Jun 4th, 3:00 PM - 4:00 PM

The End of Argument

Leo Groarke
Trent University

The End of Argument

LEO GROARKE
Philosophy Department
Trent University
Peterborough, ON, CANADA K9L 0G2
leogroarke@trentu.ca

Abstract: We tend to see argument as a way to resolve (and in this way end) the disagreements that give rise to it. But there are many real-life situations in which acts of arguing do not resolve disagreement, but instead produce an indefinite (and sometimes unending) series of arguments for and against whatever positions they support. I explore this "prolong" problem and the deep issues it raises for theories of argument.

Key Words: Endless argument, deep disagreement, goals of argument, coalescent argument

1. Introduction

This short paper is exploratory. It aims to present an argumentation problem more than it aims to resolve it. At the end of the paper, I make some suggestions on productive and unproductive ways to manage the issues it implies, but my primary aim is the posing of the problem in a way that encourages others to participate in the discussion.

I will understand arguing in the traditional way, as the giving of reasons (premises) for believing something (a conclusion). I will call the problem that interests me a "prolong" problem. It can be introduced by considering two different ways in which we might speak of the "end" of arguing. In studying argument or doing philosophy, we might understand the end of argument to be its ultimate goal—the telos it ultimately aims to achieve. In more practical circumstances, real life arguers often understand talk about the end of argument in a temporal way, as the point at which arguing stops—and ceases to be.

In some special situations—when we practice philosophy or eristic or sophistical display—we might treat argument as an end itself. In such a context, we might speak of the "joy of arguing," much as we might in other circumstances talk about the joy of dancing or other recreational activities to which we are devoted. Considered from this particular point of view we might say that it is a positive, not a negative, if arguing does not end in our second, temporal sense.

A very different attitude to argument accompanies most real life arguing, where arguing is not an end in itself, but a tool that arguers use to secure some other end. In most circumstances, that end can be described as the resolution of the disagreement, conflict, or dispute that precipitates arguing in the first place. Considered from this 'means to an end' perspective, arguments which serve their intended purpose stop at some point, coming to an end in the temporal sense when a disagreement is resolved. Pragma-dialectics provides a model of argument that understands the end of argument in this way, emphasizing an account of a "critical discussion" which aims to resolve some difference of opinion.

Unhappily, the view that arguing is a response to disagreement which ends when it is resolved is at variance with many instances of real life arguing, including instances in which arguers are adept at arguing (sometimes professionally so). In such cases, arguments may lead,

not to the end of arguing, but to further arguments. In such cases arguing does not settle a disagreement, but merely prolongs arguing, in some cases, to an almost interminable extent. I shall call this the "prolong" problem. It is a problem insofar as it arises in cases in which arguing exacerbates rather than reduces disagreement, often in ways that aggravate the conflict it attempts to resolve, increasing rather than decreasing the issues that it raises.

2. The UK and the EU

In an attempt to understand the prolong problem it is useful to note that it is sometimes raised as an explicit issue in real life arguing, in circumstances in which worries and complaints about "endless" arguing play a major role in debate about arguing itself. An illustrative example is a debate in the UK House of Lords when it addressed questions about the relationship between the UK Council of Ministers (the UK Cabinet) and the European Parliament, and the suggestion that a system of "co-decision" in which they share power can be the basis for government decisions. The following quote is from a speech by Lord Cledwyn of Penrhos, where he discusses a report that addresses these issues (U.K. *Hansard*, *531*, 1385).

> The report deals very sensibly with the issue of co-decision and concludes that the concept as between the Council of Ministers and the European Parliament is "inherently unsound". In referring to that issue the noble and learned Lord summarised the report cogently and clearly in his excellent speech. We are grateful to him for that.
>
> The report argues that the concept contains a fundamental flaw because if the Council and the Parliament disagree on a text neither has the last word. There could thus be endless argument between them and that is clearly undesirable.

Lord Cledwyn's argument in the second paragraph is the claim that "co-decision" is not a viable way to manage disagreements between the U.K. Council of Members and the European Parliament because it gives neither party final authority and would lead to endless arguing rather than the resolution of their disagreements.

