

# ISSA Proceedings 2002 - The Rabbit In The Hat: Where Do Dialectical Rules Come From?



It is my guess that what most of us identify with the Pragma-Dialectical theory is the set of rules for Critical Discussions, or as they were originally styled, the “code of conduct for rational discussants.” (1984: 151) I think these rules individually, and as a set, have a great deal of intuitive plausibility in their favour. Therefore, in this essay, I propose to look at the rules and ask where they come from, what it is that justifies them, and how they hang together?

By way of historical background, we should recall that the first rules for argumentation were not developed in Amsterdam. Some have found rules of argumentation in Aristotle’s *Topics*; the Medievals had stylized, rule-governed games of disputation (Rescher 1977: 1-2); Whately, in the nineteenth century, explicitly relies on rules of argumentation in his discussion of *ad hominem* arguments (Hansen 1995: 405-06). More recent but less well-known authors have also proposed rules of argumentation. One interesting set of rules is found in James Johnson’s *Logic and Rhetoric*. Johnson defined ‘argumentation’ as the kind of rhetoric “which tries to convince us of a certain point of view or attitude.” (Johnson 1962: 143) Since the activities of convincing and the discovery of facts are independent endeavours we are surprised to see that a few pages later the function Johnson ascribes to argumentation is “to discover the truth, that is, to establish facts.” (Johnson 1962: 147). Johnson apparently belonged to that benign age in which it was thought that once the facts were made plain, conviction was inevitable.

James Johnson’s ten “elementary ground rules,” lightly edited, are these:

- J1. Be sure that your statements are accurate representations of what you really think. [Unless your words assert clearly the opinions you hold, you cannot convince anyone of your point of view nor can you test and confirm that view for your own benefit. *Say what you believe.*]
- J2. Define the areas of agreement and disagreement between yourself and those

whose views you oppose. Do not waste time arguing over things you are really agreed upon.

J3. Never, never argue about established facts. Look them up in one or more authorities.

J4. Be sure you know whether the argument is founded upon differences of opinion concerning causation, obligation, evaluation, or generalization. [The evidence you present to support your view must be determined by the nature of the disagreement.]

J5. Summon up from memory, collect from reliable sources, and compare from common experiences between yourself and your opponent all relevant data or evidence, not just evidence to support your point of view. [You are supposed to be finding out facts, not humiliating an enemy.]

J6. Keep yourself emotionally detached and stay cool. [Lost tempers do not win arguments. The tone of your voice or your written composition must stay moderate and composed. Remember the Biblical injunction, "A soft answer turneth away wrath."]

J7. Examine all evidence thoughtfully and objectively. [Use what you know about the principles of logical order to arrange and evaluate all information pertinent to the issue.]

J8. Stick to the issue or question under discussion. [... Failure to do so can result in a fallacy such as ignoring the question, *ad hominem* or begging the question.]

J9. Do not appeal to the emotions of your opponent or your readers when you find yourself being tested intellectually. [... It is a fallacy to appeal to pity, or fear, or patriotism, or "just plain folks."]

J10. Reach whatever conclusions seem justified by the evidence calmly considered. If you think the evidence insufficient, then postpone your decision until more evidence is available.

J11. If you decide your original decision was wrong, admit it and accept the right one. [No one loses face by admitting his mistakes.] (Johnson 148-49)

I think Johnson's rules are best seen as advice-giving rules. He is advising us when he says we should "be sure ..." of this (J1 and J4), "never, never" do that (J3), "keep cool" (J6), and be thoughtful and objective (J7). Unlike the Pragma-Dialectical rules, there is nary a "must" or "obligated" to be found anywhere in these rules.

