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Fabrizio Macagno

Universidade Nova de Lisboa

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Commentary on Castro, “Negotiation as a disagreement management tool”

FABRIZIO MACAGNO

*Instituto de Filosofia da NOVA,
Faculdade de Ciências Sociais e Humanas,
Universidade Nova de Lisboa
Campus de Campolide
1099-085 Lisboa
Portugal
Email: fabrizio.macagno@fcs.h.unl.pt*

1. Disagreement and dialogue types

The paper addresses a very interesting and potentially controversial issue, namely the relationship between disagreements and dialogue shifts. The author advances the claim that negotiation is an instrument for managing disagreements, provided that two conditions apply:

1. the disagreement must be practical rather than theoretical; and
2. 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*.

The author, thus, conceives the “negotiation of disagreements is a type of *practical argumentation*.” Like in practical argumentation, the author argues, the parties are making a decision in order to achieve the most satisfying (the best) result, in disagreements different considerations are assessed in order to end the discussion and reach an agreement – which can be based not on the “absolute” best, but on the relative one.

The author’s argumentation is based on Walton’s (among many others’) distinction between “practical” and “theoretical” disagreements, which is in turn grounded on the classical theoretical vs. practical nature of a claim (or even knowledge Ryle 1949). However, as the author points out, this distinction can be problematic when we try to determine the conditions of the shift to a negotiation dialogue. The author points out that, while theoretical disagreements cannot be shifted to negotiation, practical ones can (p. 5), as the commitments and more importantly the relationship between the parties’ commitments are different in the two cases. In theoretical disagreements, the parties have clashing commitments over the truth (or rather, in argumentation, the “acceptability”) of a viewpoint, while in practical ones their clash concerns the commitments to the desirability of a state of affairs or an action.

However, the author underscores that this view hides some essential aspects of practical disagreements. The first dimension concerns the type of commitments that the parties have, as a practical disagreement is characterized, according to the author, by four conditions: (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. The second dimension is the cognitive and evaluative dimension of a practical decision (and thus a practical disagreement). As the whole Aristotelian tradition underscores, from Book 2 and 3 of Aristotle’s *Topics* to the approaches to decision-making in the medieval time – for a review, see (Macagno and Walton 2018) – practical reasoning (a term that can be taken to include the two schemes of argument from consequences and from practical reasoning) presupposes an evaluation of a state of affairs (based on heuristics) (von Wright 1963). More importantly, any decision-making presupposes

a definition – or “classification” – of the state of affairs that is intended to be changed (Schiappa 2003). Thus, as the author underlines, practical disagreements (such as disagreements about policies) can presuppose differences in how a state of affairs is evaluated or classified, making the distinction between negotiation and persuasion sometimes hard to trace (for the same point, see Provis 2004).

The author’s contribution is to take into account the social dimension of argumentation, where not only the “truth” is considered (whatever it means), but more importantly the “social goal” of argumentation, the “costs and dangers” of not reaching an agreement from the point of view of the relationship and the arguer’s ethos. Thus, negotiation is regarded as a tool for reaching a view that is good enough for both speakers – a tradeoff, which can be both of desires, or evaluations or even a description of a state of affairs. The author then redefines negotiation as a “*type of practical argumentation where the parties adjust their goals or their means-goal relationship, in accordance with the social situation,*” and concludes that disagreement management is a type of negotiation, and this type of negotiation is a form of practical argumentation.

2. The meaning of negotiation

The contribution of this paper is grounded on some basic concepts: “negotiation,” “practical argumentation,” and “persuasion.” The author considers them from a dialectical perspective; thus, the basic reference is the set of works that defined them in the first place. In argumentation theory, the notion of negotiation has been introduced as a type of dialogue, and more importantly as a type of dialogue that has some defining features that distinguish it from other types of dialogue (D. Walton 1989).

The first crucial aspect is the notion of dialogue, defined based on three criteria: two or more participants, speech acts (or dialogue acts) exchanged, and the interconnection between them (relevance) (D. Walton 1989, 1, 2004, 1999, 36). Thus, since negotiation is a type of dialogue (an activity), the generic category under which the author claims to classify it needs to be a type of dialogue. Therefore, it is possible to infer that “practical argumentation” is for the author a dialogue, or more precisely a dialogue type with characteristics that are broader than negotiation. This claim cannot be taken for granted, as the tradition seems to maintain a very different view. Practical arguments have been traditionally seen as arguments, namely instruments aimed at addressing a doubt or a difference based on a premises that, through a rule of inference (a topos or locus), increase the acceptability of the conclusion (D. Walton 1990). The modern approaches to practical reasoning are compatible with the concept of practical arguments, but apart from the pragmatic goal of pursuing a goal that is related to a dialogical context, an argument cannot be confused with a dialogue. The author uses the term “practical argumentation” but since it cannot be the same as practical argument or practical reasoning, one is left with the question of what the author means with this phrase. The best candidate is “deliberation,” whose relationship with persuasion, value reasoning, classification, and negotiation has been thoroughly explored by Walton (for the latest developments, see D. Walton and Toniolo 2016; D. Walton, Toniolo, and Norman 2014, 2016).