Put in the terms I am using in this essay, Lord Cledwyn's claim is the claim that the co-decision model of joint governance is undermined by the prolong problem—which arises when arguing promotes indefinite arguing rather than the resolution of the disagreements it addresses. This is one example of the prolong problem in real life arguing. I will return to this example at the end of this essay, but first I want to consider three other instances of the problem.

3. Saturday shopping: Fogelin and "Deep Disagreement"

At first glance, the issues raised by the prolong problem might seem to be a variant of the issues raised by "deep disagreement," disagreement that does not allow a resolution. This is a notion that Fogelin (2005) has promoted within informal logic. My own view is that there are, for some of the reasons he suggests, deep disagreements that cannot be resolved by arguing, and that their existence does contribute to the prolong problem. But so do many other aspects of argumentation, and it would be a mistake to equate deep disagreement and the prolong problem.

When we consider real life arguing, the prolong problem is, for a number of reasons, an issue that is much broader and more pervasive than deep disagreement.

Fogelin's account of deep disagreement emphasizes "normal" argument. According to his account, "an argument, or better, an argumentative exchange is normal when it takes place within a context of broadly shared beliefs and preferences" (p. 6). Deep disagreement arises when argument is not normal in this way and argument becomes impossible. As he puts it, "the extent that the argumentative context becomes less normal, argument, to that extent, become impossible" (p. 8). In his account, he emphasizes that his thesis "is not the weak claim that in such [abnormal] contexts arguments cannot be settled. It is the stronger claim that the conditions for argument do not exist" (p. 9).

Unlike Fogelin, my focus is not situations in which "the conditions for argument do not exist" (p. 7) — whatever that means, but mainstream argument. I believe that arguing in such contexts sometimes bump against the deep issues he raises, but even when they don't, many real life arguments fail to settle the issues they address because they prolong argument instead of bringing it to an end, perpetuating an indefinite sequence of arguments and counter-arguments. To the extent that it exists, deep disagreement is located at the fringes of arguing, in situations in which normal and ordinary assumptions are called in question. In contrast, the prolong problem lives in the heart of our argumentative lives, where our ability to argue is not in question, but our ability to bring an end to arguing is a prevalent and common problem that frequently entails unsuccessful arguments that do not achieve what they are intended to achieve.

Fogelin's own example of a "normal" argument is illustrative in this regard.

> **A** [out shopping] is asked why he is taking a particular road and he responds, " I want to pick up the fish last." We can imagine this being a conclusive reply. On the other hand, it might be met with the rejoinder, "No, go to the Grand Union last; I don't want the ice cream to melt." This too might be conclusive. But things could also become complicated. **A** might point out that the traffic that way is horrible this time of day, and it would be better to wait a bit to let it clear out. And he might be crushed by the reply "Today is Saturday." People being what they are, we can even imagine this discussion becoming quite heated. (p. 5)

Fogelin sees this as a normal argument because "the parties to the conversation share a great many beliefs and (if this is different) a great many preferences" (p. 5) which "provide the framework or the structure within which reasons can be marshaled"—something which provides (in a Wittgensteinian way) "the thick sedimentary layer of the unchallenged."

We can see how the prolong problem arises if we consider another, equally likely, version Fogelin's normal argument, which is naturally associated with the kind of shopping trip that a husband and wife (let's call them **A** and **B**) might take on a routine Saturday. In such a situation, we can easily imagine their argument evolving as follows.

> **A** [out shopping] is asked why he is taking a particular road and he responds: " I want to pick up the fish last."
>
> **B** [A's spouse] may answer: "No, go to the Grand Union last; I don't want the ice cream to melt."

> **A:** "The ice cream can sit in the car with the other frozen items. I can't stand the smell of fish that clings to the car when we pick it up first."
>
> **B:** "I can't stand soft ice cream."
>
> **A:** "We got the fish first last time, this time we should it the way I want."
>
> **B:** "You get what you want every day of the week. On a Saturday it should be my turn."
>
> **A:** "What are you talking about? I don't get my way during the week..."

This is a relatively simple argument, but it is not a simple argument to resolve. It is easy to imagine it prolonged indefinitely (comparing lists of who gets what, what **A** and **B** want, etc., etc.). Everyone knows couples in which the question who is treated better or worse carries on for years without any resolution—sometimes (sadly) until their own demise, when their physical condition, not arguing, brings an end to argument. In this and many other cases of interpersonal exchange, the prolong problem can easily evolve (and devolve) into endless argument.

