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### Levels of Depth in Deep Disagreement

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# Levels of Depth in Deep Disagreement

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**Abstract:** Since Robert Fogelin introduced the concept of deep disagreement in 1985, several papers on this topic have been published or presented in argumentation theory conferences. Moreover, only one of them introduces techniques for overcoming deep disagreement, and all of them seem to assume that deep disagreement is of only one level of depth. This proposed paper intends to introduce the notion of “levels of depth” in deep disagreement.

**Keywords:** Deep disagreement; emotion; Fogelin; intractable disagreement; levels of depth in deep disagreement; rhetoric; persuasion.

## 1. Introduction.

My interest in the topic of deep disagreement goes back to the 2010 ISSA conference. I had prepared a paper (Duran 2011) intended to show that, on the basis of work done in previous papers, the psychoanalytic theory of Bi-Logic is in a position to explain some fundamental aspects of argumentation in agitation propaganda as developed by the press. The paper concluded with a reflection on the dramatic disagreement in Chilean society about the causes and circumstances of the 1973 military coup, the Pinochet dictatorship, and the return to democracy. I attended David Zarefsky’s paper on overcoming deep disagreement (Zarefsky 2011) that introduced me to this concept. I could see then that it was of considerable help to understand the political reality of Chile.

In the 2014 ISSA conference I read a paper that reflects this new approach to my longstanding study of Chilean newspapers (Duran 2015). The paper introduces a complex framework for the analysis of political blogs in online newspapers, based on a model for the study of argumentation introduced by Michael Gilbert (Gilbert 2014) combined with the strategies for overcoming deep disagreement that David Zarefsky discusses in his 2011 paper. In essence, that study focuses on the analysis of blogs in the online version of the Chilean daily newspaper *El Mercurio*. The focus is on two articles followed by blogs that appeared during the intense political climate generated by the commemoration of the 40<sup>th</sup> anniversary of the military coup. One of them is by Hernán Larraín, a right wing senator, who had decided to ask for forgiveness for whatever responsibility he could have had in the repression during the military dictatorship. He urges people to come out of the confrontation that still exists in Chile, and try to find a common ground in order to live in peace and united. However, he reminds people that the coup followed a decade of political violence instigated by the left. He condemns the repression of the Pinochet dictatorship but also says that the military regime managed to develop a successful economic model.

The second blog stems from an article published by Eugenio Tironi, a center-left intellectual, which criticizes Jaime Guzmán, a young, prominent right wing intellectual who played a very important role in the creation of legal, political, and economic structures during the Pinochet dictatorship. Tironi’s article refers to the October 5, 1988 plebiscite that the opposition

to Pinochet won, and therefore signalled the end of the military regime. According to Tironi, the real loser in the plebiscite was Jaime Guzmán because he represented the ideology according to which, in due course, people accommodate themselves to their economic interests. The article represents as well a very critical view of the whole of the military regime based on its commitment to neo-liberal policies.

The analysis of the two blogs using the framework referred to above shows a clear case of deep disagreement in Chilean society. From the perspective of the Gilbert model, the conclusion is that there is no process of real argumentation involved in the blogs: at the most, the argumentation happens at the stage of confrontation with no attempt to deal with the disagreement in any serious way. The application of Zarefsky's strategies for resolving deep disagreement proved a bit more hopeful, but with no clear resolution. In any case, I evaluate the study undertaken in the 2014 ISSA paper as promising. To some extent this is due also to a few interesting outcomes of the paper:

First, Professor Eva Hamamé, from Universidad Diego Portales and I decided to start a project based on my paper, dealing with the factors involved in forgiveness in cases of political repression and deep disagreement. We presented an initial stage of the project in an argumentation conference organized by that university in September 2015.

Second, Professor Lorena Antezana, from the Instituto de Comunicación e Imagen, Universidad de Chile, and I are at the beginning of a study of the ideological aspects of online blogs in cases of deep disagreement. This time the issue is abortion, a very difficult topic in Chile at present due to the ongoing discussion in Congress of a law of abortion.

