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# Commentary on Petar Bodlović’s “Presumptions, burdens of proof, and explanations”

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## 1. Summary

In his (2020) OSSA paper “Presumptions, burdens of proof, and explanations,” Petar Bodlović “deal[s] with the *allocation question* [—how should the burden of proof be allocated in argumentative discourse—] in those situations where it is a *presumption* that is challenged, rejected, or contradicted” (1; emphasis added).

Under a *symmetrical allocation* of the burden of proof [BofP], as Bodlović explains things, “there are neither privileged parties not privileged standpoints” (1). Rather, each arguer bears the BofP to answer doubts, objections, challenges, etc. for each assertion they make. Proponents are obliged to answer an interlocutor’s doubts to their contentions in dialectically adequate ways (i.e., ways that meet with their interlocutor’s acceptance) in order to secure their interlocutor’s endorsement (i.e., acceptance) of their standpoint(s). Under *asymmetrical allocations* of the BofP, Bodlović tells us, “some propositions are dialectically privileged”(2). “Once these propositions get challenged,” he continues, “they do not require support until or unless the opponent presents (sufficient) reasons against their acceptability” (2). Bodlović calls such dialectically privileged claims “presumptions,” in recognition of their “reversed” BofP. This “reversal” of the BofP Bodlović calls the *deontic function* common to all presumptions: “all presumptions share the same *deontic function*: they asymmetrically allocate the burden of proof” (3).

Bodlović considers what he calls the *standard account* of the deontic function of presumptions, which he characterizes as follows:

If the proponent  $P$  puts forward  $p$  (that in the context at hand has the status of a presumption) in turn  $t_1$ , and the opponent  $O$  rejects or challenges  $p$  in turn  $t_2$ , then  $P$  does not carry the burden of proof in  $t_3$  whereas  $O$  incurs the burden of proof in  $t_{2+n}$ . (9)

In this context, Bodlović (9) considers a dialogue of the following form:

- (I) (t1)  $P$ : Presumably,  $p$ .
- (t2)  $O$ : Reject: “Presumably,  $p$ .”
- (t3) ?
- (t4) ?

and asks whether the BofP shifted to *O* by the *P*'s presumption at (*I*<sub>1</sub>) is *unconditional*, occurring at (*I*<sub>3</sub>) with no additional move required by *P*, or whether it is *conditional*, contingently occurring only at (*I*<sub>4</sub>) depending on whether *P*, at (*I*<sub>3</sub>), requests reasons of *O* for his rejection of the presumption that *p* made by *P* in (*I*<sub>1</sub>). First, then, is *when*—i.e., under what conditions—the deontic function of presumptions is activated.

Second, is the question of *what O* must do to fulfil the burden imposed by a presumption. In approaching this question, Bodlović distinguishes between *cognitive presumptions* (which have a dialectically privileged *epistemic* status) and *practical presumptions* (which have a dialectically privileged status in practical, deliberative reasoning). He further distinguishes three kinds of burdens: (i) a burden of *arguing*, (ii) a burden of *explanation*, and (iii) a more general burden of *reasoning*. These he defines respectively as follows:

THE BURDEN OF REASONING (*BoR*) is the party's dialogical obligation to provide a *reason* for a position (view). (10)

THE BURDEN OF ARGUING (*BoA*) is the party's dialogical obligation to provide an *argumentative reason* [i.e., a reason "that the other party, ideally, has already conceded ... or will most likely concede" (11)] for a position (view). (11)

THE BURDEN OF EXPLANATION (*BoE*) is the party's dialogical obligation to provide an *explanatory reason* for a position (view). (12)

The main thesis of Bodlović's paper is that cognitive and practical presumptions may be distinguished according to the kind of probative burdens they allocate to objectors of the presumptions. In his own words, Bodlović's position is roughly this:

First, ... presumption, taken in the abstract sense, does not place the burden of proof on the opponent, but rather the burden of reasoning. ... Second, ... cognitive and practical presumptions distribute different dialectical obligations. To be sure, they both place the burden of reasoning on the opponent, but whereas cognitive presumptions require either arguments or explanations, practical presumptions seem to require arguments. Thus, at the level of a concrete dialogical implementation, the deontic analogy (deontic uniqueness), proposed by standard accounts, does not hold. Presumptions have distinct deontic functions. (Bodlović 2020: 18-19)

## 2. Analysis

Starting from characterizations of the BofP as an obligation to support one's view with reasons, Bodlović claims that "one may interpret the burden of proof in such a way as that it says no more than that there is an obligation to provide reasons, of whatever kind" (10). Thus, if the BofP shifted to an opponent by a presumption is the BofR, one must merely give *a* reason in support of one's declining the presumption. According to Bodlović, though, this will not do. According to Bodlović the differences between cognitive and practical presumptions make it more "analytically useful" to "adopt a more specific conception of the burden of proof" typically adopted by philosophers and argumentation theorists (10).