That is one of the striking features of the Pragma-Dialectical rules. In the version

we will look at, the verbal auxiliaries are “must,” “obligated,” “may ... only,” and “may not.” This is the language of what is permitted and forbidden, not the language of advice. The Pragma-Dialectical rules sound much more categorical than hypothetical; moreover, they speak of “advancing” (P1 and P2), “attacking,” (P3) and “defending” (P2, P4, P7, P9) standpoints. These are militaristic metaphors familiar to both legal and philosophical argumentation. Interestingly, Johnson does not use these adverbs; in contrast, he advises us to “examine all evidence thoughtfully and objectively” (J7) and “reach whatever conclusion seems justified by the evidence calmly considered” (J10).

Although Johnson’s eleven rules predate the Pragma-Dialectical ones by about twenty years, they do have some similarities with them. But all the points of comparison – positive and negative – concerning the substance of the two sets of rules must be examined at another time. In this essay I want to restrict my inquiry to the question of how a set of argumentation rules may be justified.

In their original presentation (in English) of the rules for a Critical Discussion, van Eemeren and Grootendorst (1984: ch. 7) offer their rules as a code for the use of speech acts by rational discussants. Back then, in 1984, they formulated seventeen rules, some of them with several clauses. Since then, they have removed the explicit reference to the kinds of speech acts that the rules govern, but the rules, now reformulated as a decalogue, are no less elegant and comprehensive than they were before. Here is how the Pragma-Dialectical rules were presented in the 1996 book, *Fundamentals of Argumentation Theory* (283-84, italics added).

P1. Parties *must not* prevent each other from advancing standpoints or from casting doubt on standpoints

P2. A party who advances a standpoint is *obliged* to defend it if asked by the other party to do so

P3. A party’s attack on a standpoint *must* relate to the standpoint that has indeed been advanced by the other party

P4. A party *may* defend a standpoint only by advancing argumentation relating to that standpoint

P5. A party *may not* disown a premise that has been left implicit by that party or falsely present something as a premise that has been left unexpressed by the other party

P6. A party *may not* falsely present a premise as an accepted starting point nor deny a premise representing an accepted starting point

P7. A party *may not* regard a standpoint as conclusively defended if the defence does not take place by means of an appropriate argumentation scheme that is correctly applied

P8. A party *may only* use arguments in its argumentation that are logically valid or capable of being validated by making explicit one or more unexpressed premises

P9. A failed defence of a standpoint *must* result in the party who puts forward the standpoint retracting it and a conclusive defence of the standpoint *must* result in the other party retracting its doubt about the standpoint

P10. A party *must not* use formulations that are insufficiently clear or confusingly ambiguous and a party *must* interpret the other party's formulations as carefully and accurately as possible

Let us compare the way in which the two sets of rules are 'justified'.

Johnson's justification of his eleven rules is neither deep nor rooted in theory. He says we must observe the rules if we are to accomplish the purpose of argumentation (Johnson 1962: 148) which is "to discover the truth, ... to establish facts" (Johnson 1962: 147). He tells us - without proof - that it is necessary to follow a set of rules if we are to discover truth. He then accompanies some of his eleven rules with a brief justification of the rule (I have inserted square brackets in the quoted rules to indicate what I think the justification is). The first rule, which calls for accuracy of expression, is justified by the proposition that you cannot convince someone of your viewpoint if you cannot express it clearly, nor can you test it for your own benefit. The fourth rule says that we should be aware of the kind of disagreement we are involved in (causation, obligation, etc. ...) because the kind of disagreement determines what will count as relevant evidence. Two of the rules, J7 and J8, are justified by the claim that if we fail to follow them we would be committing fallacies. J10 tells us to withhold our judgment if there is insufficient evidence. This lemma is supported by the wisdom that it is better to be indecisive than to make an irrevocable wrong decision. The final rule, J11, admonishes us to admit we were wrong if we were wrong. The justification here does not seem to be an epistemic one at all, for it is that no one loses face by admitting his or her mistakes. Moreover, it is not true. One does lose face in admitting mistakes (that's why we don't like to do it).

