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Fallacy and argumentational vice

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ABSTRACT: If good argument is virtuous, then fallacies are vicious. Yet fallacies cannot just be identified with vices, since vices are dispositional properties of agents whereas fallacies are types of argument. Rather, if the normativity of good argumentation is explicable in terms of virtues, we should expect the wrongness of fallacies to be explicable in terms of vices. This approach is defended through case studies of several fallacies, with particular emphasis on the *ad hominem*.

KEYWORDS: *ad hominem*, argumentational vice, argumentational virtue, fallacy, virtue argumentation

1. A VIRTUE THEORY OF ARGUMENTATION

Several authors have recently begun to apply virtue theory to argumentation (for example, Cohen, 2009; Aberdein, 2010; Correia, 2012). This paper explores how this approach copes with the analysis and appraisal of fallacies. If good argument is virtuous, then fallacies are vicious. Yet fallacies cannot just be identified with vices, since vices are dispositional properties of agents whereas fallacies are types of argument. Rather, if the normativity of good argumentation is explicable in terms of virtues, we should expect the wrongness of fallacies to be explicable in terms of vices.

Virtue theory originates in ethics, and in particular the work of Aristotle. In recent years, it has come to be applied to other fields of philosophy, most conspicuously epistemology. There are two main constituencies among virtue epistemologists, distinguished by their different characterizations of virtue. Reliabilists understand virtues to be reliable faculties, such as sight or logical inference. For responsibilists virtues are acquired character traits, such as open-mindedness or intellectual humility. Both sorts of virtue epistemologist agree that virtues must be reliable, but they disagree whether the agent has any responsibility for their acquisition or maintenance (Battaly, 2010, p. 365). Some applications of virtue theory to argumentation are simply continuations of virtue epistemology: the role of the virtues in good argument is seen as promoting the acquisition of knowledge (for example, Johnson, 2009; Battaly, 2010).

However, it is also possible to characterize argumentational virtues as distinct from epistemic virtues (for example, Cohen, 2009; Aberdein, 2010; Correia, 2012). I have argued elsewhere that “the virtues of argument *propagate* truth:

where virtuous knowers are disposed to act in a way that leads to the acquisition of true beliefs, virtuous arguers are disposed to spread true beliefs around” (Aberdein, 2010, p. 173). Daniel Cohen departs further from the standard focus of epistemology, stressing the importance of virtues as a means of capturing “cognitive but non-epistemic values” (Cohen, 2009, p. 52). Cohen’s model of virtues is ultimately Aristotelian: virtues are understood as means between pairs of vices. Table 1 offers an overview of Cohen’s system of argumentational virtues (in bold) and their corresponding vices. In an earlier paper, I extended Cohen’s account, using his argumentational virtues to group together several clusters of related intellectual virtues (Aberdein, 2010, p. 175). My account is summarized in Table 2. Many of the entries in this table could also feature in a table of epistemic virtues (and some in a table of moral virtues). However, it does not follow that possessing the epistemic virtue of open-mindedness, for example, is always correlated with possession of the corresponding argumentational virtue, since they are intended to track different things. Thus an open-minded arguer might entertain challenges to otherwise well-justified belief, and end up knowing less than he did at the start of the argument (Cohen, 2009, p. 57). Such behaviour may still be argumentationally virtuous if it successfully furthered the goals of good argument but would not be epistemically virtuous.

Deaf dogmatist	Eager Believer	Quietism
↑	↑	↑
Willingness to Listen/Modify	Willingness to Question	Willingness to Engage
↓	↓	↓
Concessionaire	Unassuring Assurer	Argument Provocateur

Table 1: Daniel Cohen’s argumentational vices and virtues (after Cohen, 2005, p. 64)

The remainder of this paper demonstrates the practicality of a virtue-based fallacy theory. I focus principally on the ad hominem. This fallacy has attracted much attention from virtue theorists (for example Johnson, 2009; Aberdein, 2010; Battaly, 2010). Since the standard account of ad hominem classifies as fallacious all agent-based appraisal of argument, and thereby any meaningful virtue theory of argumentation, defenders of such theories require a more permissive account. In Section 2 I will show that this criticism of virtue argumentation unsuccessfully trades on an ambiguity in the definition of ad hominem. Section 3 provides examples of legitimate ad hominem reasoning and Section 4 develops the idea that ad hominem may be legitimate “precisely when it is used to draw attention to argumentational vice” (Aberdein, 2010, p. 171). Section 5 shows how the account may be extended to other fallacies.

