Resolving Moral Dissensus: Possibilities for Argumentation

James B. Freeman

Hunter College of The City University of New York

Follow this and additional works at: https://scholar.uwindsor.ca/ossaarchive

Part of the Philosophy Commons

https://scholar.uwindsor.ca/ossaarchive/OSSA7/papersandcommentaries/45

This Paper is brought to you for free and open access by the Department of Philosophy at Scholarship at UWindsor. It has been accepted for inclusion in OSSA Conference Archive by an authorized conference organizer of Scholarship at UWindsor. For more information, please contact scholarship@uwindsor.ca.
Resolving Moral Dissensus: Possibilities for Argumentation

JAMES B. FREEMAN

Department of Philosophy
Hunter College of The City University of New York
New York, NY
USA 10021
jfreeman@hunter.cuny.edu

ABSTRACT: Moral dissensus may arise first because persons may disagree over the warrants licensing inferring an evaluative conclusion from premises asserting that properties alleged evaluatively relevant hold. This results in seeing different properties as evaluatively relevant. Secondly, such properties will frequently not be descriptive but interpretive, asserting some nomic connection. Persons may disagree over what evaluatively relevant properties hold in a given case. We explore the possibilities for argumentation to resolve these two types of disagreement.

KEY WORDS: backing, evaluatively relevant property, evaluative property, interpretations, interpretive principles, premise acceptability, rebuttals, relevance, supervenience, warrants

JOHN: What people do between the sheets is their own business.

JIM: You can’t mean that. You are saying that the sexual act has no meaning.

Jim is presenting John with an argument. I see it as a reductio ad absurdum argument with an unstated premise, i.e.

The sexual act has a meaning (and you, John, will admit it)

and an unstated conclusion,

John, what you are saying is wrong.

How specifically does the reductio part of the argument proceed? John is making a deontic claim, asserting the generalization that

All sexual acts are (morally) permissible.

Assuming this premise conditionally, Jim then claims we can argue using the following warrant:

Given that: All sexual acts are morally permissible.
One may take it that: The sexual act has no meaning.
How might Jim justify this warrant?1

1. EVALUATION AND SUPERVENIENCE

It is a commonplace philosophical position that deontic properties—and indeed evaluative properties in general—are supervenient. That is, something possesses a certain evaluative property because it possesses some further property. Two things relevantly similar in sharing these further properties will have the same evaluative property. Principles of supervenience may be expressed as Toulmin warrants. For example,

- Given that \( x \) has promised to do \( Y \),
  - One may take it that \( x \) has a duty to do \( Y \)

Specifically, Jim is holding that for some class of properties \( X = \{X_1, X_2, \ldots, X_i, \ldots\} \), warrants of the form

- Given that \( \text{Act} \ A \) is \( X_i \),
  - One may take it that \( \text{Performing} \ A \) in circumstances \( Y \) is not permissible

are acceptable. A member of \( X \), \( X_i \) expresses what we call an interpretive property—one that could be expressed through a universally generalized subjunctive conditional statement. For example

- \( X_1: \ (\forall x)(\forall y) \) (if \( x \) and \( y \) were to perform \( A \) as partners, then \( x \) and \( y \) would enter into the dialogue of generations)
- \( X_2: \ (\forall x)(\forall y) \) (if \( x \) and \( y \) were to perform \( A \) as partners, then either \( x \) would feel degraded by \( y \) or \( y \) would feel degraded by \( x \))

Following Ross in (1930), we may take these warrants as expressing principles of *prima facie* impermissibility. So included in this class then are warrants such as

- Given that \( A \) is \( X_1 \),
  - One may take it that \( \text{Performing} \ A \) in circumstances completely divorced from procreation is impermissible

- Given that \( A \) is \( X_2 \),
  - One may take it that \( \text{Performing} \ A \) in any circumstances is impermissible.

Now if for a sexual act to have meaning is to have at least one of these interpretive properties, it following from John’s assertion that no sexual acts have meaning.

---

1 Since a warrant is an inference rule rather than a statement or proposition, talk of justifying a warrant may seem anomalous. But corresponding to a warrant is a conditional statement. In this case for our purposes, we may phrase the statement as “If all sexual acts are morally permissible, then no sexual acts have meaning.” To justify the corresponding conditional is to justify the warrant.

2 We are leaving \( X \) open ended. We make no commitment as to whether \( X \) is finite or infinite.
Jim’s argument is not yet complete, although he has advanced the discussion. John may yet remain unconvinced. There are at least two types of critical questions John could raise here for Jim’s argument. First, Jim has claimed that the warrants of supervenience of impermissibility upon certain interpretive properties are acceptable. John could challenge Jim to justify this acceptability. Secondly, John could ask Jim whether the impermissibility is *prima facie* or overriding. If Jim answers that the impermissibility is *prima facie*, John could grant that the warrants were acceptable, but that in each case the sexual act possessed some further deontically relevant property. Let us assume that it is some interpretive property so that the sexual act will have some additional meaning. John could further claim that this additional deontically relevant property outweighs the impermissibility-making interpretive property. Clearly, John is incurring a very significant burden of proof by making this claim. Given a property such as $X_2$, it is difficult to see what permissibility-making property would outweigh it. However, this is a logically permissible move on John’s part.

