

The Legitimacy of Non-Truth-Based Standards in Competitive Academic Debate

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Possibly the most interesting arguments on the 1991-92 National Debate Tournament (NDT) topic ("Resolved: That one or more United States Supreme Court decisions recognizing a constitutional right to privacy should be overruled") were topicality positions challenging whether an affirmative case dealt with a constitutional right of privacy or some other privacy right, such as the Fourth Amendment guarantee against unreasonable searches or the Fifth Amendment privilege against self-incrimination. Most of these arguments were reduced to the issue of what limits should be placed on the topic. Given that the constitutional right of privacy could easily be limited to a handful of Supreme Court cases relating to procreational matters,¹ the issue in many debate rounds became whether the procreational limitation was a "fair division of ground."

One difficulty faced by judges in those rounds was the subjective nature of the topicality positions being argued. While some judges agreed that "procreational privacy" was a fair limitation of affirmative ground, others preferred a more expansive interpretation, allowing affirmatives to overrule any Supreme Court case dealing with privacy interests. Given that the only difference in these rounds was the person in the back of the room, one could conclude that the adjudication of any limitation-based topicality argument dealing with the parameters of the constitutional right of privacy was necessarily subjective and, as a consequence, interventionist.² At some point, the judge would have to subjectively determine a fair number of cases within the boundaries of the topic.

A topicality standard, then, which permits such intervention is inherently problematic. The reason is that the standard is non-truth-based; that is, the standard is not directed toward the truth of the resolution. Non-truth-based standards are counterproductive and should be eliminated from debate practice. This thesis will be structured around two main issues: First, what distinguishes truth- and non-truth-based standards? Second, how does this taxonomy apply to current debate practice?

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Defining Non-Truth-Based Standards

The resolution is the starting point of the debate process and, as such, is a claim to be debated (Murphy, 1990; see also Bile, 1987; Paulsen and Rhodes).³ Thus, all arguments in a debate round, including procedural arguments, must necessarily interact in some way with the axiom that the resolution is a claim. In fact, given the primacy of the controversy (Bile, 1987), one would expect most procedural arguments to undergo some revision in light of earlier conceptions of resolutive focus. One area in which this scrutiny has been applied is the justification argument (Bile, 1988; Bahm), and few would dispute that the reformulation of the justification position has improved the clarity of debate theory and practice.

Until now, scholarly discussion of the interaction between resolutive focus and the most common procedural argument, topicality, has been limited. With considerable insight, Bartanen questioned the necessity of the topicality argument in light of CEDA's resolutive focus. Murphy (1989) posited that the current conception of topicality is based on a jurisdictional model which opposes the idea of resolutive focus. Given the emergence of these two ideas is particularly worthy of analysis.

The Current Conception

The nature of the topicality argument, as currently viewed, is simple. The jurisdictional model (Madsen and Loudon) contends that the resolution creates a jurisdictional boundary from which affirmatives may choose an example. The size of the boundary is determined by defining the terms in the resolution. The jurisdictional model places no constraints on the topicality or representativeness of the affirmative example; the affirmative need only fall within the resolutive boundary to be judged topical.

While some suggest that there are other theoretical justifications of topicality, this essay argues that the form of the argument intimates the jurisdictional model: the negative making a topicality challenge usually presents a definition, an explanation of why the affirmative falls outside the boundary created by that definition (the violation), reasons why the negative definition should be chosen to adjudicate the argument (standards)⁴ and arguments that this issue should dispose of the debate in favor of the negative, given its jurisdictional nature.

Assuming that an affirmative is outside the boundary, as argued by the negative in a topicality argument, and inside the boundary created for itself in the first affirmative constructive,⁵ the critical issue in a topicality debate is: Which definition should the judge choose? In support of this conception, theorists have generated a veritable slew of topicality standards: common person (Patterson and Zarefsky); grammatical context (Parson; Herbeck and Katsulas); field context (Parson; Herbeck and Katsulas); limitation, precision, exclusivity, convergence, equal ground (Dudczak); intent (Parson); and, of course, reasonability (Herbeck

and Katsulas).⁶ While the various advocates of these standards claim superiority, none address more important issues such as theoretical justification of the standard.

How does this formulation of topicality comport with the notion of resolutive focus? The explanation often provided is that the issues are completely separate: the issue in arguing resolutive focus is whether the affirmative example is sufficient to prove the resolution true, while the issue in a topicality argument is whether the affirmative falls within the resolutive boundary. Proponents of both positions argue that, because the issues are different, the positions are not contradictory; one is an issue of justification, the other an issue of classification. This view is incorrect, as explained below.