However, the author seems to have something else in mind when he cites a “practical argumentation” structure. The idea the author uses is a refinement of a structure presented in (Fairclough and Fairclough 2012), which is just an adaptation of Walton’s practical reasoning and its interrelation with the argument from values and classification (Bench-Capon 2003; Atkinson and Bench-Capon 2007; Atkinson, Bench-Capon, and McBurney 2006). Despite its different name, “practical argumentation” as shown is nothing else than a practical argument, whose inferential relations are not modeled nor explained as all the literature on this topic does instead. In the literature, the notion of “best” outcome has never been considered as an

“absolute” perfection of means; rather, Walton and the other authors who worked on this issue pointed out the relative nature of the “best” means, namely the most acceptable means given the values and the conditions. In this sense, I do not see anything new in the scheme the author proposes – just a less specific description of what has been done before. Moreover, considering that this is the understanding of “practical reasoning,” I cannot see how a type of dialogue can be a type of argument. Simply, the two constructs are not comparable – arguments can be used in a dialogue, but surely an argument is not a type of dialogue.

The second dimension of negotiation is its features. The notion of negotiation described by Walton is defined based on three dimensions: an initial situation, the participant’s goal, and the goal of the dialogue. Negotiation is thus defined in contrast with both deliberation and persuasion as follows (D. Walton 2006, 183, 1989, 8):

Type of Dialogue	Initial Situation	Participant’s Goal	Goal of The Dialogue
Negotiation	Conflict of interests	Get what you most want	Reasonable settlement that both can live with
Persuasion	Conflict of opinions	Persuade other party	Resolve or clarify issue
Deliberation	Dilemma or practical choice	Co-ordinate goals and actions	Decide best available course of action

Negotiation and deliberation have very different starting points: while deliberation stems from a practical choice, and more importantly a need of coordination of the interlocutors’ actions to pursue a goal that is shared (at different levels and stages), negotiation starts from a personal goal that is in conflict with another’s. Walton’s account is grounded on the concept of negotiation commonly used in negotiation theory (R. Walton and McKersie 1965, 2–3), in which four subtypes are distinguished: Distributive bargaining (zero-sum game), Integrative bargaining (positive-sum game), Attitudinal structuring (managing the relationship between the participants), and Intraorganizational bargaining (bringing the expectations of one side of a wider negotiation process into alignment) (see Fisher, Ury, and Patton 1981). Now, these four types involve making decisions – integrative and distributive bargaining are acknowledged by Walton and McKersie as types of joint decision-making processes. However, they are not deliberation dialogues in the sense of Walton’s dialogue types, as what is in common in distributive bargaining is very little – the rules of a game in some cases – and certainly not the goal intended as the participants’ goal.

The author illustrates his point with the following example:

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 party has been able to persuade the other. Therefore, they decide to split the difference at 16%.

Clearly, without the overall dialogue, it is almost impossible to analyze this case. However, some questions can be raised. The author analyzes it as a two-step dialogical process: first, the parties engage in a persuasion dialogue, and second, they start a negotiation. The crucial question is the following: why is this a type of negotiation? According to Walton’s types of dialogue, it fails to fulfill the conflict of interests – and goals – as both parties are just trying to make a joint decision on what both needs to achieve. Is it a bargaining? If this is a discussion of a policy, it seems that the parties are not trying to get what they want, but to make a decision (using practical reasoning arguments) that takes into account not only the positive

consequences of getting the “best” gas reduction, but also the negative one of not getting to a gas reduction soon enough, etc. Also, the personal relationship can be accounted in this model. Going back to the standard model of practical reasoning (D. Walton 2007), the parties are just making a joint decision evaluating the alternatives.

Walton indicated as a criterion (the “test”) for distinguishing negotiation from other types of dialogue the possibility of threats, which are allowed and indeed common in negotiations, but fallacious tactics in other types of dialogue. Clearly, without a context it is impossible to analyze this case. The author, however, should see whether threats would be allowed in this circumstance (“if you do not lower more the emissions, I will block your proposal in the commission”). If this is the case, why using persuasion in the first place? Similarly, other cases (such as the restaurant case) seem to be clear cases of deliberation, where the participants have a common interest and common goals, and they at a certain point can shift to negotiation if their interest collide. The context, however, does not allow understand why these cases are negotiation, as it is unclear how the dialogue is developed and why the interest are in conflict.

3. Conclusion

To conclude, the author intends to classify disagreement management as a type of negotiation, as negotiation is a type of practical argumentation. The concepts used, however, are ill defined, and the notion of practical argumentation mentioned is at best confusing. If we define the terms used, we can see how deliberation and negotiation are distinct types of dialogue. If we regard practical reasoning arguments as arguments, we can see how the conclusion that a certain course of actions is more preferable than another is the result of different types of considerations, without redefining activities that imply dialogical settings, roles, attitudes, and rules that are different. This leads to wonder whether it is possible to explain the examples as different uses of practical reasoning arguments. If we go back to the examples presented by the author, this possibility cannot be excluded. While dialectical shifts are common, it is risky to claim that negotiation is a type of deliberation, as the dialectical roles of the participants are redefined in this shift, allowing types of dialogical and dialectical behaviors that would not be possible in deliberation or persuasion dialogue. The risk is to redefine a concept without any need, and to multiply theoretical constructs.

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