

University of Windsor Scholarship at UWindsor

OSSA Conference Archive

OSSA 9

May 18th, 9:00 AM - May 21st, 5:00 PM

Tu quoque arguments, subjunctive inconsistency, and questions of relevance

Colin Anderson
Hiram College

Scott F. Aikin
Vanderbilt University

John Casey
Northeastern Illinois University

Christoph Lumer

Follow this and additional works at: <http://scholar.uwindsor.ca/ossaarchive>

 Part of the [Philosophy Commons](#)

Anderson, Colin; Aikin, Scott F.; Casey, John; and Lumer, Christoph, "Tu quoque arguments, subjunctive inconsistency, and questions of relevance" (2011). *OSSA Conference Archive*. 74.

<http://scholar.uwindsor.ca/ossaarchive/OSSA9/papersandcommentaries/74>

This Paper is brought to you for free and open access by the Faculty of Arts, Humanities and Social Sciences 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.

Tu quoque arguments, subjunctive inconsistency, and questions of relevance

COLIN ANDERSON

*Department of Philosophy
Hiram College
P.O. Box 67
Hiram, Ohio 44234
USA
andersonca@hiram.edu*

SCOTT F. AIKIN

*Department of Philosophy
Vanderbilt University
Nashville, TN 37240
USA
scott.f.aikin@vanderbilt.edu*

JOHN CASEY

*Department of Philosophy
Northeastern Illinois University
5500 North St. Louis Ave.
Chicago, IL 60625-4699
USA
J-Casey1@neiu.edu*

ABSTRACT: *Tu quoque* arguments regard inconsistencies in some speaker's performance. Most *tu quoque* arguments depend on actual inconsistencies. However, there are forms of *tu quoque* arguments that key, instead, on the conflicts a speaker would have, were some crucial contingent fact different. These, we call subjunctive *tu quoque* arguments. Finally, there are cases wherein the counterfactual inconsistencies of a speaker are relevant to the issue.

KEYWORDS: Circumstantial *Ad Hominem*, Relevance, *Tu Quoque* Arguments

1. INTRODUCTION

The objects of *tu quoque* arguments are speaker inconsistencies. Such inconsistencies are manifested in two ways: inconsistencies between commitments (cognitive inconsistency) and inconsistencies between proposals and deeds (practical inconsistency). The basic schemata for *tu quoque* arguments, then, are:

- Cognitive:*
1. Speaker S asserts that *p*.
 2. S also asserts *not-p* (or some *q* inconsistent with *p*).
 3. *Therefore*, S is unreliable and/or *p* is not acceptable.
- Practical:*
1. Speaker S proposes action *a*.
 2. S fails to *a*.
 3. *Therefore*, S is unreliable and/or *a* is not acceptable.

Our interest is in further variation in the second premise of the two argument schemata. In standard cognitive and practical *tu quoque* arguments, the speech acts and the actions are past or present actualities. And so, S really must have said not-*p* (or *q*), and S must really have failed to *a*. However, there are forms of *tu quoque* arguments that key on the conflicts a speaker *would have*, were some crucial contingent fact different, rather than on the speaker's *actual* inconsistencies. In essence, they are arguments which run that *were conditions different, speaker S would believe or act differently, and this difference is relevant to the support for S's commitments*. As such, there is a close connection between these forms of subjunctive inconsistency and *ad hominem* circumstantial arguments. However, because the *inconsistency* between two actions is the main argumentative feature of these arguments, we will consider them primarily *tu quoque* in form. However, their circumstantiality is a key to their evaluation for relevance.

Following Govier (1999) and Aikin (2008), we will assume that though *tu quoque* arguments widely inherit the relevance failures of their *ad hominem* family, there are specifiable conditions for forms of speaker inconsistency to be relevant to an issue. For example, hypocrisy can be evidence of ignorance or incompetence, and thereby relevant to speaker reliability. Hypocrisy can be evidence that some proposal is too difficult to perform, and, as a consequence, is relevant to the proposal's acceptability. Finally, *tu quoque* arguments can reveal double standards for judgment. Our focus here will be on this final feature, that of maintaining consistency and quality of standards for judgment.

Our plan is as follows: We will first outline the subjunctive frame for *tu quoque* arguments. We will focus on fallacious versions to highlight the form. We will then provide *non-fallacious versions* of subjunctive *tu quoque* arguments.

2. SUBJUNCTIVE *TU QUOQUE* AS FALLACY FORM

The basic form of subjunctive *tu quoque* arguments is captured by two colloquialisms. First, a cognitive version: "If you were in that situation, you'd be singing a different tune." Second, a practical version: "If you were in his/her place, you'd do the exact same thing." These colloquialisms are criticisms of some view (that *p*) or action (*a*), and these criticisms call attention to the contingencies that allow a critic to espouse a harsh judgment of what was done or said. The critic, it is proposed, occupies a position that has distorted her capacity to judge the situation properly. Were things different (and the current position changed), the critic's judgment would be different, too. This, again, is a point where there is significant overlap between these forms of *tu quoque* and circumstantial *ad hominem*. Our objective here, first, is to clarify the structure of these arguments, and second, to articulate some criteria of relevance for these counterfactuals. Let us begin with considerations of some irrelevant subjunctive inconsistencies.

2.1 Capital Punishment

The political and moral legitimacy of capital punishment is a widely debated subject in the United States. Those opposing capital punishment hold there is no rehabilitative value to the death penalty, there is no evidence for deterrence, and even if a person did deserve death, it is inappropriate for anyone to enact it. In response, the following rejoinder is offered:

Capital Punishment: You are against capital punishment *now*, but what if your child were taken, beaten, sexually abused, and then murdered? Ten to one, you'd change your tune.