The New Conception

This essay reconceptualizes the topicality arguments and, in particular, the standards used to adjudicate the argument. This essay contends that the current practice of topicality argumentation is diametrically opposed to resolutive focus and, in fact, arguing both positions represents one of the most inconsistent practices in competitive debate.

Having established that the starting point of debate is the resolution and that the resolution is the focus of debate, any critique of the topicality argument should begin with an inquiry into how the argument represents the resolutive-focus orientation. Instead of a resolutive focus, aimed at proving the truth of the resolution, the jurisdictional model of topicality assumes a subjective, non-truth-based view of the debate process. As such, most arguments made under the jurisdictional model are not directed toward proving the truth of the resolution but facilitating debate as a game.⁷

Given that the topicality argument must be grounded in the resolutive-focus view, so must its standards. Thus, the standards used for determining whether the affirmative embodies resolutive meaning should be directed toward the truth of the resolution; to make an analogy, the rules of an athletic competition are directed toward the objectives of the competition. What follows is a discussion of current topicality standards as they relate to resolutive focus.

Non-Truth-Based Standards in Topicality Arguments

The initial distinction made here is between truth- or meaning-based standards, which are directed toward the truth of a resolution, and non-truth-based standards designed to facilitate the game of debate. There should be injected here a caveat concerning use of the term "truth." This paper does not pretend that the result of the debate process is truth; at best, we often hope for the best decision (Ehninger and Brockreide). Truth is used here as a dividing line between debate as an exercise in proving resolutions which, in some abstract sense, is directed toward the truth of the resolutive statement (Truesdale) and debate as a

game, in which the resolution assumes a divisional function.⁸ This latter view is referred to as "resolution as boundary."

Truth-Based Standards

Truth-based standards assume resolutive focus and are concerned with finding the most realistic definition of the term involved. This essay argues that there are three truth-based standards for resolving topicality disputes: intent, field context and grammatical context (Parson). Unlike Parson's claim, that these standards are justified because they are "reasonable," this essay goes one step further to claim that they are not reasonability-based but are the only standards designed to arrive at the actual meaning of the resolutive sentence. To phrase it in the language of this essay, they are truth-based.⁹

Intent refers to the mental state of the person or persons making the statement—What did that person mean when she said that? In the context of a topicality debate, the intent standard suggests that either the affirmative or the negative definition is closer in meaning to that suggested by the framers of the resolution. Intent is limited in use as a standard by a number of factors. In CEDA, for example, the actual author of a topic may not be a member of the Topic Committee. This creates two levels of intent—the author's intent and the Committee's intent in approving the author's proposed resolution. A second problem with the intent standard is the lack of documentation from the Topic Committee providing their "legislative intent" in proposing or approving a resolution. Thus, while intent may be the most correct truth-based standard, its utility in resolving topicality arguments is limited.

Field and grammatical context interact in such a way that, combined, they are the most accurate indicators of the meaning of a resolution. Debate topics imply fields of study, whether policy or non-policy. These fields, in turn, provide debaters with specialized knowledge and meanings beyond those normally ascribed. Particularly in policy debate, in which the fields are easily distinguishable, the field-based terms in a resolution are easily defined.

Retreating from the field context generally creates an atmosphere of intervention among debate judges; such was the case on the NDT topic last year when many judges failed to apply a field-contextual standard to "constitutional right to privacy." While the legal meaning of this term is quite narrow, expanding its meaning beyond the field created a multi-tiered collection of judges, some allowing Fourth Amendment cases, some allowing cases based on Fifth and other amendments, and some allowing cases which implicitly recognized privacy interests. The only difference among these judges was their personal beliefs about which meaning they preferred, regardless of topicality argumentation to the contrary.

Two types of terms exist in any resolution. The substantive, or content, dimension of the resolution contains the field-based terms. Defining these terms is as simple as consulting field sources. The relational dimension of debate resolutions contains terms and rules linking

the field-based terms. These words and rules, which link the field together in a coherent fashion, constitute the grammatical context of a debate resolution. To adjudicate a topicality argument on the basis of grammatical context is simply an application of the "rules" of English.

Are there situations in which use of either grammatical or field context would not allow debate? Probably not.¹⁰ An interesting example of use of grammatical context occurred during the Spring 1988 semester on CEDA's First Amendment topic. A correct reading of the resolution ("Resolved: That the American judicial system has overemphasized freedom of the press") required the affirmative to assess past events, because the phrase "has overemphasized" rendered the sentence in present perfect tense.¹¹ While many might argue that this forces an impossible burden on the affirmative, at least one team was successful in arguing the Warren Court, which ruled in favor of freedom of the press several times, as a holistic past example of the resolution.

