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Institutional and Institutionalized Fallacies: Diversifying Pragma-Dialectical Fallacy Judgments

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Abstract: To improve argumentative discourse, it is necessary to make fallacy judgments that take into consideration the social practice in which argumentation occurs. In this paper, I propose four meta-categories for fallacies to study the connection of fallacies to their institutionalized discourse. Using the first 2016 U.S. Presidential Debate as a case study, I show how this framework can be used to propose improvements to argumentative contexts.

Keywords: fallacies, institutional fallacy, institutionalized fallacy, optimal critical testing, pragma-dialectics, presidential debate

1. Introduction

Argumentation as a form of communication cannot be studied without acknowledging that it has both a normative and an empirical dimension (van Eemeren, 2018). While advancing reasons for a standpoint happens in everyday life, and can thus be studied empirically, such defenses can be done inappropriately. With regards to studying argumentation in practice, acknowledging the normative dimension may simply pertain to elucidating the various competencies participants need to produce, understand and assess argumentation in practice (van Eemeren, 2018). However, with many argumentation theorists (van Eemeren, 2018), I share an interest in improving argumentative discourse in practice. Then, it is not enough to just understand what is seen as appropriate within a specific context. Rather, the question at hand is how to enable the participants in a particular practice to more optimally use the complex communicative act of argumentation (van Eemeren, 2018) to attain the goals of the context they partake in.

In order to give feedback on the argumentative discourse, the discourse is evaluated through making fallacy judgments. Any such judgment should take into consideration the activity in which the argumentation is used. Hence, fallacy judgments should be tied to the local context. The contextuality of fallacy judgments is well-recognized within pragma-dialectics (e.g., Snoeck Henkemans & Wagemans, 2015; van Eemeren & Houtlosser, 2007). However, according to Snoeck Henkemans and Wagemans (2015), within the pragma-dialectical framework, it is inevitable to conclude that certain moves are fallacious but desirable given the institutionalized context. While, strictly speaking, in various communicative activities certain fallacies are necessary to commit, rendering a fallacy judgment is problematic as they are not helpful feedback to the people participating within that context. What is needed is a systematic way of determining how fallacies have to be called out in order to enable making the argumentation most functional to realize the institutional goal. This will prevent emphasizing fallacies relevant for realizing the aims of the argumentative practice or missing certain fallacies that should be highlighted.

In this paper, I contribute to the pragma-dialectical theory by proposing some types of meta-categories for fallacies to enable systematically rendering fallacy judgments that can help to improve institutionalized argumentative discourse. To do this, first, I review the literature within pragma-dialectics on the contextuality of fallacy judgments. Here, I also introduce the meta-categories for fallacies, which can aid evaluating argumentation in context. In section 3, I introduce my case study, the first 2016 U.S. presidential debate and characterize it as an argumentative discourse. In section 4, I introduce some fallacies committed in the debate, and analyze them based on the framework introduced to render a fallacy judgment in presidential debates to show the function of using a framework of meta-fallacies. The advantages of this approach are summarized in the conclusion.

2. Context and fallacy judgments in pragma-dialectics

Within pragma-dialectics, fallacies are defined as derailments of strategic maneuvering (van Eemeren, 2018). Strategic maneuvers are a discussant's rhetorical pursuits to advance effective argumentation. These maneuvers derail if the move undermines the demands of reasonableness as outlined through the model of a critical discussion. As the model of a critical discussion presents all moves which contribute to resolving a difference of opinion on the merits, this means that fallacies are moves which hinder realizing the critical evaluation of a standpoint (van Eemeren & Grootendorst, 1992).

Starting with Walton (1998), fallacy judgments have become seen as intertwined with the context of the argumentation. He proposed that what counts as a fallacy depends on the type of dialogue it is uttered in. Thus, for Walton (1998), a fallacy is not a move which hinders critical testing of a standpoint, as presumed by pragma-dialecticians (van Eemeren, 2018), but a move that hinders the specific goal of the interaction one is engaged in. While van Eemeren and Houtlosser (2007) accept that "it is always conditional upon the background against which it appears whether an argumentative move is reasonable or not" (p. 60), they do not agree with Walton that the norms for argumentative discourse change from context to context. As the rules outlined in the model of a critical discussion ensure the critical testing of a standpoint, and as this is the point of advancing argumentation, these norms are general across various contexts. Thus, they advocate for "a radical distinction between, on the one hand, the model of a critical discussion, which represents an analytic ideal, and, on the other hand, empirical argumentative activity types, which are to be found in the reality of argumentative praxis" (van Eemeren & Houtlosser, 2007, p. 64).

However, as van Eemeren and Grootendorst (1992) emphasize, having general norms does not automatically lead to "agreement on the criteria for deciding what counts as a violation of these norms, nor with an agreement on the interpretation procedure that determines whether an utterance satisfies the criteria" (p. 104). Argumentation is only "conventionally disciplined in a certain activity type by specific criteria for determining whether or not a certain type of maneuvering agrees with the relevant norm" (van Eemeren & Houtlosser, 2007, p. 64). Thus, van Eemeren and Houtlosser (2007) claim the contextuality of fallacy judgments pertains to the criteria which determine how the general norms for argumentative discourse are to be interpreted and employed in practice.

While the context of the argumentative activity provides criteria to interpret the general rules for argumentative discourse, the context can also impose changes to the rules for a critical discussion (Snoeck Henkemans & Wagemans, 2015). Then, how the participants are supposed to

conduct themselves in this institutionalized argumentative exchange differs from the ideal model. Snoeck Henkemans and Wagemans (2015) propose that such amendments to the ideal model are still reasonable if they compensate for unfulfilled higher-order conditions as the model of a critical discussion used as normative benchmark in pragma-dialectics is only the most reasonable way to resolve a difference of opinion if various interactional preconditions are met (Snoeck Henkemans & Wagemans, 2015).