The argument is that were critics of capital punishment to experience the grief and horror consequent of some crimes, their retributive inclinations would be sparked. They would see the value in giving others the full measure of retribution. Schematized:

P1: Under conditions Φ , S says *a* is wrong.

P2: Under conditions Ψ , S would say *a* is right.

Of course, in the argument here, there's no stated conclusion. But as functioning in defense of the death penalty, it has suppressed commitments:

P3: Conditions Ψ are the appropriate conditions to make a judgment regarding *a*,
and conditions Φ are inappropriate conditions.

C: *Therefore*, *a* is right.

The problem is that P3 is false with the capital punishment case. Conditions Ψ are conditions of being a victim (at least an *indirect* victim) of a crime, but it is clear that such a perspective yields distortions that run afoul of the requirements of retributive proportionality. Victims maximize assessments of their suffering and perpetrators minimize the suffering they cause, and so if a victim is then placed in the position of determining a proportionate punishment for a perpetrator, there will be a *magnitude gap* between the harms (See Baumeister 1999: 160, and Mandel 2002: 186). Consequently, that the opponent of the death penalty would burn with murderous revenge under those conditions is irrelevant to the question of what the proper punishment is.

2.2 *Jus in bello*

Let us consider a further case of subjunctive inconsistency that is not *second* but *third* personally addressed (and so, as Aikin (2008: 161) notes, should be *is* or *ea quoque* instead of *tu*). Imagine a war crimes trial wherein a general is accused of indiscriminate use of force. Many non-combatants died, and the opposing force had not been using them as human shields. Yet the general had ordered the areas firebombed. At the hearing, the general may concede that she is bound by the rules of warfare and she broke them; however she poses the following counterfactual:

Jus in bello: I ask you: in all honesty, do you believe that if Country X's military were in a similar situation, with our heavily defended military positions, but our civilian centers open to attack... would the X military have shown restraint? Would *they* have inflicted those casualties? Of course they would have!

The first problem with the argument is that even if X's *military* were to actually do the same thing under those circumstances, it does not mean that X's *civilians* deserve this. Second, the argument runs afoul of another *jus in bello* prohibition against disproportionate reprisal (even counterfactual reprisals).

Regardless of how the argument fails other standards, in this case, the counterfactual posed is not about the contingency of the position of those who *judge* whether an action is wrong (as opposed to *capital punishment* from earlier), but on the contingency of those who are *perpetrators* and *victims*. Were things different, *the victims would have willingly been perpetrators*. Schematized:

P1: Under conditions Φ , A performs *a* (which harms B).

P2: Under conditions Φ , B *would* perform *a* (which *would* harm A).

Again, the conclusions as well as relevant moral premises are suppressed, but as a defense of A, they must be:

P3: If any S would do *a* under conditions Φ , then S does not have a moral claim against any who *a* under Φ .

C: *Therefore*, B has no moral claim against A.

In this case, what a subject would do in the circumstances of the case under scrutiny is taken as definitive of the moral situation with regard to *a*. C is supposed to follow as a consequence. If one, oneself, *would* perform *a* in Φ , then one cannot criticize others who *have* done so, because one would have *endorsed* that action. Here, of course, is where P3 is false, as there is a difference what one would likely do under Φ and actions one endorses done under Φ .

3. SUBJUNCTIVE CIRCUMSTANCES AND RELEVANCE

We have shown, so far, how subjunctive inconsistencies can fail relevancy tests. They generally fail because they falsely take the circumstances of an action as special or they take the circumstances of criticism as a deficient perspective on the issue (or both). Further, they take it that what a subject would do under those circumstances either (a) reveals their real views (and thereby make the case one of duplicity) or (b) reveals that they actually condone the action in question. This, we hold, explains the failures of relevance, and hence why they are fallacious. However, it seems clear that there are cases where it is true that the circumstances of criticism are distortions, that the circumstances of action are extenuating, and, hence are relevant to judgment. These arguments demonstrate unjust double standards by showing systematic distortions of judgment, or evidence significant failures of empathy.

3.1 Dirty Football

The ethic of dirty play has received a good deal of scrutiny in American Football, and the Tennessee Titans have been the focus of a number of discussions. When Tennessee fans come to their team's defense, they are met with the following sort of argument:

Dirty Football: You say the Tennessee Titans are being unfairly portrayed by the media for playing dirty. But you wouldn't say that if you weren't a Titans fan. Then you'd see what a bunch of cheap-shot artists they really are.

Team-affiliation influences how one perceives a game, and one will likely inflate infractions by other teams and minimize those by one's own. For example, Hastorf and Cantril's (1954) polled Dartmouth and Princeton football fans after a game, and each side interpreted the same game in ways that put their own team in the best light and the other team in the worst. The argument has the form:

P1: Under conditions Φ , S says *not-p*.

P2: Under conditions Ψ , S would say p .

P3: Conditions Ψ are the appropriate conditions to make a judgment regarding p , and conditions Φ are inappropriate conditions.

C: *Therefore*, either p is true or at least S is not justified in holding that *not-p*.

In this case, as opposed to *capital punishment*, earlier, P3 is true. And as a consequence, the counterfactual posed in P2 is relevant, and so S 's subjunctive inconsistencies are relevant considerations. Again, we see that circumstance matters, and there is a good deal of overlap between forms of subjunctive *tu quoque* and non-fallacious *ad hominem* circumstantial arguments.