1. willingness to engage in argumentation
 - (a) being communicative
 - (b) faith in reason
 - (c) intellectual courage
 - i. sense of duty
2. willingness to listen to others
 - (a) intellectual empathy
 - i. insight into persons
 - ii. insight into problems
 - iii. insight into theories
 - (b) fairmindedness
 - i. justice
 - ii. fairness in evaluating the arguments of others
 - iii. open-mindedness in collecting and appraising evidence
 - (c) recognition of reliable authority
 - (d) recognition of salient facts
 - i. sensitivity to detail
3. willingness to modify one's own position
 - (a) common sense
 - (b) intellectual candour
 - (c) intellectual humility
 - (d) intellectual integrity
 - i. honour
 - ii. responsibility
 - iii. sincerity
4. willingness to question the obvious
 - (a) appropriate respect for public opinion
 - (b) autonomy
 - (c) intellectual perseverance
 - i. diligence
 - ii. care
 - iii. thoroughness

Table 2: A tentative typology of argumentational virtue (after Aberdein, 2010, p. 175)

2. VIRTUE THEORY OF ARGUMENTATION AS AD HOMINEM

The most conspicuous obstacle to a virtue-theoretic approach to argument appraisal lies in the standard account of the ad hominem fallacy, on which assessing the arguer rather than (or as well as) the argument is stigmatized as fallacious: "Any shift in the direction of an agent-based approach may itself appear to commit some kind of illegitimate ad hominem move" (Bowell and Kingsbury, 2013, p. 25). Luckily for the virtue theorist, the standard account has been widely contested by authors who defend the legitimacy of at least some ad hominem arguments. However, Tracy

Bowell and Justine Kingsbury argue that the existence of legitimate ad hominem arguments does not help the virtue theorist, since none of them are the right sort of argument: “Legitimate ad hominem arguments provide reasons to doubt the truth of a *claim* on the basis of facts about the person making it. It is commonly supposed that it is never reasonable to reject an *argument* on the basis of such facts, however” (Bowell and Kingsbury, 2013, p. 26). That is to say, for Bowell and Kingsbury, an ad hominem argument may legitimately rebut a respondent’s argument, but may not undercut it;¹ since virtue-theoretic argument appraisal requires legitimate ad hominem undercutting, the virtue argumentation programme is illegitimate. To resolve this dispute, we must clarify the underlying ambiguity in the discussion of ad hominem.

Commentators on the ad hominem have long recognized that the term has been used equivocally to refer to several different things (see Hitchcock, 2007, for further details). The following list is neither exhaustive nor exclusive:²

- ad hominem₀: Arguing from the respondent’s commitments.
- ad hominem₁: Arguing that the respondent is disqualified from speaking.
- ad hominem₂: Arguing that the respondent’s commitments are inconsistent.
- ad hominem₃: Arguing that the respondent’s character rebuts his argument.
- ad hominem₄: Arguing that the respondent’s character undercuts his argument.

Ad hominem₀ is the sense in which the term was famously used by John Locke: “to press a man with consequences drawn from his own principles or concessions” (Locke, 1836, p. 524). Locke never suggests that ad hominem₀ is a fallacy. Subsequent authors generally follow suit, except where they have confused ad hominem₀ with one of the other varieties.³ Ad hominem₁ corresponds to what many textbooks refer to as ‘poisoning the well’, after Cardinal Newman’s memorable characterization of a move used against him by Charles Kingsley (Copi et al., 2007, p. 56). Many contemporary treatments of ad hominem identify ad hominem₁ as a separate fallacy (e.g., Walton, 2006), but there are exceptions, notably Frans van Eemeren and Rob Grootendorst, for whom all varieties of ad hominem “amount to a party claiming that the other party has no right to speak” (van Eemeren and

¹ For a detailed account of the contrast between rebutting and undercutting, see (Pollock, 1992, p. 4).

² Similar lists may be found in various places, such as (Macagno, 2013). There is no precise consensus on how best to subdivide ad hominem, so although my numbering is intended not to conflict with Macagno’s, I do not claim that the subvarieties on our lists coincide exactly. In particular, Macagno omits what I have termed ad hominem₀.

³ One exception may be Gary Jason: “If I try to convince you of C by citing P where you believe P, but I don’t, I am being illogical. I am persuading you, not by sound argument, but by what I believe to be unsound argument” (Jason, 1984, p. 185). This seems a confusion. It would be illogical for *me* to believe C because *you* believe P. But there is no illogicality in exploring the consequences of endorsing a position I do not hold—conditional proof, for example, would otherwise be illogical. So, if I believe C on the basis of independent sound arguments which for some reason you won’t accept, I may legitimately use ad hominem₀ to persuade you that you ought to share my belief, irrespective of whether I believe P.