Third, I have been discussing the issue with Arturo Fontaine, a colleague from the Philosophy Department at Universidad de Chile. He was until 2015 the head of the Centro de Estudios Públicos (CEP), an important think tank related to the highest levels of the entrepreneurial groups of Chilean society. Thus, his involvement in a study of deep disagreement in Chile could be very relevant.

I introduce now the topic of the present paper. It had come to my attention in the 2015 paper that there seems to be no question, at least intuitively, that cases of deep disagreement are not all of the same "depth." For example, the question of the atrocities committed by the military regime introduces very deep disagreement when people who suffered them confront those who supported the regime. Emotions tend to be extremely high in this case. Comparing that situation with a debate about the state's participation in the economy, it is possible to see that, while there is deep disagreement in this instance, the case does not reach the emotional level of the previous one.

Since then, I have been reviewing the literature on deep disagreement, and I have found very little, if any, clear and focused reference to the topic of levels of depth in deep disagreement. I intend therefore to examine and analyze the topic in some detail. At the same time, I discuss a few other topics, mainly the need to perhaps change the name of what Fogelin calls deep disagreement; finally, I consider the issue of persuasion that he mentions in his 1985 paper.

## **2. Robert Fogelin's ideas on deep disagreement**

Fogelin discusses what happens to arguments when the context is neither normal nor nearly normal. He says that to the extent that the argumentative context becomes less normal, argument becomes impossible.

An argumentative exchange is normal when it takes place within a context of broadly shared beliefs and preferences. Also there must exist shared procedures for resolving disagreements. Moreover, engaging in an argumentative exchange presupposes a background of shared commitments.

Now, if arguments presuppose a rich background of agreements how does disagreement even arise? Well, arguing is also a complex activity like other human activities: thus, arguing is open to abuse; it is also a skill that can be done well or badly; human beings seem to be endowed with innate capacities for messing things up as soon as argumentative structures rise above the simplest level of complexity: for example take the case of inductive inferences where the tendency for hasty and unfounded generalizations seems to be hardwired into the human brain.

In normal or near normal argumentative contexts, whatever issues may stand on the way of arguing rationally (for example, issues of hasty generalization or of pig-headedness or bias, etcetera), an appeal can be made to common ground by finding ways of resolving those and other issues. Of course nothing is simple in normal argumentative contexts, but there is a basic agreement on ways to resolve the disagreements.

Now, Fogelin introduces the concept of deep disagreement saying that it cannot be resolved through the use of argument, for it undercuts the conditions essential to arguing. This is because deep disagreement makes an appeal to something that does not exist: a shared background of beliefs and preferences. He specifically clarifies that he is making a strong claim that the conditions for argument do not exist rather than a weak claim that in such context the argument cannot be settled.

He also clarifies that a disagreement can be intense, or unresolvable, without being deep. However, deep disagreements proceed from a clash in underlying principles, that is, when the argument is generated by a clash of framework propositions. At this point he introduces the specific case of arguing about abortion.

Fogelin says that deep disagreements persists even when normal criticisms have been answered, and that they are immune to appeals to facts. Such is the situation when people argue about abortion, and more specifically about the morality of abortion. In this case, there could be a good deal of agreement about many facts related to abortion, but there lies at the bottom a disagreement about framework propositions. These propositions lie in the background of the debate, and perhaps a rational way to deal with them is to surface and discuss them directly. However, Fogelin says that if that were to happen, then we would find ourselves discussing very contradictory conceptions of life.

He also maintains that deep disagreements are not common, but when they arise there are no rational procedures that can be used for their resolution. At this point he introduces the possibility of dealing with deep disagreement through the use of persuasion. Finally after examining in depth a second case of deep disagreement, the dispute over affirmative action quotas, he suggests that perhaps it is possible to fall back on persuasion since deep disagreements are not subject to rational resolution.