3.2 Traditional Marriage

In the United States, some who oppose marriage rights for homosexuals do so on the basis of defending 'traditional marriage,' yet they have had (many) divorces. This yields the following *tu quoque* counterfactual:

Traditional Marriage: Conservative pundits Rush Limbaugh and Newt Gingrich have been married and divorced several times each. They are also against gay marriage on the grounds that "traditional marriage" must be preserved. However, if traditional norms of marriage were preserved equally and consistently, divorces would be very hard, if not impossible, to get. If that were the case, they would have had to stay with their first wives. And if that were the case, the movement to have "traditional marriage" principles govern secular law would die a quick death.

Again, the argument proceeds from the variance of actions based on counterfactual consequences.

- P1: Under obtaining conditions Φ , A proposes a . (In our case: a = defends traditional marriage)
P2: Under counterfactual conditions Ψ , A would not a .

Again, the conclusions as well as a relevant moral premise are suppressed, but as a case against opposition to gay marriage, the rest of the case must be:

- P3: The only moral difference between Φ and Ψ is that A suffers from a not being performed. This is not a morally significant difference.
C1: *Therefore*, A uses a double standard to justify a .
C2: *Therefore*, proposing a (at least from A) is unjustified.

The defender of traditional marriage has inconsistently applied the requirements, and this difference in standards is revealed by what he would say under a more rigorously consistent application of the rule. This shows that A's criterion is not being appropriately applied, or that A's stated criterion (traditional marriage) is not the one that is actually motivating A's commitments. On A's stated criterion, divorce and gay marriage would be morally equivalent, but A would not abide the restrictions were the criterion consistently applied. So A must be using some other non-relevant feature to distinguish divorce from gay marriage. Importantly, we see that revealing the double-standard here requires that the speaker being criticized suffer some harm that would be the result of his stated policy preference. As a consequence, this hypocrisy reveals a failure of being able to appreciate the suffering of morally similar others.

3.3 Zero tolerance policies

Many political figures have advocated so called "zero tolerance" public school policies as a way to foster appropriate student behavior. On these policies, minor violations of the rules (truancy, tardiness, etc.) merit very severe penalties. Critics of such rules, however, hold that the advocates must have forgotten what it's like to be a teenager. Moreover, they point out that not only do teenagers today face different kinds of pressures from those of a few decades ago, schools where such policies exist are mainly in poverty and crime-stricken areas of the country.

Zero Tolerance Policies: If advocates of such harsh juvenile punishment had some appreciation for what these kids' lives are like (as kids or as kids under these economic and social circumstances), then they would undoubtedly soften their stance.

Empathy, or the ability to imagine oneself in someone else's shoes, is a paradigm case of the subjunctive *tu quoque*. In this case, in addition to considering the empirical case against the effectiveness of such draconian policies, as well as the consistency in insisting on them in some schools but not others, the objector in this example insists that tough-love pundit envision himself on the receiving end of his own punitive policies. And he would thereby see its problems.

- P1: Under conditions Φ , S endorses a (where a = severe punishment for small infraction)
P2: Under conditions Ψ , S would say a is unjust.
P3: Conditions Φ are the appropriate conditions to make a judgment regarding a , and conditions Ψ are inappropriate conditions.
C: Therefore, a is unjust.

Like *capital punishment* earlier, where the grief and horror of the victim distorted her sense of retributive proportionality, the distance of the pundit from the consequences of his proposed policies blinds him as to their appropriateness. He is, in other words, short on empathy because the conditions do not afford him knowledge of the details of the lives of the children under the rule. This is also not merely a matter of counterfactual consistency, as in *traditional marriage*, rather, it is a matter of taking into account all of the relevant moral factors. We see, further, that the counterfactual, like with *traditional marriage*, places the speaker criticized in the position of being on the receiving end of the consequences of his stated policies. Such a position changes the way that one assesses those policies, and that is a relevant consideration as to their justice.

4. CONCLUSION

In closing, we note a peculiarity of the subjunctive *tu quoque*. Like the *ad hominem*, the subjunctive *tu quoque* is deployed critically; unlike the *ad hominem* and other varieties of critical fallacies, it is often deployed specifically as a dialectical rejoinder, one designed to acknowledge the internal cogency of an opponent's argument, but to hold the case to the totality of the evidence and consideration on the issue. The criterion for appropriateness, then, is whether the counterfactual changes of circumstance distort or improve one's judgment on the issue (or are irrelevant). We have seen that some counterfactual scenarios are not relevant, but we have also seen that some, given the improvements of judgment that accord with the change of circumstance, are relevant.

ACKNOWLEDGEMENTS: The authors wish to thank Joan Forry, David Miguel Gray, Robert Talisse, and the commenters at *The NonSequitur* blog for helpful discussions.

REFERENCES

- Aikin, Scott (2008). *Tu Quoque* Arguments and the Significance of Hypocrisy. *Informal Logic* 28, 155-169.
Baumeister, Roy F. (1999). *Evil: Inside Human Violence and Cruelty*. New York: Barnes and Noble.
Govier, Trudy (1999). *The Philosophy of Argument*. Newport News, VA: Vale Press.
Hastorf, A., and Cantril, H. (1954). They saw a game: A case study. *Journal of Abnormal and Social Psychology* 49, 129-134.
Mandel, David R. (2002). Evil and the Instigation of Collective Violence. *Analyses of Social Issues and Public Policy* 2, 101-108.
Walton, Douglas (1998). *Ad Hominem Arguments*. Tuscaloosa and London: University of Alabama Press.