Why does my version of Fogelin's argument become a prolonged argument? It is not because of deep disagreements of the sort that he discusses. For the two spouses share beliefs and assumptions and many preferences about the world – probably more than most people share given their relationship. Fogelin suggests "that for an argumentative exchange to be normal, there must exist shared procedures for resolving disagreements" (p. 6). In this case, **A** and **B** disagree about a number of things (who got what they want when, who should get priority in the current situation, etc., etc.), but there is no reason to think that they do not satisfy this condition. Most importantly, they share an understanding of what it means to give a reason for believing something, know how to marshal evidence, know how to object to contrary perspectives, know that contradiction and inconsistency are untenable, and so on and so forth.

One might criticize Fogelin's account of normal arguing and its ability to resolve disagreement by noting that he emphasizes easy cases. Consider his comment that:

> People often disagree over simple questions of fact, but, in general, they agree on the method for resolving their disagreement. If you think that Rod Carew hit more triples last year than George Brett, we can simply look it up.... Indeed, the reliability of official record books is assumed as part of the framework in which discussions of this kind take place. (p. 6)

This is a fair comment, but this is a very simple case of disagreement and it would be a mistake to imagine it as a good general model that illustrates our ability to resolve disagreement by arguing in real life contexts.

An appeal to an authority of some sort is a standard, and often useful, move in ordinary argument. But two common features of real life argument frequently undermine the weight of such appeals. One is the extent to which experts and authorities can prove to be mistaken (the prevailing authorities in government and economics and the healthcare system did not foresee the 2008 financial collapse or the current COVID pandemic). The other is the lack of consensus which frequently characterizes the opinions of experts on topics that are the subject of disagreement and therefore argument (in ancient times, one of the standard tropes of the Pyrrhonean sceptics was a "mode of disagreement" which aimed to establish interminable disagreement between authorities).

These issues often mean that we cannot end arguing in real life contexts by consulting a record book or some other catalogue created by an expert. In many circumstances such appeals only prolong arguing by raising questions—whether the expert in question is an authoritative expert, whether other experts agree or disagree with them, whether the issue in question is one in which expert opinion can be depended on, and so on.

Above and beyond these issues, there are many situations in which appeals to authority cannot play decisive role in resolving disagreement. My version of Fogelin's Saturday Shoppers is a case in point. For it arises because of the different preferences and wants that characterize different arguers. If **A** must choose between stinky fish or soft ice cream, **A** prefers putting up with soft ice cream. **B** prefers putting up with stinky fish. It goes without saying that there are many more important contexts (in trying to decide what house to buy, how to spend one's holidays, or whether the government should support this or that artistic endeavour) in which there are great differences that characterize the preferences of different arguers. They include, but are not restricted to, different preferences from a moral, aesthetic, gustatory, olfactory, etc. point of view. Argument does, in a variety of ways, influence such preferences but there is little reason to believe that it can eliminate the disagreement that they give rise to.

Questions of meaning and the limits of our knowledge are other persistent features of real life arguing that make it easy to prolong an argument. The issue between **A** and **B** begins as a small one, but it grows and becomes one that it is almost impossible to resolve when it turns into the question whether **A** or **B** more of what they want. When we want to decide whether Rod Carew or George Brett hit more triples, we know what counts as a triple and we have very convenient records that allow us to tally who hit more.

In the case of **A** and **B**, it is not clear what getting what one wants means (getting to make certain choices? getting something one wants from those choices? getting things one said one wanted when one made one's choices? etc.). And even if this was clear, there is no record book that itemizes all of **A** and **B**'s wants and whether they have secured them. Doing so would require a minute dissection of an enormous number of situations which are likely to be interpreted in different ways by **A** and **B** (their interpretations becoming, over time, a questionable memory).

The myriad of issues that connect the issues addressed in argument provide many other ways to prolong arguing in real life contexts. It is relatively easy to determine whether Rob Carew or George Brett hit more triples in a year in major league baseball, but in most cases, such disagreements are tied to the broader, and more important question whether Carew or Brett was the better ball player, should be favoured in hall of fame votes, etc.

