ISSA Proceedings 2010 – Argumentation And Contemporary Concerns For Justice: Shifting Focus From The Universal Audience To The Common Good

1. Concern for justice underpinning the argumentation movement

The modern argumentation movement, richly combining new rhetoric with currents of informal logic, pragma-dialectics and dialogue logic continues to be inspired by two humanist concerns – to empower human beings by liberating them from the regime of Cartesian rationalism and to promote justice. When we look back to the modern progenitors of our movement, we distinctly hear Perelman, Toulmin, and Hamblin rail against oppressive formalism and to promote the liberating dynamics of democratic deliberation. Perelman writes that "we combat uncompromising and irreducible philosophical oppositions presented by all kinds of absolutism" (Toulmin 1969, p. 510) and that "[argument] strength is appraised by application of the rule of justice: that which was capable of convincing in a specific situation will appear to be convincing in a similar or analogous situation" (Toulmin 1969, p. 464). The new rhetoric "constitutes a *break with a concept of reason and reasoning due to Descartes* which has set its mark on Western philosophy for the last three centuries" (Toulmin 1969, p. 1). And since no one deliberates and argues what is God-given necessary or self-evident, "all thought becomes human and fallible … knowledge thus ceases to be impersonal because every scientific thought becomes a human one, i.e., fallible, situated in and subjected to controversy" (Toulmin 1982, p. 159). Toulmin's social history of logic locates an origin of oppressive rationality in the Peace of Westphalia that generated "a poisoned chalice: intellectual dogmatism, political chauvinism, and sectarian religion formed [a single ideological package]" (Toulmin 2001, p. 158). Toulmin also cautioned against any God's-eye-view (Toulmin 1958, pp. 184-185). Hamblin declared that "what is, above all, necessary

is to dethrone deduction from its supposed pre-eminent position as a provider of certainty" (Hamblin 1993, p. 250).

So long as it is the logic of practice that is being discussed, it is important to relate the concepts of truth, validity, and knowledge to dialectical concepts in the right way. ... In the limiting case in which one person constructs an argument for his own edification ... his own acceptance of premisses and inference are all that can matter *to him*; and to apply alethic criteria to the argument is surreptitiously to bring in the question of *our own* acceptance of it. When there are two or more parties to be considered, an argument may be acceptable in different degrees to different ones or groups, and a dialectical appraisal can be conducted on a different basis according to which party or group one has in mind; but again, if we try to step outside and adjudicate, we have no basis other than *our own* on which to do so. Truth and validity are onlookers' concepts and presuppose a God's eye-view of the arena. ... [onlookers might intervene but] become simply another participant in an enlarged dialectical situation and that the words 'true' and 'valid' have become, for [the participant] too, empty stylistic excrescences. To another onlooker, my statement that so-and-so is true is simply a statement of what I accept. (Hamblin 1993, p. 242)

Perhaps this statement captures Hamblin's definition of *freedom*, whose essence allows nothing external to mediate opinions. For, indeed, there is now neither truth nor objective ground to settle disputes, only the pragmatics of deliberation. Nevertheless, his call to dethrone deduction was simultaneously a call to cultivate a culture of justice within an arena of empowering democratic discourse.

Principal toward realizing concerns of emancipating human reason and promoting justice, many argumentation philosophers supplanted the earlier conception of *good argument* – a disembodied text relying on formal notions of validity and cogency – with a new conception of *good argument* conceived as a contextualized social activity. Crucial in this shift was reinserting pragmatic and rhetorical concerns to recognize that arguments are used by human beings with aims to persuade other human beings. As audience adherence became central, attention among argumentationists turned to acceptability of premises and inferential links. And with this shift has come a wondrous explosion of exploration and discovery into human reasoning, with the promise of continued exploration and discovery not soon to abate.

Hopes for justice continue to abound as we examine the constituents of human reasoning and promote broadening discourse as a principal means of resolving conflict. And while we remain hopeful in affirming this tack and see some remarkable successes, we are nevertheless faced with extreme regimes of injustice blighting humanity. We encounter here an astounding multiplicity of human rights violations that strike at humanity's conscience, not the least among whom are philosophers of argument. How are argumentation philosophers to address this situation?

2. Encountering pernicious relativism and invoking a universal audience to preserve justice

However, with a rhetorical turn to audience adherence as the touchstone of a good argument, philosophers of argument soon encountered the specter of pernicious relativism. To address this problem some philosophers – notably Govier and Tindale and in a related way Johnson –

have invoked Perelman's notion of *universal audience* with varying degrees of success. Taking a little license to amalgamate various threads of reasoning, we can represent the tack in the following way.