So, we see that, very briefly, Johnson attempted to give a justification or rationale for each of his eleven rules. The rules are necessary, said Johnson, if

argumentation “is to accomplish its purpose” (Johnson 1962: 148) and from this we infer that Johnson viewed the rules as being instrumental rules serving the end of argumentation – that being to bring about conviction by establishing facts. He was quite clear, however, that following the rules would not make one “a model of prudent rationality;” (Johnson 1962: 149) since the possibility of mistakes still remains. That is to say, the eleven rules were not claimed to be sufficient for conviction-based-on-facts, for the reason that the rules were not thought to be complete.

The justification of the ten Pragma-Dialectical rules, although it shares some points of similarity with Johnson’s approach, is much more systematic, detailed and theoretically motivated. Nevertheless, the justification of any set of dialectical rules has a magical air about it not unlike the experience of seeing a rabbit being pulled out of a hat. How do those magical dialecticians do that!?

In their essay, “Rationale for a pragma-dialectical perspective” (1988/1994), van Eemeren and Grootendorst address the question of how the rules of Pragma-Dialectics are justified. This rationale is given informally and

- a. it seeks to avoid the shortcomings of earlier argumentation theorists (Toulmin and Perelman);
- b. it is innovative in that it finds new applications for respected theories and ways of combining insights from different schools (Barth and Krabbe’s formal dialectics + Austin and Searle’s speech act theory); and
- c. it is theoretically explicit and self-conscious since it seeks to identify its own meta-theoretical starting points (externalization, socialization, dialectification and functionalization). There is no reason to think that all the cards are not on the table. However, having found reasons to esteem the Pragma-Dialectical rationale for the ten rules for a Critical Discussion, one may still find it difficult to find the right starting point from which to begin to tell the story of their genesis.

It is easiest to begin with the Munchhausen trilemma which says that theories of justification force us “to choose between the following unacceptable options:

1. an infinite regress,
2. a logical circle, or
3. breaking off [of] the justification process at an arbitrary point.” (Van Eemeren and Grootendorst 1994: 19)

Van Eemeren and Grootendorst seem quite convinced both that these are the only three traditional alternatives for theories of justification and that each of the

alternatives is unsatisfactory[i]. This leads them to cast around for a new model which would make it *reasonable* – but not *justified* – to hold a point of view. Accordingly, they develop the concept of an *ideal critical discussion*, which they imbue with the Popperian notion that points of view are credible to the degree that they can withstand criticism, and with the innovation that the defence of and criticism of a point of view should be done within a dialectical framework. In the dialectical framework there will be two voices, or parties, who are charged with settling a difference of opinion. If these two parties go at it, honestly and openly, they may decide that a point of view can withstand criticism, or that it cannot. In the former case, perhaps, we have a kind of answer to the third horn of the Munchhausen trilemma: there is a weak but non-arbitrary ‘justification’ for a particular opinion because it has withstood examination in a critical discussion. This makes it non-arbitrary, and so reasonable to hold the view, to a degree.

The Critical Discussion, as van Eemeren and Grootendorst envision it, should allow unrestricted range of expression and defence of any point of view as well as criticisms of it. Unrestricted in subject matter, that is; not in procedure. Regulation is required to ensure that the settling of a differences of opinion is not unreasonable. To this end, the rules are required. But, we ask, why this particular set of rules?

Van Eemeren and Grootendorst address the question of rationale, or justification, of the rules directly. They think that there are at least two independent tests that a set of dialectical rules must pass.

A dialectical argumentation theory should provide rules for the conduct of an argumentative discussion, and these rules should together constitute a problem-valid and convention-valid discussion procedure, thus guaranteeing the degree of consideredness [i.e., reasonableness] required for a critical discussion to be carried out (Van Eemeren and Grootendorst 1994: 21).[ii]

Problem-solving validity concerns the suitability of the rules to do the job they are intended to do, and the Pragma-Dialecticians think that their rules’s effectiveness in prohibiting all of the classical fallacies is “the best test [of] the problem-validity of the dialectical system of rules” (*ibid.*). Fallacies are seen as anathematic to critical discussions, and that the rules block them is evidence of their problem-validity. Van Eemeren and Grootendorst show that the rules are problem-valid by showing which fallacies are blocked by each one of them (Johnson also did this for some of his rules).