Subjunctive *tu quoque* arguments : Commentary on
“*TU QUOQUE* ARGUMENTS, SUBJUNCTIVE
INCONSISTENCY, AND QUESTIONS OF RELEVANCE”
by Colin Anderson, Scott Aikin and John Casey

CHRISTOPH LUMER

Department of Philosophy
University of Siena
Via Roma, 47
53100 Siena
Italy
lumer@unisi.it

1. THE TRADITIONAL PICTURE OF *TU QUOQUE* REPLIES: A LEGITIMATE
REQUEST FOR COHERENTISATION BUT NOT A GOOD ARGUMENT

In their paper “*Tu Quoque* Arguments, Subjunctive Inconsistency, and Questions of Relevance” (= AAC ¹) Colin Anderson, Scott F. Aikin and John Casey have made important proposals; in particular by introducing the concept of a subjunctive *tu quoque* argument they enrich our understanding of and our dealing with *tu quoque* arguments. In the following, I will discuss these proposals in detail. However, this first requires an explanation of what the problems of *tu quoque* arguments are.

The situation ϕ of a *tu quoque* is that someone, here called the “opponent”, has claimed that p , where p can be any thesis and in particular a thesis like ‘To do A is the best / right action to do’, which comes up to a practical proposal. The *tu quoque*, now, is some arguer’s reply to this claim p : that on another occasion, here called “ ψ ”, a reference person s has claimed something, q , incoherent with p or has acted in manner B , i.e. in contrast to A that the opponent is now proposing. This reference person s , is usually identical with the opponent; but in some cases s may also be a different person who is an authority for the opponent so that her claims and deeds can in some way also be ascribed to the opponent. However, in the following we can ignore this possible complication so that the reference person s and the opponent can be taken to be identical. (Some further specifications are: In case of a practical *tu quoque*, i.e. where the reference person s (in situation ψ) is acting against her own proposal to A , the action descriptions “ A ” or “ B ” used here, more precisely refer to *rules* of the kind ‘if condition F holds perform an action of type A ’. According to the structure of *tu quoque* replies, to do B in situation ψ , of course, excludes doing A under condition F , i.e. B implies not- A . q , what person s claimed the other time, implies not- p but it need not be identical to not- p .) In this commentary I will

¹ The present contribution is a comment on the paper: Colin Anderson; Scott F. Aikin; John Casey: *Tu Quoque* Arguments, Subjunctive Inconsistency, and Questions of Relevance. Presented at the O SSA Conference, 19-21 May 2011, University of Windsor. – This paper here will be referred to as: AAC. The number n in a reference “AAC: n ” refers to the n^{th} page of AAC (and not to page number n). – Five major examples are discussed in AAC. I have numbered them consecutively and will refer to them occasionally by these numbers: example 1 = Capital Punishment; example 2 = *Ius in bello*; example 3 = Dirty Football; example 4 = Traditional Marriage; example 5 = Zero Tolerance Policies.

always call the (first) thesis just held by the opponent or the proposal to do *A*, i.e. the thesis that it is right or optimum to do *A*, “*p*”—independently of how this thesis is called by Anderson, Aikin and Casey. And I will always call *s*’s dissenting claim, held on a different occasion: “*q*”; a dissenting action of *s* here will be called “*B*”—again independently of how our authors have called them. To sum up, the verbal exchange in the case of a *tu quoque* will be abbreviated as follows:

Tu quoque exchange:

Situation ϕ : opponent: ‘*p*’ (in particular: ‘*p*’ = ‘To do *A* is the best / right action to do’).

Tu quoque reply: arguer: ‘(In situation ψ) *s* claimed: ‘*q*’ / *s* did *B*.’.

(*p* is incompatible with *q*; doing *B* is incompatible with doing *A*; mostly: *s* = opponent.)

In any case, under a weak interpretation *Tu quoque* replies can be understood as a hint to some contradiction in the position of the opponent or of the reference person *s*. According to the rules of argumentative discourse, in a kind of Gricean implicature, such a contradiction note, entails a request to retract at least one of the contradicting claims or, in case of a practical *tu quoque*, to retract proposal *A* or, because the already executed action *B* cannot be retracted, i.e. undone, at least to explain it (coherentisation request). (Cf. Lumer 1988: 455 (C2); 458 (R1a); 460 f. (R8).)

This weak or minimalist interpretation, i.e. to interpret the *tu quoque* as a coherentisation request to retract at least one of the contradicting claims, is uncontroversial in the sense of not entailing steps which are difficult to justify. This is different with a stronger interpretation of *tu quoque* replies where these are taken—and often by the arguer also intended to be—*arguments* for a certain thesis, usually the thesis that not-*p*, i.e. that the claim currently held by the addressee is false, or that the currently proposed action *A* is inadequate. To repeat, I am making a distinction between the weak interpretation, which I call “*tu quoque objection*”, and the strong interpretation, which I call “*tu quoque argument*”, where the weak interpretation is fine and the strong interpretation problematic. The problem with this stronger interpretation of *tu quoque* replies as *arguments* is that such *tu quoque* arguments are fallacious for two reasons. First, the argument’s content, in particular the argument’s claim is unclear; usually, *tu quoque* replies only hint at the contradiction but they do not even formulate a thesis, and it is not clear what the thesis should be. At least one of two contradicting claims must be false, in our case *p* or *q* so that not-*p* or not-*q* would be true; but the fact that *p* and *q* contradict each other does not imply which of the two is false, and hence whether not-*p* or not-*q* is true and, thus, should be the arguer’s thesis. These are already two possibilities. If, however, *q* is not simply the negation of *p* there are essentially five possibilities for dealing with the contradiction: 1. to maintain not-*p* and leave open whether *q*, 2. to maintain not-*p* as well as *q*, 3. to maintain not-*q* and leave open whether *p*, 4. to maintain not-*q* as well as *p*, and 5. to maintain not-*p* and not-*q*. (To maintain only *q* and leave open whether *p* makes no sense because as a consequence of the contradiction *q* implies not-*p*. The analogue holds for *p* and leaving open whether *q*.) Each of these five possibilities might be the conclusion of the *tu quoque* argument. There may be further indicators making it quite clear which of the five possible claims the arguer would like to defend; but these indicators are not part of the *tu quoque* reply. Therefore, the *tu quoque* objection by itself does not imply which of these five propositions would be the thesis of the alleged *tu quoque* argument; hence an essential part of the argument would be missing. Second, and this is the

