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Patrick Bondy
McMaster University

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When Reasons Don't Work

PATRICK BONDY

*Department of Philosophy
McMaster University
University Hall 310A
1280 Main Street West
Hamilton, Ontario, L8S 4K1
Canada
bondypr@mcmaster.ca*

ABSTRACT: The aim of this paper is to extend Miranda Fricker's conception of testimonial injustice to what I call "argumentative injustice": those cases where an arguer's social identity brings listeners to place too little or too much credibility in an argument. My recommendation is to put in place a type of indirect "affirmative action" plan for argument evaluation. I also situate my proposal in Johnson (2000)'s framework of argumentation as an exercise in manifest rationality.

KEYWORDS: argumentative injustice, emotional reaction, manifest rationality, prejudice, testimonial injustice.

1. INTRODUCTION

The purpose of this paper is to begin to develop an account of what I am calling argumentative injustice. Argumentative injustice is an analogue of Miranda Fricker (2007)'s concept of testimonial injustice, where an individual's testimony is given less credibility than it ought, due to a negative identity prejudice attaching to the speaker, in the mind of the hearer. What I want to describe is the phenomenon of attaching reduced or excessive credibility to the premises of an argument, or to the strength with which an argument's premises support its conclusion, due to an identity prejudice attaching to the arguer. When identity prejudices cause reduced or excessive credibility judgments, reasons fail to have the rational force that they ought. Examples are easy enough to come by: think of court cases where the accused is a member of some stigmatized group, and nobody believes him because of that. For an example involving the strength with which a premise-set supports its conclusion, think of what we often hear about scientists who believe in intelligent design: that they draw unfounded conclusions from the evidence (or at least that they fail to draw the correct conclusions). That criticism often seems to lean, not on reasons that count against an intelligent-design-reading of the evidence, but on the assumption that religious scientists are pursuing an agenda which prevents them from being able to read the evidence correctly. To my knowledge, argumentative injustice has not had any attention in the literature on argumentation, so I thought it an important topic to pursue, and given the theme of this year's conference, I thought this an ideal venue to pursue it.

Bondy, P. (2009). When Reasons Don't Work. In: J. Ritola (Ed.), *Argument Cultures: Proceedings of OSSA 09*, CD-ROM (pp. 1-8), Windsor, ON: OSSA.
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I also want to propose a way to deal with argumentative injustice, which is for arguers to follow a type of indirect affirmative action policy, when engaged in arguments with people against or in favour of whom they have an identity-prejudice. Now, this policy is admittedly a tool invented explicitly for the purpose of solving the problem at hand, but I take it to be a theoretically sound tool—it is not merely an afterthought to tack on to your preferred theory of argument. It can be incorporated, I imagine, into most theories of argumentation, and it has, so I argue, a natural place within Ralph Johnson (2000)’s theoretical framework, where argumentation is understood as an exercise in manifest rationality. Briefly, my proposal fits naturally in that theoretical framework, because argumentative injustice undermines the orientation toward rationality of an argumentative exchange—the force of reasons is no longer determining the outcome of the exchange—and the policy I advocate brings the exchange back toward rationality again.

I begin this paper by unpacking the concept of argumentative injustice, highlighting some similarities to and differences from Fricker’s concept of testimonial injustice. After that, I explain what I mean by an “indirect affirmative-action policy,” and how that policy is supposed to help us deal with cases of argumentative injustice. I go on to argue that argumentative injustice and the policy I propose to deal with it have a natural place in the conception of argumentation as an exercise in manifest rationality. I conclude with responses to two intuitive objections to the way that I deal with the problem of argumentative injustice.