By contrast, Jim could answer that $X$ contained warrants of overriding impermissibility. Jim would then be incurring a significant burden of proof. But notice that Jim need not incur this burden of proof. He can allow that these warrants are principles of *prima facie* impermissibility, as long as he can construct a scenario into which both he and John can enter empathetically where some act A is $X_i$ and $X_i$’s impermissibility making force is not outweighed by any other permissibility-relevant property. In that case, John would have to retract his claim that all sexual acts are morally permissible, resolving the immediate dissensus with Jim. (I say immediate, because John might subsequently follow his retraction by asserting another modified thesis from which Jim might dissent.)

This interchange between John and Jim indicates two focal points where moral dissensus may arise. First, persons may diverge over the warrants they accept or at least over those warrants which are salient for them. Thus they will diverge over the properties which they see as relevant to evaluations. Second, persons may diverge over their interpretations of a situation, at least over the interpretive properties which they accept hold in a given case. One person may see a given act as exhibiting features $R_1'$, ..., $R_n'$; $W_1'$, ..., $W_m'$, where the $R_i'$ are *prima facie* right-making properties and the $W_j'$ are *prima facie* wrong-making properties. They may see the $W_j$'s as outweighing the $R_i$'s. By contrast, a second person may see that same act as exhibiting features $R_1''$, ..., $R_k''$; $W_1''$, ..., $W_o''$, where the right-making outweigh the wrong-making features. The first will judge the act wrong; the second, right. How may we bring the resources of argumentation theory to help resolve these two types of cases of dissensus, if possible?

2. RESOLVING DISSENUS OVER WARRANTS

To begin, let us say that our analysis accepts Ross’s ethical intuitionism as put forward in (1930). As Ross distinguished between *prima facie* and outright, overriding, or absolute duties, so we may distinguish between *prima facie* and outright warrants. Being a *prima facie* duty, as opposed to a duty outright, is “being an act which would be a duty proper if it were not at the same time of another kind which is morally significant (Ross 1930, p. 19).” This distinction between *prima facie* and outright holds for evaluative properties in general, at least for those ascribing deontic or intrinsic value. For example, we may speak
of an state of affairs as being *prima facie* intrinsically good, i.e. it would be good without qualification if it did not possess other properties relevant to its intrinsic value. *Prima facie* warrants, then, are inference rules licencing our inferring some *prima facie* evaluative property from some evaluatively relevant property, e.g.

Given that $x$ has made a promise to do $Y$
We may take it that $x$ has a *prima facie* duty to do $Y$

Ross believes that such *prima facie* warrants are self-evident. “To me it seems as self-evident as anything could be, that to make a promise ... is to create a moral claim on us in someone else. (1930, p. 21 footnote).” As we argued in (2005), following Ross, we see the recognition of this self-evidence involving two distinct but related belief-generating mechanisms, moral sense and moral intuition. By moral sense, we recognize the *prima facie* rightness or obligatoriness of individual acts, e.g. where one has made a particular promise, one has a *prima facie* duty to keep it. But we may come to recognize that an act of promise keeping is *prima facie* right or a *prima facie* duty just because it is an instance of promise keeping. As Ross puts it, we are recognizing “that an act, *qua* fulfilling a promise, or *qua* effecting a just distribution of good, or *qua* returning services rendered, or *qua* promoting the good of others, or *qua* promoting the virtue or insight of the agent, is *prima facie* right (1930, p. 29).” But to recognize that of any act which is $\phi$, *qua* being $\phi$ it is *prima facie* right is just to recognize the generalized conditional corresponding to the warrant

Given that $x$ is $\phi$
We may take it that $x$ is *prima facie* right.

Now, as L. J. Cohen points out, intuition suggests “what is a reason for what (1986, p. 76).” So *prima facie* warrants and their corresponding conditionals are both cognized by moral intuition. What is significant here is that this apprehension is basic, not the conclusion of an argument from premises taken as more basic. The self-evidence of what is apprehended indicates furthermore that the apprehension is properly basic. Can then there be dissensus over *prima facie* moral (or more generally evaluative) warrants? I believe this is logically possible, but that such warrants are apprehended in a properly basic way has a distinct moral for how such dissensus should be resolved. One should not seek to argue for the associated conditional of the warrant. If one does not see that from an act’s being the fulfillment of a promise that one can infer that the act is a *prima facie* duty, presumably this is because one has not made promises or entered empathetically into situations where one has made a promise, or into situations where one has both made a promise and broken it without an attenuating excuse, or into situations where one has been made some promise and that promise has been broken. To resolve dissensus in such cases, one should seek to lead the dissenter to enter such situations empathetically, thereby intending to lead the dissenter into a situation where his moral sense and moral intuition may be exercised on relevant considerations. Through such exercises, we are leading the dissenter to “see the *prima facie* rightness of an act which would be the fulfillment of a particular promise, and of another which would be the fulfillment of another promise, and” assuming that he can think in general terms, we are thereby
RESOLVING MORAL DISSENSUS: POSSIBILITIES FOR ARGUMENTATION

leading him to “apprehend prima facie rightness to belong to the nature of any fulfillment of promise (Ross 1930, p. 33).”

One further point Ross makes is salient here. The moral order expressed by these principles of prima facie duty is a necessary condition for there being any moral agent (1930, p. 29). One can then ask the dissenter when considering hypothetically a situation where he breaks a promise to see whether he thereby recognizes himself as diminished as a moral being. Of course, it is logically possible that the dissenter will reply that such exercises lead him to no recognition of prima facie duty or to the diminishment of one’s moral being upon violating such alleged principles. At this point, we have arrived at what Douglas Walton calls the maieutic closure of dialogue. I do not believe it follows from this development that one has to retract one’s acceptance of these prima facie warrants or their self-evidence, but that raises issues beyond the scope of this paper.