As distinct from the BofR, Bodlović claims, is the BofA—the burden of providing “argumentative” reasons. The distinguishing feature here seems to be that “argumentative” reasons are reasons that are offered in an attempt to persuade an interlocutor. As such, they must be dialectically acceptable—reasons that one’s interlocutor would countenance.

Lastly, as distinct from reasons that an interlocutor would countenance, are reasons that they wouldn’t—even reasons that we would not *expect* them to accept. On Bodlović’s account, such reasons can still serve an explanatory function in dialogue and can help to advance the argumentative discussion towards a resolution by helping a proponent to understand an opponent’s reasons for declining commitment and thereby to better know which reasons might best be offered.

To introduce the idea of explanatory reasons, Bodlović considers the case of round-Earther Diane and flat-Earther Steve who are arguing over the shape of the Earth. According to Bodlović “In the ordinary context, ‘The Earth is round’ is a (strong) *cognitive presumption*” (6).

Many reliable epistemic sources vouch for it [in a footnote Bodlović here cites “scientific authority, evidence, testimonies, and explanatory utility”], and this fact requires dialectal recognition: in epistemic dialogue, the proponent of a plausible standpoint and the proponent of an implausible standpoint should *not* play by the same rules. Granted, the dialectical rules should not require an immediate acceptance of the most plausible standpoint, but they, also, should not force us to proceed as if, initially, all propositions are equally plausible. Epistemic dialogues must avoid both uncritical dogmatism and naïve egalitarianism... (6)

We may then consider the following instance of Dialogue I, “Flat Earth”:

- (FE) (t1) Diane: Presumably, the Earth is round.  
(t2) Steve: Reject: “Presumably, the Earth is round.”

Of Steve’s move (FE<sub>t2</sub>), Bodlović asks after the ways that Diane might seek reasons for Steve’s rejection of her presumption at (FE<sub>t1</sub>). He writes:

If Steve rejects a proposition that, in normal circumstances, everyone in a right mind concedes, if the well-known and overwhelming evidence is insufficient to persuade him that the Earth is round, then what kind of reason can convince Steve of *anything regarding this matter*? Steve has shaken the very foundations of reasonable dialogue without providing any guidance on what grounds to continue. Without this kind of guidance, Dianne will probably be unable to construct a persuasive argument. (12)

That is, in view of Steve’s astonishing views about the shape of the Earth, Diane’s expectations that Steve meet a BofA in rejecting her presumption might be futile. Yet, while she might not expect to be persuaded, she might, nevertheless, seek to understand Steve’s reasons for his astonishing views, and this understanding might help give Diane guidance as to what reasons she might require in answering Steve’s doubts.

### 3. Comments

I take this to be an important point in Bodlović's paper—one that I would put this way. Inquiry, or the search for reasons, Peirce tells us is precipitated by doubt. The function of inquiry is to rationally quell doubt. Doubts, when they are our own, are *manifest*. Just as we believe just those things that seem by our lights, to be true (that's what it is, after all, to believe—to take what we believe to be true), we doubt just those things that, it seems to us, are doubtful—i.e., that might, possibly, be false.<sup>1</sup> That is, the rational merits of *our* doubts seem manifest to us, just as the alethic merits of our beliefs seem manifest to us. So, when reasoning, our doubts not only *motivate* our undertakings of inquiry (inquisitive reasoning), but they can also *direct* our inquiries—where the task of inquiry is understood as rationally answering doubt. By our own lights anyway, *we* do not have unreasonable, or unmotivated, doubts.

Yet, the situation changes when it comes to reasoning together—i.e., to argumentation. There, just as the plausibility of *your* beliefs, assertions, standpoints, might not be manifest to me, neither might the plausibility of your doubts. I might not recognize or appreciate their motivation or rationale, and as such I might not understand how they might be assuaged (what it would take to answer them). This fact will shape the course of our argumentation. Nevertheless, if I hope to get you to endorse my claims, to commit yourself to my standpoint by recognizing my entitlement to it, and gaining a position in the space of reasons such that you could claim that same entitlement as your own, assuage them I must.