Grootendorst, 1995, p. 225). Although van Eemeren and Grootendorst treat ad hominem as inherently fallacious, some other authors who take ad hominem₁ as characteristic argue that it is sometimes legitimate (for example, Powers, 1998). Ad hominem₂ occurs in the textbook tradition as ‘tu quoque’, in which the arguer points out a pragmatic inconsistency between the respondent’s words and deeds. Some contemporary treatments argue that this is the central form of ad hominem (for example, Walton, 1987, p. 329). The textbooks generally assert that ad hominem₂ is invariably fallacious. However, provided that it is understood as undercutting, not rebutting, it would appear to be reasonable in most cases (Hitchcock, 2007, p. 616). More generally, this distinction between undercutting and rebutting an argument separates ad hominem₃ from ad hominem₄: an ad hominem₃ retort would state that the respondent’s conclusion was false; an ad hominem₄ retort would state that the respondent has not shown that that conclusion follows from the premisses. Although some otherwise adroit classifications overlook the distinction (for example, Fogelin and Sinnott-Armstrong, 2009, p. 356), it is central to the defence of a virtue theory of argumentation.

In (Aberdein, 2010, pp. 170 f.) I was concerned to head off the following argument:

1. All virtue-based argument appraisal is agent-oriented.
2. All agent-oriented argument appraisal is ad hominem.
3. All ad hominem reasoning is fallacious.
- ∴ All virtue-based argument appraisal is fallacious.

I argued that premiss (3) is false, citing several argumentation theorists who have defended the ad hominem as not necessarily fallacious. Significantly, the ad hominem in premiss (2) is ad hominem₄, since it is addressed to the appraisal of arguments. Thus the premiss I need to reject is

- 3'. All ad hominem₄ reasoning is fallacious.

Examples of legitimate ad hominem of any of the other three varieties would not demonstrate this (unless they happen to be ad hominem₄ too). Thus we may paraphrase Bowell and Kingsbury as countering that I have not shown (3') to be false, since all known counterexamples to (3) exemplify other varieties of ad hominem, primarily ad hominem₃. Is that so?

There are some accounts of ad hominem on which ad hominem₃ is central. For example, Jason defines ad hominem as follows:

1. The advocates of (proposition, claim, proposal) C have traits x, y, z, ...
2. x, y, z, ... are all bad.
- ∴ C is (probably) false. (Jason, 1984, p. 182)

However, Jason also holds ad hominem to be invariably fallacious. On the other hand, Merilee Salmon has a highly idiosyncratic characterization of ad hominem as sometimes legitimate and intrinsically ad hominem₃:

Most of what individual *a* says about a particular subject matter *S* is false.
a says *p* about *S*.
 Therefore, *p* is false. (Salmon, 2007, p. 121)

On this account, *ad hominem*₃ is legitimate when this statistical syllogism is inductively strong.

Nonetheless, there are also many defenders of legitimate *ad hominem*₄. For example, Alan Brinton defines “normal, nonfallacious” *ad hominem* as “consist[ing] in bringing alleged facts about Jones to bear in an attempt to influence hearers’ attitudes toward Jones’s advocacy-of-*P*. That is to say, the conclusion of logically healthy *ad hominem* will be about Jones’s advocacy of *P*; it will not be about *P* itself” (Brinton, 1995, p. 214). But he observes that “it is possible, though not typical, that a deviant *adhominist* extends the attack to *P* itself”—that is, switches to *ad hominem*₃ (Brinton, 1995, p. 217). Brinton continues, “It is when *adhominizing* goes wrong in this way, in terms of a clearly identifiable *structural* failure, that it makes most sense to speak of a specifically *ad hominem* fallacy” (*ibid.*). Harvey Siegel and John Biro provide a similar analysis to Brinton’s. They argue that in *ad hominem* “we attempt to persuade ourselves or our audience that some property of the advocate of a certain claim justifies us in rejecting that advocacy as providing reason for the claim”, that is, *ad hominem*₄ (Siegel and Biro, 1997, p. 287). They add that “It is, of course, a mistake to think that doing so is, in and of itself, to provide an argument *for* the denial of the claim”, that is, *ad hominem*₃ (*ibid.*). Heather Battaly concurs with this analysis. She “identifies two sorts of *ad hominem* arguments that are illegitimate, including *ad hominem*s that ask us to dismiss the speaker’s arguments [*ad hominem*₁] or conclude that her claims are false [*ad hominem*₃]. In contrast, legitimate *ad hominem*s merely conclude that we should not believe what the speaker says *solely* on her say-so [*ad hominem*₄]” (Battaly, 2010, p. 367). So all three of these analyses directly contradict *Bowell and Kingsbury*, since each defends *ad hominem*₄ by denying the legitimacy of *ad hominem*₃.