more serious problem, even if it is quite clear from the context which of the possible claims the arguer wants to defend, in particular that the thesis p , currently defended by the opponent or the reference subject s , is false (and perhaps that the previously defended thesis q is true) the *tu quoque* objection does not provide a sufficient reason for this claim. The fact that p and q contradict each other—and this (apart from the premises that the reference subject s under condition ϕ has claimed p and under condition ψ has claimed q) is the only substantial premise we have so far—this implies only that p is false or that q is false; but it does not imply which of the two or five possibilities listed above holds. Therefore, a *tu quoque* argument would always imply a *non sequitur*. To sum up, the *tu quoque* objection pragmatically implies a legitimate request for coherentisation, i.e. it is a correct moderate attack in an argumentative discourse, but it is not a good argument—though many people think that it is. At least this is the traditional picture of *tu quoque* objections as I have outlined it, in accord with many others, in my own account of fallacies. (Lumer 2000 : 413; 414 ; Lumer 1990, 448 f.)

2. ANDERSON'S, AIKIN'S & CASEY'S THEORY OF SUBJUNCTIVE *TU QUOQUE* ARGUMENTS—SOME MAJOR PROBLEMS

Now, Anderson, Aikin and Casey have added the possibility of a subjunctive *tu quoque* to this traditional picture (AAC: 2). And I think this is really an important extension of the theory of the *tu quoque*. In addition, they have developed and defended the hypothesis that apart from fallacious *tu quoque* arguments there are also good, non-fallacious (subjunctive) *tu quoque* arguments (AAC: 2) (the whole section 3 (AAC: 4-7) is dedicated to them), where their validity depends on the relevance of the counterfactual situation ψ of claiming or acting for making a judgement about q . This implies that they have—at least implicitly—tried to provide an answer to the two problems just analysed. Perhaps their subjunctive approach even resolves the first of the two problems just sketched for the following reason. In contrast to factual *tu quoque* arguments, where the arguer depends on what the reference subject s has actually said or done in her dissenting expression, in a subjunctive *tu quoque* argument the arguer can freely choose the situation ψ in which the reference subject would make the claim q , which the arguer takes to be relevant and strengthening his own case. Thereby he makes the reference subject into a kind of authority for his, the arguer's, own position. Now, as an answer to the lack of thesis problem, Anderson, Aikin and Casey insert tacit conclusions in all their examples, and these go in the direction just described (cf. examples 1, 3 and 5 (AAC: 3; 5; 6))—but not entirely: In their second example (*Ius in bello*) the arguer's alleged thesis is completely different (AAC: 4); but let us leave this aside for the moment, I will come back to it below. In their third example (Dirty Football) the alleged thesis is ' q , or s is not justified in holding p ' (AAC: 5), and in their fourth example (Traditional Marriage) it is only ' s is not justified in holding p ' (AAC: 6). Our authors do not motivate this inhomogeneity and I do not see much reason for it; so these variations may simply be inconsistencies in their exposition. And because the last thesis would be very weak, probably too weak to merit being called a "*tu quoque* argument"—which literally means "you too" said / did it and hence may be understood as an attempt to engage the opponent as a supporter of one's own thesis—, and because this weakening of the thesis does not resolve the *non sequitur* problem, I

suggest that we ignore these deviances for the moment and stick to the reading that the thesis of the *tu quoque* argument would be q .

In addition, Anderson, Aikin and Casey have proposed an approach on how to resolve the second problem, i.e. the *non sequitur* problem. Their idea is that there are epistemically appropriate and inappropriate conditions under which to make a certain judgement, where conditions are appropriate if they are informationally richer. As a consequence, we might explicate what they do not write explicitly: making the judgement under the appropriate conditions will result in a true judgement and making it under inappropriate conditions will result in a false judgement. Our authors hold that *tu quoque* arguments implicitly refer to such appropriate conditions; they have made this explicit by inserting a tacit premise P3: ‘Conditions ψ are the appropriate conditions to make a judgement regarding q , whereas conditions ϕ are not.’ (AAC: 3 (example 1); 5 (example 3); 6 (example 5).) Therefore, if the (real or possible) situation ψ of the dissenting claim q is really appropriate, i.e. if it is relevant for judging about q , hence if the inserted premise P3 is true in the respective case, then claim q should be true too and the *tu quoque* argument valid and sound. If, however, the situation ψ is inappropriate, namely irrelevant for judging correctly about q , then the inserted premise P3 is false in that case, hence the *tu quoque* argument is fallacious, and, as a consequence, the resulting claim q not necessarily but probably will be false too—the proposal of Anderson, Aikin and Casey says.

Let us consider the inserted premise P3: ‘Conditions ψ are the appropriate conditions to make a judgement regarding q , whereas conditions ϕ are not’—where the conditions ψ are conditions like: not being a fan of the football club under discussion (AAC: 5 (example 3)), or imagining oneself in the shoes of a person to be subjected to zero tolerance policies (AAC: 6 f. (example 5)). What does it mean that the conditions are “appropriate”? If the argument is to be valid appropriateness has to imply that *everyone* who judges about q in the situation ψ reliably and with certainty makes a true judgment. However, even if the situation ψ in fact is informationally richer than ϕ this cannot be so for various reasons. First, all our judgements are fallible, even the seemingly most simple; we are not 100% reliable automatons. Second, the specific claims taken as examples by Anderson, Aikin and Casey contain particularly complex moral and political propositions, for which not even the truth conditions are clear and even halfway generally accepted and hence the less their precise application can be expected. Third, for many moral criteria the influence of an object under consideration on the interested persons’ well-being has to be considered. The prospected well-being of other persons under various conditions, however, is notoriously hard to determine. To sum up, P3 with this strong interpretation is not true, hence the *tu quoque* argument is not sound.

