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# Negotiation as a disagreement management tool

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**Abstract:** Can we negotiate our way out of disagreements? When the chances of persuading the counterpart are low, it might be possible to shift a persuasion to a negotiation dialogue. But what are the conditions for that shift? I will argue that, at least, the following conditions must hold: the disagreement must be practical rather than theoretical; and the parties must be willing to make a sacrifice. When that happens, disagreements can be negotiated, and such negotiation will be a type of practical argumentation.

**Keywords:** Negotiation, persuasion, disagreement, dialogue types, practical reasoning.

## 1. Introduction

When people encounter a disagreement, they can do many things to overcome it. Among other strategies, they can argue to persuade the counterpart, call an arbitrator or mediator, toss a coin, or look for a compromise. In the last case they are using negotiation as a way out of their disagreement. Consider the following example:

### *Example 1: Dinner out*

*Jack and Leyla want to go to a restaurant but disagree on whether to pick “The Rose Garden” or “Chez Martin”. To overcome the disagreement, they can:*

**1.A** Argue that one of the restaurants is a better choice than the other (because of food quality, price, location, etc).

**1.B** Offer a compromise, such as: “We’ll go to ‘Chez Martin’ this time, and to ‘The Rose Garden’ next time” or “I will invite you if we go to ‘The Rose Garden’”.

In the example the parties can choose between providing persuasive reasons (1.A) or negotiating (1.B). In the first case they are using a *persuasion dialogue*, in the second case a *negotiation dialogue* (Walton & Krabbe, 1995). They can also do both: start with 1.A and then shift the dialogue to 1.B; or use a mixed dialogue type.

Negotiation has usually been conceived as type of dialogue where the parties bargain their interests to get the best for themselves (Fisher, Ury, & Patton, 1991; Ihnen Jory, 2016; Walton, 1998; Wells & Reed, 2006). Under that conception, negotiation has to do with a difference of interests, rather than a difference of opinion. Therefore, the parties do not aim at arriving at a true answer but at settling the disagreement in the best way possible for them.

However, as some authors claim (Provis, 2004; Sycara, 1990; van Laar & Krabbe, 2018), negotiation and persuasion are deeply intertwined. So along with negotiations that are *pure bargaining*, negotiation can also be used to overcome differences of opinion. In order to do that the parties must change the dialogue type from persuasion to negotiation in what has been called the *shift to negotiation* (Van Laar & Krabbe, 2018).

In this paper I will further develop and specify Van Laar and Krabbe's idea that negotiations can be used to overcome<sup>1</sup> differences of opinion through the shift to negotiation. Specifically, I will use the more generic term "disagreement" to ask two questions: First, what kind of disagreements can be negotiated? Second, how does negotiation as a disagreement management tool work, and how is it different from persuasion?

To answer the first question, I will argue that disagreements can be shifted to negotiation given two conditions: (a) the disagreement must be practical rather than theoretical, and (b) the parties must be willing to make a sacrifice in order to arrive at a compromise; more specifically, they must be willing to sacrifice their *epistemic goal* in favor of their *social goal* (Jacobs, 2003).

Then, I will specify how negotiation works in this context and what is its relation to persuasion. I will claim that negotiation of disagreements is a type of *practical argumentation*. As such, it is a type of argumentation that considers, as a relevant circumstance, the opinion of the counterpart. In such sense, negotiation as practical argumentation can be considered *second-order* persuasion.

The plan of the paper is the following: In section 2, I will distinguish two types of negotiation, the *bargaining type* and the *disagreement management type*; in section 3, I will specify the first requisite for the shift to negotiation, which is that the disagreement must be *practical* rather than *theoretical*; and, in section 4, I will specify the second requisite of the shift to negotiation, that is, that the parties must be *willing to make a sacrifice*. In section 4, I will argue that negotiation is a type of *practical argumentation*. In the conclusion I will present some final remarks and questions for future research.

## 2. What is a negotiation?

There's two ways to look at negotiation: as bargaining of interests or as a disagreement management tool.

### 2.1 The bargaining type

When seen as bargaining, to negotiate is to get the best possible deal at a given situation. Along this line Walton characterizes negotiation as "a form of interest-based bargaining where the goal is to 'get the best deal.'" (1989, p. 175, 1990, p. 412). Negotiation has also been defined "a means to distribute limited resources between competing agents. Negotiation can be used to determine the distribution of those resources between the conflicting parties" (Wells & Reed, 2006). Accordingly, negotiation is a kind of trade-off of interests, where the parties don't start from a disagreement situation but, rather, from a conflict of interests (Walton & Krabbe, 1995).