Turning now to convention-validity, or as it is also called ‘inter-subjective,’

validity. Van Eemeren and Grootendorst argue here that the rules should be acceptable in principle “to those whose first and foremost aim is to settle a dispute” because the rules were developed for that very purpose (*ibid.* 25). But ultimately, the justification of the rules will be pragmatic: the rules will be acceptable if they are successful in their intended role of settling disputes. The question of conventional-validity is then an ongoing question, putting the rules to the test every time they are used to solve a difference of opinion. Together problem-validity and conventional validity constitute the two tests of the dialectical validity of the rules of Pragma-Dialectics.

When asked to defend the rules for a Critical Discussion, an off-duty Pragma-Dialectician might well say, “Well, we have this idea that a difference of opinion ought to be settled by discussion, and as far as we can tell, discussions ought to follow these rules. If anyone wants further elucidation or justification for the rules, he will just have to mediate further on the nature of ‘critical discussions.’” In this way, then, the concept of a ‘critical discussion’ gives rise to the rules, but the rules are constitutive of a Critical Discussion. I think this is really a large part of the explanation: the idea of a critical discussion gives rise to the need for regulation (that is, for rules) and as individual rules are identified and added to the list, the concept of a critical discussion comes into sharper relief. The Pragma-Dialectical rules I quoted above, define ‘Critical Discussion’ at its present state of philosophical evolution.

As an inquiry, I want to raise the question of the internal connection between the ten rules. That is, my question is whether there is any internal relations between the ten Pragma-Dialectical rules other than that they are claimed to be constitutive of the concept of Critical Discussion. I begin by noticing that the rules R1-R10 are stated in terms of what is obligatory and what is forbidden: the main verbal auxiliaries in the ten rules are ‘must not,’ ‘may only,’ and ‘may not.’ But it is also possible to state the rules in terms of the rights of the discussants. There is some precedence for doing this. For example, in discussing the formulation of the rules in their early work van Eemeren and Grootendorst speak of “the right to challenge” a standpoint (1984: 158) and later, speaking of the first rule, they say that “both the advancing and doubting of a viewpoint are therefore formulated without reservation as a basic right” (1994: 23).

R1. *A* and *B* each have a RIGHT to advance standpoints & *A* and *B* each have a RIGHT to cast doubt on standpoints

- R2. If *A* advances a standpoint then *B* has a RIGHT that *A* should defend that standpoint
- R3. If *A* attacks *B*'s standpoint then *B* has a RIGHT that *A*'s attack should be relevant to the standpoint that *B* has actually advanced
- R4. If *A* defends a standpoint then *B* has a RIGHT that *A*'s defence of *A*'s standpoint should consist only in argumentation that is relevant to *A*'s standpoint
- R5. *B* has a RIGHT that *A* not disown a premise that has been left implicit by *A* & *B* has RIGHT that *A* not present something as a premise that has been left unexpressed by *A*
- R6. *B* has a RIGHT that *A* not falsely present a premise as an accepted starting point & *B* has a RIGHT that *A* not deny a premise representing an accepted starting point
- R7. *B* has a RIGHT that *A* not regard a standpoint as conclusively defended unless *A*'s defence of *A*'s standpoint took place by means of a correctly applied appropriate argumentation scheme
- R8. *B* has a RIGHT that *A*, in *A*'s argumentation, use only arguments that are logically valid or capable of being validated by making explicit one or more unexpressed premises
- R9. If *A* fails in *A*'s defence of *A*'s standpoint, then *B* has a RIGHT that *A* retract that standpoint & if *A*'s defence of *A*'s standpoint is conclusive then *A* has a RIGHT that *B* retract *B*'s doubts about *A*'s standpoint
- R10. *A* has a RIGHT that *B* not use formulations that are insufficiently clear & *A* has a RIGHT that *B* no use formulations that are confusingly ambiguous & *A* has a RIGHT that *B* interpret *A*'s formulations as carefully and accurately as possible

Each of these rules, R1-R10, is interchangeable with its counterpart in the set P1-P10.