In a somewhat different approach, John Woods defends the legitimacy of both *ad hominem*₃ and *ad hominem*₄. He schematizes the overall *ad hominem* strategy as follows:

1. Sarah makes her *ad hominem* retort.
2. She *concludes* from this that the adequacy of her opponent’s case is called into doubt.
3. She *concludes* from *this* that there is reason to think that her interlocutor’s position is false. (Woods, 2007, p. 124)

Woods observes that “Some people are of the view that an *argumentum ad hominem* is constituted by all three components, the retort of (1) and the inferences of (2) and (3). ... Others are of the view that the *ad hominem* has a slighter constitution, one that begins with (1) and ends with (2)” (Woods, 2007, p. 124). On the former view, all *ad hominem* arguments are *ad hominem*₃; on the latter they are all *ad hominem*₄. However, if Woods’s analysis is correct, *ad hominem*₃ arguments only rebut claims

by first undercutting the arguments supporting those claims. This is just as unhelpful for Howell and Kingsbury as the analyses discussed above, since it means that if there are legitimate ad hominem₃ arguments, there must be legitimate ad hominem₄ arguments too.

We have seen that, contrary to Howell and Kingsbury, it is not “commonly supposed” that ad hominem₄ arguments are always fallacious (Howell and Kingsbury, 2013, p. 26). However, we have not yet seen any positive examples of legitimate ad hominem₄ arguments. I will address this in the next section.

3. LEGITIMATE AD HOMINEM UNDERCUTTING

At first blush, deductive logic may seem the least promising territory in which to look for legitimate ad hominem undercutters. Defenders and critics of legitimate ad hominem agree that an “argument either is valid or it is not, and this is determined by seeing whether it conforms to the relevant rules, not by looking at the motives of the person advancing the argument. If Hitler advanced an argument using modus ponens, it would be valid” (Hinman, 1982, p. 339). As Howell and Kingsbury put it, “facts about the arguer cannot undermine the validity of a deductive argument, or make an invalid argument valid” (Howell and Kingsbury, 2013, p. 27). This is entirely correct, *provided that ‘argument’ is understood to mean ‘argument form’*. For example, conjunction introduction is a valid form in most systems of formal logic; if someone utters an argument having that form, then their argument is valid in any of those systems, irrespective of any facts about them. But people don’t utter logical forms, they utter natural language sentences. If we wish to appraise an argument formally, we must first ascribe a form to it. Satisfactory completion of that task can easily require us to know facts about the arguer. Consider this example:

Here it is hot.

Here it is humid.

Therefore here it is hot and humid. (Sorensen, 1998, p. 321)

This argument would have the valid form of conjunction introduction if both premisses are uttered in the same place; if not, the premisses are equivocal and the appropriate form would be invalid. But the physical location of the arguer when the premisses are uttered is clearly a fact about the arguer. Thus this is a case where facts about the arguer determine whether an argument has a valid or invalid form, or more casually, whether it is valid or invalid.

It might reasonably be objected that physical location is not a fact about the arguer’s *character*, and therefore that this could not be the object of an ad hominem critique, legitimate or illegitimate. However, there are many sources of equivocation in natural language argumentation. To take a recent example, consider the following tweet: “Two thirds of the Cabinet – 18 out of 29 ministers – are millionaires. Tomorrow, unlike you, they’ll get a £42,000 tax cut” (@BolsoverBeast, 2013). On a charitable interpretation, this could be analysed by the following valid syllogism (with an enthymematic major premiss):

[All millionaires will get a £42,000 tax cut tomorrow.]
 18 Cabinet ministers are millionaires.
 So, 18 Cabinet ministers will get a £42,000 tax cut tomorrow.

However, the word ‘millionaire’ is used equivocally. In the minor premiss it is used in its (British) dictionary sense to refer to someone with a *net worth* of at least £1,000,000; in the (implicit) major premiss and the conclusion it is used in a non-standard sense recently adopted by the British Labour Party to refer to someone with an *annual income* of at least £1,000,000. The conclusion is unwarranted (and presumably false).

