

## Relocating Presumption: Shifting Burdens of Proof in CEDA Debate

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The advent of value-topic debating has forced some fundamental adjustments in the way academic debates are pursued and evaluated. One particularly sticky controversy arising from the peculiar nature of value resolutions concerns the locus of presumption. Young and Gaske, for instance, suggest that the "disproportionate share of journal and convention space" devoted to locating presumption in value inquiry makes it quite evident that the CEDA debate community has yet to achieve consensus on the issue (25). One particular facet of this controversy concerns whether or not affirmative teams, traditionally charged with the *onus probandi* (burden of proof), may legitimately claim instead to possess a presumption in favor of the resolution. The issue is not inconsequential. As Whately noted, "on the determination of this question the whole character of a discussion will often very much depend" (343).

The purpose of this essay is to enter the fray one more time in an attempt to achieve some degree of closure. Specifically, I will endeavor to describe the nature of the controversy over the locus of presumption in value resolutions, to explain why much of the discussion about its location has been unproductive, and to argue that strategies which attempt to relocate presumption involve a mistaken reading of the academic debate situation.

Presumption generally is understood to refer to "a preoccupation" of argumentative ground (Mills 25), the effect of which is to confer upon the occupant a distinct argumentative advantage (Sproule, *Argument* 367). Whately illustrated this advantage by extending the metaphor. "No man [sic] is to be disturbed in his possessions till some claim against him shall be established. He is not to be called on to prove his right; but the claimant, to disprove it . . ." (343). The problem which arises in the context of value-topic debating is to determine what ground is occupied by whom.

That this determination is rarely problematic in policy-topic debating is not surprising. Policy resolutions are invariably phrased so as to divide ground through

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association with status quo institutions -- the affirmative team always occupies *subjunctive ground* (hypothetical conditions), while the negative team occupies *existential ground* (existing conditions). As Sproule puts it, "Because change is thought to imply risk, debate theory grants a presumption to the present system. . . . As defenders of the present system (i.e., as opponents of the change required by the proposition), the negative side benefits from presumption" (*Argument* 367). As a fail-safe, policy-topic debating subscribes to a theory of inherency. Should an affirmative team manage to locate an example of topical policy amongst status quo institutions (appearing to relocate the affirmative team onto existential ground), that example fails to satisfy the requirement that it indict an inherent flaw in the status quo.

When resolutions do not advocate change, occupied ground is not identified as easily. Since value-judgments are essentially subjective, determining whether a particular judgment occupies subjunctive or existential ground is problematic. According to Mills (25-26), when a dispute centers on what is true or what is good (the traditional foci of CEDA resolutions), it is difficult to determine prevailing beliefs. However, a workable theory of presumption requires a reading of that which prevails (Matlon 8). As Vasilius puts it, "Presumption can hardly be assigned to a non-existent status quo" (36). Thus, the presumption which is located so easily in policy resolutions is a natural subject of controversy in value resolutions.

The various attempts to locate presumption in value-topic debating can be reduced to two primary schools of thought representing contrary views of how and why presumption comes to be (Hill 22). The traditional *stipulated presumption* school (Zarefsky 5; Brydon 15-22) holds that presumption merely assigns argumentative ground. This view is consistent with Whately's contention that presumption involves "such a *preoccupation* of the ground as implies that it must stand good till some sufficient reason is adduced against it; in short, that the *Burden of proof* lies on the side of him [sic] who would dispute it" (342). Following the tradition of policy-topic debating, this school *assigns* presumption to the negative side of a resolution and correspondingly charges the affirmative team with the burden of attacking that presumption. Proponents of this view allow that stipulated presumption is located artificially and thus possibly contrary to natural preferences. However, they argue, academic debate cannot operate efficiently in an environment where burdens of proof are uncertain (Matlon 8). Thus, the constant location of stipulated presumption obviates a search for natural presumption.

