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### Justification, commonplaces and evidence

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**Title:** Justification, commonplaces and evidence

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## 0. Introduction

In this paper, I would like to put emphasis on the necessity of justifying the most important values of the (human) community we belong to, and on the issues involved by this ethical choice. I will begin with a description of, and a discussion about, the nature of justification. Then, I will try to illustrate my position by examining the current debate about ‘Animal Rights’. Finally, I will propose a method that provides, in my opinion, a valuable help for warranting rationality in human values.

## 1. The nature of justification

### 1.1. Logical aspects

Justification is a general principle whose function consists in warranting the acceptability of some reasoning. More precisely, it consists in reinforcing the conclusion of an argument by providing a general proposition that is relevant to the conclusion and that is regarded as reasonable. For example, if I say: (Toulmin: 1958)

Petersen is a Swede, so, almost certainly, he is not a Roman Catholic.

One may ask me to warrant my statement :

How do you get there?

I will then provide some justifying principle, e.g.:

The proportion of Roman Catholic Swedes is less than 2%.

I am thereby providing a statistical justification that will function as a warrant for my claim about Petersen. In other words, my argument involves some kind of inductive reasoning. In everyday argumentation, deductive reasonings do not need any external justifying principle: in deduction, the justification appears to be encompassed in the inferential step. But in the case of inductive arguments, we should always be able to provide an explicit justification that is external to the inference at hand. Consequently, this justification has to be grounded on some value or some principle that should appear reliable to the audience. In my example, I suppose that my hearer trusts the statistical principles and that, therefore, (s)he will accept my claim by relying on my justification.

This situation reveals the crucial importance of grounding the justification. Indeed, whenever I assert a justification with the hope of warranting my argument, I am standing up for the conclusion of this argument, which will never constitute a necessary proof, as in the case of deductive demonstrations. Therefore, warranting an inductive argument does

not mean that the conclusion is *necessarily true*. The validity of induction is never totally warranted, because justifications are not universal propositions; they are general propositions that are regarded (or presented) as reasonable or acceptable to the audience.

In fact, those general principles correspond exactly to what Aristotle called 'topoi', i.e. commonplaces that are considered as accepted by some human community at a given time. And those commonplaces represent, in some way, the values that are endorsed by this community.

## 1.2. Ethical and epistemological aspects

As I said earlier, the principles and values at work cannot be universally grounded, as are natural laws: thus, they seem to reduce to general principles, ethical norms, or rational beliefs, that correspond to the common feeling or knowledge of a society at a given time. We might be tempted to ground our justifications absolutely, i.e. to make them universal. But this is, I think, the wrong strategy, because it only admits of two solutions or ways out, which are both dangerous, in my opinion. Indeed, from a purely formal point of view, any justification will need another (deeper) justification in order to be warranted. Consequently, we will soon enter into an infinite regress with an infinite set of justifications that could never be totally warranted. This formal impossibility leads to scepticism, because it prevents us from formulating any conclusion that will be regarded as acceptable.

On the other hand, we may want to stop this infinite regress by considering some principle as obvious and universal, i.e., as undisputable. Such a principle would not need to be warranted: it would be self-warranted by the evidence which is the indubitable sign of its truth. If such a principle exists, those who deny the evidence at work, and those who prove unable to perceive it, must be rejected from the rational community, since they fail to accept or to understand principles that ground our rationality. Consequently, if we opt for this solution, we run the risk of turning science and ethics into some kind of totalitarianism. As we can see in the following, this corresponds exactly to Aristotle's view (Top, I, XI-XIII, 105a):

It is not necessary to examine every problem and every thesis but only one about which doubt might be felt by the kind of person who requires to be argued with and does not need castigation or lack perception. For those who feel doubt whether or not the gods ought to be honoured and parents loved, need castigation, while those who doubt whether snow is white or not, lack perception.

Aristotle supposes some principles to be obvious, i.e. to be undisputable: 'We must honour the gods' and 'We must love our parents' are self-warranted ethical principles; and 'Snow is white' is a self-warranted epistemological principle. Aristotle holds it that those who deny the evidence either 'need castigation' or 'lack perception'. In other words, they are seen either as guilty or as stupid, i.e. as not belonging to the rational community. By the way, it is interesting to note that in the *Topica*, Aristotle uses the word 'atopos' (i.e.