2. THE CONCEPT OF ARGUMENTATIVE INJUSTICE

Perhaps the easiest way to make it plain just what I mean by argumentative injustice is by contrasting it with Fricker’s concept of testimonial injustice. Testimonial injustice is a type of epistemic injustice, where “epistemic injustice” is understood as a harm done to an individual specifically in her capacity as a knower (Fricker 2007, p. 1). Testimonial injustice involves the unwarranted denial of an individual’s credibility, which lowers a person’s status in the community of knowers, preventing her from communicating knowledge that she has; it can deny her the particular piece of knowledge at hand, by causing her to doubt her own credibility; and repeated testimonial injustices can undermine an individual’s confidence in her ability to report truths, thereby damaging her capacity to generate knowledge in situations where she otherwise would. In these ways, individuals can be harmed just insofar as they are epistemic agents.

The central case of testimonial injustice is where there is a systematic, identity-prejudicial credibility deficit (Fricker 2007, p. 28). It is always a credibility *deficit*, for Fricker, and never an excess, because, although there certainly can be identity-prejudicial credibility excesses, a credibility excess tends in general to work in *favour* of the individual to whom the excess is granted, rather than harming her—her capacity as a knower is *overly* esteemed, which will usually *increase* her epistemic capacity (Fricker 2007, p. 20). It would therefore be a stretch to call that an injustice to her.

The credibility deficit involved in a case of testimonial injustice is also understood to be identity-prejudicial—that is, it occurs as a result of a prejudice against a person because of her identity as a member of a social group. The key issue here is that the prejudice is the result of false, epistemically irresponsible social stereotypes. We all employ social stereotypes very frequently; we must do so in order to engage in effective

real-time interaction with people, and to evaluate whether or not to believe what we are told. For example, that insurance salespeople are often not to be trusted very far, that news reporters usually are reliable with respect to particular facts about what is reported, and that doctors are to be trusted in matters of health, are all useful social stereotypes that most people in our society employ. Social stereotypes are useful heuristics, as long as they embody true, epistemically responsible generalizations. When we employ false, epistemically irresponsible stereotypes, they become misleading and potentially harmful, and they no longer serve their proper function.

Like testimonial injustice, argumentative injustice is the result of epistemically culpable stereotypes. But, first of all, argumentative injustices harm individuals in their capacity as *arguers*, rather than as *knowers*. If we take up Johnson's view of arguments as manifest rationality, as I propose to do here, that means that the individuals are harmed in their capacity as persons capable of employing and criticizing arguments in order to persuade each other of truths. Argumentative injustice harms everyone involved in the argumentative exchange, qua arguers, by undermining the rationality of the endeavour; it can, if repeated enough, damage the ability of the person to whom the prejudice attaches to engage productively in arguments; and it can distort his status in the community of arguers, thereby preventing others from seeking to engage him in argument.

A further difference between testimonial and argumentative injustice is that, whereas "testimonial injustice" is a term reserved only for cases of credibility *deficit*, argumentative injustice applies equally to cases of credibility *excess*. Fricker's reason for withholding the application of testimonial injustice to credibility excess, again, is that such excesses do no harm to the individual in question in her capacity as a knower, so it is not an injustice to her. However, credibility excesses *can* harm an individual in his capacity as an *arguer*, in each of the three ways that I mention above. First, they can derail the rationality of the particular exchange at hand, by granting the arguer more than his case rationally deserves, thereby bringing the argument to a conclusion that is not necessarily warranted. Second, systematic credibility excess can make the arguer think that he is a better arguer than he is, and likely enough, a better arguer than others are too, which would cause him to give a credibility deficit to others in argumentative situations. His capacity to engage well in argumentation itself would then be damaged. And third, the willingness of others to engage him in arguments could be reduced, which would harm him as an arguer by removing him from the pool of arguers.

A final point to note about argumentative injustice is that it can operate without the awareness of the one who is committing it, since prejudices are stubborn, and often subtle. Even people who *want* to be non-prejudiced may have prejudicial reactions to certain social groups (see Miller 2006, p.25). Now, the real-time evaluation of premises and premise-conclusion support is generally made quickly, and it is often, in the first instance, guided by our gut reactions. Since prejudices can operate in us without our knowledge, or with our knowledge but without our consent, and they generally cause emotional reactions, the snap judgments of credibility that we have to make that are prompted by a feeling of satisfaction or dissatisfaction are susceptible to distortion by our prejudices.

