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The virtue of restraint: Rebalancing power in arguments

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ABSTRACT: Is argument a game everyone should be able to play? If it is, current argument practices do not yet level the playing field enough for a fair game. We may build in subtle imbalances that work against people who cannot easily adapt to the most common patterns of argumentative interaction. We need better ways to build trust, to create safety, and adapt goals in order to bring everyone into the game.

KEYWORDS: argument, argumentation, authority, equality, negotiation, power, trust

1. INTRODUCTION

Most of us in this field were raised and trained to see argument as an equalizing force: a healthy balancing of power. Rational argument honours the enlightenment principles of democracy: the freedom to speak, the entitlement to choose, and the right to submit only to an authority to which one has rationally consented. Rational argument honours the Quaker principle, "Speak truth to power". The truth should always be championed, especially against those who might have the power to suppress it.

In what follows, I'm going to take it as relatively uncontroversial that "rational argument" is vulnerable to the charges that it presents a masculine and westernized ideal of objective reasoning. The rationalist model of science and logical reasoning with which critical thinking is so closely allied is rooted in a world view of male norms, male privilege, and especially the particular privilege enjoyed by white males of a certain level of education and income. I follow Hundleby (2010) in extending that concern into argument and argumentation. I have argued earlier that the ideals and norms of argumentation do not sit comfortably when dealing with cultural differences in reasoning practice. (Kloster, 2007)

These concerns create challenges for argumentation. On the one hand, argument remains a very valuable method for reaching conclusions that are acceptable across boundaries of culture and gender. On the other hand, when it privileges some norms over others, it creates a barrier to participation for anyone whose existing dispositions and practices don't fit these norms. The problem, as argued by Charles Mills (2005) is that when we set ideals which represent desired standards of performance, we clarify our aims and expectations, but as we abstract the ideals from actual practice, we embed in them our unrecognized biases. The

biases then prevent the ideal being accessible to everyone.

If we recognize and accommodate subtle differences in power which are still present even when argumentation has theoretically equalized power between arguers, we can move toward more effective interactions across barriers of gender, culture, and education.

2. INTERACTION ACROSS DIFFERENCES: ARGUMENT VS NEGOTIATION

Consider an interaction in which one or more persons use argumentation to present one or more arguments, with the aim of rational persuasion. This process is capable of resolving disagreements. Each argument is a connected set of premises intended to support a conclusion. Argumentation is the practice of presenting, evaluating, and revising arguments with the aim of assenting only to conclusions which have been adequately supported. What happens when others do not respond as we expect? The discrepancy in response might be due either to their argumentation practices being different from ours, or due to them having different logical rules for argument.

In either case, clearly we are further apart than we expected. To see where we might turn for ways to revise expectations, I'll draw on a comparison between negotiation and argumentation. Both practices aim to equalize participants in order to achieve a fair outcome. Both have assumed that a large-scale equalization – that is, ways to eliminate certain obvious sources of unbalanced power which could privilege one party over another – will be sufficient to make the rest of the interaction satisfactory. Negotiation, however, is years ahead of argumentation in recognizing the need for small-scale equalization – by which I mean ways to identify and rebalance types of power which are still in play during the interaction even after other more obvious types of power have been equalized.

Argumentation and negotiation overlap; both can be seen in terms of dialectical practice (Walton, 1998). Negotiation is generally defined as working with other people in the hope of reaching a goal that you cannot reach alone; "working with" them involves a series of back-and-forth exchanges, including offers and counter-offers, to reach a mutually satisfactory deal. (See, for example, Raiffa, 1982; Pruitt & Carnevale, 1993). The parties may have some interests which are shared, but they will have at least some which are opposed: Fisher & Ury (1981).

Like argumentation, negotiation has a core content which can be analyzed independently of its context in an actual negotiation. Its core is offers and counter-offers, which can be analyzed for their merit in terms of value offered compared to value received. Its practice involves standards and norms, which may include argumentation and may rely on reason, but which can also vary across cultures and contexts. It can be as direct as pointing to a pile of mangoes while holding up two fingers and extending some coins, to see if the mango seller will sell two for that much money. It can be as involved as many cups of tea over many days, with much exploration of the health of each other's family members, before the content of the negotiation is permitted to come up in conversation.

