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# Commentary on Kauffeld

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**In Response To:** Fred Kauffeld's *<u>Dialectical tier argumentation as structured by proposing and advising</u>*

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## 1. Background

In this paper Kauffeld is looking at the issue of the arguer's dialectical obligations, with reference to the challenges posed by Govier (1998b), these challenges being directed against my views about the dialectical tier (1996). *In nuce* I claim that arguments must have a dialectical tier in which the arguer discharges her dialectical obligations, such as answering objections and showing how her position is an improvement on alternatives. Govier argues that this position is vulnerable to two serious objections: The Discrimination Problem (is it possible to specify in any meaningful way the arguer's dialectical obligations) and The Regress Problem (If every argument must have a dialectical tier, then it looks like we are involved in an infinite (unhappy) regress.

In his paper, Kauffeld brings the resources of rhetoric to bear on these problems. Specifically, Kauffeld explores the possibility of assistance from Whately's approach to argument (Section #3). He also uses the resources of speech act theory (which he describes as broadly Gricean in character) to investigate parallel cases where the matter of dialectical obligations arises-- the case of proposing and the case of advising, In both cases his analysis is anchored by examination of concrete examples. For his analysis of proposing he turns to The Federalist Papers (written by Hamilton, Madison and Jay under the pseudonym of Publius and published in 1787-88); for his analysis of advising, he turns to Washington's Farewell Address. I will not be able to do justice to the breadth and depth of Kauffeld's work in this brief comment. I have some reservations about his proposals, insofar as I understand them, (and I am not sure that I do). So I will focus on those aspects of his paper that strike me as having that right combination of being both evocative yet somewhat problematic.

In particular, as I thought about his paper, I found myself gravitating toward the notion *a prima facie case*, or an apparently adequate case. I also want to flag are some of the helpful ideas that emerge from Kauffeld's analysis of proposing. Finally I want to discuss one of the concerns he raises in the last of is four concluding observations.

## 2. Can the Whatelian Approach Help Save the Dialectical Tier?

Drawing upon Whately's mode of analysis, Kauffeld explores the possibility that we may solve The Regress Problem by drawing upon the notions of presumption, burden of proof and *prima facie case*, or apparently adequate case. (I shall use the latter phrase and abbreviate it AAC.) He writes:

According to Whately and his students, in context of disagreement, it is often possible to discern presumptions which serve to provide advocates on one side or the other with good practical reason to accept the obligation to substantiate their position by providing reasons in support of their claims and by answering doubts.

[Whatelians] hold that the parties with the burden of proof have the obligation to provide an *apparently adequate case*, when that limit is reached the burden of proof then shifts to those who occupy opposite positions and/or want to continue to raise doubts and objections.

If Whatelians could give a satisfactory account of a prima- facie case, we would have a conception of argumentative adequacy at the dialectical tier which place a limit on the arguer's dialectical obligations and, so, provides a conceptual basis for limiting Govier's regress.

The crucial question thus becomes: Can we make sense of the notion of an AAC? If we can, will it help us to understand the arguer's dialectical obligations and to avoid The Regress Problem posed by Govier?

*Question 1: Can we make sense of this notion?*

On this question, Kauffeld himself seems somewhat ambivalent. On the one hand, he discusses traditional rhetorical accounts of AAC and, following Scott, rejects them. On the other hand, in his discussion of *proposing,* he continues to make use of it:

The qualification here is that by establishing a prima-facie case, the proposer is in a strong position to call for termination of the deliberation; the prospect of a proposer occupying that position is not to be taken lightly in practical or theoretical terms. However, the larger answer to Govier's regress does not depend on whether the proposer's prima facie case brings the argument to a conclusion, but whether the criteria for such a case provide a principled (non-ad hoc) basis for claiming that the proposer has fulfilled her dialectical obligations. I hope it is now clear that this is the case.

Since Kauffeld has not provided an analysis of an AAC, and since this strikes me as a promising tool for analysis, I plan see what sense can be made of this notion--given what Kauffeld has said.

