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Commentary on van Eemeren & Houtlosser

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Commentary on: F. van Eemeren & P. Houtlosser's "More about Fallacies as Derailments of Strategic Maneuvering: The Case of *Tu Quoque*"

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1. Introduction

  In this brief commentary, there is no time for me to elaborate on my many agreements with the authors of this paper (Eemeren and Houtlosser 2003). For example, I agree that one of the best-known of the alternative accounts of fallacies (which here shall remain nameless) tends to be *ad hoc*; that it is extremely misleading (I would say self-contradictory) to claim that fallacies are not always fallacious; that to stress the traditional list of fallacies that have Latin labels is theoretically unproductive; and that the domain of persuasion is properly labeled rhetorical. After all, one might say that scholarly commentaries ought to be arguments, that arguments aim at the resolution of differences of opinion, and that therefore the present commentary should focus on some disagreement between the present speaker and the authors; on the other hand, whereas I see the fruitfulness of the conclusion just stated, I am not inclined to uncritically accept its supporting premises. At any rate, still less would I have time to elaborate, or even sketch, some alternative to their pragma-dialectical theory, such as the negative-evaluation approach I have advocated elsewhere (e.g., Finocchiaro 1987); and I feel that this practical temporal constraint must be obeyed even though there is a large amount of truth in Ralph Johnson's (2000, 167-69) claim that an argument should include a dialectical tier, which (among other things) involves criticism of alternative positions, which in turn implies that the elaboration of alternative positions is a paradigm example of critical commentary.

2. Summary

  To begin searching for a difference of opinion, let us recall that for pragma-dialectics, to use their own words, "fallacies are … conceived as argumentative moves … that violate the rules of the procedural model for conducting a critical discussion …. The reasons for finding fault with such moves are … closely related with the general goal that is attributed to the discourse…. This general goal is resolving a difference of opinion by testing the acceptability of the standpoints at issue" (Eemeren and Houtlosser 2003, sect. 3, p. 4). Now, "although the systematic theoretical treatments given in the dialectical approaches to the fallacies have much to recommend them, none of them has so far provided the comprehensive fallacy theory we are aiming for" (Eemeren and Houtlosser 2003, sect. 3, p. 5). This limitation of pragma-dialectics serves to motivate the authors' present paper.

  To be more specific, they point out that until now their theory had given no answers to the following three questions: (1) why fallacies are committed in the first place;[1] "(2) … why a lot of fallacies can be so persuasive; (3) … why fallacies do so easily go unnoticed" (Eemeren and Houtlosser 2003, sect. 3, p. 5). They now believe they can answer these questions, and the

explanation is the same for all three phenomena. The explanation lies in the fact that arguers typically have other aims besides the canonical, pragma-dialectical one of resolving differences of opinion; that a crucially important additional aim is persuasion of the opponent; and that fallacies arise when such a secondary aim is improperly combined with the rules of critical discussion dictated by the canonical aim, or improperly interferes with their operation. They label the attempt to combine the two aims "strategic maneuvering," and a failure of such an attempt a "derailing" of strategic maneuvering. So conceived, fallacies become derailings of strategic maneuvering.

The authors then focus on a "specific type of strategic maneuvering that takes place in the opening stage of a critical discussion. In this type of maneuvering a party attacks the other party by pointing out a logical or pragmatic inconsistency between a starting point proposed by the other party and a starting point this party assumes on a different occasion" (Eemeren and Houtlosser 2003, sect. 6, p. 9). Recall that for pragma-dialectics, the opening stage of a critical discussion is the second of four stages, the first being the so-called confrontation stage, the third the argumentation stage, and the fourth the concluding stage. Thus the opening stage is the one where the two parties, having already clarified what their difference of opinion consists is, try to agree on some procedural and material or substantive starting points, to be used at the argumentation stage. Procedural starting points include decisions on which party acts as protagonist (whose role is to defend a claim with reasons) and which as antagonist (whose role is to challenge the protagonist). Material or substantive starting points are propositions which the two parties agree to take for granted for the sake of the argument. From a purely pragma-dialectical point of view, the protagonist is not obliged to give a reason for not accepting a particular starting point. However, from a rhetorical point of view it is often desirable to do so. Generally speaking, such reasons are sometimes sound and sometimes unsound.

