to that paradigm. They do not really apply to arguments-as-war. An arguer can lose her way, reach the wrong conclusion, or make illicit inferences in adversarial arguments, but these are failures only insofar as they "weaken" the argument and thereby contribute to defeat.

Since, as a matter of empirical fact, red herrings, hasty generalizations, and other classical fallacies often do succeed in convincing the audience, they can actually help to win arguments - which is to say that they can *strengthen* arguments-as-war even as they *weaken* arguments-as-proof. A fallacy is an illicit form of argument, but all is fair in love and war. Thus, in a very real sense: There are no fallacies in argument-as-war arguments.

I take it that this is what is meant by the provocative claim, "The axiom of all rhetoric is the principle of insufficient reason" (Blumenberg 1987: 447). The thing to worry about is contingently unsuccessful rhetorical strategies. Necessarily invalid logical fallacies are worrisome only insofar as they might be recognized as such, thereby disarmed, and rendered ineffective.

Focusing on the differences separating these two paradigms does an injustice to the class of arguments as a whole, however, if it means ignoring their kinship. There are similarities and affinities to be respected between the two kinds of arguments - more than just the empirical, psychological facts about humans (we hope!) that the arguments that are most persuasive happen to be the logically valid ones and vice-versa, and conversely, that egregiously fallacious arguments tend not to be persuasive - although with a distressingly smaller correlation.

Recall the common charge against the Sophists, that they make the worse argument seem better, a charge often raised by Plato but raised just as often against philosophers themselves. It appears to endorse the dichotomy between the logical and adversarial paradigms, and the coordinate systems that measure good or bad *arguments* on the one hand and successful or unsuccessful *arguers*

on the other. This tacitly identifies rhetorical skill with argumentative effectiveness, but they are not the same thing. It is easy enough to let the difference go unrecognized because they are so often congruent, but what happens when we are confronted with either an argument that is both *sound* and *well-argued* that still *loses*, or an argument that is both *fallacious* and *poorly argued* yet manages to *win*? Neither of these should be possible on this scheme, but both do occur. There is some uncharted territory between the adversarial and logical regions on our map of arguments.

Plato's charge seems to involve two elements, the arguers who are skillful and their arguments which misleadingly appear to be good. A third party is implicated, however, because apparently good arguments can only be apparently good when there is someone for them to appear to – an opponent or a jury or a witness – in sum, an *audience*. No one accuses either Sophists or Philosophers of deliberately trying to pull the wool over their own eyes. They have to have a target audience. Once the audience has been given its place, the odd phenomena of well-presented, valid, losing arguments and poorly presented, fallacious, but winning arguments can be explained.

There is a model for arguments that explicitly accommodates the audience, one that is midway between the extremes of the solitary logician's crystalline proofs and the obstinant contrarian's disputatious bickering. It is the classical model of argument-as-performance, and the arguer as rhetor whose arguments were public *performances*. **[ii]** Argumentation, we know, is an art, like warfare. There is an art to choosing one's weapons – and to choosing one's arguments. Audiences, like enemies, respond differently to different strategies. Just as a naval blockade might succeed against some seaports, but not those with easy overland access, so too, satire might work well before some audiences but not others. At a political rally, lampooning the opposition is always good sport; before the Justices of a High Court, it might not be so wise.

Classical rhetors would recognize the lawyer *making his case* before a jury, a politician *rallying her audience*, and activists *exhorting their listeners* as their modern-day counterparts. In each case, there is an obvious performative element in *presenting* the argument. To evaluate and even just to understand public arguments like these, the performative dimension has to be distinguished from the question of efficacy and then accorded its own theoretical prominence. We need to focus for a moment on making the case, rather than on the case itself or its effects, i.e., on the oratorical aspects rather than the logical or rhetorical ones.

(The performative dimension to argument is not limited to the spoken word, so the use of the term “oratorical” is unfortunate if it is taken to exclude viewing the pontifications of editorial columnists or the polemics of other print media propagandists through the arguments-as-performance lens. They are open to many of the same sorts of performative successes and failures as orally presented arguments.)