For a negotiation to begin, one person must want something that can only be provided by another. Whether it's a valuable antique, or lock-picking skills, or the authority to sign a permission slip, one person would like to have it but only another

person can make it possible. Negotiation is the attempt to get the other person to agree. It doesn't require shared language – you can bargain by pointing to what you want, as in buying the mangoes. It doesn't require knowledge of the other person: you might neither know nor care what the mango seller values or wants, as long as the money you offer is enough to get the mangoes in return. It doesn't require any ongoing relationship – you may leave the market on your tour bus and never return.

There is considerable similarity between negotiation and arguments in dialogue form. A particularly nice description of the similarity was given by Gulliver in 1979, as cited in Keashly & Warters (2000, p. 45):

> By the exchange of information, they explore the nature and extent of their differences and possibilities open to them, they seek to induce or persuade each other to modify their expectations and requirements, and they search for an outcome that is at least satisfactory to both parties.

This comparison should be useful in thinking about the problems of argumentation across differences in gender or culture, because negotiation not only can work in these situations but as already indicated it accommodates a wide variety of norms and practices from which individual negotiators can select as needed.

There are two particularly valuable points of comparison:

1. both can be used in contexts in which trust is minimal, because
2. both require each person to weigh independently whether or not to accept its outcome

This means both have the potential to become a bridge across doubt and mistrust between people with different values and practices, because they do not compel the parties to interact if they are unwilling. If the parties engage, they are theoretically free to step back at any point. This is why power must be sufficiently equal in the interaction: if the parties are unequal, the one with greater power can compel the one with weaker power to continue to engage even though the principles of the interaction dictate freedom to disengage at will.

Where trust is limited, minimal, or perhaps even absent, both negotiation and argumentation have their uses as ways to experiment to see if it is possible to work with another person who is not yet trusted. To experiment, the parties to an argument or negotiation have to be sufficiently confident that they are not risking too much. They need to know that they have the internal capacity to do what is required of them in reasoning and communicating, and they need to know that no insuperable pressure can be put on them to yield to the other parties. In other words, they need some assurance that they are at least approximately equal in power to the other parties: that there is a balance of power which does not put them at a disadvantage.

If the information provided by one party is logically connected and is consistent with the other party's independent sources of knowledge, greater trust in each other is encouraged. If the information is connected illogically or is inconsistent with the party's prior knowledge, trust is withheld or deteriorates.

Argument and negotiation both use practices and principles which are explicitly intended to contribute to effective balances of power in conflicts. Argument is often presented as a valuable force to equalize power, by preventing others' reliance on advantages in terms of birth, education, wealth, or position in society. Negotiation is also presented as a force to equalize power: coming to the negotiating table means that party has acknowledged that it no longer believes it could get its way by coercion.

When power is equal between parties, they can interact, confident that each of them knows the right moves to make towards a settlement or resolution. However, creating that equality is challenging.

3. ON THE MARGINS OF TRUST: EQUALIZING POWER

What does it take to "equalize" or to "balance" power? There are two main options: one is to set rules which forbid the use of any power which might give an unfair advantage to one party. The other is to permit the use of power, but include measures which enable either party to rebalance power or acquire additional power in the interaction.

One example of ruling out the use of one type of power is to forbid the use of coercion. Coercive power covers everything from the strength of a nation's armed forces to the scowl on the face of your colleague: any capacity one party has to direct the actions of others by direct enforcement or by inducing the fear of enforcement. Both negotiation and argumentation rule out the use of coercive power.

An example of permitting the use of multiple types of power while balancing overall capacity is to negotiate one-on-one with your boss. Your boss has the authority to make a decision without consulting you. This is one type of power: the entitlement to sign off on orders. You might have the charm and easy comfort in conversation that makes you a nice person to work with. This is a different type of power: your personal capacity to invite collaboration. The two types of power are not identical, but your "personal" power might easily balance your boss's "entitlement" power, so you win co-operation from the boss to which you would not be entitled based on job position.