To be perfectly clear, I am not trying to endorse the legitimacy of *appeals* to emotion here, as in Walton (1992). Such appeals may or may not be legitimate, but they are always intended by the arguer, and that is not the kind of role that emotions are playing in the treatment I am giving. Rather, what I have in mind is analogous to Paul

Thagard (2006)'s take on the role of emotion in abductive inference. His view is that we evaluate the relative plausibility of competing explanatory hypotheses by gauging the feeling of happiness that comes over us when we consider each hypothesis, which can be a reliable indicator of multiple constraint-satisfaction by neural networks in our brains, indicating the coherence of the hypothesis with what else we know and with the data to be explained (Thagard 2006, pp. 254-256). And Thagard also points out that the feelings that we have in reaction to the explanatory hypotheses can be subject to "emotional skewers," to factors that cause emotional reactions when they are not warranted (such as the desire to come up with a novel theory and acquire fame, for instance).

The analogue of Thagard's view in the context of this paper is that emotional reactions to premises and their alleged support for their conclusions often serve as indicators of when to accept or to challenge arguments. Where there is a feeling of dissatisfaction, we will be inclined to challenge the argument, and we will try to think of reasons why the argument is unsatisfactory; when there is a feeling of satisfaction (or perhaps a mere absence of dissatisfaction), we will not—and identity-prejudice can act as an emotional skewer that we must be on guard against. It is important to bear in mind that emotional reactions can often persist in the face of reasons not to trust them—I am still afraid of flying despite the fact that I know that air travel is safer than travelling by car, for example. For this reason, it is especially important to be on guard against our false prejudices and the emotional reactions that they promote.

3. INDIRECT AFFIRMATIVE-ACTION

The first thing to do is to attempt to identify the identity prejudices that we have. If we are going to be able to deal with them, first we have to know what they are. I know of no systematic way to go about the task of identifying our prejudices, though, so I can only offer some suggestions about how to go about it in a piecemeal fashion. Formal education, of course, is a good way to learn about our false prejudices (e.g., the group re-training programs described in Allport (1954, pp. 491-493), which can help us both identify our prejudices and begin to correct them). Having conversations with people who are either more or less strongly prejudiced than we are can also help: noticing the prejudicial (or non-prejudicial) outlook of others can draw attention to our own prejudices. Another good way to discover our prejudices is by interacting with people about whom we are prejudiced and finding that they do not behave as we had expected. None of these suggestions is guaranteed to work, of course, especially if we are not already on guard against our prejudices, so the most important thing in this regard is that we be on the lookout for our prejudices.

Once aware of our prejudices, the task is then to deal with them; simply knowing that we have certain prejudices is not enough to counteract them. The solution I am proposing is to implement an indirect kind of affirmative-action policy. When I began thinking about the problem of argumentative injustice, the solution I had in mind was a more direct policy of attaching "bonus points" in the evaluation of arguments put forward by individuals against whom we have negative identity-prejudices, in the same way that hiring committees at some institutions add bonus points in the consideration of applications for jobs from members of disadvantaged social groups. But there are two reasons why this direct strategy cannot work. For one thing, it relies on a conception of argumentative injustice as always involving a credibility *deficit*: adding "bonus points" in

the evaluation of an argument only makes sense when we have unjustly *reduced* the credibility that we place in an argument. Argumentative injustice is broader than that, though, as it encompasses credibility excesses as well. Now, we might modify the policy, so that when arguing with people against whom we have a negative identity prejudice, we would add points to our evaluation of their arguments, and when arguing with people in favour of whom we have a positive identity prejudice, we would subtract.