Under the bargaining view, in a negotiation the truth of the matter is almost irrelevant. More than committed to the truth, the parties are committed to their interests. This contrasts with persuasion and inquiry dialogues, where the parties try to prove that some proposition is true or false (Walton, 1998). Given the bargaining idea, then, the distinction between persuasion and negotiation dialogue is quite clear: in a persuasion dialogue the parties provide arguments to convince the counterpart that certain statement is true or false; while in a negotiation the parties aim for the fulfillment of their own interests.

### 2.2. Disagreement management type

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<sup>1</sup> I prefer to use the term "to overcome" instead of "to resolve" to keep resolution as the outcome of a persuasion, rather negotiation. This is coherent with the pragma-dialectic use of the term, where resolution implies "that the argumentative discourse has resulted in agreement between the parties involved on whether or not the standpoint at issue is acceptable" (van Eemeren et al. 2014, p. 528).

Along with the bargaining view, some authors claim that negotiation can be used to overcome differences of opinion (Van Laar & Krabbe, 2018). I will call this type of negotiation *practical disagreement case*. When used as such, negotiation is a *disagreement management tool*, that is, a way to find a rational solution to the problem posed by the disagreement.

In the *practical disagreement case*, the parties face not only a clash of interest, but also a *practical disagreement* or disagreement regarding a policy or course of action (more on this on the following section). As in a persuasion dialogue, in this type of negotiation the beliefs of the parties are not fixed, but may change as a dynamic system (Sycara, 1990). Therefore, the beliefs of the parties and their meta-beliefs (beliefs about their counterpart's beliefs) are at the center of the negotiation. What the parties aim for, then, is not only to get the best possible deal but to change the counterpart's attitude towards certain standpoint. Therefore, in this type of negotiation persuasion is central and not secondary, and the boundaries between negotiation and persuasion tend to fade (Provis, 2004). This process will be better described in section 5 of this paper.

The shift to negotiation is a way in which negotiation can be used as a disagreement management tool. But in order to do that two requisites need to be met: the disagreement must be practical, and the parties must be willing to make a sacrifice or compromise. I will explain these requisites in the following sections.

### **3. First requisite: practical disagreement**

#### **3.1 What is a practical disagreement about?**

Even assuming that negotiation is a disagreement management tool, it is clear enough that not every type of disagreement can be shifted from persuasion to negotiation. Consider the following cases:

#### ***Example 2: Global Warming***

*2.A Laura and Patrick are lawmakers. They disagree over on whether global warming is being caused by human activity.*

*2.B Laura and Patrick are lawmakers. They disagree over approving or rejecting a policy that will tax carbon in order to fight global warming.*

In case 2.A, if the parties want to overcome the disagreement, they must present persuasive reasons: there's no amount of money that Laura can offer to Patrick to change his mind. But in case 2.B, besides presenting persuasive reasons the parties can negotiate. For instance, Laura could say: "If you approve this bill, I will approve next week's bill on tax cut".

Why can negotiation be performed in 2.B but not in 2.A? A first approach would be the following: 2.A is a disagreement over a descriptive statement while 2.A is a disagreement over an evaluative disagreement. Therefore, disagreement over descriptive statements are non-negotiable, while disagreements over evaluative statements are negotiable.

This would be coherent with Sproule (1980) who distinguishes three types of statements: facts, interpretations and evaluations. So, while 2.A is an interpretation (because it has to do with the causes of a state of affairs), 2.B is an evaluation because the parties evaluate that certain action or policy is "good" or "bad".

But this is not fine-grained enough. It appears that some evaluations can be negotiated while other cannot. Consider the following example:

### **Example 3: Vacation destination**

**3.A** Ana and Claudia disagree on whether Brazil or New Zealand is a better vacation destination.

**3.B** Ana and Claudia are going on vacation together, but they disagree about going to Brazil or New Zealand.

In both these cases the parties are making an evaluation: they disagree about the goodness of Brazil or New Zealand as a vacation destination. Also, in both cases the parties could try to persuade each other by providing persuasive reasons. In fact, the reasons could be exactly the same. In 3.A and 3.B Ana could say that Brazil is cheaper and has better weather, while Claudia could argue that New Zealand is safer and has better infrastructure.

But only in 3.B the parties can negotiate their way out of the disagreement. Ana could say something like: “look, I know you prefer New Zealand but for this year let’s go to Brazil. I promise that we will go to New Zealand next year.” Or something like “I will pay you the airplane ticket if we go to Brazil.” On the other hand, negotiation wouldn’t be possible in 3.A. Even if Ana would offer 100 billion dollars to Claudia to change her mind, she shouldn’t be able to do it unless Ana could provide persuasive *reasons*. So, there must be a difference between 3.A. and 3.B. Calling both of them “evaluations” is not enough to distinguish practical from theoretical disagreements.