In speaking of "multiple types" of power, I am relying on work done in negotiation theory. Years ago, "win-win" negotiation was hailed as a tremendous advance in practice, a way to increase the chances of successful settlement by taking a collaborative rather than competitive approach. (Fisher & Ury, 1981) In the collaborative approach, neither party was to overpower the other. Neither should lose in order for the other to win: by paying attention to each other's needs and goals as well as their own, both could co-operate as equal partners to assure their mutual satisfaction. As the win-win strategy increased in popularity, Fisher recognized that power was not necessarily equalized just by choosing win-win over win-lose as a strategy and thereby having an interest in satisfying the other party as well as oneself. (Fisher, 1983) In responding to critics, Fisher acknowledged that many still believed that "in the real world … results are determined by power – by who is holding the cards, by who has more clout." (1983, p. 149) Fisher rejected the notion that power is limited to shows of strength such as threats, warnings, resolve

or commitment, and offered instead a subdivision of negotiating power into six categories. Each of these is a form or type of power which contributes to the ability to succeed in win-win negotiation: participants should have skill and knowledge (including reasoning ability and knowledge of the people involved), a good relationship, a good alternative to negotiation, an elegant solution, legitimacy, and commitment. Without enough power in any one of these areas, a party might fail in negotiation. (Fisher, 1983)

All but one of these powers permit participants to equalize total power. Fisher does not discuss whether the party with greater power in these areas can be induced to give up any power to create equality: his emphasis is on the weaker party building skill and strength. This might be done in advance; Fisher indicates that a participant may have to spend considerable time and effort before a negotiation to achieve enough power for successful negotiation. However, if the weaker party is unable to level up, then the third type of power listed – having a good alternative to negotiation – is a remedy. If it turns out that extra competence in the other five areas is still not enough to create equal power, the participant can at least safely step out of the interaction before being overpowered.

Introducing this more complex picture of power does seem to have worked for negotiation. The win-win strategy continues to be popular; texts on mediation and negotiation such as Hoffman (1991) and Mayer (2000) include analyses of power dynamics with recommendations for dealing with them.

Argumentation also aims to equalize power but does it differently. Negotiation balances power by ruling out the use of one type of power: positional power (entitlement by virtue of status). It permits other types of power. Personal power – charm and good communication skills – is certainly allowed. So is knowledge power, using reasoning skills and information (including familiarity with the other party, background information, and any relevant skills). Argument, in contrast, appears to rule out all types of power other than those related to knowledge. For example, the personal power of charm ought not to sway our decision on whether to consider a conclusion well enough supported.

There's a subtle but serious problem here for both negotiation and argument. In limiting what power can be used, they can both underestimate how many types of power might be in play and how even minor imbalances can be enough to push parties away from the desired level of equality.

One particularly good example of a power which is problematic both in negotiation and in arbitration is authority. Authority can encompass both positional power, the ability to issue an order and enforce it, and one form of knowledge power, expertise. (Kloster, 2012) The authority of positional power is not supposed to be used in arguments or negotiations. It is supposed to be used only after argumentation or negotiation has been successfully concluded, when the "authority" steps in to sign the agreement and issue its related directions for action. The authority of expertise, however, is typically welcomed in both negotiation and argumentation. It is presumed to bring a trustworthy, reliably informed perspective to the interaction. It ought to enable all parties to reach a better settlement or wiser resolution than they otherwise might.

However, expertise overlaps with positional authority to the extent that it is not at all clear that negotiating or arguing with an expert is still a sufficiently level playing field. Authority does not come with clear rules for when it should be a decisive factor in making a decision (Kloster, 2012). In particular, its role in argument is controversial and dependent on various considerations about the experts themselves. (Goodwin, 2011) The proper use of expertise was the focus of Between Scientists and Citizens (Goodwin, 2012). This conference included some interesting considerations of how people engage in deliberative democracy – a process which requires equality between participants representing the public at large. When expert testimony was required to inform the deliberations, the testimony and the experts themselves could have either too little or too much influence. (See Archer, 2012; Carcasson, 2012; Grudens-Shuck & Larsen, 2012; Johnson, 2012; Sprain et al., 2012.)