What kinds of rights these are deserves full discussion at another time. For now I will only observe that they are neither moral nor legal rights, and propose that they are to be thought of as conventional and artificial rather than natural, and that they are rights of parties *qua* their participation in Critical Discussions. More generally we may think of them as rights of those who engage in the practice of argumentation.

Once we have the rules stated in terms of rights we can apply some principles about rights and obligations to them. In particular, we will suppose that two principles in the sphere of legal and moral rights are transferable to the sphere of



rights in argumentation. Consider the following passage from Feinberg's *Social Philosophy*.

It is often said that there can be no rights without duties, and that a prior condition for the acquisition or possession of rights is the ability and willingness to shoulder duties and responsibilities. The theory that acceptance of duties is the price any person must pay in order to have rights has been called the doctrine of the *moral* correlation of rights and duties. This is in contradistinction to the doctrine of the *logical* correlation of rights and duties ... which asserts that attribution of rights to one person logically entails the existence of at least one *other* person who has duties towards him. (Feinberg 1973: 61)

The logical correlation of rights duties is the best known. It simply says that if A has a right to have or do X, then there is some B who has a duty to let A have or do X. I shall assume that the opposite relation holds as well: if A has an obligation to have or do X, then someone else has a right that A should have or do X. Unlike the logical correlation of rights and duties, the moral correlation of rights and duties is not analytic. It presupposes a background of goals, restrictions and trade-offs: if A has a right then, as Feinberg suggests, there will be a price to pay for having that right, namely that A will also has a duty. Whereas the logical correlation of rights and duties is interpersonal, the moral correlation is intra-personal. Some examples for illustration are these: if citizen X has a right to vote, then X also has a duty not to prevent any other citizen, Y, from voting; and if citizen X has a right to attend the church of his choice, then X also has a duty not to prevent any other citizen, Y, from attending the church of his choice. Interestingly, we shall see that the converse of this principle is relevant to our investigation too: if A has obligations, then A has rights too. In sum, we have four different principles that correlate rights and duties:

LC(R-D) - If A has a right then B has a duty

LC(D-R) - If A has a duty, then B has a right

MC(R-D) - If A has a right, then A has a duty **[iii]**

MC(D-R) - If A has a duty, then A has a right **[iv]**

With this as a background let us have a look at how the Pragma-Dialectical rules may be related to each other.

The first rule of P-D is about the right to advance and criticize standpoints: No restrictions whatsoever are to be placed on this rule. This rule is so important

that we should give it a name like *Mill's Rule*, reminding us of the elegant defence he gives of this very principle in chapter two of *On Liberty*. But R1 really grants two rights to participants in Critical Discussions: the right to advance standpoints and the right to cast doubt upon standpoints. With the right to advance standpoints granted in R1 comes a duty, in P2, to defend standpoints if asked to do so. This is a moral correlation of a duty with a right, MC(R-D). Van Eemeren and Grootendorst (1994: 23) agree, for they write: "A person who advances a viewpoint has automatically acknowledged an obligation to defend or prove the viewpoint, if required." So the first rule gives rise to the second rule.

We might pause to notice that if the protagonist is obligated to defend his standpoint, as P2 proclaims, then by MC(D-R) he has a right to defend his standpoint. This right is not explicitly acknowledged in the ten rules for a Critical Discussion.

Does the second right granted in R1 - the right to cast doubt on standpoints - give rise to a duty? It seems plausible that it does, viz., the duty in P3, that a criticism of a standpoint must be relevant to it. This correlation is also an instance of MC(R-D).