Arguments-as-performances share features with both arguments-as-proofs and arguments-as-war. Like proofs, presented arguments largely escape the give-and-take of dialogue that characterizes arguments-as-war. *Thus*, the rhetor making a case has the option of totally ignoring any and all opponents and adopting the form and trappings of an argument-as-proof - including such rhetorically powerful linguistic markers as “thus,” “hence,” and “therefore” that are characteristic of proofs (and conference presentations). Like adversarial arguments, however, presented arguments have a target audience to persuade, so the rhetor has the option of ignoring the canons of deductive reasoning and using all the emotionally compelling appeals and techniques of adversarial arguments - including demonizing or ridiculing those nonexistent opponents. Absent opponents are still opponents, and no less a rallying point for their absence. Indeed, their silence just makes the argument that much easier to pursue. For the determined rhetor, the inconvenient lack of opponents can always be remedied by imagined ones. Even just the potential opposition of residual internal doubts serves to focus - as well as justify - preaching to the converted.

When arguments are viewed as performances, they become subject to evaluation by new criteria - in addition to the criteria used for evaluating proofs and disputes. To be fully successful, arguments-as-performances must be *well-presented*. Even an argument that passes both logical and rhetorical muster, reaching its conclusion both *validly* and *persuasively* can be counted a failure of a sort if it does not do it *artfully* as well. Naturally, additional criteria for success implicate additional ways to go wrong. Arguments fail as performances when they are boring, offensive, unimaginative, inelegant, inappropriate, etc. Most of these failures are already recognizable as rhetorical failings and so might be included in the argument-as-war paradigm - but not all. Boring, offensive, unimaginative, inelegant, and inappropriate arguments may yet be persuasive.

Presenting a good argument can, of course, be a factor in presenting an argument well, so the performative paradigm for arguments is not independent of the

logical one. And since many of the things that make the presentation of an argument a good presentation also serve to make it an effective one, the adversarial and performance paradigms are also intimately connected. For example, one obvious way of presenting an argument well is to do so with wit. The fact that wit is an effective argumentative weapon, i.e., a good strategy to use in arguments-as-war, has been recognized by writers on rhetoric from Aristotle and Cicero to the present day. Of course, the wittier arguer need not be the one who wins the argument, so the categories do diverge. In a similar vein, an argument can be “unconvincing” in two ways. It can fail to convince the listener to accept its conclusion, which is an argumentative failure, but it can also fail to convince the listener that the arguer himself sincerely accepts the conclusion, which is a performative failure on par with an “unconvincing” dramatic performance. All combinations are possible. Artful and valid arguments are not always persuasive, artful and persuasive arguments are often invalid, and valid and persuasive arguments need not be artful.

The two troublesome possibilities mentioned above - sound, well-argued but ultimately unpersuasive arguments and fallacious, poorly argued but persuasive ones - can now be broached. Under what conditions can unsuccessful arguers claim that they both had the better argument and were the better arguers? Somehow, the cards must have been stacked against them. What if they were stuck having to argue a losing proposition from the outset? Even the most accomplished lawyers sometimes have to yield to the evidence. But in that case, they cannot really claim to have had the better arguments. If an argument really is a good one and the arguer really did present it well, wouldn't it be *unfair* to deny her her rightful victory?

Her case and what she makes of it may be in her control, but there is that third element which is not: the audience. Even the most artful arguer, armed with the most cogent arguments, will not always win if he is not given a fair hearing, say, or the audience was prejudiced against his position, or the audience was incapable of recognizing the excellence of his argument. A fair hearing requires an attentive, impartial, and competent audience. Unfortunately, very often the only audience for our arguments is the opposing disputant, so the ideal conditions for a fair hearing are as rarely met in ordinary argumentation as a deductively valid argument.

Notice how the language of morals has inexorably worked itself into the discourse: *rightful* victory will come with a *fair* hearing from an *impartial*

audience. Good arguers with good arguments *should* win. The same thing occurs in the contrary case, winning arguments that are neither good nor well-presented. Bad arguers with bad arguments *should not* win. It is not just logically offensive; it is aesthetically offensive; it is morally offensive.

This could have been expected. When arguments are viewed as acts, they are subject to judgment as acts, and moral judgments are the most important judgments we make of acts. Thus, in assessing arguments-as-performances, one of the ways we can consider them as failures is when they fall short *ethically*. For example, even a well-reasoned and successfully persuasive argument can be counted as a kind of failure if by the use of certain language it is inappropriate or offensive. Similarly, winning an argument but losing a friend is more loss than victory, more of a tragedy than a success story. Arguments-as-performances fail in their own ways.

It might be countered that these ethical, aesthetic, and larger-context failures are largely irrelevant for argumentation theorists because they are not really *argumentative* failures. Offensive arguments fail not as arguments but as interpersonal actions more generally. Not all flaws that arguments are heir to are argumentative flaws. An argument that has grammatical flaws, for example, may be no less successful as an argument on that account. There are, however, some performative failures, that are indeed relevant for evaluating arguments qua arguments - and I think that the filibusters mentioned above provide a case in point.