A common practice in such cases is to employ a principle of charity: to err on the side of validity whenever in doubt over how to formalize an argument. This has the powerful rhetorical advantage that if the argument still ends up invalid, then the case against it is all the more compelling for being so obviously fairly made. But what should one do when a charitably formalized argument is valid? In judging whether or not a subtle equivocation such as this is present in a natural language argument, the character of the arguer may well be a relevant factor. In this example, once we pay attention to the source of this argument, we may wonder if a charitable interpretation is warranted. The tweet is attacking the tax policies of the British government, but the Twitter account uses versions of the name and nickname of a veteran left-winger in the opposition Labour Party.⁴ When we know this, and that the Labour Party has taken to using ‘millionaire’ idiosyncratically, it is easy to spot that the arguer is equivocating. In pointing this out we are asserting that the arguer is failing to act as a virtuous arguer would act, that is we are making an *ad hominem*₄ attack on the arguer, but a wholly legitimate one.

Mathematical reasoning provides a second example of legitimate *ad hominem*₄ arguments. Empirical research conducted by Matthew Inglis and Juan Pablo Mejía-Ramos has shown that experts in mathematics treat some arguments as more persuasive if they are attributed to respected mathematicians (Inglis and Mejía-Ramos, 2009). If mathematical argument were entirely deductive, then this example would be in the same area as the last. However, much mathematical argument is not deductively valid, but relies on weaker modes of reasoning. Indeed, Inglis and Mejía-Ramos found correct attribution was correlated with significantly greater levels of credence in heuristic and visual arguments, but that it made no difference for a deductively valid argument (Inglis and Mejía-Ramos, 2009, p. 40).
 Howell and Kingsbury discuss this sort of case, asking whether “there might be areas in which I defer to experts about matters of logic” (Howell and Kingsbury, 2013, p. 28). They consider someone who, when presented with the Monty Hall problem, “is informed by reliable experts that the argument that the contestant should swap is absolutely watertight” (Howell and Kingsbury, 2013, p. 29) and accepts the argument on that basis although she was unable to follow it. They rightly point out

⁴ Dennis Skinner, Member of Parliament for Bolsover since 1970, has long been nicknamed ‘The Beast of Bolsover’. However, the @BolsoverBeast account is presumably unauthorized, since it uses the name ‘Denis Skinner’, misspelling the MP’s forename.

that she is primarily relying on an argument from authority for the conclusion that the contestant should swap. However, that seems to be a weakness of the specific example, not of the general principle of agent-based appraisal of complex argument. Indeed, Inglis and Mejía-Ramos's survey participants were specifically directed "to determine the extent to which the *given argument* allows them to gain conviction in the (probable) truth or falsity of the argument's conclusion" (Inglis and Mejía-Ramos, 2009, p. 39, emphasis in original). This could have been quite independent of the participants' overall confidence in each conclusion, since, as expert mathematicians, they may well have known of a better argument or been able to devise one for themselves.

Of course, Inglis and Mejía-Ramos's examples are arguments which are evaluated as *more* persuasive when their source is known, so although they are cases of agent-based appraisal, they are not strictly speaking *ad hominem*. However, mathematicians also engage in *negative* agent-based appraisal. For example, consider Scott Aaronson's "Ten signs a claimed mathematical breakthrough is wrong", a list of heuristics a mathematician may use to determine whether "a complicated solution to a famous decades-old math problem ... is worth reading" (Aaronson, 2008). Many of the heuristics appeal to the author's "failure to perform intellectually virtuous acts" (Battaly, 2010, p. 367). For example, "The authors themselves switch to weasel words by the end", "The paper doesn't build on ... any previous work" or "The paper wastes lots of space on standard material" (Aaronson, 2008). As Aaronson notes, these are only heuristics: "If a paper fails one or more tests ... that doesn't necessarily mean it's wrong" (Aaronson, 2008). Nonetheless, they reflect the legitimate practice of many working mathematicians. And each of them represents grounds for concluding that the argument contained within the paper may not hold water on the basis of the authors' conduct, and not on the details of their argument. Hence they comprise legitimate *ad hominem*₄ argumentation.