But even this modified policy is not a good solution. The notion of adding and subtracting points in the evaluation of the goodness of an argument rests on an implausible view of how we actually engage with arguments. I am not aware of any theory of argument appraisal involving the adding and subtracting of points in order to determine whether an argument is a good one. Not only is the notion of quantifying reasons in that way conceptually awkward, but that kind of method can only work when we want to gauge the *comparative* goodness of arguments, not the goodness of arguments taken by themselves. At best, the “bonus-points” type of policy will be a kind of metaphor for how to deal with argumentative injustice.

A better solution, I think, is to implement what I am calling an indirect affirmative-action policy. It is indirect in that it employs neither a points-based rule nor a quota to be filled, and in that it applies to cases of credibility excess as well as to cases of credibility deficit. I use the term “affirmative-action” to give the basic flavour of the solution: it is a policy that is aimed at levelling out credibility deficits and excesses, and aims to establish argumentative justice.

The picture of argumentation that I am working with, as I indicated above, is that our real-time engagement with arguments relies in part on our emotional responses. By and large, that emotional aspect of how we engage with arguments is a useful heuristic tool, so that we do not have to search for reasons for and against every claim that is made in order to determine whether they are reasonable to believe or not. In the ordinary case, when a negative emotional reaction comes up, that is a reason (readily defeasible, of course) not to accept some part of the argument. But when we are engaged in arguments with people against or in favour of whom we have a prejudice, that heuristic can easily malfunction, and those emotional reactions can be misleading. Given that view of how we engage in argumentation, the policy I am advocating is the following:

1. *In cases of negative identity-prejudice:* when we have a negative emotional response, we ought not to trust it, but rather to search for reasons against the aspect of the argument that has raised our suspicions. If we can find such reasons, then we have grounds to challenge the argument. If we can find no such reasons, then we ought to accept the argument, despite the emotional reaction.
2. *In cases of positive identity prejudice:* when we have a positive emotional response, again, we ought not to trust it, but rather to search for reasons in favour of the aspect of the argument that we found satisfying. If we can find such reasons, then the argument may be accepted. If we can find no such reasons, then we ought to require further reasons in support.

In other words, the first part of this policy is, when we have an identity-prejudice against an arguer, to place the burden of proof on *us* if we should want to challenge some move in the argument: we have to come up with good reasons to *doubt* what an arguer says,

rather than requiring that the arguer come up with good reasons in *support* of what he has said. The second part of the policy is to keep the burden of proof firmly on the arguer, when we have an identity-prejudice in his favour, and to demand reasons in support of the aspects of the argument for which we cannot find good reasons on our own. So, in effect, when there is an identity prejudice present, the policy reverses the normal course that we would pursue when we have an emotional reaction to an argument. And if that means that our real-time interaction with arguments in such cases is significantly slowed, I think that that is a reasonable price to pay for keeping us from committing argumentative injustices.

4. ARGUMENTATIVE INJUSTICE AND MANIFEST RATIONALITY

The way that I have framed the problem of argumentative injustice, as a distortion of the correct functioning of emotional responses as indicators of when to accept or reject claims or premise-conclusion links in arguments, it seems to me that most current theories of argumentation can take it into account without much difficulty. Since I characterize the kind of failure that occurs in argumentative injustice as that of a tool failing to perform the function that it has in the service of our rational engagement with arguments, though, it seems to fit most naturally with a theory of argument such as Johnson (2000)'s, where argumentation is characterized as an exercise in manifest rationality. Johnson views arguments as intellectual products, put forward by arguers in order to rationally persuade an audience (2000, p. 24). Arguments, on this view, are essentially social and dynamic in character, so that there is always an Other, a critic, whom the arguer is trying to persuade, and whose criticism is sought and responded to, in order to make a more rational product, and to increase the likelihood of arriving at a true conclusion (Johnson 2000, pp. 156-157). The distinguishing characteristic of argumentation, on this view, is that it is manifestly rational: it must be a rational product, and it must also appear to be rational, both to the participants in the exchange and to those interested in the issue (Johnson 2000, p. 144).