The universal audience somehow lying within a particular audience is constructed from the mind of the arguer as an imagined tool or regulative principle with heuristic ends. Somehow it is the universalization of the particular in its context. By certain universalizing techniques, emerging from standards that an audience would deem on reflection to be relevant – in the appropriate way sufficient to support the conclusion; drawn with the appropriate sensitivity; standards of relevance and rationality in the broader culture; ultimately persuasive for anyone who thinks in the normal way; in the long run, by any audience relevantly similar to the audience – the participants aim to broaden the audience as much as possible in order to transcend a milieu or a given epoch. These participants are model 'ordinary people', namely those in possession of high critical standards, outstanding exemplars but not gods. Premise acceptability is adjudicated by the pertinent community of ideal interlocutors and only arguments that can be universally admitted are judged reasonable. The universal is fully grounded in the practical requirements of the real just in its being the distillation of the concrete audience. Only premises are admitted that are universalizable, that is, not contradictory. (Boger 2010, CD)

We here observe a shifting, or vacillation, that characterizes discussion when a

philosopher invokes the (or a) universal audience. In principle, this shifting consists in: *first*, encountering the need for a universal audience to mediate difference between conflicting particular audiences; second, invoking the universal audience, and then; third, immediately recognizing this audience to be just another particular audience. Hamblin's thinking (1993) haunts an important current within the argumentation movement.

When philosophers of argument invoke the universal audience in their attempts to preserve their humanist commitments to morality and the principles of justice in democratic society, they have inevitably fallen afoul with begging the question. We observe, for example, characteristic reference to 'mature adult human beings at all times and places', 'appropriate sensitivity to context', 'model ordinary people', 'universally admissible arguments, 'universal features of particular audiences' to validate the universal audience. Who are these 'mature adult human beings' if not the *rationalist ideal of pure reason*? And then again, who would judge, or mediate, real disputes if not this same ideal? To invoke such an audience resurrects again – often with an appeal to the categorical imperative (with Perelman) – a formalism that has been anathema to philosophers of argument.

Our concern here asks whether these new logicians, taking joy in throwing off the shackles of an old idealist metaphysic *per* Hamblin, and then reveling in the newfound freedom, really reassert a form of pure subjectivity that recognizes nothing external as having authority. Hegel poignantly represented this thinking in his discussion of Kant's moral philosophy.

This philosophy made an end of the metaphysic of the understanding as an objective dogmatism, but in fact it merely transformed it into a subjective dogmatism, *i.e.* into a consciousness in which these same finite determinations of the understanding persist, and the question of what is true in and for itself has been abandoned. (Hegel 1968, p. 427)

The concern we address in this discussion is philosophical. We ask whether argumentation philosophers inadvertently become apologists for privilege and inequality within a reigning *status quo* and in the process compromise genuine concerns for justice by becoming just as *abstract* as their first objects of scorn.

3. A contemporary state of affairs – the nothingness of the particular context
That becoming *just as abstract* seems to be the case issues from the following

considerations, which outline a thread running through the argumentation movement.

(1) Recognizing that the constituent parts of the old oppressive regime included —

A disregard for the context situatedness of an argument;

Obviating a concern for the pragmatics of argumentative discourse;

Accepting the platonistic character of propositions and dismissing that argumentation consists in human speech acts;

Affirming the objective atemporality of truth, implication, and reason;

Taking cogency to inhere in an argument and not in the minds of an audience.

(2) Argumentation philosophers, to address oppressive (abstract) rationalist formalism –

Emphasized the social and personal character of human argumentation, all of which are contextually embedded in human lived-experience;

Diminished the strict distinctions between the arguer, his/her audience, an argument, and the process of argumentation;

Broadened the nature of logic to include the multi-faceted character of human discourse;

Obviated the importance of soundness as a necessary component of a good argument, and in doing so, emphasized premise acceptability and inferential suitability; and then

Affirmed 'truth', 'validity', and cogency' principally in the limited sense as participant-dependent and not objective properties inhering in an argument.