There can also be institutionalized changes to the rules for a critical discussion which are not reasonable from an argumentation theoretical perspective, while they can be defensible for practical reasons (Snoeck Henkemans & Wagemans, 2015). This is, of course, not a problem as in social life practical goals are the most important ones to meet. Yet, the aim then becomes to realize within a context optimal critical testing within the confines of the institutional goal (Snoeck Henkemans & Wagemans, 2015). Thus, one meta-category for rendering a fallacy judgment is whether the fallacy observed enables realizing the institutional goal. As fallacies supporting the practical aims in a context do not hinder realizing optimal critical testing, they do not require further critical attention. However, these, as I call them, *institutional fallacies* are helpful in improving the empirical understanding of their communicative activity type.

Snoeck Henkemans and Wagemans (2015) also note that within an institution, certain fallacies are institutionally required. Thus, besides recognizing that some fallacies are desired within a context, to render fallacy judgments which are helpful to the participants to improve their argumentative conduct in practice, it is also necessary to discuss whether someone could have avoided committing a problematic fallacy. The institutionalization of the context may give the participants no choice regarding whether to commit a fallacy. If the participants are not to blame for a fallacy, then educating and socializing the participants better will not improve the argumentative discourse; instead, a discussion regarding changing the conventions of the institutions is required. In the case of such *institutionalized fallacies*, participants are excused from being blamed for having committed a fallacy.

This leads to four meta-categories for moves, which are formally fallacious according to the pragma-dialectical theory (see table 1).

Table 1

Meta-categories for fallacies within a pragma-dialectical analysis

	Institutionalized	Not Institutionalized
Institutional	(1) Required for institutional goal and required by institution	(2) Required for institutional goal but not part of institutionalized structure
Non-institutional	(3) Not required for goal but part of institutionalized structure	(4) Not required for goal and not part of institutionalized structure

Institutional fallacies (categories 1 and 2) are not fallacies that need to be called out to criticize the institutional discourse. Instead, the main function of studying these fallacies is to better understand and describe the context at hand. Ideally, all these fallacies become institutionalized in order to guarantee meeting the institutional goal. Regarding attempting to optimize the critical testing of the standpoint in this context, the non-institutional fallacies (categories 3 and 4) are most interesting as these point to fallacies which are not helpful to attain the goal at hand.

Presuming that argumentation is to be used to come to the most defensible conclusion within the parameters of the institutional goal, highlighting these fallacies can help improve this situated argumentation. On the one hand, there are fallacies for which the discussant is fully responsible (category 4) and the discussant themselves should be blamed for advancing this move. On the other hand, the institutionalized fallacies point out *structural obstacles to optimal critical testing* (category 3). The question I deal with in the remainder of the paper is how these categories can further aid a pragma-dialectical analysis of argumentative discourse in context. First, I discuss presidential debates as a context for argumentation. Then, I assess some fallacies based on the local rules for argumentation.

3. The first 2016 U.S. Presidential Debate

The data for this study is the first 2016 U.S. Presidential Debate, broadcasted by NBC on September 26th from Hofstra University in Hempstead, NY.¹ The excerpts are transcribed based on the Conversation Analytic transcription conventions (see Jefferson, 2004). This debate was between Donald Trump (DT) and Hillary Clinton (HC), and moderated by Lester Holt (LH). The genre of communicative activity (van Eemeren, 2010) ‘presidential debates’ differs from the ideal model of a critical discussion in a number of ways, and thus, following van Eemeren and Houtlosser (2007) and Snoeck Henkemans and Wagemans (2015), it is necessary to determine the context-specific rules for argumentation. Therefore, in this section, I describe the argumentative dimensions (the initial situation, starting points, argumentative means and outcome) of the activity type ‘presidential debate,’ and thereafter I outline the rules for argumentation within this context.²

The event was introduced by leading NBC journalists Savannah Guthrie and Chuck Todd, who interviewed debate-specialist Tom Brokaw. Once Guthrie shares that “maybe a hundred million people could be watching,” Brokaw adds, “a lot of them are still trying to make up their minds.” The fact that this debate is well-watched, engaged with through many forms of social media, and, as Guthrie shares, “with the polls tight,” the event is highly significant for both Clinton’s and Trump’s bid for the U.S. presidency. Reporters backstage outline the rhetorical challenges the candidates have to overcome in this debate to convince the voters. Thus, according to the NBC journalists who introduce the audience to the presidential debate, the debate offers the public a great opportunity to make up their minds and determine who to vote for in the upcoming election.

Based on this frame, for presidential debates, the *initial situation* (van Eemeren, 2010) is therefore a mixed disagreement, where the two candidates defend the standpoint “you should vote for me.” While the moderator has to remain neutral throughout the event, they control the specific topic of discussion (Schroeder, 2016). By posing the questions to the candidates, the moderator determines which sub-standpoint candidates have to raise and defend to make their case that they are the best choice for the presidency. As it is a televised event, presidential debates also have a large, non-interactive audience³ who cannot influence the argumentation being advanced. Yet, this audience is the primary audience for the candidates, as they may cast

¹ <https://www.youtube.com/watch?v=855Am6ovK7s>.

² The quotes used in this section are all from the video.