What may we say then of overriding warrants, those licencing us to hold that some evaluative property holds outright and not just prima facie. Arguments to a conclusion that an act is right simpliciter may proceed from premises attributing positive prima facie right-making characteristics to that act. The warrant then would be of the form

\[
\text{Given that } x \text{ is } R_1, \ldots, R_n, \\
\text{One may take it that } x \text{ is right}
\]

where \( n \geq 1 \). In (1930), Ross raises serious questions about whether arguments of this form could ever be cogent.

No act is ever, in virtue of falling under some general description, necessarily actually right; its rightness depends on its whole nature and not on any element in it.... Right acts can be distinguished from wrong acts only as being those which, of all those possible for the agent in the circumstances, have the greatest balance of prima facie rightness, in those respects in which they are prima facie right, over their prima facie wrongness, in those respects in which they are prima facie wrong (pp. 33, 41).

There are some general rules of thumb, principles for weighing these respects. Duties of perfect obligation will ordinarily take precedence over other duties. But apart from these rules, the judgment that a particular act is right or a duty simpliciter is a judgment of our moral sense, “this sense of our particular duty in particular circumstances, preceded and informed by the fullest reflection we can bestowed on the act in all its bearings (Ross 1930, p. 42).” Proper arguments that an act is right simpliciter then will proceed from premises surveying both the prima facie right-making and wrong-making characteristics of the act. The warrant of the argument will be of the form

\[
\text{Given that } x \text{ is } R_1, \ldots, R_n; \text{ (despite the fact that)} \\
\text{One may presumably take it that } x \text{ is right}
\]

Here for \( 1 \leq i \leq n \), \( R_i \) is a prima facie right-making property and for \( 1 \leq j \leq m \), \( W_j \) is a prima facie wrong-making property.

Whether one is confronted with a simpler argument from prima facie right-making properties or a more fully considered argument from balance of prima facie right-
making over wrong-making properties, one can accept the premises yet dissent from the
conclusion first because one is aware of, i.e. has a justified belief that, the act satisfies
some further prima facie wrong-making characteristic, W_{m+1}, which tips the balance of
prima facie right-making over wrong-making characteristics in the opposite direction.
The proponent’s survey of relevant characteristics has not been complete. Should the
proponent agree that the act had characteristic W_{m+1}, in particular if the proponent has a
justified belief that the act is W_{m+1} or the dissenter is able to argue cogently that it is, then
dissensus could be removed, provided that the proponent agreed that the act’s being W_{m+1}
in addition to being W_1, ..., W_m tipped the balance against overall rightness. The
proponent could still disagree, holding his original conclusion however, for one of two
reasons. It is most efficient to consider the first in conjunction with the next ground of
dissent for the challenger.

The challenger could dissent from the conclusion not because she apprehended
that the act did in fact possess W_{m+1} but that there was no presumption that it did not.
That is, the burden of proof falls on the proponent to show that it does not and the
proponent has not discharged that burden of proof. This point can perhaps be clarified
through several concepts from Rescher’s account of formal dialectics in (1977). In an
exchange, a proponent and challenger argue a case before a determiner. The proponent,
and only the proponent, may make categorical assertions of the sort “P is the case,” in
symbols P. The challenger, and only the challenger, may make cautious assertions of the
sort “P is the case for all you have shown,” in symbols +P. ‘+~ P’ then in effect is a
request by the challenger for the proponent to justify P. By making this cautious
assertion, she is claiming that the burden of proof is on the proponent to show that P.
Without such an argument, there is no presumption for P. Unlike categorical and cautious
assertions, both proponent and challenger may make provisoed assertions, “P standardly
obtains provided that Q,” in symbols P/Q. (See Rescher 1977, p. 6.) These assertions are
metalinguistic, ‘P/Q’ being akin to ‘Q ⊢ P,’ an explicit assertion of a warrant in
Toulmin’s sense, but a warrant authorizing a tentative step from data to claim. Such are
the warrants in the arguments we are considering here. Where a is the act the proponent is
arguing is right simpliciter, he has implicitly asserted

\[ Ra / R_1a & ... & R_na & W_1a & ... & W_ma \]

To this assertion, the challenger may pose

\[ \sim Ra / (R_1a & ... & R_na & W_1a & ... & W_ma & W_{m+1}a) & +(R_1a & ... & R_na & W_1a & ... & W_ma & W_{m+1}a) \]

(Compare Rescher 1977, p. 12.) Should the challenger concede (R_1a & ... & R_na & W_1a &
... & W_ma), she is then cautiously asserting W_{m+1}a, i.e. +W_{m+1}a, i.e. that there is no
precession for \( \sim W_{m+1}a \).