First, an AAC will be weaker than what Govier calls a Good Case, and weaker still than what she calls an Exhaustive Case.

*Comment*: Such an approach falls in line with what I have elsewhere (1996) called The Continuum Hypothesis; i.e., the position that our theory of argument evaluation must allow for verdicts on the merits of argument that range from very strong--say Govier's "Exhaustive"--down through less strong verdicts such as "Good" and, here, Apparently Adequate. Our theory of evaluation must be such as to support and allow such gradations.

Second, the rhetorical literature presents at least two ways of understanding this notion of AAC. One is that a case is AAC when it "stands on its own and demands rebuttal". Kauffeld does not say much about this and, I must confess, it does not seem promising. The other attempt is the notion that a case is an AAC "when it is complete and consistent." Kauffeld shares Scott's scepticism about the adequacy of either of these glosses, stating that they are "scarcely adequate and probably circular." Neither of these strikes me as likely to pay dividends in analyzing the idea of an AAC, though in his discussion of these, Kauffeld does bring to the table some potentially useful ideas.

I'd like to highlight them here. The first is the idea of *stock issues* (from Whately), a notion which is functionally equivalent to what Govier terms "the most salient objections." I will be saying more about this attempt to limit the arguer's responsibilities in my paper on Saturday. The second interesting

notion is that of completeness in an argument, which according to Scott has three components: the overall structure (the case), the primary unit of structure (the contention) and the material of the structure (the evidence). Kauffeld takes this analysis as parallel to the distinction the illative core and the dialectical tier.

If these approaches won't work, what else might we try? How might we make sense of an AAC? I can think of two ways we might attempt to unpack this, neither of which seems likely to work.

The first approach might be to water down Govier's requirement for a Good Case, just as in arriving at her notion of what counts as a Good Case, she watered down the requirements she set forth for an Exhaustive Case. For reasons I will make clear in a moment, I don't think this approach will work. (Though not germane to this discussion, I want to say that I am not at all sure that the way to define a Good Case is by first defining an Exhaustive Case and then weakening it.)

Another approach would be to adopt requirements of relevance, sufficiency, and acceptability (Johnson and Blair, 1993), construing them as criteria that allow for various degrees of satisfaction. Then one could define an AAC as one in which the criteria of have been satisfied to some minimal degree. (This would not be the whole story of course.)

There are, I am sure, other ways to approach the matter, but if my suggestion that an argument is not complete without something like a dialectical tier, we are unlikely to be able to get the help we want from AAC. For either an AAC has a dialectical tier, or it does not. If it does, then the notion of an AAC will give rise to the very problem is supposed to solve. For now we will have to ask the same questions that lead Govier to the Discrimination Problem and The Regress Problem: Which objections must the arguer deal with to make an AAC? How we avoid the exfoliation of supplementary arguments for the AAC? On the other hand, if the AAC does not contain a dialectical tier, then it is difficult to see how the case can be "apparently" acceptable. Can a case be apparently acceptable if it does not deal with any of the objections that are

known to exist? (This may be the way out.)

*Question 2: Supposing that we can make sense of an AAC (without running into the difficulties mentioned above), would it allow us to solve The Regress Problem?*

Let me again quote Kauffeld:

By establishing an AAC, the proposer is in a strong position to call for termination of the deliberation.... However, the larger answer to Govier's regress does not depend on whether the proposer's *prima facie case* brings the argument to a conclusion but whether the criteria for such a case provide a principled (non-ad-hoc) basis for claiming the arguer has fulfilled her dialectical obligations.

I see how the notion of an AAC will help us clarify the problem of who has the burden of proof. If the arguer has put forward an AAC, then the burden of proof is shifted to the respondent. But how exactly does the establishment of this avoid the regress?