### **3. Critical analysis of Fogelin's views on deep disagreement**

I personally think that Fogelin's introduction of the concept of deep disagreement is valuable and must be taken seriously. However, as Vesel Memedi (Memedi 2007) says "it is not completely clear what Fogelin meant by 'deep disagreement'." In what follows I address several issues that require clarification in my estimate.

First, and maybe foremost, it is important to deal with the very meaning of this concept, for it is certainly appropriate to characterize a “normal” argumentative exchange as “deep.” That would happen to a normal argument whose resolution takes a good deal of argumentation. If this is the case, then we have not only a semantic problem, but a use of terminology that becomes awkward and confusing. This problem does not take away the significance of Fogelin’s contribution to argumentation theory, only that it invites us to reflect on adjusting our terms and concepts.

The literature that deals with Fogelin’s paper on deep disagreement introduces alternatives that should be considered. Peter Davson-Galle (1992), while not necessarily addressing the issue in the way I am doing here, refers to it as “rationally intractable disagreement.” Dale Turner and Larry Wright (2005), use the term “intractable disagreement” as well, and so does Memedi (2007). Christian Campolo (2005) uses the term “intractable disputes.” Richard Friemann (2005) compares Fogelin’s concept of deep disagreement with “intractable quarrel,” a concept used in family systems therapy, which refers to a specific type of emotional argument between couples.

Preliminary, it seems that “intractable disagreement” may be an adequate way to name what Fogelin has introduced as deep disagreement.

A closely related issue concerning Fogelin’s view on this topic refers to one of his statements in the paper. He says that when the argumentative context becomes less normal, then the argument becomes impossible. However there is something odd in this statement, for it seems to assume that there is continuity between normal and not normal processes of argumentation. Given the above considerations on a more appropriate way to call deep disagreements, it seems possible to say that there are normal processes of dealing with disagreement and no normal processes: these latter ones could be called “intractable disagreements.” They could be distinguished as two different kinds of disagreement but with no continuity between the argumentative exchanges. Thus, intractable disagreement would be in a class with no connection to deep disagreements that happen in normal exchanges.

Nevertheless, this issue is “deep,” no pun intended! I leave it here expecting that there may be some productive discussion about it.

Coming back to Fogelin’s views, and keeping his own terms and concepts, he says that in deep disagreement there is no common ground, that is, no shared background of beliefs and preferences, instead what is found is a clash of underlying principles or framework propositions. He then provides two cases of deep disagreement, abortion and the case of affirmative action quotas.

At this stage, it is possible to introduce another significant issue. How exactly did Fogelin come about his views on deep disagreement? His paper presents a theoretical elaboration followed by the illustration of two specific cases. However, isn’t this elaboration rather based on the analysis of cases first of all? I am assuming here that this is a case of empirical research on the nature of argumentation. That is, first, cases of argumentative exchanges are found, then they are examined and compared in detail. In a way, Fogelin does that when he is discussing normal argumentative exchanges. However, he moves with no continuity to a discussion of deep disagreements in general terms, with no empirical analysis. After that, he provides the cases mentioned above. I am suggesting that it should have been the other way around: it is the analysis of abortion and affirmative action quotas, as two different cases, that help him to conclude that there is no possible agreement.

However, the case of affirmative action quotas has proven to be, from a historical perspective, not an intractable case of disagreement. Indeed it has been a very difficult process, and realistically it still constitutes a problematic issue: I would even say deep in the sense that it is very difficult to achieve total acceptance. But institutions and people tend more and more to take it seriously. Perhaps the reason is that it involves clear and profound democratic principles.

Abortion, in my opinion, seems to be considerably more intractable. It is true that in several countries abortion has been legalized, but there are many people, perhaps millions of people, who do not accept it on moral, religious, and even scientific grounds. There are countries at present attempting to legalize abortion and the public debate about it shows clear signs of intractability.