This leads me to my first question: Bodlović claims that explanatory reasons can be *obliged* when one declines to accept a presumption. Clearly, they are *permitted*—there is no *prohibition*, in standard “symmetrical” dialectical games, against arguers motivating or explaining their doubts of other's standpoints. And, as Bodlović notes, understanding these reasons can be dialectically useful. Moreover, at least as so far as I understand things, *requests* for these explanatory, non-persuasive reasons are *not prohibited* either. That is, in an effort to better understand an opponent's view, arguers may request their opponent to clarify their position or standpoint by disambiguating, precisifying, elaborating, and perhaps even motivating it. Yet, what is it about the nature of the dialectical privilege that attaches to presumptions that would *oblige* objectors to provide these kinds of explanatory reasons, rather than just *permit* that they may do so as in ordinary cases where non-privileged positions are denied? More generally, when sorting out the origins of those discursive entitlements and obligations that attach to presumptions, I suggest that it is worth inquiring more generally into the normative sources of our obligations, permissions, and prohibitions, as a general understanding of these might better help to inform our prescriptive treatment of the odd or exceptional cases, like presumptions.

As a second point, here's a suggestion—a recommendation, really—for Bodlović's larger project—a project that I share. When thinking about how presumptions should behave—i.e., how we should treat them, what rules we should adopt for their use—*after* they've gotten into arguments, it's worthwhile to consider *how they get into arguments* in the first place.

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<sup>1</sup> The strength of our doubts are a function of how the modality “possibly” was how introduced into the discourse. For example, things that we deem necessarily, or actually, or probably false, we deem to be possibly false as a consequence. If, on the other hand, the possibility is merely “academic”—e.g., while granting that it's “possible” we judge it to be far-fetched, exceptionally unlikely—we might not devote much epistemic labor to ruling it out.

In Section 2 of his paper, Bodlović surveys a variety of “common principles of asymmetrical allocation” that can be found in the literature. Many of these seek to provide a-priori, and non-dialectical criteria for identifying claims deserving of a presumptive status. Criteria such as scientific orthodoxy and expert consensus, for example, are offered.

It is worth remarking that as appealing and commonsensical as these presumptive grounds might seem, they are, ultimately, *dialectically unsatisfying*. For example, in his argument with Diane, Steve clearly does not recognize the “many reliable epistemic sources” like “scientific authority, evidence, testimonies, and explanatory utility” that vouch for the Earth’s being round as the most plausible view about the shape of the Earth. Indeed, *his rejecting* Diane’s move contending the presumption that the Earth is round seems to indicate this. As such, it’s not at all clear that “The Earth is round” actually has the status of a presumption in the Flat Earth dialogue. Rather, Steve seems to have no commitment to either the claim, or its status as a presumption—as the most plausible view. So, it’s not yet clear, at least to me, that Steve actually rejects *a presumption*, rather than Diane’s *assertion of the presumptive status* of “The Earth is round.”

Of course, *we* will presume just those things that seem most plausible to us. The claims that *we* are inclined to dialectically privilege are those that *we* endorse—those that we judge to be correct or well supported by reason. But, it doesn’t follow from their apparent plausibility *to us* that *others* will similarly find them plausible—or, indeed, that they actually are correct or well supported by reason. As such, gesturing to the extra-discursive plausibility of claims as grounds for their presumptive status in a dialogue is bound to be dialectically unsuccessful. To use Bodlović’s distinction, they might provide us with reasons for the presumptions we make, but they won’t be *argumentative* reasons.

Dialectically, the presumptive status of a claim amounts to *that it is presumed* by discussants. (That discussants *ought* to presume some claim requires dialectical work if discussants do not accept that obligation.) That discussants take it that a claim does not, for the moment anyway, stand in need of reasons is dialectically exhibited by the fact that discussants do not demand or offer reasons for it. Once reasons are sincerely demanded of a claim, it would seem that any presumptive status it might once have had is lost. Or, to put it more carefully, unless the putative grounds for the presumption remain among the elements of the intersection of the discussants’ commitment sets (e.g., as identified in the opening stage of a critical discussion) pointing to them as grounds for our presumptions will be dialectically unsuccessful.

One way to understand the asymmetric probative effect of presumptions is that, having been established as presumptions, entitlement to them is presumed, and because of this, commitment to them is also presumed. As such, it is the entitlement to withdraw, or retract, commitment to a presumption that must be demonstrated in *a dialectically satisfactory way*. And, when you think about it that way, that’s not really a dialectically *exceptional* circumstance. Ordinarily, so long as my commitments remain coherent, just as I may take on commitments, I may withhold or retract commitment, according to *my own* best rational lights.