Finally, shifting to *The Discrimination Problem,* what are we looking for here? Kauffeld states that the issue is whether the criteria provide a "principled (non-ad-hoc) basis for claiming that the arguer has fulfilled her dialectical obligations". What do we know about such criteria? According to Kauffeld, if I am reading him correctly, such criteria must be non-ad-hoc, principled, pragmatic, contextual and prudential. These adjectives collect nicely around the Whatelian intuitions presented at the beginning:

Whatelians hold this obligation ... is distributed relative to the presumptions which govern the dialogue.

...as this is a matter of prudence, we should expect that would be various and flexible criteria for what objections merit consideration and that those criteria should apply depending on the circumstances.

... the larger answer to Govier's regress does not depend on whether the proposer's prima facie case brings the argument to a conclusion, but whether the criteria for such a case provide a principled (non-ad hoc) basis for claiming that the proposer has fulfilled her dialectical obligations.

I sense a tension here between the view which says that the arguer's dialectical obligations are a matter of context and circumstance; and the desire for non-ad-hoc, principled criteria. This tension is also reflected in the contrast between process-oriented approaches and product-oriented approaches which Kauffeld has discussed, as well as in the contrast between approaches which focus on production of arguments vs. those which focus on the evaluation of arguments; and perhaps as well in the historical tension between rhetoric and logic. Kauffeld writes:

Johnson derives the obligation to answer doubts, objections and opposing positions from the uniform or paradigmatic requirements of the practice of argument... Whatelians derive it from the social context in which the argument is set.

There is of course no "either-or" here, and no need to choose between them. We may view argument as both process and product, study it both in the setting of its production and also its evaluation, from both rhetorical and logical points of view.

These are healthy tensions.

For those philosophers and logicians who are sometimes skeptical of the rhetorical approach, I recommend a careful reading of Kauffeld's nuanced analyses of proposing and advising

where he reminds us of the proposer's "larger duty to make prudent use of her addressee's time and energy", and his discussion of the Federalist Papers to illustrate "the grounds on which objections may fail to merit consideration".

## 3. Kauffeld's Concluding Observations

Kauffeld concludes with four observations only the last one of which can I comment on here. I am concerned about his intimation that my approach (based on the view that argumentation is an instrument for rational persuasion) might lead to "a reductive view of good practice in argumentation which leads us to underestimation of the usefulness of reason in human affairs".

Were I convinced that my view of argument did lead to an "underestimation of the usefulness of reason in human affairs," then that would be a very strong objection against it. However, I think that just the opposite is true. That the traditional view (which contains, I would argue) an undervaluation of argument as an instrument of rational persuasion) has led to a general decline of the belief in the power and usefulness of reason in human affairs, and that many factors have as it were conspired to bring this about, among them the following:

the emergence of other methods of persuasion (advertising, polling and sampling, negotiation, conflict resolution, etc.); the erosion of argumentation in philosophy, in which both postmodern and analytic philosophy are implicated; and their views of argument are cental here. Postmodernism because of the tendency to distrust argumentation and logic as simply part of the oppression and hegemonic maneuvering of dead white males to maintain power; the analytic strand because of its continuing infatuation with formal deductive models of argument and their tendency to confuse argument, implication and inference. (For further see my 1999.)

In my view, these factors have together with others in the lifeworld (TV) have led to a decline in the fortunes of practice of argumentation. My judgement is that

the best hope for revitalizing it is not to loosen but rather tighten the reins.

Thus for example I have concerns when Kauffeld uses the following exchange as an example of "an argument which preclude(s) the dialectical possibility of further doubts and objections":

A: Please, give me my car keys.

B: I don't have your keys.

A: I don't believe you; you had them last.

B: They're in your pocket.

To be sure, his exchange bears some resemblance to an argument, but it is located at the far side of the spectrum--a long way from the centre where I locate the paradigmatic sense of argument. But that is a discussion for another time.

To conclude, Kauffeld's paper provides ample illustration of the point I make at the end of my paper, which is that progress on this important issue of how we understand the arguer's dialectical obligations requires the joint efforts of researchers from many disciplines. His paper makes abundantly clear the riches that the rhetorical tradition has to offer.

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