There are a few problems involved here. One of them refers to the fact that the disagreement in the case of affirmative action quotas, after many years, actually decades, since the publication of Fogelin's paper, has been more successfully resolved. Some of Andrew Lugg's (1985) comments in his critical paper of Fogelin are interesting. He argues that even in very tough cases of deep disagreement, there is still a good deal of fine argumentation going on. This argumentation, he claims, can narrow the distance between the arguers, and this could make it possible perhaps to resolve the disagreement in the future.

The second issue is probably more complex. It seems possible to argue that the case of affirmative action quotas, having been resolved to an important extent, is not really a case of deep disagreement, at least in the sense of Fogelin's strict understanding of the concept. However, my personal view of this problem is that Fogelin's deep disagreement should not be treated as absolute: his concept, or rather intractable disagreement, should be seen as referring to argumentative exchanges in which there is considerable lack of common grounds at the time of the argumentation process.

Nevertheless, I leave this problem for future discussion.

#### **4. Levels of depth in deep disagreement**

Assuming that the case of affirmative action quotas remains a genuine case of deep disagreement, the fact that it was possible to overcome it over a long time, whereas abortion has not been resolved, introduces the very notion that there are different levels of depth in deep disagreements: some are deeper than others. One sign of this is precisely the fact that they could or not be resolved.

Or perhaps, there may be other criteria for deciding on level of depth. At the conclusion of the Introduction above, I referred to a case mentioned in my 2015 paper. In this particular instance, the issue of depth is related to the level of the emotions involved in deep disagreements. I think that it is possible to claim, at least intuitively, that deep disagreement involves the presence of emotions. This topic is examined further in section 5.

Moreover, while there is no significant discussion in the literature about levels of depth in deep disagreement, Memedi (2007) suggests it when he writes that "[t]he discourse by Macedonian and Albanian language media displays precisely the kind of incommensurability of viewpoints that has been discussed until now. The columns presented in the newspapers are patently incapable of generating resolutions of disagreements. The discourse displays a 'deep disagreement' of the highest magnitude." Thus, accordingly, there may be cases of lesser magnitude.

Finally, in David Zarefsky's paper (2011), while levels of depth in deep disagreement is not discussed or mentioned, the very introduction of the topic of strategies for resolving deep disagreement and the cases discussed, assume a series of possible ways in which depth may be understood. The cases that Zarefsky examines involve more or less resolution of the disagreements, or none.

It is important in the study of deep disagreements to be able to describe them in their reality, and this involves recognition about the levels of depth in which they manifest themselves. Being clear about this issue may be helpful when deciding on strategies to resolve them. This specific topic requires more research.

## 5. Persuasion Emotion Rhetoric

Robert Fogelin claims that since deep disagreements cannot be resolved by rational means, they could be treated through the use of persuasion. What exactly he means by this is not clear. However, it may be understood as involving what Richard Feldman (2005) warns people about: "the use of threats, force, intimidation, bribes, stirring musical themes, and the host of things many of us warn our students to look out for." He also mentions advertising and politics, and in my view propaganda should be added to the list. Somehow, I have trouble thinking that Fogelin is referring to these techniques and/or forms of persuasion. Indeed he means ways that are not rational and logical. If so, what exactly could he have in mind?

It appears that entering into this domain, the issues revolve around emotion: I mean the need to involve emotion into the argumentation mix. This is very important in my understanding of argumentation. It relates to my commitment to Michael Gilbert's theory of Multi-Modal Argumentation and to the psychoanalytic theory of Bi-Logic (Duran 2008 and 2010). In both theories the role of emotion in thinking and therefore in argumentation is paramount.

This is not the place to deal with emotion as related to argumentation in any depth, but I want to mention this as an indication of a permanent commitment to the topic. However, there are some interesting points that can be made in so far as the theme of deep disagreement is concerned.