Steinberg & Freeley (1986) consider three types of statements: about fact, value and policy. So, while 3.A would be an example of a disagreement over a value, 3.B would be an example of a disagreement over a policy. A value proposition evaluates the goodness of a state of affairs, while a policy tries to answer the question “what should we do about it?”. Therefore, the parties can negotiate policies, not evaluations.

I will call disagreements about facts or value *theoretical disagreements*, and disagreements about policies *practical disagreements*. But why practical disagreements can be shifted to negotiation while theoretical ones cannot? What is it about policy propositions that makes them different to facts and value propositions?

It could be that the type of *commitment* is different. If disagreement is a *clash of commitments*<sup>2</sup>, then in cases like 2.A or 3.A the parties are committed to defending the *truth* of a statement, in other words, they are asking: “is P true?”; while in cases like 2.B or 3.B they are committed to defending the *desirability* of a statement, in other words, they ask: “should we do P?”. In the same sense, Lumer has argued that practical arguments relate to the “desirability of states of affair” (2005, p. 232).

If we consider that negotiation is a type of *trade*, then it is clearer why only practical disagreements can be traded: We can trade our desires, not our beliefs.

This is commonsensical. We usually *trade* our desires. If I have a strong desire to eat chocolate cake, it seems possible to trade such a desire. For example, if my partner wants me to avoid eating chocolate cake, she could offer me to do the dishes if I restrain myself. Of course, my partner could also use persuasive reasons instead, like: “do you remember that you wanted to lose weight? Do you know how many calories that cake has?”

On the other hand, beliefs can’t be traded. The only way in which people can change her counterpart’s theoretical commitments is through persuasion. We don’t expect that people’s beliefs could be traded. That’s why the following joke by the Marx brothers is funny: “these are my principles, if you don’t like them, I have others.”

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<sup>2</sup> The fact that the disagreement is about commitments implies a clash regarding only propositions that the parties publicly are committed to. It refers to the concept of commitment as Walton and Krabbe (1995) use it, which derives from Hamblin (1970). It means that the parties clash regarding propositions that they are committed to defend, which does not always coincide with what they believe.

### 3.2 The nature of desires

The fact that a proposition containing desires can be argued persuasively or negotiated implies upholding certain view on desires: that desires are “attitudes towards propositions” or “have propositional content” (Schroeder, 2017, p. 7). In other words, we desire some state of affairs expressed in a proposition. If desires wouldn’t have propositional content it would be impossible to use persuasion dialogue to change them, since persuasion is always about the truth of a *proposition* (Walton, 1998)

Therefore, the difference between practical and theoretical disagreement is the following: *theoretical disagreements are disagreements regarding a belief on certain state of affairs P, while practical disagreements are disagreements regarding the desirability of certain state of affairs P.*

Thanks to this distinction we could point out the difference between 3.A and 3.B. In the first case the parties merely state that something is *better* than something else. Therefore, they are referring to the goodness of certain *state of affairs*, but they are not *desiring* anything regarding that state of affairs<sup>3</sup>.

### 3.3 Requisites of practical disagreement

However, not every desire would lead the parties to a practical disagreement. Besides the parties having desires, in order to disagree practically it is necessary that those desires clash with each other. For example, if when ordering at a restaurant, John desires chocolate cake and Jane desires ice cream, it is perfectly possible that they both satisfy their desires without having to disagree. A disagreement would occur only if the desire of one party is incompatible to the desire of the other party.

But even clashing desires might not lead to practical disagreement if the parties have no agency over the desired state of affairs. For example: Juan wants Real Madrid to win at the Champion League’s final, and Bob wants Liverpool to win at it. They sit at a bar and discuss the upcoming game, expressing their desires. In this case, Juan’s desire is not compatible with Bob’s desire and vice-versa. However, we wouldn’t say that this is a practical disagreement. There is something lacking; namely, there’s nothing that Juan or Bob can do to make their team win: they don’t have *agency* over that particular state of affairs. Therefore, this is not a practical disagreement, not even a theoretical one. The parties just past each other: Juan desires something and Bob desires something else.

But even having a clash of desires and agency over the desired state of affairs, the parties might still not be facing a practical disagreement if they are not willing or forced to act upon their desire. In that case we are not, yet, in a practical disagreement but in a theoretical one. For example, 3.B would be different if the parties, instead of saying: “we should go to Brazil” or “we should go to New Zealand” would say “It would be good to go to Brazil with you”. In that case the parties are expressing their clashing desires, and have agency over it (imagine that they have the time and money to do such a trip) but if they haven’t decided to act upon it they are not in a practical disagreement situation.