'without commonplace') to refer to a deviant subject, an irrational person, or even an absurd situation - establishing, thus, a link between rationality and the set of commonplaces that are supposedly accepted by any human community. Without such an authoritarian appeal to undisputable principles, rationality cannot be grounded in a universal way.

Contrary to Aristotle, Perelman (1963) claimed that our values cannot be absolutely warrantable. From a purely formal perspective, they are arbitrary; therefore, we have to discuss them with argumentative techniques in order to keep them rational. Popper (1957) too believes that our values are not grounded in some kind of transcendental authority - in that case, they would remain beyond dispute. But, according to him, conventionality does not amount to arbitrariness: from the conventional (i.e. human) nature of a given regularity, we shouldn't infer that it is arbitrary. I think this proviso is crucial, because the confusion between conventionality and arbitrariness frequently leads to pessimistic and relativistic conceptions of knowledge and ethics. According to such views, rationality would be impossible since every human principle would become as valuable as another one, at least in all domains that are not accounted for by natural laws.

In sum, if we want to provide our rationality with an epistemological foundation, we have to consider that, even though they are conventional, our principles may prove more or less acceptable, and that we may improve them thanks to a rational, i.e. an argumentative, activity. On the other hand, we should never refrain from questioning our justifications, in order to escape our inclination to ground them universally on some transcendental and authoritarian principle. Thus, in my perspective, argumentation and critical discussion are the warrants of our rationality, because they should allow us to reject both relativism and authoritarianism.

### 1.3. Rhetorical aspects

The aim of argumentation is to convince an audience; in this perspective, justifying an argument consists in making it as persuasive as possible. Therefore, in order to persuade his/her audience, an orator has to increase the persuasion degree of his/her claim. My hypothesis is that this persuasive effect will be obtained by increasing the acceptability of the justification proposed, so that this increased acceptability can be transferred to the claim. Notice that, in itself, this degree of acceptability has nothing to do with any kind of ontological reality nor with any kind of truth or verisimilitude. Yet, this does not mean that all rhetorical activities are deceptive. We assume that it is impossible to find an absolute ground for the values implied by justifications. It follows that the only solution left is to keep those values within a rational field thanks to an argumentative questioning which should concentrate on justifications. From this viewpoint, rhetorical activities have to be considered as legitimate. Furthermore, since any persuasive effect (at least partly) rests on emotion, I consider it useless and erroneous to blame emotive appeals as irrational or fallacious. That's the reason why I would like to describe, beside the logical and ethical aspects of justification, its rhetorical aspect, i.e. the means used by the orator to create the impression that his/her justifications are undisputable, and therefore that his/her claims are universally warranted. This will be achieved through the creation of an 'evidence effect',

and the best way to obtain this 'evidence effect' (for the following reflections, I refer to two French authors: Francis Goyet and Barbara Cassin) is to turn our justifying principles - i.e. the commonplaces that are admitted in our society- into something 'sacred'. Take, for example, all the humanistic-democratic principles that make up the Universal Declaration of Human Rights. What I mean by 'sacred' is that such principles are so obvious, so unanimously accepted, that it becomes almost impossible to challenge them, even partly, without taking the risk to be considered as 'atopos' - as irrational - by the whole community. In Aristotle's society, the most important values were, e.g., 'honour the gods', 'love our parents'; in ours, the 'sacred values' are, e.g., 'the dignity of man', 'the freedom of man', and so on. But, in both cases, we assume the whole community to accept them undisputably. Therefore, we may think that the consensual adherence of a community to its most important values plays the role of the transcendental (universal and natural) grounding of those values.

But if such values are indeed seen as undisputable, this creates another danger. As is the case with all 'obvious' principles, their very obviousness makes them inexpressible. Indeed, ineffability is the prototypical characteristic of evidence, since evidence has not to be justified: evidence has only to be shown and it is self-justified. Consequently, notions considered as evident, which we (almost) never question or explain, progressively turn into formal, and therefore vacuous, meanings. The last shade of meaning that will remain stable in those notions will be some kind of positive connotation. For example, we often resort to notions such as 'freedom', 'equality' or 'dignity' with the conviction that they are 'positive', while having serious difficulties in explaining or justifying why they are so good or so fair. If pressed on this point, we will stick to their 'evidence', which stems from their 'sacred' status. In fact, such values are neither evident nor natural, but conventional, even if their conventionality does not necessarily reduce to arbitrariness. If we want to increase their rationality and to keep them meaningful, we must regularly question them.