³ That is, while people can use social media to engage, the candidates on stage cannot deal with this feedback during the event.

their votes for one of them on election day (see van Eemeren, Grootendorst, Jackson, & Jacobs, 1993).

The *procedural starting points* (van Eemeren, 2010) of the debate are largely set in advance by the Commission for Presidential Debates but have been agreed upon by both campaigns (Schroeder, 2016). The campaigns also have negotiated the specific interpretations of these rules as well as additional rules (Schroeder, 2016). Before introducing the candidates, Lester Holt, the moderator, summarized the negotiated format to the audience. The debate only lasts for “ninety minute[s]” and “is divided into six segments, each fifteen minutes long.” The segments are tied to a topic for discussion introduced through a “lead-off question” by the moderator, followed by “two minutes [for each candidate] to respond” to the same question. The rest of the segment is “an open discussion.” Thus, candidates are not supposed to interrupt during the first 2-minutes, while once they enter into the “open discussion,” this is allowed. Limiting the candidates topically is, according to Holt, not a problem, as “there are two more presidential debates scheduled.” The topic is also controlled based on what issues “voters tell us [NBC] are most important” (and thus supposedly deals with some critical concerns of the electorate). During the “open discussion,” Holt announces he will “press for specifics” to answers to his lead-off question. The time limitation of the debate to 90 minutes should not be seen as a problem, as Holt frames the debate as part of the larger presidential campaign, and thus the discussion will continue beyond this debate. Thus, the organization of the argumentative discourse is *time-* and *topic-*constrained, and both are in hands of the moderator.⁴

As the presidential debates are part of the candidates’ campaigns to become elected president of the United States in order to change the country (or not), the *material starting points* (van Eemeren, 2010) are material facts about the world they have to engage with. Thus, candidates should acknowledge reported statistics, scientific findings and records of past events as common ground. It is especially important that the candidates ensure this is the foundation of their discussion as the judging audience should not be responsible to search for the right facts; to encourage participation, thresholds should be as low as possible. Values can also be used as a starting point of the argumentation, but values do not have to be agreed upon by the candidates (see, e.g., Zarefsky, 2009). Having different values is one way in which the candidates differentiate themselves from each other; so what matters is that the candidate bases their argument on values they share with the audience they want to convince to vote for them.

The *argumentative means and criticisms* (van Eemeren, 2010) of presidential debates enable the candidates to defend their incompatible standpoint, “You should vote for me.” To do this, candidates raise sub-standpoints regarding their policy and values in their two-minute response-slot to the moderator’s question. These sub-standpoints of the candidates are incompatible as well. Additionally, as presidential elections are for voters not just about policies, but also choosing someone to execute them (e.g., Benoit & Wells, 1996), candidates have to defend that they are the right candidate to assume office and can accomplish what they promise. The candidates also have to critically respond to and engage with each other’s argumentation. Namely, as the race to the presidency only has one winner, showing issues with one’s opponent’s argumentation is essential to garner support.

The *outcomes* (van Eemeren, 2010) of the presidential debate are, first, people’s judgment on who won the debate. This affects who someone is able to see as the better candidate and thus their voting intention. This is not necessarily based on the candidate having produced

⁴ Both are deliberate institutional designs as people have only limited time to watch the debates and broadcasting time is expensive.

sound argumentation, but better argumentation than their opponent.⁵ Voting intentions are reflected in their responses to opinion polls on who is the best candidate to assume the presidency. While people can use the debate to determine their actual vote, this outcome is mediated through many other campaign events as well, which also provide the electorate with reasons why to vote for one candidate rather than the other. The decision of who to vote for is made individually by each member of the electorate, although people may deliberate. There is no going back to the initial situation; one of the candidates will be elected in the end.

These features of this communicative activity type affect the fallacy judgments to be made in this context. In a critical discussion, participants have an unconditional right to advance a standpoint (rule 1; van Eemeren & Grootendorst, 2004, pp. 190-191). As the audience, as antagonist, cannot directly interrogate the candidates, the limitation of this right to having to stay on a specific topic determined to be important based on expressed preferences of the electorate is justified due to unmet higher order conditions. While the time constraints are a practical concern, they do still not undermine the institutional goal as the discussion is not terminated at the end of the debate and will continue throughout the campaign. Discussants also have an obligation to defend their standpoint (rule 2; van Eemeren & Grootendorst, 2004, p. 191). In presidential debates, candidates do not have to accept challenges during their two-minute response slot to the question of the moderator as this slot is designed to clarify their position to the audience. Hence, in this slot, the opponent cannot advance a speech act, which counts as a challenge. This rule is also amended through unfulfilled higher-order conditions. Most importantly, as the candidates are not face-to-face with their audience, the people they want to convince cannot directly raise the concerns they have which they want the candidates to address. Therefore, candidates cannot be expected to minimally respond to the question and just the criticisms of their opponent. They need to be proactive in developing a defense for their position. Thus, the candidates, like doctors (e.g., Snoeck Henkemans & Mohammed, 2012), should have a larger burden of proof and are responsible to share their extensive argumentation.

While attacks cannot be on standpoints not actually advanced (rule 3; van Eemeren & Grootendorst, 2004, pp. 191-192), the disagreement space (van Eemeren et al., 1993) includes standpoints tied to their party memberships (e.g., Mohammed, 2018). It also includes positions claimed throughout the campaign and things said earlier in their life. These are all commitments relevant to the debate to determine who will be the best option for the presidency. Attacks count as relevant if they criticize the policy, but also if they concern the ability of the candidate to realize their plans. A standpoint should also be defended by argumentation that is relevant (rule 4, van Eemeren & Grootendorst, 2004, p. 192); like before, relevant argumentation to a policy concerns both the policy and the candidate's character to ensure this policy will become implemented.