In practical disagreements the parties decide to *act upon* their desired state of affairs, voluntarily or forced to do it. In a forced option, as William James (1960) describe it, the parties *must* do something. For example, in 2.B the parties must vote over the new bill, they can’t just decide to do nothing about it (staying at home the day of the voting is a way of doing something about it by omission).

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<sup>3</sup> This does not imply that evaluations are necessarily referred to *states of affairs* external to the agent making the evaluation. That is a big discussion in meta-ethics that is out of the scope of the present paper. So, let’s just say: in an evaluation the parties do not *desire* the state of affairs but merely *describe it* as good or bad, while in a policy proposition the parties *desire certain state of affairs*.

In consequence, practical disagreements would occur only if: (1) two or more parties have desires over a state of affairs; (2) those desires are clashing with each other; (3) the parties have agency over the desired state of affairs; and, (4) the parties are willing or forced to act upon the desired state of affairs. If (1) or (2) are not met, the parties might be in a dialogue, but not in a disagreement. If (3) or (4) are not met the parties will be in a theoretical rather than in practical disagreement.

Therefore, a definition of practical disagreement would be the following: *a clash of commitments between two or more parties regarding a desire over certain state of affairs, where the parties have agency over the state of affairs and are willing or forced to act upon it.*

### 3.4. Types of practical disagreement

Considering the four requisites just given, the field of practical disagreements can be better mapped. There are two types of disagreements that can be overcome by negotiation:

- (1) A and B hold clashing desires over the allocation of certain scarce goods.
- (2) A and B hold clashing desires over a policy.

Case (1) is very close to the “bargaining type” of negotiation described by Walton (1998) or Wells and Reed (2006). For example, if party A wants to buy a car from party B, or if two companies are negotiating a construction contract, we are in presence of this kind of negotiation. In this kind of disagreement, the parties are committed to their own interests, and the truth of the matter (if there is such a thing) is mostly irrelevant. Persuasion could still play a role on this kind of disagreement, but it is certainly minor, and the parties could successfully negotiate without trying to persuade at all<sup>4</sup>. In most cases we shouldn’t expect that this kind of disagreement can be shifted from or to a persuasion dialogue.

Case (2) refers to the “policy statement” described before. The Merriam-Webster dictionary defines policy as: “a definite course or method of action selected from among alternatives and in light of given conditions to guide and determine present and future decisions.” In this case the parties try to answer the normative question: “what should we do?” The dictionary considers two cases: a “course of action” or a “method of action.”

In a “course of action,” the parties are committed to a joint action but disagree over the best way to do it. For example, two doctors performing surgery may disagree over the best way to proceed, a couple may disagree over their next vacation destination or the managers of a company may disagree about firing an employee.

The “method of action” implies deciding certain rule for guiding future decisions. In a practical disagreement the parties disagree over whether or not imposing that rule. Anyhow, a rule could be private (“no TV after 7 PM”) or public (“we will tax carbon emissions by 50%”).

In a policy proposition there is an intended goal and some means to arrive at that goal. The parties might disagree over the intended goal or about the means to arrive at it. So, for example, two doctors performing a surgery have the same goal: to save the patient. But they might disagree about the best way to do it. On the other hand, two politicians might have totally different goals; one of them wants to raise taxes, while the other wants to diminish them.

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<sup>4</sup> So, for instance, if I’m trying to sell my car I can use persuasive arguments such as: “look, the car is in very good shape, I’ve never had a mechanical problem”; or I can just go to the negotiation phase: “this is the price.”

When Van Laar and Krabbe (2018) analyze the shift to negotiation they are thinking in case (2). Therefore, from now on I will reserve the term “practical disagreement” for those cases.

#### **4. Second requisite: Willingness to trade**

##### *a. To trade or not to trade*

The fact that a disagreement is practical does not necessarily imply that it makes sense to make a shift to negotiation. Consider the following case:

#### ***Example 4.A: Emergency room***

*Philip and Rose are doctors who are performing a very complicated surgery when the patient starts having complications. Then the following dialogue ensues:*

- (1) *Philip: we are losing him! We should give him 100 millimeters of drug A.*  
(2) *Rose: I disagree! Drug B would work better.*

In this case we wouldn't consider reasonable a shift to negotiation. For example, if Phillip says: “look, if we give him drug X I will buy you lunch” or “let's give him half dose of both drugs” we would consider that move improper. But what makes it odd to shift the dialogue to negotiation in this case? Compare that case with the following:

#### ***Example 4.B: Movie night***

*Susan and Emily are going to the movies. However, they disagree on which movie to watch. After giving persuasive arguments to support their choice, they shift the dialogue to a negotiation:*

- (1) *Susan: Look, I really don't want to watch movie A. Let's do something, I will invite you to some drinks afterwards if we watch movie B.*  
(2) *Emily: Ok, that's an offer I can't refuse.*

In this case, the shift to negotiation seems completely adequate. Then, what is the difference between 4.A and 4.B? Let's say, first, what they have in common: in both cases there is a practical disagreement of the *joint action* type described before. Therefore, in both cases the parties hold clashing commitment regarding their desires over the best course of action.