Consequently, if we do want to have the successful resolution of a disagreement emerge from arguments, presented with good practices of argumentation, we need to consider in more detail how power should be balanced.

4. EQUAL POWER: "LEVEL UP" OR "LEVEL DOWN"?

There are two ways to equalize power for an argumentative interaction or a negotiation. First, we can increase the power of the less powerful party: we can "level up" the less powerful to match the capacity of the more powerful. For example, we might train a less articulate person in communication skills to make it possible for her to ask a question of the mayor, a practiced public speaker. Second, we can decrease the power of the more powerful party: we can "level down". For example, we can ask the mayor and council to wait until after the community members have spoken before they present their own positions.

Equality is achieved if the weaker party has been able to "level up" or the stronger party has consented to "level down" to parity. As the examples suggest, this may mean the weaker party has to acquire new competencies, while the stronger party has to exercise restraint by not using a full range of powers.

Both parties might agree in principle to acting as equals but it may still not be easy for either to see how to put the principle into practice. There will be difficulties in seeing what practices will honour the principle, and difficulties in seeing how the principle applies in particular cases: which of us needs to "level up" and which of us needs to "level down"?

For instance, my ability to listen actively to you does not guarantee you will listen actively to me. My ability to ask a question of you does not guarantee you will be willing to ask a question of me. I may model behaviour intended to invite you to engage in the same behaviour, but I cannot ensure you feel safe enough to do so, or even recognize what I am doing as something you could or should do.

Your willingness to treat me as an equal is far from sufficient to make us equal. You may have thought you were "levelling down" to me. You may think that now, if I do not join in when invited to participate, it is because either I agree with you, or I am sufficiently engaged and entertained listening to you. But I may still see myself as disempowered even by your more egalitarian practice. I could be silent

because I still feel unwelcome. I may feel unprepared, or not understand the practice of argumentation well enough to know what to do.

And my silence or puzzlement may intimidate you because you no longer know what else to try. You feel unequal to my power to resist joining in. It is no longer clear which of us might need to move in which direction to equalize power. Do I need to level up further, do you need to level down even more, or do we both need to change?

Suppose you recognize that I feel lower in power by comparison to you, and you have one more option to try. Having levelled down as best you can, now you offer to bring me up. For instance, you might offer me instruction, encourage me to ask questions, show me how to recognize arguments, and demonstrate objective evaluation. You model respectful response to the questions and arguments of others. You teach everything you know could make me feel capable of responding comfortably in argumentation. Yet this well-meant equalizing can misfire.

Consider the very common phenomenon of inviting students in a class to ask questions, but receiving only silence in response. As the teacher, you look around the room, seeing only lowered eyes, attentive looks with no move to speak, eyes diverted upward as if seeking inspiration – not a mouth opening, not a hand being raised. What went wrong? Among the possible explanations for this phenomenon are some which bear directly on the question of power balance. For example, if the teacher typically asks comprehension questions but this particular question has no right-or-wrong answer, the students might have become stuck, having missed any signal of the dialectical move between comprehension question and discussion-starter question. (And the teacher may not have signalled it.) They may not trust that it's safe to venture an answer which might be wrong. Students who come from cultures in which teachers are highly respected authorities and students from families in which parents will not tolerate questions may find the very notion of questioning a teacher impossible, no matter how "approachable" the teacher has tried to be.

In addition, in teacher-student interactions, the teacher may be at a higher power level relative to the class and each student within it, but the students themselves have complex power relationships with each other. Even when egalitarian in approach, the teacher continues to have authority by virtue both of position and expertise, sufficient to make it challenging for a student to formulate a question worth asking. But in addition, the student whose hand is often up also has to wrestle with whether putting a hand up this time is worth the peer pressure from classmates to stop hogging the limelight. The student who's unable to formulate any question quickly doesn't feel safe enough to say so in the face of both the teacher's pressure to try and peer pressure from fellow students who clearly can think on the spot.