A further example of non-deductive reasoning where the character of the arguer may be relevant to its evaluation is inference to the best explanation. In defending the legitimacy of (some) *ad hominem* argumentation aimed at intelligent design (ID) theorists, Christopher Pynes observes that "ID arguments and claims, as well as Darwinian/evolutionary arguments and claims about the origins of species and other biologically related issues, are traditionally presented as inferences to the best explanations... So validity of the formal, deductive kind is irrelevant" (Pynes, 2012, pp. 292 f.). ID theorists profess to have discovered "irreducible complexities" which evolutionary theory is incapable of explaining, thereby undercutting its justification by inference to the best explanation. However, in so doing they display argumentational vice: they ignore relevant work showing how complex features of organisms can be the product of natural selection; they dogmatically insist on their own preferred explanation; they abandon faith in reason for a solution that they concede transcends rational explanation; and so on. Pointing out such weaknesses in the ID theorists' reasoning is an *ad hominem*₄ response and, as Pynes argues, entirely legitimate.

In this section we have seen three positive examples of arguments susceptible to legitimate *ad hominem*₄ critique: an apparently deductively valid

argument, some non-deductive mathematical argument, and an inference to the best explanation. In the next section I will show how virtue argumentation theory can handle the ad hominem fallacy in general.

4. THE AD HOMINEM FALLACY ACCORDING TO VIRTUE THEORY

In earlier work I argued that ad hominem is legitimate if and only if it is used to draw attention to argumentational vices and virtues: “For example, highlighting instances of bias, conflict of interest, or deception would be legitimate. Seeking to discredit one’s opponent by focusing on his *non*-argumentational vices, or behaviour that is not vicious at all, would be illegitimate” (Aberdein, 2010, p. 171). Battaly adopts a similar, but more fine-grained, stance towards ad hominem arguments:

three sorts of ad hominem arguments that attack the speaker’s intellectual character are legitimate. These arguments attack a speaker’s: (1) possession of reliabilist vices (e.g., unreliable vision); or (2) possession of full-blown responsibility vices (e.g., dogmatism); or (3) failure to perform intellectually virtuous acts (e.g., failure to do what an open-minded person would do). [Footnote:] Ad hominem arguments that attack a speaker’s intellectual motives will not be legitimate unless those motives prevent the speaker from performing intellectually virtuous acts (Battaly, 2010, p. 367).

Battaly draws attention to a crucial aspect of virtue theory that some critics neglect: virtue theorists are not prevented from addressing acts just because they understand agent-based appraisal as conceptually prior to act-based appraisal. Thus, agent-based appraisal can turn on specific failures of virtue, as in Battaly’s third sort of argument, as well as inveterate vice, as in the first two. Where my picture diverges from Battaly’s is that on her account all the relevant virtues and vices are epistemic, whereas I distinguish between epistemic and argumentational vices and virtues.

We are now in a position to analyse when each of the five varieties of ad hominem in the classification introduced in Section 2 is legitimate. I shall address them in reverse order. Ad hominem₄ is a legitimate move when it turns on argumentational vices, whether inveterate or specific. Reducing the credence one assigns to an argument on the basis of the arguer’s argumentational vice is a reasonable thing to do. Conversely, ad hominem₄ is illegitimate when it turns on other aspects of the arguer’s character. Some authors consider a much wider range of character features to be legitimate bases for ad hominem appraisal. Notably, Christopher Johnson extends the range of admissible material to encompass moral virtues and even such “non-moral character traits” as “interest in fine wine” and “experience in world travel” (Johnson, 2009, p. 262). However, his argument for so doing is that these properties are indicative of intellectual character. Hence their use in ad hominem critique would, strictly speaking, be a two-step process: (1) infer argumentational vice (or virtue) from other character traits; then (2) judge the argument on the basis of that inferred property. Since only the second step is ad hominem, this account is not really in conflict with mine. Indeed, as Johnson concedes, the first step would take very careful handling; hence it seems reasonable

to regard anyone bypassing it, for example by jumping from a non-argumentational vice to a negative appraisal of an argument, as making an illegitimate move.

Woods's analysis of the relationship between *ad hominem*₄ and *ad hominem*₃ is persuasive: many cases of *ad hominem*₃ can best be understood as relying on an implicit *ad hominem*₄. (There may be some cases of *ad hominem*₃ for which this is a poor analysis. However, it seems *prima facie* implausible that one could legitimately argue that an argument for which we know of no undercutter should nonetheless be rebutted on the basis of the arguer's character. So I suspect that any extraneous cases would be illegitimate, as exemplifying one or more of a variety of vices.) Hence *ad hominem*₃ may be analysed in a similar fashion to *ad hominem*₄, but will be characteristically weaker since it involves an additional non-deductive step. *Ad hominem*₃ will be legitimate when the underlying *ad hominem*₄ turns on argumentational vices and there is no good reason to think that the conclusion could be supported independently. Thus the @BolsoverBeast example in the previous section would also support a legitimate *ad hominem*₃ critique, since there is no independent reason to suppose that 18 Cabinet ministers will each get a £42,000 tax cut.