The difference seems to be in one element: the importance of the truth of the matter. I agree with Lumer (2005, p. 233) in considering that practical disagreements have an epistemic value and, therefore, can be reconstructed in terms of *truth* and *knowledge*. Natural language seems to back this position. When facing a practical disagreement people will usually say things like: “you don't *know* what you are doing” or “it's not *true* that this is the best option”<sup>5</sup>.

Cases 4.A could be reconstructed in these terms. On case 4.A. there is a moral imperative: to save the life of the patient. Taking the best course of action to save the life of

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<sup>5</sup> Rather than “theoretical knowledge” what the parties have is “practical knowledge”. Which has been defined as “the knowledge that is inherent in the experience of bringing something to fruition. The reality it ‘knows’ is available by and through the agent's ‘doing’ as it pertains to the active pursuit of that value or project.” (Wilks Keefer, 1996, p. 40)



the patient (whether that's drug A, drug B, or something else) seems to be the correct answer. Therefore, it would be appropriate for one of the parties to say: "I *know* that drug A will save his life, I read a paper about it" or "it is *true* that drug A will save his life."

Case 4.B can also be reconstrued in these terms. If Susan prefers movie A and Emily prefers movie B, then there must be a correct *true* course of action where the overall likeness is maximized, and the overall dislike is minimized. For instance, it might be that, other conditions being equal, the dislike of Susan for movie B is bigger than the dislike of Emily for movie A. Therefore, movie A should be the best option and Susan could say: I *know* that you will love movie A.

So, the difference between cases 4.A and 4.B seems to be the following: in both cases the *truth* of the matter is relevant, but in case 4.A, the truth of the matter is way more important: the life of a patient is at stake. So, while in case 4.A the parties should try to overcome the issue by persuasive means, in case 4.B a negotiation is a reasonable solution. The shift to negotiation must be evaluated by the parties considering, especially, their social and epistemic goal.

## 4.2 Two goals of argumentation

Jacobs (2003) considers that argumentation serves two main functions: a cognitive or epistemic function and a social function. The cognitive or epistemic function implies an individual effort for belief management. Therefore, it has to do with arriving as close as possible to the truth of the matter. If we define argumentation solely by that function, we should say that argumentation is "a social quest for true belief and error avoidance" (Goldman, 1994, p. 28). But that's not the only function of argumentation. The social function implies a quest for disagreement management. It has to do with arriving at an agreement, even if that implies sacrificing, to some extent, the epistemic goal.

When faced with practical disagreements the parties need to consider what they value the most. If they value their epistemic goal, then negotiation is not advised: they should keep providing persuasive arguments, aiming for *the best* outcome. But if they value the social goal more, they might be willing to make a sacrifice: give up their epistemic goal to secure the social goal. In other words, the parties need to choose between truth and agreement. If they pick truth, they will try to keep persuading each other or look for other argumentative or non-argumentative settlement methods<sup>6</sup>. If they pick agreement, they will give up part of their epistemic goal (therefore, part of their desires) to look for an agreement. Of course, the value that the parties give to each goal will vary in every case, but in some situations, like the examples presented before, we can expect that most people will react in a predictable way.

Sometimes, things are complicated. When discussing policy propositions some parties will give more value to their cognitive goal, while other will settle for a negotiation. We can call the first group *ideologic* ("these are my principles, I will not change my position"), and the second group *pragmatic* ("any agreement is better than nothing at all"). Consider the following example (van Laar & Krabbe, 2018):

### ***Example 5: Greenhouse emissions***

*Party A and Party B disagree about the level of renewable energy that should be used by 2020. Party A proposes a 18% and party B a 14%. After trying to persuade each other providing several reasons they arrive at a stalemate: no*

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<sup>6</sup> Like arbitration, mediation, trial, mere luck or violence.

*party has been able to persuade the other. Therefore, they decide to split the difference at 16%<sup>7</sup>.*

In this case the parties have arrived at a stalemate. Insisting on a persuasion dialogue seems a bad idea because nobody seems to be persuading the counterpart, and even if they do, persuasion might have high costs and dangers (Paglieri & Castelfranchi, 2010). Since both the parties are *pragmatic* enough, a negotiation is successful. However, we need only one *ideologic* party to make the negotiation fail.