As Rescher points out (1977, p. 15), there are two ways the proponent may reply to
the challenger here, by attacking either the provisoed assertion or the cautious
assertion. There are in turn two ways to attack the cautious assertion, first by making a
categorical counterassertion \( \sim((R_1a & ... & R_na & W_1a & ... & W_ma & W_{m+1}a) \). Since the
proponent already categorically asserts R_1a & ... & R_na & W_1a & ... & W_ma, this move
RESOLVING MORAL DISSENSUS: POSSIBILITIES FOR ARGUMENTATION

implies the proponent asserts \( \neg W_{m+1} a \). By contrast, he may seek to argue for this claim by making a provisoed counterassertion together with a further categorical assertion:

\[
\neg (R_1 a \& \ldots \& R_n a \& W_1 a \& \ldots \& W_m a \& W_{m+1} a) / Sa \& \neg Sa
\]

Again, given his categorical assertion of \( R_1 a \& \ldots \& R_n a \& W_1 a \& \ldots \& W_m a \), this entails

\[
\neg W_{m+1} a / Sa \& \neg Sa
\]

The proponent may rather counter the provisoed assertion

\[
\neg R a / R_1 a \& \ldots \& R_n a \& W_1 a \& \ldots \& W_m a \& W_{m+1} a
\]

by drawing a strong distinction (See Rescher 1977, p. 15.):

\[
R a / (R_1 a \& \ldots \& R_n a \& W_1 a \& \ldots \& W_m a \& W_{m+1} a \& Sa) \& \neg (R_1 a \& \ldots \& R_n a \& W_1 a \& \ldots \& W_m a \& W_{m+1} a \& Sa)
\]

The proponent is conceding the rebutting condition \( W_{m+1} a \) but claiming that its force to rebut the argument from \( R_1 a \& \ldots \& R_n a \& W_1 a \& \ldots \& W_m a \) to \( R a \) is in turn undercut, rebutted by \( Sa \). Clearly, the proponent can use this reply of a strong distinction whether the challenger has merely cautiously asserted that \( W_{m+1} a \) or whether it is an established fact or justified statement.

Each of these moves by the proponent has the potential to resolve dissensus. Should the proponent simply assert \( \neg W_{m+1} a \), he trust that his categorical assertion of \( \neg W_{m+1} a \) will establish a presumption for the claim. This need not be unreasonable, should \( \neg W_{m+1} a \) be a report of personal testimony or a statement of expert opinion, where there is a presumption that the proponent is a duly qualified expert. By contrast, should the challenger accept \( \neg W_{m+1} a \) (and its implications for the argument to \( Ra \)) upon the proponent’s asserting \( \neg W_{m+1} a / Sa \& \neg Sa \), he would have removed dissensus through argument, which likewise obtains should the challenger accept the proponent’s strong distinction. Viewed from the perspective of the Toulmin model, \( \neg W_{m+1} a \) constitutes a rebuttal, the proponent’s countermoves here constituting counterrebuttals.3

In light of these methods of counterrebuttal, we can see how even in the light of the proponent’s asserting \( W_{m+1} a \) or mooting its possibility, the proponent need not concede \( \neg Ra \) and has recourse through extending his argumentation to resolve the dissensus with the challenger. This does not mean that the proponent will resort to such argumentation to convince the challenger. Even if he accepted that \( a \) has this further \textit{prima facie} wrong-making characteristic \( W_{m+1} \), he could hold that this additional fact does not tip the balance of considerations against \( Ra \). This would seem to indicate a more intractable level of disagreement between proponent and challenger, for the judgment that \( W_{m+1} a \) does or does not tip the balance of \textit{prima facie} right-making versus wrong-making considerations against \( Ra \) is a judgment of moral sense. Do proponent and challenger simply have a different sensibility here and we must leave their dissensus at that? I do not

---

3 For our account of counterrebuttals as elements in arguments, see our (1991, pp. 161-65).
believe so, because I suspect that in such a situation upon reflection proponent and challenger will recognize that they disagree over what *prima facie* right-making and wrong-making features are true of the act $a$. They both agree that

$$R_1a \& \ldots \& R_n a \& W_1a \& \ldots \& W_m a \& W_{m+1} a$$

but on reflection the proponent may see he regards further right-making or the challenger further wrong-making characteristics that $a$ possesses. But this brings us to the issue of interpretation, the topic of the next section.

### 3. RESOLVING DIFFERENCE OVER INTERPRETATIONS-POSSIBLE STRATEGIES

When two persons, or two groups or cultures, disagree over some moral or evaluative issue, how likely is it that their disagreement results from a difference in moral sense or a difference in their apprehension of the moral or evaluatively relevant properties upon which they see the value supervening? I believe that in most cases, the latter hypothesis better explains the moral dissensus. Certainly it is pragmatically more fruitful. If the moral sense generates basic moral or evaluative beliefs, then it would seem that two persons who apprehend exactly the same evaluatively relevant features in a given situation, should they disagree over its value, have little or no way of resolving that disagreement. Indeed such disagreement’s being the norm would constitute reason for saying that value judgments are subjective, matters of taste, not open to rational scrutiny. But if we found that when two persons’ evaluative judgments of a situation differ, their apprehension of the properties of the situation differ, then we have a potential strategy for resolving the disagreement: Bring about agreement over the evaluatively relevant properties of the situation.