Furthermore, to be in situation ψ is not only not a sufficient condition for judging correctly about q , it probably is not even a necessary condition but at best one which *facilitates* the judging on q ; in contrast to e.g. observational judgements, for which one has to be in an appropriate observer position, for moral and political claims as those under consideration there are hardly even any particularly distinguished conditions under which to make them. This amounts to a quite general question regarding a central presupposition of the Anderson, Aikin and Casey approach, i.e. whether there are epistemically favourable or even necessary situations for making certain types of judgements—apart from observational judgements with their associated observation situations and apart from the absence of generally disturbing conditions such as being under pressure, ex-

posed to noise etc. Even emotional involvement is particularly ambivalent for epistemological purposes: in the Capital Punishment and in the Dirty Football examples (examples 1 and 3) Anderson, Aikin and Casey take the emotional involvement to be an *obstacle* for making a considered judgement (AAC: 3; 5); in the Zero Tolerance Policies example (example 5), however, they *require* empathy as a necessary condition for making an informed judgement (AAC: 7). The truth seems to be that a considered moral judgement requires knowing about the feelings and well-being of *everybody* involved in the case to be judged. However, because this knowledge usually includes quite different perspectives it can be acquired only by and by and then, because the various perspectives have to be taken into account, weighted and aggregated according to moral principles to an overarching judgement in a calm and theoretic reflexion, there is probably no particular vantage situation in which to make the warranted right judgement. So a subjunctive *tu quoque* ‘In situation ψ you would hold q / do B ’ pragmatically and epistemically rationally should be more an invitation to reconsider a hasty judgement than an argument for a particular position. This implies that even the second part of P3, which says that the present situation ϕ is not appropriate for judging about q or p (‘not appropriate’ in the strong sense of excluding recognition of the truth) and which shall falsify the present claim p of subject s , is not true either.

One could try to weaken the interpretation of ‘appropriate condition’ a bit so that P3 becomes true; one could take it to mean e.g. ‘very favourable condition’. However, with this interpretation, premises P1 to P3 no longer imply conclusion C ; we have a *non sequitur*, an argument that is sound but not valid and hence again a fallacy. In the words of Anderson, Aikin & Casey and Govier or Johnson & Blair: With the weaker interpretation, P3, used in the right situation, is true and, yes, relevant (AAC: 5; 6; 7); however, according to Govier’s criteria, in a cogent argument the reasons have also to be good or sufficient (Govier <1985>, 2010: 69; Johnson & Blair <1977>, 2006: 55 ff.). And this condition is not fulfilled in this kind of *tu quoque* argument.

One could try to circumvent this verdict by reinterpreting the type of argument, taking it not to be a deductive but a plausibilist, e.g. a probabilistic argument. P3 should then be a relative frequency judgement, e.g.: P3f: ‘In situation ψ judgements about q (and p) are significantly and overwhelmingly more often true than in situation ϕ ’; and the conclusion would be: ‘ q is much more probable than p ’. Though, on the basis of the arguments given above, I doubt that there are many judgements of the kind analysed in Anderson’s, Aikin’s and Casey’s paper for which such relative frequency judgements can be established, there may be some. In order to reveal them, however, a detailed epistemological analysis of the claim in question would have to be undertaken. If the relative frequency premise P3f is true, such an argument is probabilistically valid and sound. However, this *tu quoque* argument has yet a different defect: it is not adequate for rationally convincing the addressee (Lumer 2011) because the new premise P3f will not be epistemically accessible to the addressee and hence will beg the question. The problem with P3f is that P3f is still harder to verify than the claim q itself because in order to verify it we first have to know whether (and with which truth conditions) q is true, to be able to determine whether a given person’s factual answer to the question ‘ q or not q ?’ is the right answer; in addition, we have to observe a sample of persons who make judgements about q etc. Even if the relative frequency judgement is not based on a real count of answers in a sample but on a plausible estimate of the difficulty of making the judgement in a given

situation, we need to know exactly how a subject has to proceed in making such a judgement correctly and what the results of the single steps in this investigation are—like a math teacher who, when putting together a class test, estimates the degree of difficulty of a possible test task. Hence even a justified estimate of the difficulties of premise P3f presupposes what shall be justified by its results, namely whether and for which reasons q is true. As a consequence, the probabilistically interpreted *tu quoque* too is not a good argument and is again fallacious.

The case of the relative frequency premise P3f brings out a further problem. By adding P3, Anderson, Aikin and Casey concede that *tu quoque* replies are at best enthymematic arguments. However, we cannot “tart up” every sequence of judgements to transform it into a good argument. There are limits to how much we can supplement sequences of judgements, which by themselves do not constitute a good argument, to obtain something, which is a good argument and still counts as the original author’s argument. If an alleged argument needs improvements beyond these limits it is not a good argument. The principles which shall guide the interpretation of arguments, in particular enthymematic arguments, include authenticity and immanence. *Authenticity* requires that premises added by the interpreter may only be judgements which the original author accepts. And *immanence* requires that missing parts of the argument have to be inferable from the given material; i.e. no substantial reasons may be added. (Lumer 2003, sect. 4.) However, the relative frequency premise P3f most likely does not fulfil either of these two requirements. And I have very strong doubts as to whether Anderson’s, Aikin’s and Casey’s original P3 fulfils these conditions; at least when previously analysing *tu quoque* replies this premise has not come to *my* mind. These doubts continue to increase for those premises P3 in their paper which do not have the prevalent form, namely premises P3 in their example 2 (*Ius in bello*) ‘if any s would do A under conditions ϕ , then s does not have a moral claim against any who A under ϕ ’ (AAC: 4) and example 4 (Traditional Marriage) ‘the only moral difference between ϕ and ψ is that s suffers from A not being performed. This is not a morally significant difference’ (AAC: 6). I would not even have dreamt of these rather particular premises. If, however, *tu quoque* replies do not fulfil the requirements of authenticity and immanence then they are not good arguments but at best ideas for such an argument.