The other varieties of *ad hominem* do not address the respondent's character, and are thus best understood as not necessarily falling under the account of *ad hominem* discussed here. Nevertheless, they may still be analysed in terms of argumentational vice and virtue. *Ad hominem*₂, or 'tu quoque', is seldom argumentationally vicious. As David Hitchcock concludes, "Fairly interpreted, real instances of the tu quoque are ... legitimate attempts to put an opponent on the spot by pointing out an apparent inconsistency between word and deed" (Hitchcock, 2007, p. 616). He stresses that this can at most provide an undercutter for the opponent's argument and, of course, that it can be misapplied if, for example, the inconsistency is only apparent. Thus, if a case of *ad hominem*₂ is vicious, it will be for reasons that are independent of its *ad hominem* structure, so *ad hominem*₂ is not associated with any specific vices. *Ad hominem*₁, or 'poisoning the well', is often argumentationally vicious. In many cases, seeking to silence an opponent represents a catastrophic failure of willingness to listen to others. However, it can be a legitimate move in certain circumscribed contexts, for example by restricting the right to argue in a courtroom or legislature to specific individuals. It may also be legitimate to exclude arguers guilty of extreme cases of inveterate argumentational vice, but the standards required would be much stricter than those for legitimate use of *ad hominem*₄. Lastly, *ad hominem*₀ is never argumentationally vicious as such, although other fallacies may of course be present in specific cases.

5. A VIRTUE-THEORETIC APPROACH TO FALLACY

In the last section we saw that a virtue theory of argumentation could provide a working distinction between legitimate and illegitimate instances of *ad hominem*. In this section I will extend the discussion to some other fallacies. Many, many different fallacies have been identified by different authors and I cannot hope to address them all within the scope of a single paper. However, there are some fallacies which recur in many of the different catalogues. Woods refers to these

usual suspects as the “Gang of Eighteen”, and notes that they are “attractive, universal and incorrigible” (Gabbay and Woods, 2009, p. 59). I shall restrict my attention to the members of this group. In Table 3 I briefly indicate some of the virtues from Table 2 for which each fallacy in the Gang of Eighteen represents a shortcoming. This list is incomplete in several ways: not only could many other fallacies be chosen, but many other virtues and vices could be identified, and many of the fallacies on this list exhibit multiple vices. In particular, almost all of them might result from carelessness, hence I have omitted ‘care’, (4)(c)(ii) on Table 2, from Table 3. Some other vices, such as lack of common sense and insensitivity to detail could also be applied much more widely than I have indicated. However, there are some fallacies where the failure of virtue is more distinctive, and it is to these that I turn next.

Fallacy	Proponent	Respondent
ad baculum	(2)(b)(i); (3)(d)(i)	(1)(c)
ad hominem	(2)(b)(ii)	
ad misericordiam	(2)(a)(i); (3)(d)(iii)	(4)(c)(i)
ad populum	(4)(a)	(4)(a)
ad verecundiam	(2)(c); (4)(c)(iii)	(2)(c); (4)(c)(iii)
affirming the consequent	(3)(a)	(3)(a)
amphiboly	(2)(d)(i); (3)(d)(iii)	(2)(d)(i)
begging the question	(3)(a)	(3)(a)
biased statistics	(3)(b)	(2)(b)(iii)
complex question	(3)(b)	(2)(d)(i)
composition and division	(2)(d)(i); (3)(d)(iii)	(2)(d)(i)
denying the antecedent	(3)(a)	(3)(a)
equivocation	(2)(d)(i); (3)(d)(iii)	(2)(d)(i)
faulty analogy	(2)(a)(ii)	
gambler’s	(4)	
hasty generalization	(2)(b)(iii)	
ignoratio elenchi	(3)(b)	(1)(b); (2)(b)(ii)
secundum quid	(2)(d)(i); (3)(a)	(2)(d)(i); (3)(a)

Table 3: The “Gang of Eighteen” and some distinctive corresponding defective virtues in proponent and respondent

As we saw with ad hominem reasoning, although the fallacies are stigmatized in textbooks as invariably bad, they are better understood as sometimes legitimate and sometimes not.⁵ So the ad hominem reasoning indicated on Table 3 is the