By contrast, for non-presumptions, it is entitlement to undertake or maintain one’s commitments that is called for. Dialectically, the reason for this latter requirement is the recognition, or uptake, of one’s commitment that is dialectically sought. In taking on a commitment, one is taking oneself to be entitled to that commitment. And, in relying on that commitment in argumentation, a proponent seeks her interlocutors’ recognition, or endorsement,

of that entitlement. By way of this recognition, she expects her interlocutors to undertake same commitment themselves. That is not only why probative burdens fall where they normally do in argumentation—on parties seeking recognition and uptake for their standpoints—but also why a proponent’s reasons must be dialectically adequate. Only what Bodlović calls *argumentative* (i.e., dialectically adequate) reasons will be recognized by interlocutors as entitlement conferring, and as entitlement establishing for the commitment interlocutors take on as their own in accepting a proponent’s standpoint.

A proponent is making a demand on others, that they recognize an entitlement and, thereby, to undertake a commitment. Yet, if a respondent is expected to take on a commitment, he too must be in a position to demonstrate his entitlement to that commitment (which is now his). Thus, in offering dialectically acceptable, “argumentative” reasons for claims, a proponent does not merely demonstrate her own entitlement to her commitments, she makes available those same entitlement-establishing reasons that her opponent will be expected to have in undertaking a discursive commitment. That is, in giving dialectically adequate, “argumentative” reasons, a proponent helps her interlocutors to live up to their rational and argumentative responsibilities, by providing them with the entitlement-establishing reason *they* recognize as justifying their commitments. Thus, it is those who seek the endorsement by others of their commitments, those who expect that others should make changes in their own commitments who, in the first instance, bear dialectical burdens.

Presumptions, whatever else they do, cannot function to short circuit any of this deontic machinery. *Perhaps most importantly, presumptions ought not to compel commitment to claims to which we are otherwise not entitled.* It is for this reason that the mere extra-discursive need to get on with things dialectically does not entitle us make any particular presumption. Rather, to secure entitlement to a presumption, like any other commitment, is to demonstrate one’s entitlement to that commitment in a dialectically adequate way. Dialectically independent inclinations about the relative plausibility of claims simply don’t pass argumentative muster. Only via dialectically adequate, “argumentative” reasons will entitlement be recognized by, and uptake secured among, one’s interlocutors.

Yet, viewed in this way, it would seem that similar considerations apply to *other* changes one might seek to make in their commitment stores—specifically, withholding or retracting commitment. Relatedly, doubts can seem as though they do not stand in need of entitlement-conferring reasons, because they seem to be the lack of a standpoint, rather than an endorsement or rejection of some claim. Yet, doubt is a cognitive attitude just as much as is belief. And the first-person rational structure of doubt is analogous to that of belief. Moreover, withholding both assent and rejection is just as much a cognitive and discursive act as either accepting or denying. Indeed, many have argued that suspension of judgment is the epistemically proper standpoint in many circumstances—e.g., those characterized by an underdetermination or overdetermination of sufficient reasons. Assent and denial are relevant doxastic alternatives to suspension of judgment. Thus, it too is a cognitive attitude to which one can be committed, and entitled, and for which recognition and uptake can be sought. Further, once commitment to a claim is established, it may not coherently be withdrawn haphazardly, e.g., by inclination or fancy. Just as the haphazard adoption of beliefs is a rational pathology, so is the random abandonment of belief. Commitment adoption and retraction alike require retraining the coherence of one’s overall commitment store. So, when entitlement is claimed for withholding or retracting assent, this seems to be a

commitment like any other, and one that stands in need of reasons. Yet, if that's correct, then *those* reasons cannot be purely explanatory. Rather they must be what Bodlović calls "argumentative" reasons. That is, they must be reasons that establish entitlements—i.e., reasons that are endorsed by others such that one's entitlement to one's standpoint is recognized and commitment to it on the part of one's interlocutors is both permitted and obliged.

To adopt such a view to argumentative discussions, whereby every discursive position is taken as a standpoint, is to view every critical discussion as a mixed dispute. Importantly, though, having adopted this approach, *presumptions* are *not* needed in remedying the putative discursive inequities and epistemic biases of "dialectical egalitarianism." Rather, it seems that we must just be a bit *more* dialectically egalitarian than we have been to up until now. On this approach, no propositions are "dialectically privileged" such that "they do not require support until or unless the opponent presents sufficient reasons against their acceptability" (2). Because of this, we don't run the risk of arbitrarily compel commitment to putatively "dialectically privileged" claims to which we are otherwise not entitled. Such a presumption-free approach to argumentative discussions seems to provide the same epistemic goods as "dialectical foundationalism" where our rules of reasonable discussion do "protect (epistemically) *uncontroversial* propositions and sanction (epistemically) *deviant* challenges" (2). As well, this more equitable approach to dialectically egalitarianism requires that the regress of reasons (4) end not at arbitrary, "presumptive" "dialectically privileged" stopping points, but at the bedrock of dialectical consensus which is the only dialectically sound ground on which resolution to disagreement can be built.