All these considerations reinforce my original opinion, namely that *tu quoque* objections hint at incoherencies and thereby imply a request to the opponent to coherently her position by retracting at least one of her incoherent claims, however, they are not good arguments.

3. MINOR REMARKS

In the remaining part of this commentary I will provide some minor criticisms and offer some constructive suggestions.

The subjunctive premise P2: As emphasised at the beginning of this commentary, having enlarged the picture of *tu quoque* replies with subjunctive *tu quoque* is an important insight of Anderson’s, Aikin’s and Casey’s paper. One should, however, stress a particular danger of these *tu quoque* replies, namely that the premise P2, in which the counterfactual *tu quoque* is raised (‘under condition ψ the reference subject s would claim that q / or do B ’), is very risky. The addressee can deny it immediately; and being identi-

cal with the reference person s or at least nearer to s 's thoughts than the arguer, such a denial *prima facie* has more authority than the arguer's assertion of P2.

Is quoque arguments: Anderson, Aikin and Casey also introduce an example which they have called "*is quoque*" or "*ea quoque* argument" (example 2, *Ius in bello* (AAC: 3 f.)) and which they consider analogous to *tu quoque* arguments. I think, however, this analogy does not hold. The point in a *tu quoque* objection is that the opponent herself (or a different reference subject who is an authority for the opponent) has made the dissenting claim. Thus the subject s / the opponent herself, according to Anderson's, Aikin's and Casey's strong interpretation of the *tu quoque*, is appealed to as an authority sustaining the arguer's claim q . And according to the weaker interpretation, the *tu quoque* is a hint at an inconsistency in the opponent's commitment store, which implies a request of coherentisation. None of these epistemological functions could be fulfilled by an *ea quoque* for the simple reason that these are claims or deeds of a third person. The point in their *ea quoque* example, i.e. the *Ius in bello* case (AAC: 3 f.), is a completely different one, not an epistemological but a moral point. Namely, the argument appeals to a principle according to which someone who has violated some rule r is not entitled to demand observance of that rule towards herself. Even if this principle is rather questionable it is quite clear that the *Ius in bello* example appeals to this or to a related premise (like the premise P3 of Anderson, Aikin and Casey (AAC: 4)), i.e. a material *moral* principle and not an epistemological principle. Therefore, I suggest that this example be disregarded (or better: eliminated) since it is not a case of *tu quoque* or anything similar to it.

Practical tu quoque: The Traditional Marriage case (example 4) is the only example analysed in the paper which is a practical *tu quoque*. Since in practical *tu quoque* replies the dissenting expression is not a contradicting claim but an action of the reference person that does not conform to her present proposal (in situation ϕ), the reconstruction must be different from the reconstruction of cognitive or theoretical *tu quoque* replies. In particular, it has to be explicated how such an action can speak against a proposal or a thesis. Now, Anderson, Aikin and Casey have provided such a reconstruction (AAC: 5 f.). However, I found this reconstruction quite complicated and confusing and too much tailored to the particular example. If one wants to stick to Anderson's, Aikin's and Casey's general approach, a much more general premise which could cover all kinds of practical *tu quoque* would be required, e.g. the premise P3p: '(Conditions ψ are conditions under which a proposal to A has to prove; therefore:) if even someone who proposes and defends A , under conditions ψ does or would not act according to A , then the proposal to A is unreasonable (overcharging, inadequate).' However, even though this suggestion is in line with Anderson's, Aikin's and Casey's approach—it makes the alleged argument deductively valid—, for objections similar to those raised in the last section, it does not make the practical *tu quoque* a good argument because a major problem with P3p is that in this general form it is not true for nearly every kind of action A and condition ψ : like all human beings even strong defenders of certain practical principles are fallible; and principles do not have to be respected by all the people all the time in order to be good principles. Therefore, P3p has only a heuristic but not a proving function.

REFERENCES

- AAC = Anderson, C., Aikin, S.F., and Casey, J. (2011). *Tu Quoque* Arguments, Subjunctive Inconsistency, and Questions of Relevance. In: Zenker, F. (ed.). *Argumentation: cognition and Community: Proceedings of the 9th International Conference of the Ontario Society for the Study of Argumentation (OSSA)*, May 18-21, 2011. Windsor, ON (CD ROM).
- Govier, T. (<1985>, 2010). *A Practical Study of Argument*. Belmont, California: Wadsworth.
- Johnson, R.H., and Blair, J.A. (<1977>, 2006). *Logical Self-Defense*. New edition: New York: International Debate Education Association.
- Lumer, Ch. (1988). The Disputation. A Special Type of Cooperative Argumentative Dialogue. *Argumentation* 2, 441-464.
- Lumer, Ch. (1990). *Praktische Argumentationstheorie. Theoretische Grundlagen, praktische Begründung und Regeln wichtiger Argumentationsarten*. Braunschweig: Vieweg.
- Lumer, Ch. (2000). Reductionism in Fallacy Theory. *Argumentation* 14, 405-423.
- Lumer, Ch. (2003). Interpreting Arguments. In: Eemeren, F.H. van, Blair, J.A., Willard, Ch.A., and Snoeck Henkemans, A.F. (eds.). *Proceedings of the Fifth International Conference of the International Society for the Study of Argumentation* (pp. 715-719), Amsterdam: SIC SAT.
- Lumer, Ch. (2011). Probabilistic Arguments in the Epistemological Approach to Argumentation. Forthcoming in: Eemeren, F.H. van, Garssen, B., Godden, D., and Mitchell, G. (eds.). *Proceedings of the 7th International ISSA Conference on Argumentation*. June 29 - July 2, 2010. Amsterdam.