(3) Almost immediately philosophers of argument encountered the specter of pernicious, or nihilistic, relativism and found such a situation morally, perhaps even politically, embarrassing and reprehensible, just in the implication that audience adherence seemed to promote 'anything goes', and thus gave license to, for example, racists, sexists, and political demagogues and opportunists of various stripes. Obviating truth eliminated any objective ground for mediating difference and threatened commitments to effecting justice. Because of their self-conscious humanism, they sought philosophical ways to preserve their twin commitments to (1) the context relativity of argumentative situations, and (2) justice and personal empowerment.

(4) To meet the problem of pernicious relativism, one trend among argumentation philosophers has reintroduced Perelman's universal audience, or a version of such

an audience. The intention here is that such an audience would properly mediate conflicting discourses such as those that populate argumentative discussions about the universality of various articles in the *UN Universal Declaration of Human Rights*.

(5) However, such attempts, whether invoking a universal audience or a community of model interlocutors, collapse, just in that their own principles, which targeted the old regime, now turn on themselves. As they had asked 'whose justice?', 'whose truth?', 'whose notion of reason?', they were now equally faced with Hamblin's asking 'whose universal audience?'. Accordingly, the universal audience loses its special status to resolve conflict only to become just another particular audience; thus, its utility as a mediating instrument is subverted. Progress in this direction has had little development since Tindale (1999).

(6) Meanwhile, another trend within the argumentation movement has taken up treating the pragmatics of argumentative discourse. While not directly a response to pernicious relativism, this trend nevertheless further suspends reference to the truth or falsity of proffered claims. It dismisses these claims just in its interest to manage an argumentative situation *fairly* according to rules of critical discussion without recourse to the material truth of disputant claims. This situation is characteristic of mediation.

(7) The result in both trends, albeit generally independent of one another – namely: first, that addressing pernicious relativism by invoking the universal audience; and second, that richly developing discourse pragmatics to manage argumentative situations – is much the same in respect of addressing foundational philosophical problems within philosophy of argument as its currents hold to concerns of justice.

In each case, philosophers unavoidably bracket objective social reality to render it *virtually* an unknowable thing-itself. The reflex of these moves is to make contexts abstract and empty *by making them all equal in value*. They simultaneously affirm the nothingness of both the universal audience and the many particular audiences. This makes impossible genuinely mediating opposing claims, say, for example, of those of the racist and non-racist, leaving the 'winner' the one who better follows the rules.

Absent truth, thus, absent material justice. Disputing parties are subject only to the pragmatics of argumentative discourse to settle a dispute *fairly*. Justice amounts to following the rules and dutifully accepting the outcomes.

(8) An important philosophic result of these argumentation trends is to reaffirm the abstract individual of bourgeois (*aka* liberal) political philosophy, itself an ideological expression of capital. Not only is the individual disputant de-contextualized within the larger context of social reality, so is the importance of his/her context itself suspended in this same respect. The isolation and nothingness of each consists precisely in their respective inaccessibility. This is a necessary consequence of dismissing truth.

(9) The philosophic corollary to this abstract individual and bracketing objective social reality is to obviate genuine concern for justice. How are claims of wrong to be redressed without reference to an underlying reality that is accessible to human reason and that can serve *to mediate the truth or falsity of conflicting claims* relating to concerns of justice?

(10) The final outcome is that philosophers of argument are left with relying on the good will of disputing parties and left also without a philosophical underpinning for their commitments against pernicious relativism and its rival sibling injustice.

While surely it is not an intention of philosophers of argument to undermine genuine concerns for human empowerment and justice, the developments in argumentation theory issue in reasserting a kind of oppressive formalism they sought to subvert in their initial challenges to Cartesian rationalism and its putative instrument of oppression, formal logic. Absent truth and cogency independent of participants' assessment of suitability, we now have: (1) an empty universal audience; (2) abstract individuals and abstract contexts; and (3) sets of rules for managing disputes.

A trend within the argumentation movement, having moral and political motivations, seems to abdicate genuinely fulfilling its activist mission to engender justice. Justice will remain elusive and be subordinated to pragmatic utility, frustrated by continually encountering only the nothingness of subjective certainty.

Resurrecting external mediation – apologists for the status quo?
We now are faced with a question that arises among argumentationists about managing an argumentative situation, namely – who is the judge in such situations? Four candidates come quickly to mind. There are:

(1) Either the one or the other of two disputants engaged in an argumentative situation; or

(2) The mediator, putatively disinterested, facilitating a given dispute according to rules of critical discussion; or

(3) The universal audience, again, not a transcendent (perhaps transcendental?) entity; or

(4) The philosophers or analysts of disputation, who apparently are outside a given dispute in that they have a metasystematic orientation.