If I favour Carew and we check the record books and find out that Brett hit more triples, then I need not relinquish my claims about Carew. Instead of ending the argument there, I can prolong it by saying that the number of triples a player hits is only one measure of their value, and that there are many other measures of equal (or possibly greater) importance. Some of the latter create more room for prolonged argument because they are complex and difficult to measure (for example, their role in the clubhouse, and their ability to influence other players in a way that makes the whole team better).

Practical limitations on arguing exacerbate such issues. For real life arguing is characterized by limited time, energy and resources which make it difficult to develop extended arguments that can answer all the issues raised by prolonging arguments. Extending arguments to do so is in any case problematic given that every new argument raised adds complexities that can be made the subject of counter arguments which prolongs arguing even further.

In this discussion, my aim isn't a catalogue of all the different ways in which arguers can prolong arguing. My second example of prolonged argument aims to illustrate the difference between the prolong problem and deep disagreement. Insofar as deep disagreement occurs at the boundaries of arguing – boundaries which can play a role in real life arguing – it can be a factor which can be exploited in attempts to prolong argument.

That said, the prolong problem is a prevalent issue throughout real life arguing, not merely at its boundaries. The many reasons why include the very different preferences arguers assume (or defend); issues of meaning that can be used to raise questions about the meaning of an argument; our limited knowledge of the issues and circumstances that are the usual subjects of argument; the practical limitations that make it difficult to resolve all the issues which can be raised in prolonging argument; and the ability of arguers to exploit the connections between many different issues (and arguments) which are, in one way or another, associated with whatever disagreement arguing addresses.

4. A Workplace Issue

My first two examples of the prolong problem illustrate some ways in which it can arise in political decision making and interpersonal exchange. My third example is an actual case taken from my own world of work—labour issues within a university. It arose as a response to disagreement in a department characterized by a great deal of internal conflict. Ultimately it led to complaints of harassment against one of the professors in the department.

When the complaints were presented to the professor in question, let's call them "Professor X", X denied that they were harassing the other members of the department. As often happens in these kinds of cases, X claimed that the situation was the reverse—that the rest of the department was harassing X. The departmental charge that X was practicing harassment was given as one example of the harassment X was facing.

The university took the issues seriously and investigated. As is common in such situations, the evidence on what went on was to some extent contradictory, different individuals describing the same situations in different ways or, in some cases, accusing others of fabricating their accounts of what went on. Some very costly internal—and then external—investigations were conducted to try to get to the bottom of the situation. The union was involved, so were a number of lawyers, and counselors and medical doctors who gave evidence on pain and stress and other consequences for everyone involved. At one point, questions about the mental health of Professor X were investigated. At another point in the process, the department demanded that he not be allowed to visit department offices or talk to the department Chair.

The investigations and the debate over the question whether Professor X (or anyone else) was guilty of harassment was carried on for more than two years. No agreement between the parties was ever reached on the question who, if anyone, was a victim of harassment. This was not for lack of argument or exchange. The Provost responsible for the investigation told me that she received, over two years, 1600 e-mails from Professor X. The total tally was much larger, including an onslaught of communications from the other professors, the union, lawyers, doctors, counsellors, and others connected to the case. She received so many e-mails that she seriously considered leaving her position so she did not have to continue to be involved in the prolonged argument. Whenever an argument was made for the conclusion that Professor X was guilty of harassment (and should be disciplined), he and those who supported him argued that such findings were malicious and further evidence that X was being persecuted. Here again, extended

argument continually led, not to a resolution of disagreement, but to more arguing and heightened and more extensive disagreement.

5. Pursuing Justice

My first three examples of the prolong problem aim to illustrate how political arrangements, interpersonal differences of opinion, and workplace conflict can lead to instances of the prolong problem. The justice system is another arena in which it constantly arises. It is of special interest when we study argument, for it is a system designed for arguing, premised on the notion that we need to settle questions of guilt or innocence, responsibility and liability by arguing. To that end, it uses its (very considerable) resources to facilitate encounters between competing expert arguers (lawyers) whose arguing is overseen and judged by a senior, established expert in legal arguing and jurisprudence (a judge).

Considered from this point of view, the justice system is committed to argument as the proper way to resolve conflict and disagreement. There is much to be said in favour of such a view—arguing being a better way to resolve disputes than many other alternatives (most notably, an appeal to force). At the same time, arguing in the courts frequently leads, not to the end of arguing and the rational resolution of whatever motivated it, but to prolonged, endless arguing.