Here is where we return to the feminist and post-colonial concerns. As Hundleby (2010, 2012) and Mills (2005) point out, argument and argumentation contain some elements which have the effect of imposing a minimum standard for performance that privileges some people over others, even if individual arguers are not aware they are exercising unwarranted power. To the extent that argument incorporates the preferences and ideals of any group, it also gives that group a

measure of power over those outside the group. Attempting to equalize power by instructing people in our existing ideals of argument and argumentation is problematic because it is not clear we can justifiably impose our ideals by instruction.

At the same time, it's too easy to assume that the power balance always favours the person with positional power or with more knowledge power. Every teacher has faced students who always seem to have the upper hand despite their lack of formal authority. Usually, they have personal power – not necessarily charm, but force of personality – that makes it easy for them to ask the questions that derail a class, or command individual attention far beyond their due. It is not a simple matter to see how to rebalance power when one or more people seem to see no need to exercise restraint.

Cate Hundleby's development of the "status quo" bias or fallacy illustrates both the difficulties and some of the options on the path to greater equity and more inclusiveness. Hundleby wrote a series of papers (2007, 2009, 2011) in which she named a reasoning problem, "androcentrism". She proposed this as a fallacy: the common but logically problematic reasoning in which the male experience and standards are assumed to be the norm, to the detriment of adequate recognition of significant differences between females and males. This fallacy has painfully deep roots in science and medicine. In her recent paper, Hundleby (2012) now speaks of the "status quo" fallacy. This name not only extends the reach of the problematic reasoning, it also more accurately reflects how crucial it is that issues of power, not just gender, trigger the problem. The "status quo" bias is power-blindness: the comfortable ignorance, on the part of those who fit the current norms, of the difficulties faced by those who are disadvantaged. It is instructive that Hundelby treats the bias not as a problem in argumentation but as a fallacy – a problem in the argument itself: the use of premises which are either not acceptable or not sufficient to establish the conclusion. The well-educated, the middle and upper classes, and those who count as "white" commit this fallacy whenever they assume that everyone can read, everyone can get a job, and everyone can relate to the people they see pictured in the media and the arts.

Hundelby's shift in nomenclature helps reveal why we need to look deeper into deconstructing the uses of power in argument. We not only need to problematize what has been comfortable and familiar, but also to recognize that both sides of the power balance are deserving of concern. The shift from "androcentric fallacy" to "status quo fallacy" could be seen as a concession to the men who not only objected to this being labelled a "fallacy" but also objected to the identification of men as particularly culpable. (Comments made in the room after the presentations had a negative tone indicating resistance to the terminology.) If we did not acknowledge the concerns expressed by men about the wording used to label the reasoning, we would "speak truth to power" only in a negative way, insisting that this reasoning scheme is frequent and is of benefit to the status of men. It would fail to acknowledge that each actual male speaker has a different level of power as an individual. As in the classroom example, power is not a simple duality, with the teacher having more power than any and all students. A group also has internal power relations. Some group members will not conform as closely to

the group norms as others (and will experience the power of "peer pressure" when they don't). These individuals may rightly contend that they do not exercise the power attributed to the group, even though they belong to it. They are not necessarily the more powerful in an interaction even when the norms and standards appear to build in an advantage for them.

And so it is, I would like to claim, with argument and argumentation. For those of us raised to practice it and value it, it is very tempting to claim that "everyone" can do it. If they don't now, then they should in future, and if the reason they don't is because they can't, then we can teach them. But here we risk relying on the status quo: the present assumption that reasoning can and should be taught, and should be mastered at least at the college level. Expecting to be able to "level up" everyone who may need to be able to use reason puts us at risk of further silencing and disempowering those who do not yet know how to speak up and those who do not expect to be heard. Conversely, to presume that all of us who speak from within the status quo thereby also speak with power is to ignore the frequent reality that we bring with us such individual variations in power that we will not have equal success.