In the end, what the parties put on the scales are their desires on one side, and the chances of persuading, costs and dangers of persuasive argumentation on the other. More pragmatic parties will have a scale that leans towards agreement (social goal) and will need a very strong case to lean towards truth (like example 4.A). Ideologic parties have a scale that leans towards truth, so choosing agreement will only happen if the costs or dangers of arguing are too high, or the chances of persuading too low.

So far, I hope to have shown that negotiation is a sound way for resolving disagreements, as long those disagreements are practical, and the parties are willing to make a sacrifice. But how does negotiation of this kind works? I will answer this question in the following section.

#### **4 Negotiation as practical argumentation**

I claim that negotiation as a disagreement management tool is a type of practical argumentation. To understand this, it is necessary first to clarify what is practical reasoning and what is its difference with practical argumentation. Then, I will establish in which sense negotiation is a type of practical argumentation. Finally, I will distinguish persuasion from negotiation.

##### *b. Practical reasoning and practical argumentation*

Practical reasoning has been defined as:

“a goal-driven, knowledge-based, action- guiding species of reasoning that coordinates goals with possible alternative courses of action that are means to carry out these goals, in relation to an agent’s given situation as he/she/it sees it, and concludes in a proposition that recommends a prudent course of action” (Walton, 1997, p. 160).

To understand Walton’s definition we need to bear in mind that he considers “reasoning” to be: “a sequence of steps from some point (premises) to other points (conclusions)” (1990, p. 404). Therefore, practical reasoning is a special kind of reasoning where someone begins with a given situation and try to move towards certain goals.

Thagard provides a simple model for practical reasoning:

“My goals are G1... Gn.  
The possible actions are A1 ... Am.  
Aj is the best means of accomplishing the goals.  
Therefore, I should do Aj” (1984, p. 26).

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<sup>7</sup> I recognize two types of negotiation: *splitting type* and *additional offer type*. This example is a splitting type, and it can be performed as long as the object of disagreement allows splitting. That is not always the case. In example 3.B, for instance, the parties can’t watch half movie, but they can still offer something else. In the *additional offer type*, the parties offer something else, which can be related or not to the original disagreement, as in example 3.B.

Under this conception, practical reasoning seems to be a kind of individual and cognitive activity. For example, if I'm playing chess I can reason as follows:

*My goal at move 8 is to check the black king.*

*The possible actions to check the king are moving the rook or the knight.*

*Moving the knight is the best way of accomplishing my goal, because P and Q.*

*Therefore, I should move the knight.*

This is practical reasoning but not, yet, practical argumentation. I'm not providing any argument why it's a good idea to move the knight, I'm just thinking about it. Practical argumentation only appears when I need to argue with someone else over my practical reasoning.

According to Walton an argument is defined as "a social and verbal means of trying to resolve, or at least contend with a conflict or difference that has arisen between two parties engaged in a dialogue" (1990, p. 411). Van Eemeren and Grootendorst consider that "argumentation" is adduced in reaction to, or in anticipation of, a difference of opinion, and serves a role in the regulation of disagreement" (2004, p. 53). Therefore, practical reasoning will only turn into practical argumentation when a disagreement arises, and the parties need to externalize their reasoning.<sup>8</sup>

Considering the above picture, practical argumentation and negotiation seem different dialogue types. It is one thing to use practical reasons to convince the counterpart of the convenience of a policy, and another thing to offer a pragmatic compromise. But is it so? If we consider argumentation to be a dynamic process, then persuasion and negotiation have very little difference.

### *c. Negotiation as practical argumentation*

When we argue for a practical goal we can use all sorts of arguments and argumentation schemes, even more than in the theoretical case (Craig, 1996). Some arguments refer to the object of disagreement, they try to prove that certain course of action is the best for achieving certain goal or that certain goal is desirable, without considering the beliefs of the counterpart. But other arguments take the counterpart's beliefs, the dialogical situation and the disagreement space in consideration, and argue considering what is feasible given these circumstances. When this happens the practical argumentation process can move from a persuasion to a negotiation dialogue.

We can look at this problem from the standpoint of desires. As stated in section 2, practical disagreements refer to a clash of desires. The clash could be about the goal of the parties, or about the means to arrive at that goal. Therefore, two parties can disagree about whether or not to go to Paris, or about going by train or plane. In any case, once they have shared their desires (or in anticipation of its sharing), they might realize that persuasion is not possible or too costly. Therefore, they might choose to negotiate.