The more popular *psychological presumption* school (Zeuschner and Hill 20-24; Young and Gaske 25-26; Tuman 91-94) holds that presumption describes the preferences of audiences. This is largely drawn from Sproule's reading of Whately. Sproule writes, "the audience as the ultimate agency . . . assigns potentially innumerable presumptions (according to psycho-social principles) to either or both sides on the basis of favoritism

toward ideas or sources of information" (*Communication Monographs* 116). This view rejects the certainty of stipulated presumption, arguing instead that the locus of presumption depends upon the content of a particular resolution. By rejecting artificially contrived presumption in favor of unknown natural presumptions, burdens of proof become commodities shared by affirmative and negative teams in ways unique to individual argumentative situations.

It is this psychological view of presumption which gives impetus to presumption-shift arguments. Overt attempts to position an affirmative team onto existential ground are not uncommon in CEDA debate. When affirmative teams are able to associate the resolution with obvious and widespread preferences, the task of defending the resolution becomes substantially easier. As Whately put it, "if you have the Presumption on your side, and can but *refute* all the arguments brought against you, you have, for the present at least, gained a victory . . ." (343). By holding that presumption may lie with *either* the affirmative or the negative side of a controversy, the psychological school readily invites presumption-shift arguments. Zeuschner and Hill are particularly clear in this regard. "The location of psychological presumption can always be at issue in a dispute between contending sides of an argument" (22). Zeuschner and Hill call upon each side of a value dispute to defend the claim that they represent prevailing opinion and that "the value they defend should be accorded psychological presumption" (23). This notion that the locus of presumption is but another issue to be resolved during the debate is summarily rejected by the stipulated school, which *always* locates the affirmative team on subjunctive ground.

In a recent attempt to resolve the controversy, Hill describes what he calls a "holistic model of presumption" (22-32). In an effort to effect rapprochement between the stipulated and psychological schools, Hill argues that presumption is a multidimensional concept, evidencing both artificial and natural characteristics. "Each dimension performs a unique function which necessitates that they be considered collectively in order to fully understand the role of presumption in non-policy debate" (22). Hill's holistic view holds that the stipulated dimension gives structure to a debate by apportioning argumentative ground; the psychological dimension gives a basis for evaluating arguments within that framework by creating "screens that are used to assign weights to arguments make [sic] during the interaction" (29). In essence, Hill argues that *ground* is artificially located (convention stipulates that the negative team occupies presumptive ground), but *evaluata* are naturally located (both affirmative and negative teams may try to associate their arguments with psychological presumptions).

While taking a significant step toward closure, Hill falls short in his effort to construct a unified theory of presumption. The holistic model only seems to escape the differences that polarize the stipulated and psychological schools of thought. Hill

achieves holism by appropriating the fundamental tenets of both schools, thereby assuming to satisfy the criticisms levied against each. However, this is accomplished by disposition rather than invention. Having embraced both views, Hill is free to refer to awareness of audience in responding to the charge that stipulated presumption ignores natural preferences, and to a standard division of ground to alleviate fears that debates might deteriorate into confusion. In fact, such juxtaposition fails to answer realistically the questions raised by either school. Accordingly, the holistic model neither accepts nor rejects presumption-shift arguments. On the one hand, Hill indicates that the holistic model *initially* stipulates that presumption lies with the negative team in order to offset the procedural advantages accorded to affirmative teams and provide the "ultimate decision rule" that ties are awarded to the negative team (30). On the other hand, he allows that "the debaters can work actively to argue for the particular screens, values and weights of psychological presumption" (29). The dispute about the validity of arguments aiming to relocate presumptive ground is central to the presumption controversy. The holistic model's inability to resolve this dispute is its fatal flaw.

Rather than questioning *where* the stipulated and psychological schools part company, Hill should have questioned *why* they do so. Hill is correct when he argues that presumption is multidimensional. His problem is that the holistic model, as do the stipulated and psychological models, attempts to fit presumption into a unidimensional model of debate. My point is that the stipulated and psychological schools are unable to reach accord *because they are describing different dimensions of the academic debate experience*. By assuming that academic debate is a unidimensional experience, Hill necessarily vacillates between comments which seem to endorse presumption-shift arguments and comments which seem to reject the strategy. Only by recognizing the multiple dimensions of the debating experience can we begin to resolve the controversy surrounding presumption-shift arguments.

