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Commentary on Reygadas

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In Response to: Pedro Reygadas' *In Praise of Eristics*

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It is with great pleasure that I respond to Pedro Reygadas' rich and provocative paper. His general view that 'ideal argumentation procedures' are too limiting to offer the theoretical and practical results that argumentation theory and informal logic require has long been one of my most deeply held convictions. My approach is rather different than his, since my concern is not with activities and principles that appear to violate normative models, but rather, from whence normativity is to be obtained. My view, to encapsulate it briefly, is that well-managed discourse communities, e.g. the community of physical scientists, afford a better model for identifying best logical practice than the musings of philosophers and argumentation theorists. I have been reconsidering my position as the theoretical constructions available in the field have increased in sophistication and depth. I think here of recent work by Walton, Johnson and Tindale. My interest in Regadas' paper is thus a function of the three-way contrast between his views, my view, and the movement in the theory of argument from the immediate practical needs of textbooks and teaching, to the pressing theoretical concerns made more apparent as the field has matured.

But first to Regadas. His paper begins with three points that presumably govern the discussion. He takes the standard normative models that he questions to emphasize the 'ideal... over the actual' to reduce 'actual agents to...theoretical expressions' and to take consensus as the imperative. I have no qualms with accepting this characterization, but a moment of discussion will show how these three are closely linked and thus see the power of the triple. It serves little point to do more than indicate the foundations of recent concern in the Gricean criteria for effective discourse and the pragmatic perspective that this engendered. This was nicely complementary to the informal logic concern with argument structure and fallacies and resulted in the search for a clear and articulatable model. The simple model of protagonist and antagonist served this function well, and these roles comported nicely with the underlying concern to theorize the insight of speech act theory by affording a functional account into which both argument structure and fallacies played an clear and defensible (if sometimes controversial) role. The underlying Gricean concerns made rational persuasion (a form of mediated consensus) an obvious outcome, and the identification of rational with a sub-sector of human concerns supported the theoretic postulates of roles viz. a viz. argument in place of full-fledged agents. The fallacies seen as violation of norms (or mistakes in reasoning) served to reduce both the richness of agents and the complexity of roles and standpoints to what was needed to support the pristine theoretic models that followed.

Reygadas' unhappiness with these simple roles and the underlying theoretic model is based on equally powerful concerns. He identifies five areas that expand the standard concerns of argumentation theory. Synoptically and in a slightly different order, they are:

1. Concerns with justice, prompted by a realization of the basis of law in power and conflict, as a correction for the standard rationalistic construal of legal argument.
2. Issues of silence in the face of the need to externalize argument in standard theory.
3. A broad notion of eristics that includes a response to issues of inequality, and the argumentational infelicities that flow from them, and finally,

4. the emotional basis of argument in conflict and dissent.

Let me begin by stating quite baldly that I am in fundamental agreement with any project that broadens the limited normative and a prioristic models that attempt to construct argument from the intuitions of theorists and in disregard of the rich possibility that an empirical approach permits. With Reygadas, I see little hope for the rules approach to argumentation, if the context of application of these rules is not well-understood. But perhaps contrary to him, I have more sympathy for the normative goals of argument theory, and see the need for any social or political account to confront the basic role of argumentation theory as offering norms that sustain the basic function of argument: that is an attempt to come to truth, or at least better understanding. And this, even in the context of political disputes where, although I cannot argue for it here, truth and understanding play an essential role even if they are ultimately insufficient to resolve the ethical and political disputes that prompt arguments.

This prompts me to look for a firmer basis than concerns of justice and equal access for the considerations that Reygadas brings to the fore. That is, how can the concerns that he addresses be supported if we require more than considerations of justice and the like, but demand that the epistemic goals of truth and understanding be supported by concerns with power, silence, eristics and emotions?

The three theorists indicated earlier are interesting foils for Reygadas' views. Take Walton for the notion of theoretically thin agents within the theory of argument. Walton, in his (perhaps) most recent book, *One Sided Arguments, a Dialectical Analysis of Bias*, waits until the last chapter and then only apologetically introduces the issue of whether *persons* are biased. Up until that point arguers retain only those properties essential to the normative story of the persuasion dialogue: a proponent attempting to prove a thesis true, and a respondent whose job is raise critical questions, with the relevant filling out of the roles is in terms of commitment stores, and the rules of argumentation. Walton, of course, realizes that there are other kinds of dialogues, but each of these is similarly characterized in terms of an abstract function, limited roles and a characteristic outcome. A fallacy is analyzed in terms of the infelicities it causes relative to such dialogue practices, abstractly characterized and normatively construed.