Reply to Christoph Lumer

COLIN ANDERSON

SCOTT F. AIKIN

JOHN CASEY

Department of Philosophy
Hiram College
P.O. Box 67
Hiram, Ohio 44234
USA
andersonca@hiram.edu

Department of Philosophy
Vanderbilt University
Nashville, TN 37240
USA
scott.f.aikin@vanderbilt.edu

Department of Philosophy
Northeastern Illinois University
5500 North St. Louis Ave.
Chicago, IL 60625—4699
J-Casey1@neiu.edu

Many thanks to Professor Lumer for his challenging comments. We will make three brief points in reply.

First, Professor Lumer sees many more things wrong with *tu quoque* arguments than we've addressed. In particular, they do not have explicit conclusions, and it is not clear which of the inconsistent commitments deserve rejection. We have no objection to Lumer's observations about the difficulties with many *tu quoque* arguments. There can be more than one thing wrong with an argument. The trouble, though, is that Lumer doesn't seem to concede that it is possible to have a *tu quoque* form of argument that does have a clear conclusion and does make explicit which of the inconsistent commitments is rejected. It's those we care about for our paper. That kind of argument suffers, the standard story goes, from *failure of relevance*. We're out to investigate that claim, not the host of other concerns with *tu quoque* arguments Lumer proposes.

Maybe the question in the background here is what counts as a *tu quoque* argument. In his comment, Lumer differentiates between "tu quoque objections" and "tu quoque arguments," where the first is a sort of dialectical move that aims to impose a burden of "coherence" on an opponent, and the latter is an argument in the strict sense—an assertion that the premises provide reason to believe that the conclusion is true. This distinction seems reasonable to us, but it is irrelevant to our overall thesis. The forms we attend to in our essay have overlap with forms of circumstantial *ad hominem*—these arguments trade on something like an exceptive premise or a contradiction between a general and a particular claim. We see the *tu quoque*, essentially, as an attempt to undermine an opponent's judgment (its truth or reliability) through the exposure of an inconsistency between the opponent's general judgment and a particular commitment (practical or cognitive) that suggests an unjustifiable exception for themselves. These may happen as either objections or arguments (as surely, an objection must have its own argumentative force). In his turn, Lumer seems to see the fallacy lying in the inability of any claim about inconsistency to support a determinate conclusion. This failure—a formal failure of the argument—however, suggests they also suffer also from relevance troubles, as we have alleged. But notice that our attention to the circumstantial versions of the argument (that if one subjunctively were under different circumstances, one would judge differently) addresses the preference of criticism problem for Lumer's inconsistent sets. That is, because the arguments are deployed critically, it should be clear which of the two of the conflicting commitments are endorsed, and given our reconstructions, we can understand the case why.

Second, Lumer's main charge is that our reconstructions saddle the argument with more suppressed reasoning than is expressed in the stated arguments. But, really,

how much more ‘tarting up’ (as Lumer puts it) is it that someone expresses a good deal of other commitments when one says, “I wouldn’t do that if I were you,” or, “You’d be singing a different tune were the shoe on the other foot!” The speaker in either of these is criticizing the actions or commitments of another on the basis of the circumstances yielding the judgment. Specifically, that the judgment is made under conditions that are not conducive of correct decisions. Were things different, the other person would have and appreciate some important piece of evidence, not be blinded by some interest, or perhaps appreciate the difficulty of the burdens of judgment on the issue. The question shouldn’t be whether or not someone’s actually got such a suppressed premise, but whether or not such a premise is true. If those statements are the *critical* speech acts they are deployed as, then interpreting them as rational criticism (that is, as arguments with premises and all) should be our default. Doing otherwise is not only communicatively obtuse, but cognitively uncharitable.

Third, Lumer’s final challenge is that once we’ve articulated P3, the premise identifying one condition for judgment as better than another, all these arguments will beg the question. In this, Lumer’s reverted to his earlier stance, namely identifying problems other than relevance with *tu quoque* arguments. In what way, though, does a subjunctive *tu quoque* like the following viciously beg the question?

You say Odysseus never gets home in the Odyssey.
But if you read to the end, you’d say different.

That doesn’t obviously beg the question, as P3 is roughly that one is in a better position to judge what happens in a book when one’s read the whole thing. Certainly there is much more that can be said about the epistemic conditions under which relevance can be judged, and Lumer has contributed to the examination of the difficulties that might beset someone who deploys these arguments, but our analysis aims to make explicit the ways in which that judgment affects the logic of a certain class of arguments. To make explicit how *if* the relevance condition is true, the arguments can be non-fallacious. Whether it is in a particular case, as Lumer rightly points out, can be controversial. Additionally, our follow-up discussions to each of the cases were written so that anyone on either side of the issue could follow the case. That an argument *might* have a premise that the other side finds objectionable doesn’t make it an argumentative failure on the level of begging the question. It makes it, rather, an occasion for further discussion.