Thinking back on Hamblin's remark, whom might we consider satisfactory among these possible judges? Relativizing cogency to what are acceptable standards for given audiences, philosophers have shifted between (1) fixing an internal, emergent standard while recognizing the need for an objective standard, and then (2) immediately recoiling from its becoming an external, imposed standard. Since the universal audience is informed only by subjective certainty – which amounts to the nothingness of pure, unmediated subjectivity and not by objective material reality – it can never achieve genuine independence and thus it can never become adequately objective in its mediations. Meaningful distinctions between *is and ought*, *being and thinking*, *knowledge and belief*, *reality and appearance*, *the necessary and the contingent* become conflated and empty. This amounts to resurrecting Kant's subjective idealism to bracket as unknowable the very social ground required for a satisfactory resolution of conflicts and the promotion of justice.

The serious problem here is that this shifting results in masking the hegemony of the prevailing ruling authority in the larger social context, a context beset by profound controversies calling out for justice and an objectification of injustice. The rule of law – in the case or argumentation philosophy the *rules of critical discussion* – masks the reality of arbitrariness. And this arbitrariness is directed against historical necessity through the power of the jurist (or the legislator, mediator or arbiter) over social contradictions.

Accordingly, and ineluctably, there emerges a principle that appears to mediate in an objective manner according to a set of prescriptive rules of engagement, which, in the person of a judge or mediator, takes on the semblance of non-arbitrariness. However, the abstract independence of the mediator, acting with an appearance of pure duty just in officiating a set of rules, masks his particularistic and arbitrary interest. It might even be the case that this judge is himself

unaware of his particularist officiating. His universality, or objectivity, is inauthentic and purely formal. Mediation turns out to be vested in an external judge and thus open to the discretion of his arbitrary will.

The significant social outcome of this vacillating is to leave vulnerable those lacking power within the larger social milieu. Their interests are likely eclipsed, that is, appropriated, by the rival power already vested in the state or in a prevailing authority, often legitimating itself through religious dogma. The appearance of objectivity and universality masks an appropriative posture, whether or not this posture is intentional. We have only to appeal to recent labor negotiations in the US to witness inequality at work, or the outcomes of mediating divorces, or addressing concerns of persons held on suspicion of terrorism but never being charged.

5. *Invoking a notion of the common good – opening a way toward justice*
The failure of referencing the universal audience to mediate conflict, for the philosophical reasons cited above, results in tolerating social injustices – or, expressed in another way, does not provide a *firm philosophical underpinning* for effecting justice. Given the reality that vast populations of the human community are marginalized, poor, disenfranchised, uneducated and non-lawyers while at the same time living within states governed by the rule of law as well as powerless and subject to the governing powers, both in respect of their laws and their priorities, what are the real chances of these peoples receiving justice when they subscribe to or acquiesce in the rules of critical discussion? And while we embrace all exercises of good will, we do not believe doing so is adequate for materially rectifying the inequalities of the modern world. We affirm that our concern fully embraces employing the rules of critical discussion; we believe that by themselves these rules will not effectively resolve problems of injustice. And were a reader curious about a political position underlying our thinking, let his curiosity be satisfied –

yes, we believe that the world's vast social inequalities are rooted in class domination and super-exploitation and that this is an objective fact of the modern world. However, our concern in this discussion is only to highlight the philosophical inadequacy of invoking the universal audience and employing rules of critical discussion, since these tacks undermine the concern of philosophers of argument to consult an argument's context in meaningful ways to combat injustice.

Let us put aside discussion of this universal audience to allay the specter of pernicious relativism and turn attention rather to the notion of the common good to see if there we can extract, if not a complete *philosophical foundation for justice*, at least a direction worth pursuing. While making reference to an objective social reality is a way to address our concern, we are leaving aside for the time being this discussion. Rather, within the framework of the increasing global concern for human rights, we suggest that an important philosophic principle necessary for addressing the fragmentation of the human community lying at the base of social injustice is to recognize the common dignity of human beings. Recognizing the dignity and worth common to human beings promotes a sense of responsibility each person has to both him/herself and others. The humanist foundations underpinning philosophy of argument have their completion in the notion of the common good. By embracing and developing this dimension of the argumentation movement's concern for justice we shall be more successful in allaying pernicious relativism.

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