While field- and grammatical-context sources may occasionally disagree on the exact meaning of terms within their field, the area of disagreement would probably never reach a level which would determine the outcome of a topicality debate. At the point in which both sides in such a debate are arguing field or grammatical context, the chances are that the dispute is actually over which source better represents the field. For example, the United States Supreme Court is probably more authoritative on what they mean by "constitutional right of privacy" than a second-year law student writing a casenote for a law review.

Non-Truth-Based Standards

Non-truth-based standards are easily distinguished from truth-based standards. These standards are not designed to guide the judge toward the truth of the resolution but to facilitate the game of debate. The primary problem with non-truth-based standards is that they usually require intervention by the judge. Thus, while the standards might appear to provide an easy mechanism for resolving topicality arguments, they actually provide an easy forum for the judge to intervene.

Non-truth-based standards suffer from three major defects. First, they are subjective. This is a logical consequence of being non-truth-based. Because the standard is not directed toward the truth of the resolution, the judge must intervene with her own "truth" to make the standard work. The variability of this substituted judgment is what we call "subjective." Reasonability is the best example of this criticism; what is "reasonable" is left entirely to the judge.

The second major defect of non-truth-based standards is that they are inherently circular and, thus, bad arguments for choosing definitions. They are circular because they conclude not with a decision about the truth of the resolution but a judgment about the game of debate. This is not unlike the resolutive-focus controversy. A judge casting his ballot for a

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representative example is not making a decision about the truth of the resolution but a subjective judgment about what the boundary of the resolution should be.

The third major criticism of non-truth-based standards is that they are result oriented. Like the counterstandards mentioned earlier, many are designed to defend particular positions. Given the competitive nature of debate, this is in no way a unique criticism. However, given the all-or-nothing nature of topicality, it creates added significance. Debaters are not to blame for this problem; debate coaches and theorists, by supporting these standards, are. The corresponding result is a lowering in the quality of debate.

Almost every standard mentioned earlier which does not fit in the above taxonomy of truth-based standards can be characterized as non-truth-based. This paper would like to focus specifically on the limitation/ground division standard (for example, Dudczak) as the representative example of a non-truth-based standard. Limitation/ground division is clearly the most commonly used standard in negative topicality arguments and possibly the most abusive.

Critique of Limitation/Ground Division Standards

Limitation, ground-division, and equal-ground standards assume that the function of debate resolutions is to divide ground (Dudczak 13). Beyond that, these standards argue that the ground between affirmative and negative should be apportioned in a certain manner. Of course, these standards may be criticized generally using the defects above, but this essay would like to focus specific criticism on these standards.

The initial criticism of these standards can be made within the framework of the resolution as a boundary. Most debaters and theorists assume that, because a topic divides ground, ground must necessarily be equal. This is incorrect. Like geographic boundaries, argumentative boundaries do not serve the function of equality but serve as notice of division. The only justification for such standards is the notion that, as a game, the playing ground of debate should be roughly equal for both sides. The impossibility of this equality is a major criticism of limitation and ground-division standards.

Assume, for a moment, the lens of the policy-debate critic. In a normal policy debate round, the affirmative generally upholds one policy (their "plan" or R_0 for our purposes). A holistic affirmative generally would uphold the resolutive action (R_1 for our purposes). Negative ground, in either case, may be defined as infinity minus the affirmative example or action ($\infty - R_0$ or $\infty - R_1$). At best, the affirmative may only defend as many policies as comprise the singular resolutive action; the negative retains the remainder. Even if the negative chooses the traditional defense of the status quo, they may argue that many current non-resolutive policies gain the affirmative advantage(s). The point illustrated is that ground in debate is never equal; the resolution will always limit the affirmative more than the negative. This fact alone may account for the use of example focus more than any other.

In addition to the problem of unequal ground, the second major flaw in these standards is the infinite regress necessary to adjudicate them. Once the negative team raises the issue of limitation, the question becomes, "How much?" Even on a topic, such as last year's NDT question, which has clear dividing lines between the number of cases available for certain interpretations, lines must be drawn.

Conclusion

Much of debate theory is as result oriented as is debate practice. This is evident in the standards used to support arguments. This paper has argued for truth-based standards premised on the idea of resolutive focus. Using such standards would improve the quality of debate on many levels. Topicality arguments would improve from their current state, and debate more likely would focus closer to the meaning of the resolution. Non-truth-based standards currently dominate debate practice and contribute to the larger problem of judge intervention. Such standards ultimately reduce debate success to a knowledge of obscure whims. It is the responsibility of debate educators to provide good theory to guide the activity. This has been one attempt at generating such theory.