But what happens to their original desire during the negotiation phase? It is still there, but it has been affected by another desire. In the literature of desires this phenomenon has been labeled as second-order desires (Frankfurt, 1998). Second-order desires are desires about first order desires, which are the things that we desire in first place. Accordingly, if Ana desires to go to Brazil and Claudia to New Zealand, that is their first-order desire. But, since they realize that they disagree, Ana might have a second-order desire that overrules the

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<sup>8</sup> This does not imply that argumentation without disagreement cannot occur, as some authors have pointed out (Blair, 2012; Doury, 2012; Micheli, 2012).

first and allow the parties to agree on something. For instance, it could be that Ana desires strongly to go on vacation with Claudia, so this higher-order desire, along with the realization that she will not persuade her counterpart, allows her to be open for a negotiation<sup>9</sup>. In a negotiation the first order desire will, typically, refer to the epistemic goal, while the second-order desire will refer to the social goal. In other words: one of the parties desires P to be the case, but also desires an agreement. The desire for an agreement might overrule the desire for P, modifying P to P.’

This dynamic process will affect the parties at the level of their reasons. Then, they will have prior reasons (before knowing the counterpart’s opinion) and posterior reasons that they have adjusted considering the social situation<sup>10</sup>.

Negotiation, then, is *a type of practical argumentation were the parties adjust their goals or their means-goal relationship, in accordance with the social situation* (or the social goal, in Jacobs’s terms). Lewinski’s (2017) scheme of practical argumentation will be useful to clarify the dynamics of the process.

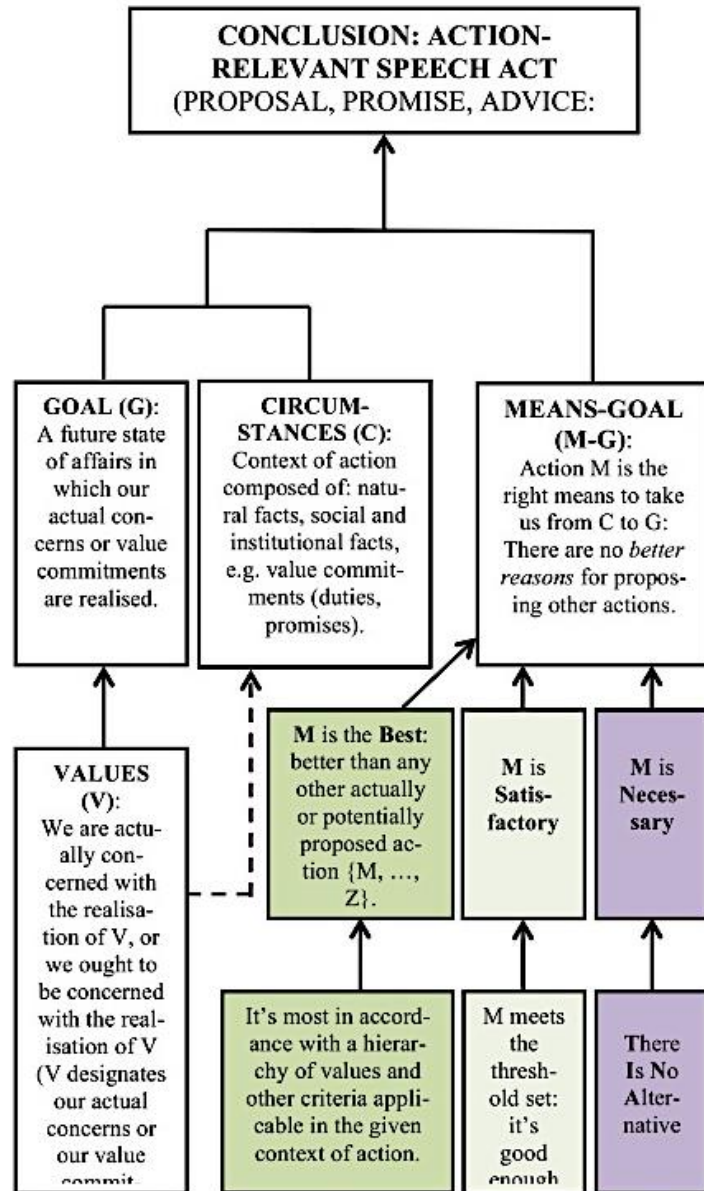
### **Figure 1**

The scheme of practical argumentation (Lewiński, 2017, p. 90)

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<sup>9</sup> In example 3.A “Emergency room” both parties desire to save the patient’s life. Therefore, it is hard to find a higher order desire capable of overruling the first one.

<sup>10</sup> In this sense, the situation is analogous to the concept of *higher-order evidence*, which is evidence about the first order evidence (Kelly, 2010).



In this scheme the parties have certain goals (G) that arise from their values (V). Analyzing the circumstances (C) they propose a course of action (M) that may take the situation from C to G. This course of action can have three levels: M is the best, satisfactory, or good enough. This scheme is static, but once it becomes dynamic it can be used to understand negotiation. Let's take example 5, "greenhouse emissions", to clarify this. In the example, there are two different moments,  $t_0$  and  $t_1$ . The first is the persuasion dialogue phase, the second is the negotiation phase.