In order to illustrate this reflection, I will analyze a current debate in practical ethics, with the aim of showing the paradoxical consequences of the lack of any grounded discussion of the most important values of our community. Afterwards, I will comment on an argumentative technique that may help us to carry out this difficult inquiry: the Perelmanian 'dissociation of notions'.

## 2. The debate on Animal Rights

### 2.1. Corpus

The following corpus consists in web site quotations of, or comments on, Peter Singer's arguments in his book *Practical Ethics*.

(origin: <http://www.dailyprincetonian.com>)

(Italics are mine)

- (1) Simply because people are *human* does not mean that their *lives* are more valuable than those of animals.

- (2) {Singer's} views on euthanasia and animal rights come from a belief that life necessitates *rationality*, *autonomy* and *self-consciousness*.
- (3) Since animals feel pain and are *conscious* of *injury*, they should not be treated *cruelly*.
- (4) Animals are other *nations* that deserve the *ultimate respect* - to leave them alone.
- (5) Singer has called severely disabled people "*non-persons*" and has used the analogy that they are "replaceable" like farmyard animals.
- (6) Since all newborns, not just disabled ones, have no "*sense of life*", they have the same moral value as other non *self-aware* creatures. He {Singer} compares them to snails.
- (7) Killing a defective infant is not morally equivalent to killing a *person*. Sometimes it is not wrong at all.

## 2.2. Topical Background

My hypothesis is that - paradoxically - Singer and his followers rely on the Universal Declaration of Human Rights to justify their claims. But this justification will be relevant to the conclusions drawn only if the notions appealed to are so abstract that their meaning becomes rather vague.

I propose to consider as 'topoi' the following Articles of the Declaration of Human Rights: (Italics are mine)

{...} The General Assembly proclaims this Universal Declaration of Human Rights as a common standard of achievement for all people and all *nations* {...}

Article 1. All *human beings* are born free and equal in *dignity* and *rights*. They are endowed with *reason* and *conscience* and should act towards one another in a spirit of brotherhood.

Article 2. Everyone is entitled to all the rights and freedom set forth in this Declaration, without distinction of any kind, such as *race*, colour, sex, language, religion, political or other opinion, national or social origin, property, birth *or other status*.

Article 3. *Everyone has the right to life, liberty and security of person.*

Article 5. No one shall be subjected to torture or to *cruel*, inhuman or degrading treatment or punishment.

## 2.3. A Toulminian reconstruction of Singer's reasoning

I believe that two different arguments are developed in our sample corpus. The first one

concerns (nonhuman) animals, the second one severely disabled people. Both claims are justified by the same 'sacred' principles coming from the Universal Declaration of Human Rights.

The Toulminian framework typically applies to inductive reasonings. Justifications have to be found in the Warrant component, and the field to which justification pertains has to be found in the Backing component. The Data component represents the first premiss, which is -presented as- accepted by the audience. Of course, some of these components remain implicit in ordinary discourse, and will have to be made explicit in a Toulminian reconstruction.

In order to obtain the Data component of the argument concerning animals, we have to go back to the conclusion of another implicit reasoning, which may be described as 'post-Darwinian':

All human beings are animals

All (or almost all) human beings are persons

Therefore, some animals are persons

From this Darwinian claim, Singer's first conclusion may be fallaciously drawn through a kind of abductive (non monotonic) reasoning:

Dogs, cats, birds,... are (nonhuman) animals

Some animals are persons

Therefore, it is possible that dogs, cats, birds,... are persons

In spite of being both fallacious and also felt as intuitively unacceptable by many people, this reasoning becomes more 'acceptable' as soon as we refer it to its main justification, according to which we have to 'fight against speciesism' in the same way as we combat 'racism' or 'sexism'. Indeed, since we reject 'racism' and 'sexism' on account of Human Rights, the struggle against 'speciesism' seems to follow from a better awareness of our deepest values (see the 'other status' clause in Art. 2)

Of course, few people would be inclined to claim that 'animals are human beings'; but it is possible to hear it say that 'animals are persons' so that, in a way, 'animals are as human as we are'.