An academic debate may be abstracted as three different arguing experiences. In its first dimension, academic debate is a *public discussion* about the content of a particular resolution. As in the real-world environment after which academic debate is modeled, debate arguments are constrained by psychological presumptions derived from various associations, that is, with existing institutions, commonly held beliefs, value hierarchies, and so on. Inasmuch as any particular condition is subject to many such associations, there are many possible presumptions about that condition. It is precisely this possibility which gives rise to disputes over "highest value" assessment criteria. In this setting, an affirmative team searches for commonly held beliefs or value hierarchies with which to associate (Tuman 94). When successful, that association creates a powerful presumption favoring their arguments. The negative team then searches for contrary beliefs or value hierarchies in an attempt to create an alternative association, or

what Whately calls a counter-presumption (351). Thus, the familiar dialectic between "life" and "quality of life" is fundamentally a search for existential (preferred) and subjunctive (controversial) ground. Winning the dispute about an assessment criterion does not necessarily mean winning the dispute about the resolution, but the right to associate with presumed preferences makes that task substantially easier. In a less obvious sense, this pattern is repeated countless times throughout the debate. Each argument in a debate represents a condition which has its own associations, presumptions and burdens of proof. Where presumption lies in a public discussion depends upon which associations are constructed for the audience and how those associations coincide with audiences preferences.

This is precisely the experience Hill describes when he discusses debaters arguing for particular weightings to be used in evaluating their arguments (28). Here, the concern is with how presumption functions within the context of public persuasion (Mills 26). Discussions about the content of the resolution center on claims about what is true, good, right, or appropriate. Irrespective of any attempt to stipulate ground, audiences have conscious and subconscious preferences affecting the persuasiveness of the arguments supporting those claims. Whether audience preferences favor the affirmative or the negative position is a function of the particular argument and the particular audience. Debaters who are able to associate their claims with psychological presumptions are more likely to persuade the audience to their side. There can be no *a priori* location for presumption when evaluating the proofs debaters offer for their claims. Thus, debaters strive to locate presumptions and counter-presumptions in an effort to increase the persuasiveness of their arguments.

Were this the singular experience of academic debate, then an affirmative team's claim that presumption rests with the resolution might, under certain conditions, seem legitimate. There is, however, a second dimension of academic debate which supersedes public discussion. In this dimension, academic debate is a *controlled environment* for investigating the issues of a particular resolution. To function efficiently, effectively and equitably, participants must defer to *pro forma* conventions, since the opportunity to raise and defend arguments relating to the resolution is constrained artificially by the prescribed number, length and order of speeches. Just as individual arguments unavoidably are subject to natural presumptions, resolitional issues must be subject to artificial presumptions. The familiar policy-topic setting, for instance, involves comparing the "good" and "evil" associated with a particular policy change. While the affirmative team ultimately is charged with proving that good outweighs evil, they are absolved of any responsibility to undertake a comparison until specific evils have been identified by the negative team. The reasoning is obvious: The range of possible disadvantages is infinite, and an affirmative team cannot realistically be held responsible

for identifying and dismissing them within the structural limits of the debate. Thus, the community stipulates a *working presumption* that advantages outweigh disadvantages until the negative team identifies specific disadvantages and enters them into the equation.

Although the range of relevant stock issues for value resolutions is less standardized than for policy resolutions (Matlon 2-4), the notion that presumptions about stock issues must be artificially assigned is equally important. By practice, value topics generally are debated within a loose framework of definitive and designative issues (Matlon 2). For these issues to be investigated meaningfully within the limits of the academic debate structure, issue presumptions must be assigned by pragmatics rather than preferences. For instance, an affirmative team is expected to interpret the resolution (define terms) in order to set parameters for the discussion. By convention, that interpretation is presumed appropriate until the negative team is able to fulfill a burden of proving it inappropriate. It is entirely possible that the audience might prefer a contrary interpretation, but merely introducing preferred definitions does not fulfill the burden of proof. Even without resolving the "better-definition-versus-reasonable-definition" controversy, it generally is accepted that a negative team must construct arguments which establish a basis for rejecting the affirmative interpretation -- thus, the popularity of the "standards-violation-impact" approach to arguing topicality.