Notes

¹ For example, *Griswold v. Connecticut*, 381 U.S. 479 (1969), and its progeny, including *Roe v. Wade*, 410 U.S. 113 (1973).

² Intervention is defined here as the act of using non-argument-based criteria in adjudicating a debate. In this situation, the judge must generate her own standards of what constitutes a reasonable limitation in order to decide the argument. One premise of this essay is that intervention is necessarily bad and should be avoided in debate practice.

³ Some, such as one of the original reviewers of this piece, suggest that the resolution emanates from public disagreement. I disagree. Many debate topics, such as the Fall 1988 CEDA topic on third party participation in the electoral process, challenge existing institutions in the apparent absence of public controversy. Dispute is not necessary for formulating a claim. However, a claim is a prerequisite for dispute. As Patterson and Zarefsky note, "the meaning of the resolution is not self-evident from the context in which it arose" (92).

⁴ To further elaborate, this essay defines a topicality standard as "a reason for choosing one proffered definition over another." Current practice on this issue often is misguided. In the absence of competing definitions, topicality standards become irrelevant. And, as noted below, topicality "counterstandards" are usually not standards, but reasons for the judge to ignore the argument.

⁵ It is becoming commonplace in CEDA for affirmatives to claim their case operationally defines the terms in the resolution. While not the focus of this essay, this practice commits the fallacy of persuasive definition: The case is topical because it is defined to be topical. In the context of topicality arguments in non-policy debate, I can think of no standard which suggests the use of operational definitions or ad hoc claims of topicality in debate.

⁶ A topicality standard guides choice of definition in a topicality argument. Many topicality positions advocated in current practice, such as 2AC "counterstandards," are not really standards because they do not guide the judge in choosing a definition. These include affirmative claims of right to define, presumption of topicality, leeway, debatability, and the like. These are better classified as ill-defined parameters on the topicality argument which, if chosen, always conclude affirmative.

⁷ I do not intend for this essay to be an indictment of a true gaming paradigm (e.g., Snider). I agree with that "academic debate is, really, already a game" (169). The issue here relates to the substance of the game specifically, how the rules of the game facilitate the objectives. Non-resolutional focus removes a major portion of substance from the game of debate. Debate has always been concerned with proving resolutions true. To do otherwise blurs the basic educational objective of the activity: to learn about argumentation. As Cantrell says, "most debaters seem to treat definitional issues as an isolated aspect of gamesmanship instead of examining them with an eye toward their holistic impact in a round" (50).

⁸ This essay disagrees with Dudczak's assertion that debate is advocacy-centered rather than truth-seeking. Such a view, as mentioned earlier, removes the substance from debate. Advocacy and truth are not mutually exclusive concepts. The criminal justice system assumes that the adversarial nature of judicial proceedings likely produce the truth. This is often used as a justification for the study of debate.

Likewise, the inability to achieve a goal should not lessen its value to a point of substitution. For example, a goal of not value war because peace is impossible. Dudczak seems to imply that, because truth is not possible, we should revert to advocacy-based standards. Of course, he does not suggest around what we center the advocacy!

⁹ It is ironic that, writing separately, Parson and Herbeck and Katsulas justify field- and grammatical-context standards on reasonability grounds. Neither provide any plausible connection between reasonability and those standards; they simply assert a connection. Why would these respected theorists, seemingly out of thin air, choose to justify identical standards as reasonable in the absence of any connection between the two? The reason is that these standards are not intuitively better but are the best standards for determining the real meaning, or truth, of the resolutional sentence.

In fact, most of Herbeck and Katsulas' discussion in support of field and grammatical context is couched in language suggesting that the resolution has a distinct meaning rather than serving a boundary function. They argue "context is critical to perceiving the meaning of words. Thus, to grasp the meaning of the debate resolution, it is necessary to define the words in relevant context" (138). This clearly contradicts the example focus argued in the same article. A true example focus would not search for the meaning of the resolution but simply explore its boundary function.

¹⁰ Situations in which the negative team argues that, because of some flaw, the resolution is incapable of being resolved, are beyond the scope of this essay. While it is easy to generate a hypothetical example of such an argument, a "real" example of a resolutional flaw in any recent CEDA resolution would be difficult to identify and has not been empirically denied in competition (that is, affirmatives continue to win a lot of rounds).

¹¹ Present perfect tense might be misleading to non-students of grammar. Present perfect refers to past events and is a form of past tense.

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