For example, suppose John sees sexual relations between persons of the same gender as expressions—to be analyzed in terms of some combination of psychological dispositions and conscious intentions—of an attraction between the two persons analogous to attractions persons of the opposite gender may feel toward each other. If expressions of the latter are morally acceptable, at least in some cases, the former are acceptable in analogous cases. This is a matter of simple justice, of treating like cases like. By contrast, suppose Jim sees sexual relations between persons of the same gender undertaken in the absence of a general consensus over their acceptability as a willful and hubristic defiance of the norms which have constituted the meaning of sexual relations, membership in the moral community, and indeed union with the One who called that community into being. Would it be any wonder that John and Jim would disagree over the moral rightness of such relations? But their divergence of views stems from ascribing radically different psychological dispositions and intentions to those engaging in such relations, i.e. to radically different interpretations of the situation.4

4 These considerations form at least the beginning of a reply to the moral relativist. People in different cultures may learn different interpretative principles and thus will interpret situations differently. Given differing interpretations, one would expect different evaluations. But the interpretations themselves, although evaluatively relevant, are not in general themselves value judgments. (One exception would be judgments of intrinsic value upon which judgments of deontic value supervene.) To apprehend a state of affairs as causing certain satisfactions, a person as a member of a community to which duties may be owed,
How then might one resolve differences over interpretation? The first step obviously is to recognize the difference. This in itself may mark a distinct affective, if not conceptual, advance toward resolution of the dissensus. If Jim believes that a certain act is wrong, the wrongness supervening on a certain balance of prima facie wrong-making over right-making characteristics, yet John believes the act right, its rightness supervening on the balance of a distinct set of prima facie right-making over wrong-making characteristics, if Jim does not realize that John holds a distinct interpretation, he may regard John as being perverse for his different view. This is obviously not an attitude fostering progress and perseverance in dialogue. If one sees a person holding a different moral view upon holding a distinctly different interpretation, one might very well understand why the person holds the contrasting moral view and not judge him negatively for doing so.

Can one move the dialogue beyond this affective reconciliation? Two strategies seem possible. The first reminds us of the aphorism that sometimes “It is not either or, but both and.” Assuming for the sake of discussion that there is a presumption for both John and Jim’s interpretations, can the two be consistently united (or united with minimal revision)? The hope is that if John and Jim came to hold the same overall interpretation of the situation, and the questions whether an act was overriding right or wrong depended on one’s moral sense of the balance of prima facie right making versus wrong making properties of the act in that situation, John and Jim might very well come to that same judgment regarding the rightness or wrongness of the act. The question of whether or not the interpretations can be combined is logical. If of an act \( a \), John believes

\[
R_{1}^{'}a \& \ldots \& R_{n}^{'}a \& W_{1}^{'}a \& \ldots \& W_{m}^{'}a
\]

while Jim believes

\[
R_{1}^{''}a \& \ldots \& R_{j}^{''}a \& W_{1}^{''}a \& \ldots \& W_{k}^{''}a
\]

is \( \{R_{1}^{'}a, \ldots R_{n}^{'}a, W_{1}^{'}a, \ldots, W_{m}^{'}a, R_{1}^{''}a, \ldots, R_{j}^{''}a, W_{1}^{''}a, \ldots, W_{k}^{''}a \} \) logically consistent? Can a minimally revised set be constructed which is logically consistent? We are skeptical that such a consistent union is in general possible. Can one and the same act be at once the expression of natural affection and at the same time a hubristic defiance of the rational moral law of the universe? Whether or not such a conjunction involves an outright contradiction depends on the analysis of the terms involved. Even if it does not, it certainly involves a tension amounting to a practical contradiction. Hence, we expect this strategy is distinctly limited.

But there is a second strategy: Evaluate the contrasting interpretations for acceptability. Are the interpretations and interpretive principles involved in forming them justified? In providing a framework to answer these questions, argumentation theory can make a distinct contribution towards resolving moral dissensus or at least indicating in a given case whether moral dissensus can be resolved. Let us assume, this time also for the

or a behavior as manifesting certain dispositions is not to render a value judgment. A suitable defense of the thesis that divergence in value judgments stems from divergence in interpretation would shift the burden of proof to the relativist to show that nonetheless values are just culturally conditioned. We have discussed these issues in some detail with respect to aretaic judgments in (2005, pp. 271-75).
same of discussion, that should proponent and challenger both be able to make clear the conjunction of evaluatively positively and negatively relevant factors on which they claim their opposed evaluations supervene, that both would agree with each other’s judgment of supervenience. In terms of (prima facie) connection adequacy, both are willing to grant the other’s argument. The disagreement then will be over the premises from which they are arguing. Simply making clear what these premises are could be a step towards resolving moral dissensus. It in effect defines where the locus of disagreement or divergence lines. Where \( a \) is the thing over which proponent and challenger disagree, \( P_i \) represents a feature relevant to a positive evaluation, \( N_j \) a feature relevant to a negative evaluation, \( PE_a \) expresses a positive evaluation of \( a \) and \( NE_a \) a negative evaluation, using Govier’s method of diagramming conductive arguments with counterconsiderations (See 2005, p. 396), we may represent the contrasting positions of proponent and challenger this way:

PROPONENT:
Since the proponent sees $P'_1a, ..., P'_n a$ as the features on which the positive evaluation supervenes, they are his premises. The same holds mutatis mutandis of the challenger. We may construe $N'_1a, ..., N'_m a$ as rebutting conditions which the proponent counters by admitting them but claiming their force is neutralized in this case by the greater weight of the premises. i.e. by the fact that the premises also hold. Hence, we may also diagram the proponent’s argument according to the scheme we presented in (1991, pp. 163-65):
The point we want to emphasize is that for the proponent’s argument, the issue of premise acceptability concerns \( P_{1a}, \ldots, P_{na} \), and for the challenger \( N_{1a} \& \ldots \& N_{ja} \).

We shall discuss just the proponent’s case. What we say may be applied, \textit{mutatis mutandis}, to the challenger.