Discussants cannot falsely raise or deny unexpressed premises (rule 5; van Eemeren & Grootendorst, 2004, pp. 192-193) or starting points (rule 6; van Eemeren & Grootendorst, 2004, p. 193) in presidential debates. Yet, there are criteria in this context determining when something counts as an accepted starting point. The candidates have to accept published facts about the state of affairs in the world. Values can also be valid starting points, but the candidate can freely choose these to convince the third-party audience. Candidates should not advance argumentation that is logically invalid (rule 7; van Eemeren & Grootendorst, 2004, pp. 193-194) or not appropriately apply argument schemes (rule 8; van Eemeren & Grootendorst, 2004, pp. 194-

⁵ Notice that voting based on one's values is reasonable, as the rejected candidate has not argued from a common set of starting points.

195). Due to values being valid starting points, which do not have to be shared among the candidates, it is difficult to determine whether argumentative attacks and defenses have been successful. However, if an attack or defense turns out to not be tenable anymore, the candidate should drop this line (rule 9; van Eemeren & Grootendorst, 2004, pp. 195). Candidates also should use clear language and not deliberately misinterpret each other's points (rule 10; van Eemeren & Grootendorst, 2004, pp. 195-196).

4. Case study: Some fallacies in the first 2016 U.S. Presidential Debate

In this section, I analyze a couple of fallacious moves given the context-specific pragma-dialectical framework described in section 3. Then, these moves are analyzed based on the meta-categories for fallacies proposed in section 2. In the conclusion, the implications and usefulness of these meta-categories are discussed. I next consider violations of the starting point rule, cases of ad hominem and strawman argumentation, and wrong applications of argument schemes.

4.1 Violation of the starting point rule

Following the starting point rule, candidates should build their argumentation either from values (about which they can disagree) or facts about the world (about which they should agree). In the segment called "America's direction," Lester Holt poses that "race relations" are currently bad in America, and notices that race has been a big issue in the campaign thus far. Given that the next president has to heal these divides, he asks the candidates how they plan to do this. Clinton speaks first and argues that trust has to be restored between communities and the police. In his response slot, Trump posits that the problem is that in many neighborhoods where minorities live, there is a lot of violence, and therefore, what is needed is law and order. In his turn, Trump then specifies that one approach that would work is Stop-and-Frisk, which was according to him successful in New York City, as this takes the guns out of the hands of criminals. After Trump's two-minute slot to respond to the question of this segment, Holt follows up on his argument that Stop-and-Frisk is needed to bring violence down and mentions that this policy has been rendered unconstitutional.

Next, Trump repeats his argument that Stop-and-Frisk keeps guns out of the hands of gangs. When Clinton gets the floor, she picks up Holt's criticism and claims that "Stop-and-Frisk was found to be unconstitutional, and in part because it was ineffective. It did not do what it needed to do" (not shown). Then, Lester continues to probe Clinton on her own position on this topic, but when Trump receives the floor again he finally addresses Holt and Clinton's concerns and defends his position that Stop-and-Frisk is what is needed to improve America's inner cities.

Excerpt 1

1. DT an::d (0.2) <when it comes> (0.2) to: (0.3) eh Stop-
2. and->Frisk you know you're talking about< taking guns
3. away. Well I'm talking about taking guns away from
4. ga:ngs and people that use 'em, .hhh and I don't
5. think I >really don't think< you disagree with me on
6. this if you wanna know the truth. I think <maybe>
7. there's a political reason <why you can't say it?> .hh
8. >but I really don't believe,< in New York City: .h

9. Stop-and-Frisk .hh we had two thousand two hundred
 10. murders (0.3) and <Stop-and-Frisk> brought it down to
 11. <five hundred> murders >five hundred murders is a lot
 12. of murders<, (0.5) hard to believe? Five hundred is
 13. like supposed to be good? (0.9) but (.) we went from
 14. two thousand two hundred .hh to five hundred, .hh and
 15. it was continued on by Mayor Bloomberg. .fff And it
 16. was terminated by our current mayor. .hh but <Stop-and
 17. fi-> frisk had a <tremendous> impact on the safety of
 18. New York City, tremendous beyond belief! .hh So when
 19. you say <it has no impact>, it really did it had a
 20. very very big impa:ct.
 21. (.)
 22. HC Well, it's also (.) fair to say if we're gonna <talk
 23. about> (0.2) teh mayors that (0.5) >under the< current
 24. mayor crime has continued to drop, including murders.
 25. .hh <So the[re is>
 26. DT [Are you wrong? You're wrong.
 27. HC No I'm [not.
 28. DT [Murders are up.
 29. (0.4)
 30. HC Thi-
 31. (0.4)
 32. DT Alright, you check //it

First, Trump again explains that through Stop-and-Frisk, the government can “[take] guns away from gangs” (1:3-4). Next, Trump claims that he does not believe that Clinton “disagree[s] with [him]” (1:5) on the necessity of implementing Stop-and-Frisk and implies that she has some ulterior motive (1:6-7).⁶ Then, Trump introduces New York City as a case in point to show that “it had a very, very big impact” (1:19-20) further suggesting that Clinton is dishonest, but also countering the critical doubt she put forward that it was an ineffective policy. Trump claims that before this policy was implemented, there were “two thousand two hundred murders” (1:9), ultimately brought down to just “five hundred” (1:14). Introduced by Mayor Rudy Giuliani, and “continued on by Mayor Bloomberg” (1:15), Stop-and-Frisk was terminated by the “current Mayor” (1:16), Bill de Blasio. Hereby, Trump suggests that currently the beneficial effects of Stop-and-Frisk are not anymore experienced in New York City.