I think that this question is crucial because it reveals the vagueness of the notion of a 'human person'. In keeping with what I said earlier, I will suppose that this vagueness comes from the 'obviousness' of the notion. But I will come back to this point later.

Now, we have the data for our first reasoning, about animals

data D (nonhuman) animals are persons/as human as we are

*therefore*

modal qualifier Q *necessarily*

*unless*

rebuttal R no rebuttal

conclusion C *they have the right to life, dignity, respect*

*since*

warrant W Art. 1, 2, 3, 5

*on account of*

backing B *The Proclamation of the Universal Declaration of Human Rights*

Now, if we go back to our corpus, we will observe that the italicized words are all mentioned in the Declaration of Human Rights, so that it really seems that Animal Rights are grounded on universal values.

The Rebuttal component remains empty since a potential restriction should operate on the Warrant component, while, in such a reasoning, the Warrant and its Backing, by appealing to 'sacred' principles, are not open to challenge. The one who would question them would take the risk of being considered as 'atopos', i.e. irrational or immoral.

This absence of any potential rebuttal confers a 'necessary' character to the conclusion, as it appears impossible to provide any counterargument.

Let's now reconstruct the second argument, about severely disabled people, which also involves some non-monotonic (circumscriptive) reasoning.

data D *severely disabled people are not persons/as human as we are*

*therefore*

modal qualifier Q *necessarily*

*unless*

rebuttal R no rebuttal

conclusion C *they have no right to life, dignity, respect*

*since*

warrant W *Art. 1, 2, 3, 5 do not apply to them*

*on account of*



Thus, in the light of our Toulminian reconstructions, Singer's claim may be summarized as follows: on account of the 'sacred' status of the notion of a 'human person', the relevant articles of the Universal Declaration of Human Rights apply to animals but not to severely disabled people.

### 3. Legitimizing justifications

As I conjectured earlier, such paradoxical situations arise because of the lack of any serious discussion of the values that make up justifying principles. And this may be a consequence of their rhetorical use, which aims at the persuasive effect of the whole argument.

In order not to indulge either in an authoritarian transcendentalism or in a relativistic scepticism, we need a technique which helps us to analyze our ethical grounds.

The Perelmanian 'dissociation of the notions' seems to be remarkably suitable for this end.

#### 3.1. The Dissociation of the Notions

According to Perelman, when justifying a proposition or a rule, we provide a justification for the fact that we adhere to it. Far from being an epistemological warrant for the proposition or the rule, this justification is always context-dependent. Consequently, whenever the application of some principle leads to contradictions or to paradoxes, we should determine whether the context does not allow us to dissociate the crucial notion(s) contained in the justification.

This way out will lead us to dismiss one subcomponent of the notion at hand, while emphasizing another subcomponent of it. Thanks to this technique, the undesirable contextual implications of our values will be ruled out, whereas the useful ones will constitute a 'new' warrant for a better grounded reasoning. For example, in a debate for or against 'free love', we may dissociate sexuality and affectivity in the notion of 'love', and try to focus on one aspect only. Similarly, in a legal or political context, we may dissociate, in the notion of 'law', the 'legality' and the 'legitimacy' subcomponents, etc.

In a Toulminian framework, the process of dissociation will be introduced through the Rebuttal component. Some consequences of this technique prove important for argumentation theory.

First, the 'output' of the dissociation will not provide us with a totally new warrant for our reasoning. In fact, the new justification is the product of a critical reflection applied to the previous one. In other words, by dissociating the notions, we confer a new legitimacy to the initial notion, but we do not put forth a new justification which would rely on a completely innovative backing. This sheds a light on our needs and capacity to ground our values rationally. Those values are conventional; therefore, we must criticize them in order to increase their rationality. But, on the other hand, they are not arbitrary, and therefore, not

interchangeable. In a Popperian perspective, we would say that the criticism of a tradition supposes that we accept some aspects of this tradition; otherwise, there would be nothing to criticize. A healthy activity of criticism has nothing to do with some kind of epistemological *tabula rasa*.