⁵ Thus, although I am defining fallacies in terms of argumentational vices, and Gabbay and Woods define them as cognitive virtues (Gabbay and Woods, 2009), we are not necessarily in disagreement. Rather, I am focusing on the vicious aspects of the illegitimate cases; they the virtuous aspects of the legitimate cases.

illegitimate variety which corresponds naturally enough to a failure of (2)(b)(ii) on Table 2, that is unfairness in evaluating the arguments of others. Of course, as we saw in the last section, much more detail as to the nature of this unfairness is required. Indeed, consideration of the specific fallacies is a useful means to refine the account of argumentational virtues, as we shall see below.

It is important to notice that the failure of virtue is not always solely that of the arguer; the respondent also has responsibilities which may not be adequately discharged. For example, illegitimate *ad baculum* arguments represent unjust and dishonourable behaviour by the arguer but also a failure of intellectual courage by the respondent, should the argument succeed. Conversely, for an *ad baculum* to be legitimate, these vices must not be present. That might seem a tall order, but there are circumstances in which an appeal to force is a legitimate manoeuvre, notably in the context of negotiation rather than persuasion (Walton and Krabbe, 1995, p. 110).

The same fallacy can arise from different failures of virtue. For example, the *ad misericordiam* can result from an excessive intellectual empathy into people, (2)(a)(i). In this situation the proponent genuinely empathizes with a third party in pitiable circumstances, but does so so completely as to overlook other responsibilities, such as open-mindedness and intellectual courage. However, *ad misericordiam* can also be insincere, (3)(d)(iii). A manipulative arguer can tug at his audience's heartstrings in the hope that they will substitute pity for reason. In both cases, the success of the strategy turns on the respondent being insufficiently diligent to appreciate the true strength of the arguments, (4)(c)(i). Conversely, non-fallacious appeals to pity require the arguer to avoid both sorts of vice.

In some cases the virtues required of arguer and respondent are essentially the same. Thus for the avoidance of *ad verecundiam* both parties must be able to recognize reliable authority (2)(c), and they must also be sufficiently thorough in properly checking their sources (4)(c)(iii). Structural fallacies, such as affirming the consequent, begging the question, or denying the antecedent exhibit similar vices. In Table 3, I have represented this as a failure of common sense (3)(a), understood here as including a capacity for reliably performing simple logical inferences. Fallacies of ambiguity, including amphiboly, equivocation, composition and division, require an inattention to detail, (2)(d)(i), by the respondent to succeed, and may originate in the same failing in the arguer. Hence these fallacies represent a subclassification of (2)(d)(i) into some of the different sorts of detail to which a virtuous arguer should attend. However, as with many other fallacies, not all indicated on Table 3, ambiguity may also be used to deliberately confuse, an instance of insincerity, (3)(d)(iii).

Whereas many fallacies are just as likely to arise innocently, some are best understood as wilfully deceitful. For example, biased statistics and complex question are most likely to arise as intentional sophistry. As such they are both failures of intellectual candour, (3)(b). However, they diverge in the shortcomings necessary in their respondents if they are to succeed: biased statistics will only persuade someone who is insufficiently open-minded in collecting and appraising evidence, (2)(b)(iii); complex question would not mislead anyone paying attention to detail, (2)(d)(i). *Ignoratio elenchi* arguments, including red herrings and straw

men, are also characteristically deceitful failures of intellectual candour, (3)(b), but they succeed by exploiting a naive respondent who concedes too much in the name of faith in reason, (1)(b), or fairness in evaluating the arguments of others, (2)(b)(ii). In this case, the respondent lacks the sense of proportion necessary for proper exercise of these virtues.

Similar analyses may be offered for the remaining fallacies. For example, faulty analogy is the result of insufficient insight into problems, (2)(a)(ii) and the gambler's fallacy results from unwillingness to question the obvious, (4): the fallacious gambler relies on an intuitive but false supposition about random sequences.

6. CONCLUSION

We have seen how argumentational vices and virtues illuminate the distinction between legitimate and illegitimate cases of alleged fallacies in general, and of the ad hominem in particular. We found two dividends that careful analysis of fallacies can yield for a virtue theory of argumentation. Firstly, once the ambiguity in the presentation of the ad hominem is resolved, the theory is able to withstand the argument that it is inherently fallacious. Secondly, closer attention to specific fallacies allows us to sharpen our understanding of the virtues of argumentation.

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