Next, Clinton posits that “under the current mayor, crime has continued to drop, including murders” (1:23-24), undermining Trump’s argument. While Trump presumed that a decline in murders while Stop-and-Frisk was used in New York City means that it is an effective policy, Clinton questions whether this is true. Clinton suggests that there may be another reason for these results, and thus, she accused Trump of having advanced a *post hoc ergo propter hoc*. Next, Trump simply posits that Clinton “[is] wrong” (1:26), to which Clinton simply responds, “No, I’m not” (1:27). Trump reiterates that “murders are up” (1:28) and when Clinton still does

⁶ This is a fallacy as Trump makes Clinton’s claim suspicious through other means than argumentation. While this could be relevant, if raised, it should be defended by argumentation that Clinton is not sincere. Now it simply is an accusation.

not concede (1:29-31) he suggests that she should “check it” (1:32) herself.⁷ Trump simply denies the statistics Clinton brings in, and vice versa. By denying each other’s numbers, they cast doubt on the other’s argument. However, both of them hold on to their starting points and presume that they are right while they are not shared. Hence, as the issue with the starting points is not resolved, the argumentative interaction becomes fallacious.

Interestingly, looking into the statistics, both Trump’s and Clinton’s representation of the facts makes sense. By the end of 2013, Stop-and-Frisk had become heavily limited in New York City (Cheney, 2018) and after this, the number of homicides has remained in the lower to mid-300s, and crime overall has kept declining (Cheney, 2018; NYPD, 2020), giving credibility to Clinton’s position. However, strictly spoken, Trump’s rejection of Clinton’s statistics is correct, as from 2014 to 2015, the data available to the candidates during the debate, the number of murders increased from 333 to 352 (NYPD, 2020). This issue of disagreement about the factual starting points should not have been left unresolved. The candidates should have formulated (and discussed) their proposed starting points more clearly and explicitly such that it would be clear what they precisely were taking as a starting point.

To determine which meta-category this case fits in, we should consider the discourse taking place after this bickering exchange. Holt does not interfere and lets Clinton continue. Clinton does not specify her statistics but compliments the last two mayors of New York for their effective approach instead. She claims that “we should learn about what has been effective” and that one should “[respect] the rights of young men who live in those neighborhoods” (not shown). Hence, again, Clinton implies that Stop-and-Frisk is not effective and simply undermines people’s rights. Once she is done, Holt tries to raise the next talking point, which is that Trump questioned for a long time whether Obama was American-born – this talking point is delayed as Trump wishes to respond to Clinton. Rather than resolving the disputed starting points, Trump raises that “The African-American community” “[has] been abused” “by Democrat politicians” (not shown). Then, Holt succeeds at moving on to the next talking point.

Trump and Clinton’s bickering is first of all a non-institutional fallacy as resolving this issue regarding the starting points is desirable for the audience as they would gain additional evidence better enabling them to judge the candidates. It is also not an institutionalized fallacy, as there is no structural requirement for the candidates to not resolve this disagreement about the starting points. The candidates are to blame for this fallacy. At this point, Holt had an opportunity to call out this fallacy committed by the candidates and clear up this confusion for the audience. Especially as he knows that for candidates it would be rhetorically weak to retract, or amend, their proposed starting point. As their argumentation is judged comparatively, if they are the only one showing imprecision – suggesting that they are unprepared – this may hurt their campaign. Holt did not engage with this fallacy, thereby condoning it. He, however, is not to blame as he has to uphold an image of neutrality and making sure that the event moves forward topically. Holt’s complicity is thus an institutionalized fallacy running against the institutional point. To enable him to eliminate the fallacy, his role has to become redefined.

4.2 Ad hominem argumentation

Personal attacks can be used to invalidate someone’s argument or attack, and can therefore become an infringement of a discussant’s unconditional right to advance a standpoint or criticize

⁷ By calling upon his opponent to go check the statistics herself rather than cite them himself, Trump violates the burden-of-proof rule. However, this fallacy is not focused on in this paper.

one (rule 1; van Eemeren & Grootendorst, 1992). After Trump dodged Holt's follow-up on Stop-and-Frisk concerning it being rendered unconstitutional (see preface to excerpt 1), before she criticizes Trump's proposal, Clinton claims that Trump sketches a "dire negative picture" (not shown) of the African American community. Thereafter, Clinton claims that what has to be addressed is systemic racism. As people jump to conclusions too easily regarding race, she believes that the government should increase spending on training for police officers to overcome racial biases and thereby healing the racial divide in America. Before addressing Clinton's criticism of his proposal to do Stop-and-Frisk (as shown in excerpt 1), Trump says the following.

Excerpt 2

1. DT I do: wanna bring up the fact that you were the one
2. that brought up the wor:d super predator, (0.5) about
3. <young (.) black (.) youth> .hh an::d that's a term
4. that I think was a eh (0.4) it's har- it's been
5. horribly met, (.) as you know >I think you have<
6. apologized for it .hhh (0.2) but (0.2) eh I think it
7. was a terrible thing to say? .hh (0.2)

Trump, here, announces that he "do[es] wanna bring up" (2:1) that Clinton used the word "super predator" (2:2) in reference to "young black youth" (2:3). When Clinton used it, it was "horribly met" (2:5) and since then, Clinton "[has] apologized for it" (2:5-6). Yet, this point does not add anything in an argumentative sense. Clinton accused Trump of being negative about the African American community because his argument focused on their neighborhoods being overwhelmed by violence. Clinton's argument is not undermined by such a premise; instead, Clinton just admitted that everyone, including herself, has racial biases. Trump's move implies that Clinton is no better than him, but in this case, it is not reasonable to raise, as it does not address her current sub-standpoint under investigation nor invalidates her criticism of his argumentation. Therefore, as an argumentative move, it constitutes a *tu quoque* (see van Eemeren & Grootendorst, 1992) aiming at side-stepping Clinton's attack.