The results of many famous trials illustrate this point. One is the legal wrangling that followed the death of William Jennens of the United Kingdom in 1798, a person who was described as the richest man in Britain at the time of his death. The trial over the estate he left behind began in 1798 and finally ended one hundred and seventeen years later (in 1915), not because the issues raised at the trial (whether a planned but unsigned will was valid, who his rightful heirs were, etc.) were settled and resolved, but because the legal fees incurred in the legal proceedings at that point consumed the entire estate (estimated to have been over two million pounds). If more resources were available, there is every reason to believe the trial would be continuing today.

This is an extreme instance of the prolong problem, but it would be a mistake to think that it arises in legal cases of this unusual sort. Rather, the tendency of arguing to produce more arguing rather than a resolution of the issues it addresses is a persistent one in the legal system. In some ways, this is not surprising. For one trait of a good lawyer is their ability to find creative ways to produce arguments which counter whatever arguments their opponent in the courtroom forwards. This can be done in many ways—by finding holes in the opposing lawyer's arguments, by interpreting the law in a different way, by introducing new issues for argument, by presenting different kinds of evidence and counter-evidence, and so on. In situations in which two good lawyers argue against one another, this naturally leads to prolonged argument.

In Canada, the prolong issue lies behind a Supreme Court decision (*R. vs. Jordan*, 2016) which concluded that the right to a fair trial in a criminal court includes the presumptive right to a judgment (in a provincial court) within 18 months of the date when the charges against a defendant are laid (and within 30 months in the case of a superior court). The decision was a direct—and somewhat exasperated—response to the justice system's tendency to prolong trials—and the arguing they entail.

It is not hard to understand the reasoning behind the *Jordan* decision. Being charged with an offense is a serious matter which has many negative consequences for one's life. The judge who made the decision concluded that it is not fair to subject defendants to prolonged court cases, and tried to prevent this by legally forcing criminal courts to hear arguments from the

prosecution and the defense, resolve the issues they raise, and have judges provide a decision which gave reasons for their own conclusions within an allotted time.

Unfortunately, the *Jordan* decision had other unintended consequences. One has been a concerted attempt to use it to end legal arguing, not by resolving the question whether an accused is guilty of what they were accused of, but on the grounds that the arguments over this issue were continuing longer than the *Jordan* case allowed. In the three years following the decision, the result was thousands of *Jordan* appeals and the dismissal of some eight hundred cases.

In part this was controversial because the cases thrown out included a number of serious cases that involved murder, manslaughter, and drug trafficking (see Russell, 2019). In these instances, a *Jordan* application successfully stopped arguing and brought legal proceedings to an end, but not by argumentatively resolving them—i.e., by carefully considering the evidence for and against the claim that the accused was guilty of a crime. Victims of the crimes in question complained that this way of ending these cases did not serve justice, and was arbitrary and ad hoc.

In another way, the end result of *Jordan* was the worsening of the very problems it attempted to resolve. Instead of resolving the disputes the criminal courts were not resolving, it produced – more arguing. It did so by increasing the legal system's argumentative burden by adding thousands of proceedings that have been required to address attempts to dismiss trials by appealing to the *Jordan* decision itself. This required extensive jurisprudence that sought to interpret the decision, specify when it does and does not apply, and apply it to particular cases, creating a whole new venue for complex arguing, prolonging rather than reducing the arguing in cases in the criminal court system.

6. Ending Argument

I have provided four examples that aim to illustrate what I have called the "prolong hypothesis"—the thesis that there are many real life situations in which arguments which cannot settle the issues they address because they do not bring an end to arguing by resolving the issues they address, but instead prolong it, by perpetuating an indefinite (potentially endless) sequence of arguments and counter-arguments.

Above all else, the prolong thesis does not leave room for a naïve faith in traditional arguing as the right mechanism for resolving the issues and the disagreement it addresses within real life contexts. When we deal with real life arguing, it raises the question how we can manage the prolong problem in a way that promotes the resolution of the issues arguing addresses. With that in mind, I will end this paper by making four tentative suggestions in this regard – each one of them connected to one of the four examples I have emphasized.