We have seen that one of these reasons may be an alleged inconsistency between what the protagonist is proposing now and what he proposed on some earlier occasion. When is such an allegation of inconsistency sound? The authors elaborate three conditions: the two propositions should be really inconsistent, according to some acceptable definition of inconsistency and some effective criteria for deciding it; the proposition which is attributed to the protagonist on some other occasion should be one that can be actually attributed to him, either explicitly on the basis of some avowed declaration or implicitly on the basis of some action that contextually implies it; and the earlier occasion on which the protagonist advocated one of the two inconsistent propositions should be part of the same critical discussion in which he is now advocating the other proposition, where sameness of critical discussion is partly an empirical question and partly a theoretical question. These three conditions are apparently advanced as being individually necessary and jointly sufficient.

Another distinguishable element of the authors' account is the identification of the fallacy of *tu quoque* with an unsound rejection by the antagonist of a substantive starting point proposed by the protagonist, on the grounds that the latter's present proposition is inconsistent with one of his earlier starting points. On the other hand, cases where such allegations of inconsistency are sound do not constitute fallacies of *tu quoque*, but rather sound and successful cases of strategic maneuvering.

Finally, the authors provide an interesting and important historical illustration of strategic maneuvering involving an allegation of inconsistency. The case involves William of Orange's rejection of the King of Spain's criticism that he (William) had violated the Treaty of Gaundt of 1576. William's defense consists primarily in pointing out that the King of Spain too had

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violated the treaty.

3. Criticism

If this summary is fair and accurate, then I would start asking myself questions such as the following. Regarding the last mentioned element (William of Orange's strategic maneuvering), I must say that I find it too sketchy. At the level of analysis, not enough is said to make it clear that William's strategic maneuvering occurs at the opening, rather than at the argumentation, stage of the critical discussion; nor it is clear that the disputed proposition is a starting point instead of the main standpoint at issue, for it is not clear what is the main difference of opinion established at the confrontation stage. And at the level of evaluation, the authors do not tell us whether William's maneuvering is sound or unsound; such an evaluation and its justification would provide much needed elaboration of their own soundness conditions.

Another element of their paper is the interpretation of the *tu quoque* fallacy as an unsound strategic maneuvering at the opening stage of a critical discussion, consisting of a charge of inconsistency by the antagonist meant to justify a rejection of a starting point. I take this to be a theoretical definition of *tu quoque*. Here, I would have liked a justification of this definition by means of a theoretically-neutral description of the definiendum. In short, I feel the authors should have said more about what is ordinarily meant by *tu quoque*, so that their claim that it can be identified with the definiens they propose would have more empirical content and greater persuasiveness. For example, as things stand, it is unclear why the definiens should not be identified also, or instead, with the ad hominem argument or fallacy, ad hominem in either the classical Galilean-Lockean sense (cf. Finocchiaro 1974) or the modern abusive sense. Nor it is clear what the authors' pre-theoretic (i.e., pre-analytic *and* pre-evaluative) intuition of *tu quoque* is, and what it would tell them about whether or not the following are examples of *tu quoque*. These are arguments that were advanced by some during the debates that preceded the outbreak of the recent Iraq War: one was a defense of Saddam Hussein's regime from the charge that he was in material breech of various U.N. resolutions, by arguing that Israel was in material breech of many U.N. resolutions, and yet the USA did nothing about the latter violation; the other was a criticism by some Europeans of France's claim that the USA was wrong to try to unilaterally disarm the Saddam regime, by objecting that France's behavior within the European Union amounted to an attempt to unilaterally impose its will on the rest of the Union.