Here, one should recognize two fallacies on Trump's part. First, the placement of this exchange is not helpful furthering the institutional goal of clarifying the candidates' positions, and thus is a non-institutional fallacy for which Trump is responsible (i.e., not institutionalized). Second, it is necessary to acknowledge that raising this issue is helpful as otherwise only Trump's race-related past would be discussed and Clinton's biases potentially hindering her to "heal the [racial] divide" remain ignored. As this point is not further discussed, a comparison between Trump and Clinton based on their race-related comments cannot be made. Therefore, topically, Trump's move is an institutional fallacy. Yet, as there is no right moment where this topic can be raised – it is not made relevant by the moderator – it is not an institutionalized fallacy. Clinton also commits a fallacy in this excerpt by not addressing this topic next, probably because it is not in her interest to raise this issue. While this is completely within bounds given the structure of the debate, she does not enable a comparison between herself and Trump. Therefore, her fallacy is institutionalized, while not contributing to realizing the institutional point. Last, Holt also commits a fallacy. In this case, he neither comments nor shifts the topic of talk. Like in the case above (excerpt 1), Holt, trying to maintain impartiality, cannot force this critical testing, and thus commits an institutionalized fallacy.

Recurrently, candidates invoke personal attacks in the debate at moments when they are not functional to resolving the difference of opinion, like the case above, but there are also many instances in which the ad hominem seems to be a valid consideration, but is not developed into an argumentative exchange. While these ad hominem moves could become good argumentation, they remain contested accusations. This does not mean that all these instances become problematic within that context. One example of such a case is shown next (3). Here, Holt asked Trump and Clinton to defend their positions on dealing with the wealthy. While Clinton wants to raise taxes on the wealthy, Trump wants to lower them. In her response slot to the question, Clinton attacks Trump's proposal as follows.

Excerpt 3

1. HC But when I look at what you ha:ve proposed, (0.5) you
2. hav:e (0.8) what- (.) is ca:llled no:w the (.) Trump
3. loophole. (0.4) because it would so advantage (.) you,
4. and the business you do. (0.3) you've propo:se[d a:=
5. DT [who
6. gave it that name, (0.3) First ever. Who gave it that
7. na[me,]
8. HC =(.) an approach (.) that (0.3) has a (.)
9. <[four] billion dollar> tax
10. benefit] for (.) your (.) family .hh
11. LH [>I'm so sorry< this is (.) Secretary Clinton's two
12. minutes]
13. (0.3)
14. HC And when you look a:t (0.2) [what you are proposing
15. DT [how much how much for my
16. family?
17. (.)
18. HC It is: [(.) as I said (0.3) Trumped-up (0.3) trickle-
19. down.
20. DT [Lester, how much?

In this excerpt, Clinton suggests that Trump does not propose his measure because it will be in the interest of the American people – which is the unexpressed premise when policies are raised, as policies are presented as reasons to vote for that candidate – but because it will “advantage [himself]” (3:3). Specifically, she points out that in his plans there is a “four-billion-dollar tax benefit for [his] family” (3:9-10), providing a starting point to her argument. Clinton is not going into more detail, and just continues by asserting that this policy is “Trumped-up trickle-down” economics (3:18-19) which, she argues, has been shown in the past to not work. Next, Trump attempts to engage with Clinton's reasoning. He attempts to keep the topic on the amount of money his family would receive from his proposed measure (3:15-16) and questions Clinton's naming (3:5-7) his measure the “Trump loophole” (3:2-3). Hence, he questions the validity of Clinton's analysis. Yet, this subdiscussion is shut down by Holt, as “this is Secretary Clinton's two minutes” (3:11-12). Thus, whether Clinton's suspicion is true is not clarified in this interaction, and thus her argument seems to be a circumstantial ad hominem.

This ad hominem advanced by Clinton is rather interesting as it takes place in her response slot to the question posed by Holt. When Trump tries to open up a discussion on how much his family would profit (critically spoken legitimate), this is unreasonable within the context of the debates. As candidates make their opening statements, asking a critical question then functions as a diversion, to get the opponent off guard. These opening statements are important to get the candidates to share their message, before they engage in the “open discussion” about their positions. Thus, while it is desirable to get more detail here on this accusation, there are good institutional reasons not to do that at this point. Following the criteria for presidential debates outlined before, discussants cannot advance doubts during these response slots to the question of the moderator. In that sense, it was Trump who committed a fallacy here.

Still, while Clinton produced a personal attack, which is argumentatively relevant, the not responding to Trump is strictly spoken fallacious. However, Trump did not repeat his criticism when he could legitimately cast doubt on Clinton’s argument once he got the floor. While Trump’s comments show issues with Clinton’s reasoning, by not bringing up the fallacy again, Trump does not require Clinton to address this issue as he resituates the debate through his turn. After all, Trump did not successfully deny Clinton’s starting point. Therefore, Clinton’s ad hominem should be seen as an institutional and institutionalized fallacy: candidates have the right to respond to the question of the moderator for two minutes without an interruption, and this rule is helpful to the audience to learn where a candidate stands. Holt’s silencing of Trump’s critiques is a similar fallacy: he supports Clinton to advance her fallacy in order to ensure her institutionalized rights.