Now, if the antagonist in a Critical Discussion is obligated to make only relevant criticisms of the other party's standpoint, as P3 asserts, then it would be fair that he should have a right that the defence of the standpoint by the protagonist should be relevant as well. This gives us R4 (which is equivalent to P4) - the protagonist is obligated to make a relevant defence of his standpoint and the antagonist has a right that he should do so. We have then reached P2-P4 from R1: they may be seen as correlated with R1.

Rule P9 says that a party who fails to defend his standpoint must withdraw it, and a party's decisive defence of a standpoint obligates his opponent to withdraw his doubt. If parties have the obligations to admit defeat in this way, then this presupposes that certain standards of argumentation are in effect such that one's obligation to concede is based on the quality of the argumentation. Thus we may hold that the obligations given in P9 can be correlated with certain rights pertaining to the standards of argumentation: if I am obligated to withdraw my doubt due to argumentation then I have a right that the argumentation should be good argumentation. That is, I can claim as a right that the argumentation must meet the standards of validity (rule R8) and the standard of communication (rule

R10). Here I have twice appealed to MC(D-R): the duty to abide by the outcome of argumentation brings with it rights of the participants about the quality of the argumentation.

The Pragma-Dialecticians put great stock in argumentation schemes, and they hold that an argumentation is not acceptable unless it is accomplished via an acceptable scheme. I will not discuss this claim here, other than to observe that - if that is how it seems to them - one would also generate the right to have argumentation meet the standard of argumentation schemes (rule R7) from the obligation to concede only in light of good argumentation (rule P9).

Rule 5 has to do with implicit premises, saying that a party to the argumentation can be held to any premises he leaves unstated. This seems like a fair rule. After all, if I must bow to the better argument, then I have a right that all parts of the argument should be open for examination, even its unstated premises. So, once again, from the obligation given in rule P9, by MC(D-R) we find the right stated in R5.

I think rule 6 to be the most intriguing of the Pragma-Dialectical rules. More so than the other rules, it straddles the logic-dialectic divide. The rule says, in my words, that the ultimate premises from which the argument for the standpoint is given must be agreeable to the antagonist. In other words, the antagonist has not only the right that the argumentation to which he is asked to bow should be valid, fully explicit, and done by an appropriate scheme, he also has the right that it begin from premises which he finds acceptable. This is perhaps, as it should be. After all, one cannot prove anything to anyone if they will not accept the ultimate premises of the argument. Again, here we have MC(D-R), this time giving us R6 from P9.

What I think I have done here is that I have suggested another way in which the rules for Critical Discussions could be justified. I assume that the two sets of statements of the rules, the P-rules and the R-rules, are equivalent such that any P<sub>n</sub> rule is equivalent to its R<sub>n</sub> counterpart. My method is to start with a rule from one of the sets, R1, and show that by correlation of right and duties, it gives rise to certain obligations of argumentation which can be stated as rules P2-P4. Then turning my attention to rule P9, I showed that the obligations it pronounces can be correlated with rights which are really rules R5-R8 and R10. Thus, my modest claim is that from two of the ten rules, the other eight can be generated. Of

course, this leaves out any defence of rules R1 (= P1) and P9; they must be justified in some other way. However, on the positive side, my approach seems to show that there is some internal connection between the Pragma-Dialectical rules, that they are conceptually connected in a way not emphasized by the Pragma-Dialecticians themselves.

## NOTES

**[i]** A view not shared by all philosophers. Discussion of this trilemma is attributed to a work by Hans Albert in 1975, and made available in English in Albert 1985.

**[ii]** The concepts 'problem-valid' and 'convention-valid' are owed to Barth and Krabbe (1982: 21-2).

**[iii]** That the correlation is 'moral' does not imply that the rights or duties here discussed are moral.

**[iv]** In law and ethics there are well-known exceptions to the middle two principles. We have a duty to be charitable but there is no particular charity which has a right that we should benefit it; and young children, (and possibly animals) have rights but not duties. I do not think that the counterparts of these objections will figure in the present discussion.

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