Continuing with my review (in reverse chronological order) of the various elements of this paper, there is little to find fault with in its identification and definition of the particular strategic maneuvering at the opening stage consisting of the antagonist's charge that the protagonist is being inconsistent. Still, one would have liked more of a theoretical motivation and contextualization for this particular strategic maneuvering. The authors show some awareness of this potential difficulty when they assert in a footnote that "it stands to reason that to provide a more refined inventory of the types of strategic maneuvering pertinent to the various stages, these stage-related 'local' aims need to be further specified" (Eemeren and Houtlosser 2003, sect. 4, p. 4 n. 13). My point is that one needs more clarification of, information about, and examples of the notions of strategic maneuvering, its derailment, and in general the interaction between the dialogical aim of dispute resolution and the rhetorical aim of persuasion.

My next question regards the conception of fallacies as derailments of strategic maneuvering. It is not clear to me whether the authors' thesis is that all fallacies are derailments

of this sort, or that some are such derailments but some are violations of the pragma-dialectical rules pure and simple. If the former is the case, that would seem to be a major revision of the original pragma-dialectical theory. Such a revision would be presumably justified by the facts of the case, the facts of argumentative practice. However, even if the revision is thus substantively justified by such evidence, one could ask how such a revision fares from a methodological (or meta-theoretical) point of view; that is, the point of view of what a revision indicates about the cognitive value of the original theory being revised and about the new version of the theory. For example, one might ask, was it ever justified for the old unrevised theory to have neglected the rhetorical element of argumentation, the fact that one of the aims of argumentation is persuasion? What are the prospects for the newly revised theory? That is, what reason is there to think that the addition of a second element is sufficient? Is it not obvious that one aim of argumentation is, as Alvin Goldman (1999, 131-60) has argued, epistemic and veritistic, and is one not entitled to predict that sooner or later the pragma-dialectical-cum-rhetorical version will have to find a way of coming to terms with the epistemic dimension of argumentation? And would not such additions and accretions to the pragma-dialectical theory give it a characteristic of ad hocness? Then the previously dismissed theorists of fallacies could perhaps charge *tu quoque*, and however analyzed it is unclear that this charge would be fallacious.

Let us now see what would follow if the thesis was that not all fallacies are derailments of strategic maneuvering, but some are simple violations of pragma-dialectical rules. Clearly the theoretical revision in this case would be smaller. One could say perhaps that the previous simpler analyses and definitions of some fallacies stand, but new more complex analyses of other fallacies are now formulated. Unfortunately this does not seem to be the case because the *tu quoque* is given the simpler analysis in Eemeren and Grootendorst's work on *Argumentation, Communication, and Fallacies* of 1992 (pp. 111-15, 212). Moreover, I should report that the present paper motivated me to read some other more recent works of the authors to which they refer in this paper, and in one of these they assert explicitly and categorically that "all derailments of strategic maneuverings are fallacious and all fallacies can be regarded as derailments of strategic maneuvering" (Eemeren and Houtlosser 2002, 142). So it does seem as if the revision is a major one.

Finally, I should also report that in this paper the authors also refer to an even more recent work of theirs entitled *A Systematic Theory of Argumentation*, and these references to its chapter 6 suggest that this work may contain some of the elaborations and clarification being requested here. However, I have not yet consulted this work, although I think I can be excused from this lapse given the book has not yet been published.

4. Conclusion

In conclusion, there do seem to be points of disagreement between the authors and this commentator. This may augur well for future argumentation, at least argumentation about argumentation. However, for the present occasion I believe that what I have had time to do has been merely to work at the level of preliminaries for such argumentation, preliminaries which the authors would probably label the confrontation stage, a label which I might accept if one meant a non-confrontational sense of "confrontation," which I believe is the pragma-dialectical sense of this word.

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[1] Eemeren and Houtlosser (2003) do not literally formulate this first question as I have, but instead speak of the problem of how one can formulate "adequate criteria for deciding in concrete cases univocally whether or not a certain rule has been violated" (p. 2), that is "criteria that are needed to be able to check whether the rules are correctly applied in practice" (p. 2). But when they start sketching their answer they say that "paying attention to the reasons a party may have in ordinary discourse for not complying with the rules because of the pursuit of other purposes, which may be at odds with the aims of a critical discussion, may lead to an explanation of why a violation of a rule for critical discussion is sometimes inevitable" (p. 2). In short, their own answer does not really answer the question they literally ask, but the one I have attributed to them.

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