4.3 Strawman argumentation

Attacks on a standpoint should be relevant to that standpoint (rule 3; van Eemeren & Grootendorst, 1992). Strawman arguments break this rule by wrongly representing the standpoint of the opponent such that it can be attacked more easily. Consider the following argument made by Clinton (excerpt 4). This argument occurs in the segment “America’s direction,” wherein Trump raised the need of implementing Stop-and-Frisk. After calling this measure ineffective (see preface to excerpt 1), Clinton offers alternatives, including the need for “common sense gun safety measures.”

Excerpt 4

1. HC And (.) I (0.5) believe strongly (0.4) that common
2. sense (0.2) g:un (0.7) safety measures would (0.4)
3. assist us right now, (0.3) and this is something
4. Donald has supported, (0.6) along with the gun lobby
5. right no:w? (0.4) we’ve got (.) too many military:
6. style weapons on the streets in a lot of places (0.4)
7. our police are outgunned. (0.4) we need comprehensive
8. background checks, (0.4) <and we need> (0.2) <to keep
9. gu:ns> (0.4) out of the ha:nds of those who will do
10. harm? (0.3) <and we fi:nally need to pa:ss> a
11. prohibition (0.4) on anyone who is on the terrorist
12. <watch list>, (0.4) from being able to bu:y a gun in
13. our country if you’re too dangerous to fly (0.4) you

14. are (.) too dangerous to buy a gun. (0.2) So there are
15. things we can do and we ought to do it in a
16. bipartisan way.

Clinton starts with the claim that “common sense gun safety measures” (4:1-2) are needed to deal with the gun violence problem in America. While at first, she claims that it “is something Donald [Trump] has supported, along with the gun lobby” (4:3-4), she is highlighting a policy difference between Trump and herself. Given that she follows up outlining her specific position, Clinton implies that currently Trump does not support this proposal anymore. While “comprehensive background checks” (4:7-8) are a policy difference between the Democrats and Republicans, Clinton follows this up with “if you’re too dangerous to fly, you are too dangerous to buy a gun” (4:13-14). This implies that Trump disagrees with this position and thus reduces his position to something absurd. Obviously, Trump, the Republicans and the NRA want to get guns out of the hands of terrorists, which is what Trump articulates when he has an opportunity to respond in his next turn. Therefore, Clinton advances a strawman argument.

Here, Clinton simplifies Trump’s position on gun control. This simplification is functional to the exchange as it points out an important difference between herself and her opponent regarding their gun control stances. However, misrepresenting the other party’s position is always a problem. Thus, Clinton should have clarified how people who “are too dangerous to fly” can get guns under the GOP’s and Trump’s plans and thereby specify the meaning of her one-liner as otherwise her point is not helpful to the audience to evaluate Trump’s position. As Clinton also did not have to commit this fallacy, it is neither institutionalized nor institutional. Holt, as moderator, does not acknowledge this fallacy and moves on from Clinton’s chance to respond to Trump’s position to a question digging deeper into her position. This is not a fallacy as it is not his role to define the participants’ positions.

At other moments, strawman argumentation goes beyond exaggeration of differences and simply becomes a wrong depiction of the opponent altogether. In the following excerpt (5), just after Clinton referred people to her campaign website to check the differences between her economic plans and Trump’s, Trump argues that this untrustworthy information. According to him, her website is not trustworthy because she has made publicly available all her plans regarding how to deal with ISIS, which makes her plans ineffective. While this is a false analogy, I focus on the underlying strawman argument concerning Trump’s claim that Clinton will be unable to handle ISIS.

Excerpt 5

1. DT You know what it is no different than this. (0.2)
2. she’s telling us how to fight ISIS? (.) just go to her
3. website she tells you how to fight ISIS on her
4. website. I don’t think General Douglas MacArthur would
5. like [that too much.
6. LH [Right nex- the [nex-
7. AU [((laugh[ter)) / (2.4)
8. LH [The next segment we’re
9. contin[uing on the subject about]
10. HC [Well at least I have a plan to
11. [fight ISIS?

12. LH [<achieving prosp[erity>

 13. DT [No no (.) you're telling the enemy

 14. everything you wanna do

 15. HC No: we're not no we're not.

 16. DT See, you're telling the enemy <every[thing> you wanna=

 17. LH [folks folks

 18. DT =do. No wonder you've been fighting (0.2) no wonder

 19. you've been fighting ISIS [your entire adult life.

 20. LH [folks

 21. AU ((laugh//ter))/(1.5)

Trump claims that Clinton's plans regarding how to fight ISIS will be ineffective because "she tells you how to fight ISIS on her website" (5:2-3) and thus she "[tells] the enemy everything [she wants to] do" (5:13-14) causing her to "[have] been fighting ISIS [her] entire adult life" (5:19). Of course, a proposed strategy shown to the voters is not the same as the exact strategy that will be used by the army when actually fighting ISIS on the ground. This is an absurd projection of Clinton's plans, recognized by the audience, which responds with laughter (5:7; 5:21). Trump here turns Clinton's plans as formulated on her website to inform voters into sending detailed and specific plans directly to the enemy. In contrast to the previous excerpt discussed, this strawman is not functional at all because criticizing being able to read her plans does not enable the public to compare their policies. What Trump accomplishes here, is not having to talk about his own plans.