First, Richard Friemann's (2005) discussion of deep disagreement involves the treatment of emotion as inherent in the study of argumentation in general and in deep disagreements in particular. A quote from his 2005 paper is helpful:

*Finally, are therapeutic techniques relevant to deep disagreements, if we understand such disagreements in the context of non-intimate relationships? If we think about a deep disagreement as Fogelin describes it, then the example of the academics who understand that they hold incompatible positions seems to capture what he wants from the notion. Certainly, it is possible that such academics agree to disagree and that neither expresses any negative emotion in the presence of the other. There is not much to say about this kind of sterile relationship, if, ex hypothesis, it really is so sterile. However, such a relationship strikes me as atypical as far as human (non-intimate) relations go. If these hypothetical academics ever express negative emotion toward each other, then therapeutic techniques become relevant for managing the argument. Until there are feelings in a deep disagreement, the most we can say is that deep disagreements exist. Yet*

*it is not the mere existence but the correct management of deep disagreements that is the problem.*

Second, at least one of the set of strategies that David Zarefsky introduces in his 2011 paper is very difficult to understand if it is not in terms of appearance of emotions. I refer to the strategy that he calls: “Time: exhaustion and urgency.” There are two pairs in this strategy here and it seems clear that both cannot be understood if emotion is not involved. The disputants are moved to seek resolution because the deep disagreement has lasted so long that it has become exhausting, or for other reasons it has become urgent to resolve it.

This reflection upon persuasion and emotion may be related as well to rhetoric. A quote from Zarefsky’s paper (2011) can help to justify this claim:

*Heidlebaugh observes that in a case of deep disagreement, the competing positions are incommensurable. They cannot be compared because they do not rely on the same rule-based way of making and legitimizing judgments. But if incommensurability makes further discussion impossible for the logician, she says, for the rhetorician the fun is just beginning. One or more of the arguers must find a way to transcend the deadlock and pursue the argument on another basis. As Heidlebaugh describes it, ‘the rhetor has to find something to say that will aid in solving a particular problem perceived by the rhetor.’ Incommensurability is not something to be ‘cured’ but a situation calling for practical wisdom.*

Finally, I would like to introduce an original and thought-provoking strategy that could help in the resolution of deep disagreements. In a paper entitled “Desacuerdos profundos y persuasión literaria” (Deep disagreements and literary persuasion), Argentinian scholar Teresita Matienzo (2014) claims that in the case of deep disagreements, their resolution requires a type of persuasion that can function as a rhetorical way at the service of conceptual work. She argues that if deep disagreements cannot be resolved following a strict rational paradigm, the way of their resolution does not have to be either irrational or non rational. The resolution could result from a different type of persuasion that could involve the development of new concepts and a change in the conception of the world. She claims that this can happen if disputants use literary works that echo issues that appear in deep disagreements. Her argumentation proceeds by finding works in standard literature that provide the opportunity to think and feel about social and/or political issues that have become the subject of deep disagreements. She refers to this way of treating them as finding in literature a “truth” within fiction.

Needless to say, Matienzo’s approach combines persuasion, emotion and rhetoric, but also relates to the need of making logical sense. At least in my experience, her approach is compelling and well deserving of further research.

## **6. Conclusions**

This paper has explored the topic of levels of depth in deep disagreements. In future research, it needs to be related to the development of strategies for resolving them.

Two other issues appear in the elaboration of Part 2. First, it is important now to deal with the question of solving the ambiguity involved in the concept of deep disagreement as Robert Fogelin introduced it. It seems that there is a need to change it to, for example,

“intractable disagreement.” Several commentators of Fogelin’s 1985 paper have suggested this, even if not explicitly.

Second, in the context of the study of deep disagreements, potentially creative ideas about the relation between persuasion, emotion and rhetoric have been introduced. This should become a major area of research in the future.

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