Over the years, the United States Senate has given logicians more good examples of bad arguments-as-proofs than are really needed. The Senate has also been most generous in filling rhetoricians' needs for good examples of bad arguments-as-war. As chance would have it, even some good examples of good arguments have managed to emerge from that august institution. Yet curiously, neither logicians nor rhetoricians have had much to say about the filibuster, the Senate's most infamous contribution to the history of arguments, and what distinguishes it from most of the other parliaments and legislatures around the world that have been such noteworthy contributors to humanity's store of bad arguments. Filibustering is the art of endlessly prolonging the debate to prevent any decisive action on the issue at hand. If defeat is imminent, but there are no time limits on what can be said, then the argument can be prolonged indefinitely - and defeat can be postponed indefinitely, with the delaying tactics of the filibuster ending

only when the opposition gives in from sheer exhaustion. They are the height of obstructionism - and unsurprisingly frustrating.

For all the abuse that can be directed against them, the fact remains that filibusters can be very *effective*. They make no pretensions to logical *validity*, nor do they have any aspirations to *oratorical excellence*. As would-be proofs, they may be abject failures.

Randomly reading from the telephone book has very little relevance for just about any issue that could conceivably come before the Senate for consideration. As performances, they may be utterly artless and so equally abject. A few weeks seasoning will turn even the most melodious drawl of the grandest Senate oratory into a mind-numbing drone. There is no record that the poems that have been entered into the Congressional record in the course of filibusters were read with any great feeling or that Senatorial colleagues have ever been moved by readings from the day's newspapers. And yet, filibusters' effectiveness within the context of political debate remains unquestioned. Castigating them as ineloquent or fallacious misses their point. Their measure has to be taken with a different yardstick.

From one perspective, filibusters can be classed under the category of the fallacious appeal to force, *Argumentum ad Baculum*. The threat is that unless the opposition yields, the filibuster will continue. But remember, there are no fallacies in arguments-as-war. Any parent of an insistent 5-year old can attest to the effectiveness of ceaseless entreaties: "Please, Daddy, Can I? Please? Please? Please? Please? Can I? Can I? Can I?..." "All right already!" Filibusters can be so successfully debilitating to a deliberative body that Senators use the mere threat of filibusters as often as actual filibusters to obstruct the passage of undesired bills. (There is something irresistible about the juxtaposition of whiny 5-year-old children and cranky 95-year-old Senators.) But does wresting an exhausted or exasperated "All right already!" count as winning an argument? Since the issue was never really engaged, the practical or political concessions were not really "won" in argument so much as they were exacted as tribute. But isn't effective persuasion what the adversarial model for arguments is all about? Being insistent is just one more time-tested argumentative strategy, for children and Senators alike, one that is reinforced by a history of success. In that respect, it is like *ad Hominem* ridicule, *ad Misericordiam* tears, or *ad Populum* flag-waving: logical fallacies but rhetorical tactics. There is an important difference, though. None of the classical fallacies work when they are done artlessly but artfulness is wasted



in filibusters: it is just not necessary.

There is another perspective for evaluating filibusters, however, according to which they are neither fallacies nor tactics within structured arguments. Instead, they are external attacks on the very possibility of argument. Sometimes what filibusters do is *stop* debate rather than *win* debate. They do not *beg* the question; they *prevent* the question. That sort of obstructionism has more in common with *walking away* from an argument than it does with anything that goes on within the argument. One way not to *lose* an argument is not to *have* the argument, and one way not to have an argument is to *prevent* it. If I do not wish to engage in debate with you, I can simply avoid you. Alternatively, I can shut my ears so I do not hear what you have to say – or I can shut your mouth so you do not have the chance to say it! I can shout you down or shut you down. Filibusterers effectively shut their opponents' mouths.**[iii]** In J. L. Austin's language for describing performative failures, filibustering as a way to win an argument would be an "abuse," while filibustering to avoid argument would have to be some sort of "misfire."**[iv]** The distinction between using a filibuster to win an argument and using it to prevent an argument is not always clear, but it is clear enough of the time to be a useful distinction. The same is true of walking away from an argument. It can be a way to avoid an argument, a way to avoid *losing* an argument, or, if it is a case of quitting while your ahead, even a way of winning an argument.