So long as the practice of argument assumes that it has already dealt with issues of power, and that reason and good argumentation practices will be an antidote to abuse of power, argument itself is guilty of a "status quo" problem: it privileges the powers of those who are or easily can become competent arguers, without recognizing the distinctive needs of those who are not yet recognized as competent. To find a fair starting point, people who are competent in the practice of argumentation may have to recognize that non-participation, reluctant participation, and responses which seem incompetent or baffling may all be caused by perceived imbalances in power. If so, it will be too soon to assume that argument is the right form of interaction. If we see the "status quo" as a form of fallacy, this has the advantage that we do not need to see all of argumentation as fatally flawed by power biases: we can identify and address specific occurrences and remedy those particular errors. We don't need to reject the entire program, just restrain any excessive zeal for standardization. I used the title "The Virtue of Restraint" because it is not a question of refusing to argue, or abandoning the standards of logical reasoning, but of looking for case-specific problems that reveal improper uses of power.

5. CONCLUSION

It is not easy to obtain the level of equality we want for participants in argumentation. We still need to face the unresolved problem of what to do when individuals who should participate will not, or when there is no tradition of debate or open argument in a community with which we must interact. In these cases we cannot assume that any particular patterns of argument or expectations of reasoned discussion will apply.

To remedy improper uses of power, we need to question our own use of argument whenever we meet unexpected responses. For example, if we recognize silence as possibly indicating resistance, not agreement, we would wait for a

response or free the person to leave, instead of pushing for an answer. (See Glenn, 2004) If we unpack logical faults in someone's argument but find our comments are treated as a personal attack rather than as objective critique, we can switch from analysis to apology: restore the relationship first and return to discussion later. Many of us do things like this already; my argument is that we ought to see these actions as options within the practice of good argument, not as abandoning argument for some other practice.

Coming back to negotiation as a comparison, "ripeness" may be important. "Ripeness" is the term used by Rubin (1991) to indicate that what is possible in principle may not be possible at the time of your choosing. Negotiation takes two at the table. "*You* may be ready to come to the table for serious discussion, but your counterpart may not." (p. 9, emphasis in original) Even with both at the table, the time is still not ripe unless both are motivated.

If the time is not ripe, one can build trust first, without argument: for example, see Govier (1998). Her chapter on "Restoring Trust" gives several methods. One is to take advantage of existing trust to talk things over, explicitly raising the issue of the differences between each person in the relationship. Another is active listening, demonstrating a thoughtful attention to the other person as they tell their story, and showing understanding without criticism. A third option, exhibiting trustworthiness, comes from negotiation practice: Govier cites Fisher and Brown (1988), one of the many sources which offer practical communication strategies for dealing with differences.

We can create safe spaces in which to speak, as well as space in which silence and time for reflection must be honoured before decisions are made. A safe space often welcomes narrative: the telling of a personal story is one way to find a voice. Traditions around the use of narrative as truth and testimony contrast in some ways with argumentation and overlap with it in others. The complexity of interweaving narrative and argument is beyond the scope of this paper, but there is a growing body of literature concerning the use of narrative in aboriginal justice systems and in "truth and reconciliation" processes. For example, see Law Commission of Canada (2008), Rotberg & Thompson (2000).

Notice that we don't have to wrestle here with questions about whether standards of rationality are universal or culture-dependent, because balancing power depends only on a willingness to adapt behavioural patterns related to argument as a practice.

Within regular argument practices, quite a bit of what we've used as norms for half a century and more are implicitly "levelling up" moves: the raising of objections, the challenging of assumptions, the presentation and deconstruction of arguments. We do have, and can increase, the use of practices I'd count as "levelling down" moves: requests to clarify meaning or disambiguate terms, or recognition that we need to seek further information.

Sometimes, however, we will also have to recognize it is not for us to make the move at all. Any attempt to take the initiative, to try to "equalize", may still come across to the other party as presumptuous, as our attempt to exert our existing powers in order to influence the process. The level of trust may still be below the minimum for negotiation or argument. As Jan Sobocan pointed out in her

commentary on my 2007 paper (Sobocan, 2007), sometime the right move is for the more powerful party to freely yield power, to level down by waiting for the other party to begin a new game.

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