In a case of argumentative injustice, what is happening is that the rationality of the enterprise is undermined: the force of reasons is no longer determining the outcome. The view that I put forward above, that emotional reactions to arguments are useful heuristics that help us identify when an argument is acceptable, is consistent with a view of arguments as thoroughly rational products; emotional reactions are useful tools that help arguments get off the ground. Rationality requires that some elements in an argument go undefended, or else we are off on an infinite regress of supporting reasons, and no argument could ever succeed; emotional reactions can help us to identify when undefended elements in arguments can be accepted, and when further supporting reasons are required, without loss of rationality. But when there are identity prejudices at work, they can throw off the emotional reaction that we have to a given argument. The policy that I advocate is, in such cases, not to trust the emotional reaction, but to search for reasons in support or denial of the elements of the argument that generated the reaction. The intended effect of that policy is to undercut the distorting effect of the prejudice, and bring the argumentative exchange back toward rationality.

Now, I expect that, despite my best efforts to cast the emotional reaction to arguments as a useful tool that we employ in the service of the rational evaluation of arguments, the objection that an emotional reaction just is not a rational thing will suggest itself. Emotions are not reliable trackers of truth, the objection goes, so emotional

reactions in a truth-oriented enterprise are bound to be suspect. By way of response, let me pick up on a remark in Johnson and Blair (2006, pp. 190-191): reasons and emotions often work together, and emotional reactions are often rational. It is rational, they point out, if you are walking down a street and hear gunshots, to feel fear. That feeling of fear puts you on edge and readies you to respond, perhaps by fleeing. So, even if emotions are sometimes *imperfect* trackers of truth, that is a far cry from holding that emotions are *irrational*. And, given that the series of supporting reasons for claims made in arguments must come to an end somewhere, it seems reasonable to ground that series in our emotional reactions, which can then serve as defeasible indicators of the acceptability of claims.

Two final points: first, I want to be clear that I am not trying to introduce the kind of psychologism that Peirce (1998) complains so forcefully about, where the validity of arguments is reduced to the feeling of logicity that we have when we see a good inference. My claim is only that emotional reactions are defeasible *indicators* of the rationality of aspects of arguments, not that the rationality of the arguments *reduces* to those emotional reactions.

Second, I also want to head off the objection that I am only giving a new cloak to the old, garden-variety fallacy of *ad hominem*. I admit that argumentative injustice and the *ad hominem* share some characteristics (especially the variety of *ad hominem* known as “poisoning the well”), but there is a crucial difference. An *ad hominem* attack occurs as *part* of an arguer’s case in support of a conclusion (usually, the conclusion that someone ought not to be followed, taken seriously, etc.), but argumentative injustice is a distortion in the way that people *engage* with arguments. For that reason, I do not think that it can appropriately be called a fallacy at all (except, perhaps, on the broad construal of fallacies as violations of the rules governing critical discussions, in van Eemeren and Grootendorst (2004, p.175), although their discussion rules refer to moves that may be made in a discussion, whereas, again, argumentative injustice occurs at a more basic level than that of moves explicitly made).

5. CONCLUSION

Argumentative injustice is a real problem, I take it, and to my knowledge, it has not been treated yet in the literature. What I have tried to do in this paper is to work out an account of its nature, and to develop a policy to help sincere arguers to deal with it. I have also tried to show that, although the treatment of argumentative injustice that I have given here might be accommodated in any number of theories of argumentation, it fits most naturally in the framework of argumentation characterized as an exercise in manifest rationality. Argumentative injustice undermines the rational orientation of an argumentative exchange, since it is the result of a prejudice that tampers with our emotional reactions, which are ordinarily indicators of what is rational to accept and what to reject or question. The policy that I put forward is intended to restore the rationality of the exchange by ensuring that we do not trust our emotional reactions in cases where there is a credibility prejudice.

[Link to commentary](#)

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