In (2005), we presented a procedure of epistemic casuistry for determining the acceptability of basic, i.e. undefended premises. In general, not all the premises in \( \{P_{1a}, \ldots, P_{na}\} \) will be basic or should be treated as basic in assessing their acceptability. For example, if \( P_{1a} \) asserts some dispositional property of \( a \), simple perceptual observation

\[ ^5 \text{Basic premises are not defended in the context of the argument in which they occur. This does not mean they cannot be defended by argument.} \]
may not be sufficient to justify accepting this statement. Since proponent and challenger are interpreting the situation differently and the proponent holds that \( P_i/N_i \) on the basis of how he has interpreted other features of the situation, should we be able to identify those features and the interpretive principles they proponent has used, we have materials available for an argument for \( P_i/a \). In evaluating acceptability, we should not then regard \( P_i/a \) as basic. This means that we must adapt our casuistical procedure as presented in (2005).

Whether \( P_i/a \) should be taken as basic or not, the first question we should ask is what type of statement is \( P_i/a \). We may distinguish four basic types of statements: descriptions, interpretations, evaluations, and necessary statements. It does not seem meaningful to say that an evaluative property supervenes over a necessary property. Some evaluative properties may supervene over other evaluative properties. For example, Ross counts virtue as a primary intrinsic good (1930, p. 140). The virtuousness of an action, i.e. its aretaic value, supervenes upon its motivation. But insofar as the action is a virtue, it is also intrinsically good. That some acts are duties supervenes upon their instrumental value, that they are productive of some intrinsic good. Specifically, Ross sees duties of beneficence supervening on the act’s increasing the virtue, intelligence, or pleasure of some other being. (See 1930, p. 21.) But clearly, we need not worry about an infinite regress here. The aretaic value of an action supervenes upon its type of motivation, an interpretive property of the action. That certain acts produce intrinsically good states of affairs is likewise an interpretive property of the acts.

Now proponent and challenger could certainly disagree over whether an action proceeded from a certain motivation or whether an act produced a positive balance of \textit{prima facie} intrinsic good over \textit{prima facie} intrinsic bad. But, as we have already noted, they would not disagree over what states of affairs were \textit{prima facie} intrinsically good or bad nor, we would expect, over what motivations virtue supervenes. Hence, cases of evaluative dissensus can be resolved into a finite number of component disagreements, where the proponent sees the positive evaluation of \( a \) supervening on properties \( P_i/a \) which are neither logically necessary nor evaluative. \( P_i/a \) then could be either a description, making an extensional claim such as \( a \) is occurrently angry, or an interpretation, making an intensional claim, such as \( a \) is dispositionally angry. The difference between descriptions and interpretations concerns truth-conditions. Those for descriptions concern just the actual world. Those for interpretations concern both the actual and certain accessible possible worlds.\(^6\)

Some descriptions are the objects of properly basic beliefs. They are neither justified nor need to be justified by other beliefs. A description stating a perceptual belief in the presence of clear perceptual evidence is a paradigm example. But not all descriptions need be properly basic beliefs or even basic beliefs. Some may be inferred, the warrant of the inference being some interpretive principle. For example, someone upon perceiving a van with its side seriously bashed in may come to believe that an accident has just occurred. That statement is a description, but one has come to believe it through interpretation, basically through inference to the best explanation. The person did not perceive the accident. Although as we have argued in (2005), some interpretations may be properly basic beliefs (See pp. 174-87.), since the truth-conditions for

\(^{6}\) For an elaboration of this distinction, see our (2005, pp. 104-105).
interpretations make reference to a framework of other possible worlds, recognizing that the proper truth-conditions hold is not a matter of simple perception. Hence, we would expect that frequently such statements would need justification through argument, an argument involving interpretive principles. Distinguishing descriptions from interpretations, then, is germane to the issue of premise acceptability and, in this case especially, to the issue of identifying what principles have led the proponent to his understanding of the situation.

These considerations on the basicality of descriptions versus interpretations lead directly to the next question to ask in determining premise acceptability–Is the premise basic or inferred? If basic, then we may employ the procedure of epistemic casuistry in (2005). We ask these further questions:

What source, e.g. perception, introspection, personal testimony, common knowledge vouches for it?
Does the voucher create a presumption for the statement?

Answering the second question in turn involves three further questions:

a. Is the source presumptively reliable?
b. Is the source epistemically compromised in this situation?
c. Is the expected cost of mistakenly accepting the statement in this situation greater than the expected cost of procuring further evidence?

That we are concerned here with resolving dissensus, however, raises a new point. As we discussed in (2005, pp. 134-37), following Thomas Reid (See Beanblossom and Lehrer, 1983, pp. 91-92.) we may distinguish original from acquired or learned perception. In original perception, some sensation understood as a purely mental event, is taken as a sign of some external object causing or occasioning that event. Suppose one is appeared to rose-scently. We perceive that the scent is caused. If experience of constant conjunction indicates that a particular object has the power to produce such a sensation, we come to perceive that object as the cause. But we do not perceive the cause as a rose. That requires further learning, perhaps through experience of co-variation of that sensation with other sensations indicating that co-variation of qualities or powers constituting the natural kind called rose, or through being told that this particular sensation is a sign of the natural kind rose. We learn then that a certain olfactory sensation is the scent of a rose. Perceiving a *rose* by smell then is a learned perception. As we discussed in (2005), our perceptual belief-generating mechanism involves an interpretive component, a set of interpretive principles open ended in the sense that it can always be augmented by further principles.