Like Clinton's strawman argument (excerpt 4), Trump does not help the voter to make a more informed decision and did not have to commit this fallacy. While Clinton tries to criticize Trump's argument, it simply results in some bickering. In the end, they simply accuse each other and do not deal with the argumentative issue at hand. Throughout, Holt attempts to move on to the next segment. As it is his task to keep the topic moving on based on time, he commits an institutionalized fallacy hindering the audience to compare the candidates.

4.4 Wrong application of argument schemes

In the debates, the candidates also recurrently wrongly apply argument schemes. This leads to instances like shown in excerpt 6. Here, Trump uses a false analogy, or at least, an unjustified analogy. It is not immediately clear, but also not clarified thereafter, how Trump's business experience will translate into being a successful president. Talking about how the NATO is an unfair agreement to the U.S., and how other member states are not living up to their duties as outlined in the treaty, which, Trump claims, Clinton condones, he states that:

Excerpt 6

1. DT We cannot (0.2) protect (0.2) countrie:s (0.3) all

 2. over the wor[:ld

 3. LH [we have just a

 4. DT where they are not paying us (0.2) what we need? .h

 5. LH We ha[ve just a few final questions left]

 6. DT [And (0.3) she doesn't (.) say that] because

 7. she's got no business ability? .h (0.2) we need

8. hea:rt, we need a lot of things but you have to have
9. so:me (0.3) <basic ability>, .h (0.2) and sa:dly, (.)
10. s:he doesn't have that all of the things that she's
11. talking about.hh could have been taken care of during
12. the last ten years let's say, .h (.) while she had
13. great power. .h (0.2) but they weren't taken care of,
14. (0.2) and if she ever <wins this race> (0.2) they
15. won't be ta//ken care of.

Trump claims that Clinton, like other politicians, has been unable to let countries pay for being protected by the NATO because of having wrong skills. According to him, the problem is that “she’s got no business ability” (6:7) which is the “basic ability” (6:9) for being effective in politics. With some business ability, Clinton would have been able to “[take] care of” “all the things that she’s talking about” (6:10-11). Thus, in contrast, Trump implies as he has business experience, he will be an effective president. This argument based on comparison remains problematic, as it is not clear why business skills are going to help in politics, since it is organized completely differently. Throughout the debate, Clinton also raised the fact that “sometimes there’s not a direct transfer of skills from business to government, but sometimes what happened in business would be really bad for government” (not shown). Throughout, Trump does not clarify this argument scheme to the audience; it is not subjected to a critical test, even though asked for and helpful to the voter.

This wrong application of argument schemes is especially important to deal with as the candidates make claims about why they will be successful once elected in office. Not elaborating why Clinton’s past experience is unhelpful or why Trump’s business ability will mean he is going to be an effective president leaves the electorate in the dark as to who to prefer. As the audience should be able to assess these claims, this misapplication of an argument scheme is not an institutional fallacy. Trump’s fallacy is also not institutionalized; he could have elaborated his claims. Holt does not press Trump on this, as with other cases of wrong applications of argument schemes. Again, he attempts to move on topically. Hereby, Holt condones the fallacy, but does that due to his institutional constraints.

5. Conclusion

The fallacies discussed in this paper have just been a few examples taken from the first 2016 presidential debate to illustrate the relevance of distinguishing meta-categories for fallacies. What each of the cases have shown is that by categorizing fallacies based on how they relate to the institutionalization and institutional point, the pragma-dialectician is better enabled to provide an argumentative judgment more tailored to the needs of the context at hand. Ultimately, through determining institutionalized and institutional fallacies, analysts can specifically point to amendments to be made to the institution and training to be given to the arguers.

For example, based on the cases discussed above, a few preliminary conclusions can be drawn. The moderator, Lester Holt, often condoned non-institutional fallacies. His role in the debates is to make sure the topics planned for discussion are allocated the right amount of time, and all these topics should be covered in a 90-minute time span. The moderator is also not supposed to engage in argumentation with the candidates. Thus, the moderator was often pressed to move the debate forward topically and maintain their neutrality, leading to not unpacking many fallacies committed. While there are good reasons to keep the moderator out of the debate

as much as possible such that accusations of bias can be avoided as much as possible, as candidates usually do not address these fallacies themselves, the fallacies remain unresolved. The suggestion is thus that these institutionalized fallacies running counter to the institutional point are provided as input to rethinking the role of the moderator in presidential debates.

In the case of Trump's ad hominem argument, where he mentioned that Clinton has used the term "super predator" (excerpt 2), Clinton used the format to avoid raising this issue again, and stayed on topic. In contrast, this accusation by Trump, while not directly relevant to the point at hand, is important for enabling the audience to compare the two candidates. Hence, a closer look at how the moves made by candidates may enable improving the format of the debates. Some moves will have to become included in the structural organization, while others should be taken out. A closer analysis of the discourse may enable offering suggestions for better inclusion of character argumentation in the debates. Overall, there are a lot of "normal" fallacies. Various moves by Clinton and Trump did not further the institutional point and were also not required by the format. Given their local rhetorical constraints, it is not likely that these fallacies can be resolved by simply educating the candidates. Instead, the moderator role probably has to be reconceptualized.

In sum, this study is meant to show the usefulness of meta-categories for fallacies in the evaluation of argumentative discourse. Further research is needed to provide more comprehensive analyses on fallacy judgments in presidential debates, and subsequently offering concrete suggestions for improvement. What is shown by the presented case studies is that the framework proposed in this paper can help to analyze the fallacies in more detail to enhance this process.

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