Would Walton be sensitive to the revelation that actual court administered justice (and maybe the genealogy of the concept itself) is deeply complicit in power and especially political power? Walton makes no claim to presenting things as they are. Rather he offers a rich model sensitive to the range of functions served by argumentation, and offers an ultimately pragmatic account in terms of which the adequacy of means to ends is theoritized. It should be immediately granted by Walton, that the courts often fail to satisfy the demands of the normative model, yet it should be equally apparent to Reygadas that the normative function of the courts (and ultimately their importance for social justice) rests on rationalistic concerns with due process, sanctioned judicial procedures and the application of standards of evidence for ascertaining truth. The failure to meet these goals neither militates against them nor negates the important theoretic task of articulating them.

My view adds another dimension. My entire career has been spent accusing the informal logic and argumentation theory of a priorism. And so I welcome Reygadas' concern for reality. But I share with Walton the ultimate concern with normativity. My view combines these concerns by making a challenging assertion: there are better paradigms of sound argumentation in practice than in the dreams of philosophers. And so I could agree with the standard view that

the courts when functioning appropriately are functioning through norm-based ideal practices, but I differ with the standard model in that I maintain that the norms are to be found within the law, and not in informal logic textbooks whether new or ancient. That is, that instead of combing logic textbooks for understanding, theorists should look more to the history of the development and articulation of these norms in legal practice.

Another interesting point of contrast is Reygadas' concern with silence: with absencing oneself for good reasons from the available dialogical practice, as a response, or perhaps even a move in an argumentative dialogue. The broad context of argument is addressed by Johnson, in recent efforts and most predominantly in his new book *Manifest Rationality*, where he offers the notion of the dialectical tier—that is, the argumentation context within which rationality manifests itself in argument. Extending the argumentation beyond the narrow perspective and antagonist and protagonist, characteristic of the standard view, Johnson asks: “Which objections must the arguer deal with? How many must the arguer deal with? And what form must the dealing take? Clearly the arguer cannot be expected to deal with all possible and-or actual objections. So how does one specify which ones?” (Johnson, 2000, p. 166) This “specification problem” is made even more severe by Reygadas' concerns, for now we must add which silences, what considerations of power, form an essential component of the dialectical tier? Which modes of response need to be included in our purview, whether when engaged in argument, or more saliently, in our theory of argumentation.

Reygadas has at least two options. He can show that the sorts of Rawlsian concerns he is concerned with are part of rationality in some defensible sense akin to Johnson's or, my preference, he can show that besides for the Rawlsian concerns there are deeply pragmatic and ultimately epistemological concerns that support his point of view. The silenced voices are epistemologically essential to the goals of argument: truth and understanding.

My position, far too complex to be developed here, solves the specification problem by appealing to the practice of what I well-regulated discourse communities, that is, discourse communities such as the sciences where there are principles and generally well-functioning social instrumentalities for making judgments of what might be called, in the most general sense, relevance. Part of my argument with Johnson and with the argumentation community is that it is by looking at such well-managed discourse communities, rather than ordinary arguments, that the foundational problems of truth, entailment and relevance can be solved. After reading Johnson's new effort, I am convinced that many other problems can be solved in the same way. But that is a discussion for another day.

But what about, to coin a phrase, ill-managed discourse communities. Discourse community deformed by power and privilege—characterized by the silences that Reygadas calls to our attention, and fueled by emotion and other strategies that border on the anti-rational in the traditional logic-driven sense that is the object of Reygadas' concern?

Here Tindale adds the needed dimension. Tindale offers in *Acts of Arguing* a perspective that is perhaps the most close to Reygadas' concerns. His concern with audience adherence leaves him open to arguments from, e.g. feminism, that focus on the emotions as essential components of argumentation and leaves him with a broader conception of the conditions for argument than either Johnson and Walton seem to accept. Still, along with Walton and Johnson, Tindale ultimately calls for “a universal human rationality that takes different forms depending on the circumstances: according to culture, religion, race, class education and sex/gender.”

(Tindale, 1999, p.202) In so far as Reygadas has identified in his areas of concern relevant issues that alter the way argument manifests itself, are they still bound by something akin to Tindale's "universal reason"? Or do they rest ultimately on a notion of justice? Or, again, is some variation of a Rawlsian notion of justice part of that universal human reason?

My own view, and I can barely hint at it here, sees the arguments of the disenfranchised as serving an epistemic function that meets the needs of inquiry— where inquiry for me encapsulates human reason at the highest, and therefore normatively most telling manifestation. I see the voices, and silences of the disadvantaged as offering strong alternatives, akin to the use of the phrase in Feyerabend's *Against Method*, but freed from his anarchic view of science and the relativism it engenders. That is, strong alternatives are among the most epistemologically significant aspects of the inquiry process in that they offer a perspective that challenges deep assumptions, and where successful, a perspective that ramifies, transforming our understanding of areas of essential concern at many and varied points. The two most powerful examples of these in the 20th century are feminism and anti-racism, viewed not merely as social perspectives but as long-term epistemological projects whose value is to be ascertained by the growth of knowledge and understanding that the perspectives afford.

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