Clearly, it is quite possible for proponent and challenger to acquire different sets

---

7 We discuss applying this procedure in detail in (2005) and cannot develop it further here.

8 We may have original and acquired perception of physical and mental facts, and following Searle (1969, p. 51), acquired perception of institutional facts. For our discussion of these types of facts and types of perception, see (2005, pp. 133-35).
of interpretive principles. Hence, what would be a matter of acquired perception for the proponent need not be perceived at all by the opponent. Such divergence might not be surprising if proponent and challenger were from different cultures. For example, given his cultural background the proponent could have learned that persons in conversation need to maintain a certain physical distance from each other. Not to maintain this distance, to invade the other’s “body space,” could be taken as a sign of inappropriate forwardness or domination. The proponent then would perceive such forwardness in someone who failed to respect his body space. If the notion of body space is culturally foreign to the challenger, she may perceive no such forwardness.

In (2005, pp. 135-37), we argued that there is a presumption for acquired perception as there is for original perception. This does not mean that our acquired perceptual beliefs or the principles incorporated into the interpretive component of our perceptual mechanism cannot be mistaken. They are defeasible. But as long as there is a presumption that the interpretive principles have been reliably acquired, there is a presumption for them and for the perceptions they are involved in generating. Encountering a member of another culture who had not acquired this interpretive principle might serve to undercut this presumption, indicating that the proponent needs to defend or perhaps modify this interpretive principle. For example, cross-cultural dissensus between proponent and challenger concerning the behavior of someone from within the challenger’s culture might be removed by the proponent’s recognizing culture as a relevant variable and restricting his interpretive principle to exclude members of those cultures where there is no presumption that physical closeness is a sign of forwardness or intention to dominate. That such a revision could lead to resolution of moral dissensus is straightforward. Should the proponent have judged certain acts of some agent (not necessarily the challenger) as wrong supervenient upon these acts being expressions of a disrespectful fondness, no longer interpreting this agent’s acts of physical proximity as expressions of this attitude is no longer accepting the grounds upon which the negative evaluative judgment supervenes, and thus we would expect no longer accepting the judgment itself.

That defeasible interpretive principles may be involved in forming perceptual beliefs leads us directly to considering premises for evaluations which are not basic beliefs. Recall that in our schema, the proponent accepts some positive evaluation of some thing $a$, $PEa$, on the basis of premises $P_1a, \ldots, P_na$. He admits there are counterconsiderations but sees them as outweighed in this case by the premises. Resolving dissensus between proponent and challenger involves casting a critical eye on these premises, i.e. on their acceptability. If a premise is not basic, it is inferred from more basic premises, one of which may be an interpretive principle. Alternatively, the warrant of the inference may correspond to an interpretive principle. What may we say about the acceptability of such defended premises? Clearly, their acceptability depends on the cogency of the arguments to defend them.

Let’s assume first that the proponent has provided arguments for those premises which are not properly basic. Judgment whether the argument is cogent first involves assessing whether its premises are acceptable. (This in turn may involve appraising further arguments. However, since any argument is a finite structure, the process will terminate at some point.) Secondly, it involves determining connection adequacy. Are the premises relevant to the conclusion and do they constitute grounds adequate for accepting
it? As we have argued previously (See for example 1992.), to ask why the premises of an argument are relevant to its conclusion is to ask for the warrant of the argument, understood as the inference rule permitting one to infer conclusion from premises. In (2007), we argued that there are three types of nomic generalized conditionals which may correspond to a warrant–interpretive, evaluative, and logical. Hence there are three types of warrants.

An evaluative warrant would be a principle of supervenience. As we have already indicated, it is possible for our proponent to defend his main evaluative claim on the basis of some further evaluation, seeing that evaluation supervening upon some evaluatively relevant non-evaluative condition. His attempt to justify this evaluative claim by citing the condition involves an evaluative warrant in his argumentation. But we have already discussed the issues involved with resolving dissensus over evaluative warrants in section two. This leaves two other possibilities for the warrant–a priori and interpretive.

It is logically possible, although we expect unlikely, that the warrant is a priori. Such a warrant would correspond to a universally generalized conditional asserting a necessary connection, be it of formal logical necessity, e.g.

\[(\forall x)((Ux \& (Ax \& Mx)) \supset Ux),\]

semantic necessity, e.g.

All bachelors are unmarried,

or broadly logical necessity of some further type. The question of connection adequacy then is the question of whether this warrant is a valid principle of inference, for which formal techniques or semantic or other considerations provide the appropriate method for resolving dissensus. By contrast, we think it likely that the warrant is an interpretive principle. As we may distinguish three types of explanations–physical, personal, and institutional, so we may distinguish physical, personal, and institutional warrants. As a physical explanation seeks to account for some event or phenomenon in the physical world in terms of some antecedent physical event or phenomenon and a nomic covering generalization, a physical warrant will draw some inferential moral from that covering generalization. Clearly, this may include both inferences from a cause and inferences to a cause.

Personal explanations include psychological explanations in terms of the motives of some agent or the agent’s reasons or conscious intentions. Contrast

The schoolyard bullies’ taunting Jay was a clear cut expression of homophobia

with

\[9\] In (2005), we distinguish five types of necessary statements, see pp. 114-17.

\[10\] We discuss many issues closely related to this distinction in detail in (2005, Chapter 8).
Joe’s forcing the sale of the company expressed his choice to use his business partners as mere means to increase his own wealth.