But it is also important to note that the dissociated notion will, at the end of the process, produce a different data which will lead us to a subtler comprehension of the facts at hand. In other words, this technique confers a new legitimacy on justifications by allowing for a new vision of the world. Indeed, it alters the data which was part of the reasoning originally presented as already admitted.

### 3.2. The notion of a 'human person' dissociated

In the following, I will apply the dissociation technique to Singer's first argument, which deals with (nonhuman) animals. The same results basically hold for the argument concerning severely disabled people.

As we can see, the key notion is contained in the data component but, this time, we introduce a rebuttal that will initiate the dissociation process.

data D *(nonhuman) animals are persons/as human as we are*

*therefore*

modal qualifier Q *probably*

*unless*

rebuttal R *we make a dissociation of the notion of a 'human person'*

conclusion C *they have the right to life, dignity, respect*

*since*

warrant W *Art. 1, 2, 3, 5*

*on account of*

backing B *The Proclamation of the Universal Declaration of Human Rights*

Developing the Rebuttal amounts to reinterpreting the Data in such a way that the Warrant component is no longer applicable to it. And in order to do so, we have to formulate the clause that dissociates the notion of a 'human person', e.g. as follows: "in the notion of a 'human person', there is a biological subcomponent and a political one".

Hence, we can argue in two different directions depending (in part) on the biological or political nature of the Data selected.

#### 3.2.1. Two biological notions of a 'human person'

In fact, if we opt for the biological viewpoint, we can provide two kinds of Data. In other words, even from a strictly biological point of view, the Data component will depend on the criterion that is used in order to compare human beings to other animals.

Data1: Human beings are different from other animals (e.g. in virtue of the inter-fertility criterion)

Data2: Human beings are similar to other animals (e.g. in virtue of the common ancestor criterion)

Since, in both cases, our new Data (either Data1 or Data2) is the product of a dissociation process which has selected a biological subcomponent, no 'political' warrant coming from the Universal Declaration of Human Rights can prove relevant here. Whatever it is, our revised definition of a 'human person' only concerns the biological nature of humans and animals.

### 3.2.2. The political notion of a 'human person'

If we decide to dismiss the biological subcomponent, we will provide a Data component that uses a political criterion in order to define both man and animals. In this perspective, the new Data will be presented as follows:

Data: (Nonhuman) Animals have no political status (they are not citizens)

Thus, this dissociative strategy implies that the original warrant of Singer's argument shouldn't be applied to nonhumans. Indeed, for the Universal Declaration of Human Rights to be relevant to human beings, these must be considered as citizens.

At this stage, any counterargument would amount to extending citizenship to nonhuman animals. But, the one who would stand up for this claim would have to carry the burden of proof, and since (s)he would challenge deeply rooted traditions, (s)he would run the risk of being considered as 'atopos'.

As we can see, Singer did not face the citizenship issue; he implicitly assumed that, in its current interpretation, the Universal Declaration of Human Rights also applies to nonhuman animals. Thus, even if his argument is fallacious, Singer ran less risk to be considered as 'atopos' -irrational, immoral- since he argued 'on account of' tradition and not against it.

## 4. Conclusion

As a conclusion, I would like to underline one crucial feature of the Perelmanian dissociation of notions. This critical technique consists in eliminating inconsistencies by showing that a given warrant is not applicable in a certain context. This simply means that the warrant proves irrelevant to the context, not that the value it represents has no legitimacy *per se* and should be totally rejected.

On the other hand, this technique allows us to provide a new Data that contains innovative

representations of the world. Such a result may help us to better understand the main difference between scientific and rhetorical reasoning. If, in science, some principle becomes unapplicable to data, it is automatically falsified; and in order to overcome the resulting inconsistencies, a new principle has to be formulated that will fit the facts. But in argumentation, inductive reasoning operates by default: if a warrant is not applicable to a Data, no falsification takes place; the warrant just becomes irrelevant to the context. Argumentation is context-dependent: this is the reason why a technique such as the 'dissociation of notions' can work by allowing us to characterize the non-authoritarian foundations of our rationality.

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