1. Many real life arguments take place within contexts (language games) governed by particular rules and decision-making procedures. Sometimes this is explicit, as in the courts and in government; sometimes it is implicit, as in interpersonal exchange within a member of one's family (where it may be understood that certain things can and cannot be broached). One important way to manage the prolong issue is by ensuring that such procedures are ones that restrain and do not exacerbate the prolong problem. In such a context, we need to seriously consider the ways in which our rules for regulating argument (by, for example, adopting the "co-management" approach criticized in our first example) affect the prolong problem.

2. The prolong problems that arise when we attempt to bring an end to argument highlight the extent to which arguing in the traditional sense may fail as an attempt to resolve disagreement. In situations in which this happens or seems likely, one thing we need to do is look beyond traditional arguing and find and use other ways of resolving disagreement.

Within argumentation, there is one approach to argument which is of special interest in this context. It is Michael Gilbert's theory of "coalescent argument" (1997, 2014). It radically expands the traditional notion of argument so that it encompasses whatever exchanges bring about the coalescence of divergent points of view. As Gilbert points out, this can sometimes be achieved by rational considerations of the sort incorporated in the classical account of argument, but there are other conflicts which are better resolved by addressing the attitudes, feelings and intuitions of arguers in ways that don't conform to the classical conception of argument. To this end, Gilbert recognizes emotional, physical (visceral) and intuitive modes of arguing.

In our second example, I would suggest that Gilbert's approach is more likely to resolve the issues between **A** and **B** (and the disagreements between other individuals in interpersonal relationships) than traditional arguing and its attempt to rationally weigh the evidence for one or the other's point of view.

3. Our third example suggests that arguing has many practical limitations when it is adopted as a way to resolve institutional human resource issues. In some such circumstances arguing can be highly effective, especially when those on both sides of a dispute are open to the arguments of those they argue with, and committed to a resolution of their differences of opinion (attitudes which are not the same as a commitment to argument). In the case of Professor X it is, in contrast, naïve and wrongheaded to think that issues can be resolved as long as one provides the opportunity to argue long enough. Within institutions that may have hundreds, thousands, and sometimes tens of thousands of employees, more effective ways to manage the administrative burden that comes from prolonged argument by finding other ways to bring an end to disagreement that depend on something other than argument.
4. In Canada, many responded to our fourth example, the *Jordan* case, by criticizing the government for not providing more resources to the criminal courts – resources that would allow the courts to handle more cases quickly (see Ebert, 2018). Here it must suffice to say that this remedy fails to ask the kinds of questions I have been asking in this paper. For it assumes that the way to resolve the issues in the courts is to use resources to expand their operations and the arguing they emphasize. This raises two key questions. The first is the question whether this is too expensive a way to resolve the problems (because it would require very significant public expenditures that could possibly be used in better ways). The second is the question whether this solution would actually work, or simply become another way to prolong arguing in the courts even further, as the *Jordan* decision has.

It is at best naïve to assume that adding more professional arguers and more room for them to argue in the court system will bring an end to argument more quickly rather than prolong it. It might instead mean that arguing expands to occupy whatever space is made for it. With that in mind, a better way to address the problems that *Jordan* addresses is not by making room for

more argument, but (as some commentators have suggested) by removing from the courts many of the conflicts, issues and disagreements that it currently attempts to deal with (minor offences, administration of justice offences, mental health issues, etc.), restricting trials to serious crimes. One way to prevent a traffic jam of prolonged arguing is by not allowing many arguments to get started in the first place.

References

Eberdt, B. (2018, November 21). Ontario's neglect of our court system is costing taxpayers. *Now Magazine*.

Fogelin, R. J. (2005). The logic of deep disagreements, *InformaI Logic*, *25*(1), 3-11.

Gilbert, M. A. (2014 *Arguing with People*. Broadview Press.

Gilbert, M.A. (1997). *Coalescent argumentation*. Lawrence Erlbaum Associates.

Russell, A. (10 June 2019) 'It's a travesty': Nearly 800 criminal cases thrown out over delays since 2016 Jordan decision. *Global News*. https://globalnews.ca/news/5351012/criminal-cases-thrown-out-r-v-jordan-decision/

U.K. *Hansard*, "Political Union: Ecc Report," Vol. 531, 21 October 1991, Col. 1385.