Institutional explanations appeal to some generalization, which may be defeasible, included in or derived from the constitutive rules of some institution. Following Searle (1969), we understand institutions as systems of constitutive rules, which “do not merely regulate, [but] create or define new forms of behavior (1969, p. 33).” Paradigm examples are rules defining moves in a game or legal rules defining conditions of ownership or citizenship. One could not strike out in baseball unless there were rules defining the conditions for striking out. One could not claim property rights unless there were rules defining the institution of property.

The issue of whether the premises and conclusion of an argument employing a physical, personal, or institutional warrant are properly connected to justify accepting the conclusion given that the premises are acceptable is a matter of how the warrant is backed, whether in the case of the particular argument being evaluated certain rebutting conditions also hold, and the level of proof (e.g. balance of evidence, beyond a reasonable doubt) required in the context of the argument. Physical, personal, and institutional warrants will be backed differently. Ideally, physical warrants will be backed by data generated through a series of canonical tests as Cohen describes in (1977, pp. 128-33) and (1989, pp. 145-56). Personal warrants may be backed by observations of behavior or by empathetically entering into the situation of an agent satisfying certain conditions. An institutional warrant would be backed by the constitutive rules themselves of which the warrant was an inferential moral. The issues involved in determining proper backing in these cases are beyond the scope of this paper.11

Rather, we emphasize here that the issues of backing and rebuttal open the possibilities for continuing the dialogue between proponent and challenger, with the attendant opportunity of resolving dissensus. If the challenger questions why some condition upon which the proponent sees his value judgment supervening holds, the proponent can present an argument for it. Finding the argument still not cogent, the challenger can ask for the warrant of the argument, explore the extent of its backing, and the question of its being rebutted. Through all these cases, the proponent may be able ultimately to satisfy the challenger. Alternatively, the proponent may become aware at some point that he cannot make his case satisfactorily and revise or withdraw his viewpoint altogether. In both of these cases, argumentation has overcome moral dissensus. Of course, such a resolution cannot be guaranteed.

Why might proponent and challenger not reach consensus? Given their arguments, they still could disagree over the acceptability of a premise or the reliability of a warrant, given its backing and potential rebuttals. But even more fundamentally, they may continue to disagree over whether the features positively relevant to the evaluative property ascribed outweigh the negative features, or whether the negative features outweigh the positive. As we have indicated, once the premises and counterconsiderations are set out, judging which outweighs the other may be a matter of moral sense rendering a basic or immediate judgment. This is not always the case. As Ross points out, in some cases one may appeal to intuitions of greater stringency. “A

11 We have discussed some of these issues in (1992), (2006), and (2007).
great deal of stringency belongs to the duties of ‘perfect obligation’—the duties of keeping our promises, of repaying wrongs we have done, and of returning the equivalent of services we have received (1930, pp. 41-42).” Apropos of the dissensus between John and Jim, we might say that if an act of a certain sort would constitute an affront to the moral sentiments of some others, even though one believes one is within one’s rights to perform such acts, one has a duty to refrain. One’s prima facie duty of non-malfeasance outweighs one’s right in this case. But even in the light of various considerations of precedence, dissensus may continue. Disagreement remains, although hopefully the dialogue has clarified the issues over which there is disagreement.

One might hope that clarification in some instances would resolve disagreement by disclosing the vagueness or ambiguity of the terms in which dissensus has been cast. Since problems of meaning are part of the standard curriculum of informal logic, here is another place for argumentation theory to contribute to resolving moral dissensus. If the proponent clarifies the characteristics over which he sees some evaluation supervening and the challenger likewise given an account of the characteristics over which she sees the opposite evaluation supervening, proponent and challenger may realize that they do not disagree at all or their disagreement may be far less than supposed. But again, this happy outcome is not guaranteed. The disagreement may be too deep.

4. THE MORAL OF OUR STORY ON RESOLVING MORAL DISSENSUS

Although not all cases of moral dissensus may be resolvable, we hope that in this paper we have indicated how the problem may be more tractable than one might at first think. Identifying the conditions on which the rightness or an act judged right is intuitively supervened or similarly the conditions over which the goodness of a good state of affairs is claimed to supervene clarifies the issues over which there is disagreement. In some cases, it may even show that there is not disagreement. If proponent and challenger were to “see” the act or state of affairs as the other saw it, they might not disagree over whether from that perspective the evaluation is correct. They might still disagree over whether one or more of these evaluatively relevant properties hold. But in that case, they can, given the resources of argumentation theory, construct an argument that the property does hold and proceed to evaluate that argument for cogency. Surely this exercise has potential, in a number of cases, to resolve disagreement over whether the evaluatively relevant property holds, which might in turn resolve moral dissensus.

Should proponent and challenger agree over the evaluatively relevant properties actually holding in a given case, the question of whether the positively relevant properties outweigh the negatively relevant properties again offers promise of resolving dissensus by focusing the discussion. It would seem that only when two persons might agree on the evaluatively relevant properties, both positive and negative, holding in a given situation but not agree over whether one set of conditions outweighs the other, that dissensus might be intractable. But in how many cases will this happen and can one be sure that no further evaluatively relevant considerations can be brought forward? Deep disagreement is a possibility in some cases, but let us not concede it until we see how argumentation can play a role in resolving the moral dissensus.
REFERENCES