Stipulated presumption is particularly important to the conduct of designative issues. Although the arguments supporting an affirmative case vary from situation to situation, its *raison d'être*--proving the wisdom of the resolution--does not. Academic debate requires an affirmative team to build a case proving the resolution. The presumption-shift argument asserts that the judgments of case, or important portions thereof, are presumed. With particular cases about particular resolutions, that may well be true. However, allowing the affirmative team to occupy presumptive ground would arrange burdens in such a way that the negative team would be charged with constructing a *prima facie* case against the resolution, while the affirmative team would be responsible only for responding to that case. The impracticality of this scenario is compounded by the fact that the affirmative team has been given leave, by virtue of the opening speech and the first opportunity to interpret the resolution, to determine the area in which the negative team must build their case and the basis upon which it must be evaluated. For academic debate to work within its structural limitations, the side accorded the advantage of definitive presumption *must* be charged with the designative burden of proof, and vice-versa.

There is a third dimension to the academic debate experience that seals the fate of presumption-shift arguments. As an *argumentation laboratory*, academic debate values the logic of arguing over the psychology of persuading. The resolution, irrespective of

its content and whatever associations it may suggest, exists as an assertion by the affirmative team. The charge of the debaters is to test that assertion.

The logic of argument holds that whenever an opinion is asserted, its expression implies an attempt to resolve the controversy between the asserted opinion and its implied contrary, e.g., when a resolution asserts that "educational practices *are* inappropriate," the implied contrary is that "educational practices *are not* inappropriate." Whenever opinions are asserted, audiences necessarily and immediately have a right to believe, and assert, otherwise. In essence, your right to hold and express an opinion is no greater than my right to hold and express a contrary opinion. The relative *value* of our opinions is embodied in our proofs, for an opinion is no more valuable than the weight of the proof that can be brought to bear in its behalf.

Arguments exist to give value to opinions. In traditional terms, arguing is distinguished from asserting in that arguments accept a *moral* burden of proof and attempt to fulfill it (Halpern 177-78). To refuse to provide the proof necessary to give value to an opinion is tantamount to withdrawing the opinion and conceding a dispute. Presumption-shift arguments neither provide proof for the resolution nor withdraw it. In essence, the presumption-shift argument takes the stance that the resolution is presumed wise, and that it remains so until good reason is given to believe the contrary. Although presumption-shift arguments appear to accept a kind of burden of proof, evident in the conscientious construction of associations through which an affirmative team "proves" the preferences (Tuman 94), it is in fact a subtle application of *argumentum ad ignoratum*--the resolution needs no proof since it is right until proved wrong. The axiom "He (or she) who asserts must prove" is unwavering. Thus, inasmuch as the affirmative team is obliged to assert the resolution, the burdens associated with asserting take precedence over the various psychological presumptions associated with the resolution's content.

In summary, academic debate is not a unidimensional experience, as it is implicitly represented in the literature addressing presumption in value-topic debating. Instead, it is a multidimensional experience. Opinions about where presumption lies within one dimension of the experience seem inexorably flawed when viewed from the perspective of another dimension. The presumption-shift argument is an illustration of how confused theories can breed ill-framed strategies. Grounded in a firm understanding of how presumptions are located in public discussion, efforts by affirmative teams to shift the resolution from subjunctive to existential ground ignore the fact that the experience has been transported to a new dimension in which psychological presumptions no longer can prevail. By associating with audience preferences, an affirmative team may well enjoy the advantage of psychological presumption, making it infinitely easier to persuade an audience that a resolution has been proved. However, the prescribed structure of the

debate, and the community's emphasis on argumentation (species) rather than persuasion (genus), mean that the resolution cannot be begged. The fact that the burden may be easy to fulfill does not obviate expressed proof -- it must be introduced and must survive negative critique. Presumptions about the *individual arguments* which make up a debate may, and often do, rest with the affirmative team. However, the presumption of the *resolution* rests always and forever with the negative team.

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