The argument-as-performance model for arguments provides a framework for both accommodating this distinction and evaluating the different cases, as well as recognizing the importance of the audience and the relevance of the ethics of argumentation. Poor performance and non-performance are kinds of performative failure, but they are not the same kind. Criticism of a performance need not be criticism of the performer, but such criticism perforce requires a performance. People cannot be taken to task for arguing fallaciously or ineffectively when they have not argued at all, but there are indeed times when they can be taken to task for not arguing at all. This includes those occasions when the failure of the performance *as act* is an ethical failure for which the (non-)performer is the responsible agent. An analogy is provided by some theological terminology: failing to argue may be an argumentative sin of omission rather than a sin of commission. To sin by commission, we must argue badly.

One immediately recognizable example of a flawed argument-as-act is the rhetor

who presents an inappropriately offensive argument – successful or not. Suppose a lawyer wins her case but in doing so managed to alienate the jury, the judge, and her client. That would not bode well for her career in the long run. The argument was a success, but certainly not an *unqualified* success. The qualifications are the issue at hand. Similarly, a politician might convince you to vote for him by a dirty, negative campaign directed against his opponent. Again, the success is not altogether unqualified. There may be negative consequence in future elections down the road – e.g., an increasingly cynical and alienated electorate. But even if there are no such negative consequences, the presented arguments should be seen as flawed arguments. In each case, the rhetor can be said to have sinned. Unlike fallacies, however, these are not sins against a logical god, but sins against our fellow humans, viz., the audience.

Arguments as proofs may be regarded as merely formalist achievements, but as performances and as adversarial moments in discourse, arguments are inherently social phenomena. The inclination to see them as proofs is, in part, an attempt to forget about that social dimension. It is when we recognize and pay attention to it that we feel the urge to resort to ethical discourse in characterizing arguments. Perhaps there is a temptation to classify cases like these as wholly a matter of ethical failure rather than argumentative failure, as if argumentation theorists could leave them to the moralists. It is not that easy, however. Not all performative failures are necessarily ethical failures. Some performative failures in argument are indeed relevant for evaluating arguments as arguments. It is not hard to conceive circumstances in which walking away from an argument would be exactly the *right* thing to do from a larger ethical standpoint, but it would still count as a performative failure from the argumentation theorist's standpoint. Argumentation theory needs to say something about its shortcomings.

Sometimes, filibusters are the argumentation counterpart to sins of omission, and they are similarly blameworthy. Their failure is not in the arguments they present – there might not *be* any argument presented at all – but in their failure to present an argument and their failure to listen to argument. Sometimes there is an *obligation to engage* in argument, and when there is, then walking away, covering one's ears, obstructing debate, or anything else that compromises a fair hearing is a violation, by either omission or commission, of the ethics of argument. It is the audience who is, as it were, the sinned-against party.

All of this leaves completely open the questions of *when* we have an obligation to

engage in argument and the *nature* of our obligations, but it does raise those questions. Moreover, it identifies the objects of our argumentative obligations: audiences. It is the audience, after all, is who is offended by our inappropriately offensive arguments, who is silenced by our filibusters, and who is denied a fair hearing when we walk away from debate.

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But, if what you really want to do is *lose* an argument, there are different strategies. You still have to engage in argument; you cannot walk away. Once engaged, you can present a very bad argument. Sometimes that is enough. If you have too much logical integrity to resort to blatant Sophistry, you can present a good argument very badly. If, however, what you have your heart set on is losing with a good argument and doing it with style, then your options are more limited but they are still not yet closed off entirely. You can simply choose a bad audience, one that will give you a hearing, but neither a fair hearing nor a competent hearing. (The APA is full of such audiences; mercifully, the ISSA is not.)

## NOTES

**i.** The equivocation between reasons as premises and reasons as causes - e.g., between what causes our beliefs and what justifies them - can have rather large philosophical consequences. The sixth, seventh, and eighth essays in Rorty 1991 provide several good discussions of this.

**ii.** Quintilian, 1921, Bk. V. ch. 10, offers a comparison between orators and

musicians to make these points. Leff, 1998, contains a brief but helpful discussion of how the performative and interpretive elements of argument are related.

**iii.** In the 19th century, there were constitutionally mandated adjournment dates for Congress, so preventing debate was easily accomplished. See *Congressional Quarterly's Guide to the Congress of the United States: Origins, History and Procedure* .

**iv.** In Austin's terminology, this would presumably would be a "misexecution" rather than a "misinvocation". See Austin 1975 p. 18.

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