At  $t_0$  Party A proposes that 18% of energy should be produced by renewable sources. At this stage, then, their scheme could be reconstructed as:

*V: We are committed to the avoidance of global warming.*

*G: We want to reduce the amount of CO<sub>2</sub> emitted by our country.*

*C: Global warming is happening, our country has signed the Paris agreement, we are in a good economic position, technologies allow energy transition, etc.*

*M-G: We need to produce as much energy as possible by renewable sources. An 18% of renewable sources is the best course of action.*  
*Conclusion: We should produce 18% of our energy by renewable sources.*

Party B also produces an analogous scheme, that argues that a 14% of renewable energy is all that the country can afford. The difference arises from the fact that, probably, party B has different values (for instance, they say: we are committed to provide cheap energy for the people).

But when they both share their arguments something changes. Both parties realize that they are not going to persuade their counterpart, and that, therefore, their proposal is not feasible. Accordingly, at t1, party A adds a new circumstance in the circumstances box:

*C: party B is not convinced by our proposal at t0.*

This new circumstance affects the whole process. Now, they have a higher-order desire (to arrive at an agreement) affecting their first-order desire. Therefore, they need to change something. For social, more than epistemic reasons, they settle and change the M-G box from “best” to “satisfactory”, changing the number<sup>11</sup>:

*M-G: We need to produce as much energy as possible by renewable sources. A 16% of renewable sources is good enough.*

Party B also modifies their scheme in a similar way. Therefore, they both agree on a solution. The shift to negotiation could be, then, be seen as a change in the dialogue type. But we could also think of it as a dynamic and collaborative persuasion dialogue: at t0, party A has persuaded party B that 16% is a good figure for both of them. The process can, therefore, be called *meta-persuasion*.

#### *d. Negotiation and persuasion*

What is exactly the relationship between persuasion and negotiation? I’ve claimed that the distinction is blurry, at least for the *disagreement management type* but, how exactly? Can we still say that there’s one thing called persuasion and another argumentation?

For Van Laar and Krabbe (2018) in a negotiation process there is a number of second-order disagreements that might be resolved through persuasion. For example, a second-order disagreement has to do with the *method* for dealing with the irresolvable first order issue when it appears. If the parties agree on a compromise, it is a kind of second-order resolution that facilitates dealing with the first-order issue.

This position seems correct in considering that in a negotiation there are second-order disagreements, but it’s a little bit too artificial. What parties facing a practical disagreement usually do is aim for the *best* option, providing reasons why their option should be preferred. When they find that the disagreement is unresolvable or that persuasive argumentation is too costly or dangerous, they present a solution that is *good enough*, providing persuasive reasons for it. If the disagreement is still unresolvable, they might present a *necessary* solution<sup>12</sup>. If after that, there is still no agreement, they might change their initial position and start all over again.<sup>13</sup>

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<sup>11</sup> A bigger change would imply changing their goal. However probably in this case they are *ideologic* regarding their goal.

<sup>12</sup> The categories of best, good enough and necessary are taken from Lewiński (2017).

<sup>13</sup> Remember that many practical disagreements are *forced options*, so suspending judgement is not an option.

Ultimately, then, negotiation as practical argumentation is a sort of meta- persuasion. So, what is the difference between persuasion and negotiation dialogue regarding practical disagreements?

In a *persuasion* dialogue, the parties take only into consideration only first-order reasons. That is, reasons why P is a good policy, without considering or anticipating the opinion of the counterpart. In a *negotiation dialogue*, the parties do take into account the opinion of the counterpart, plus the costs and dangers of argumentation. Therefore, their persuasive argument aims not at the best option, but at an option that is at least good enough. They are trading truth for agreement.

## 5. Conclusion

The aim of this paper was to show that the shift to negotiation is a useful way for overcoming disagreements. To do that I wanted to show, first, the requisites of the shift to negotiation to, then, show that the disagreement management type of negotiation is a form of practical argumentation.

The novelty of the paper was to flesh out the circumstances in which that shift might occur, and the dynamics that it could take. My ultimate goal is to understand the dynamics of disagreements, and how disagreements can be overcome by rational means. In such sense, exploring the possibilities of negotiation can present it under a new light, that allows us to think of it as a type of argumentation that is advantageous in practical settings.

Many questions remain unanswered, however. Among them are the normative requirements of this type of negotiation. When can we say that the parties have acted irrationally? If this type of negotiation is just a type of practical argumentation, what is fallacious for them? Also, a deeper approach to negotiation as a disagreement management tool would require the reconstruction of actual negotiation dialogues, to see how they fit with this model. Finally, it would be interesting to understand the difference between negotiation as practical argumentation and deliberation.

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