

AVOIDANCE OF THE FALSE CLAIM: SOME CONSIDERATIONS FOR DEBATING AND  
JUDGING PROPOSITIONS OF VALUE

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"Once a philosopher advances a claim, s/he is expected to defend the claim against all arguments raised against it . . . this rigorous process of dialectic serves to prevent the acceptance of a false claim."<sup>1</sup> Debaters, like philosophers, have a similar responsibility. Trapp continues, "As in philosophy, the claim of the rhetor must be subjected to criticism. If the claim survives, we may consider it to be tentatively reliable."<sup>2</sup>

Our purpose is to examine briefly the roles of presumption, burden of proof, and significance in debating and evaluating propositions of value. Presumption. The title of Vasilius' paper delivered at the 1980 Desert Argumentation Symposium asks the question: "Presumption, Presumption, Wherefore Art Thou Presumption?"<sup>3</sup> Despite Vasilius' answer we have found that Cross Examination Debate Association (CEDA) debaters generally do not or cannot answer the question in CEDA debate rounds. Once again we raise the question and attempt to provide an answer.

Perhaps the most traditional and conservative view of the role of presumption in policy debate is that presumption rests with the negative and in favor of the status quo. Justifications include such statements as "he who asserts must prove," and the "status quo is innocent until proven guilty." For many risk is endemic to change. And affirmatives advocate change. In contrast, Lichtman and Rohrer argue that, "the rationale we have uncovered calls for a presumption against uncertainty because of the risks

it inherently imposes . . . the crucial element in this rationale is its indictment of uncertainty and not necessarily of change."<sup>4</sup>

Certainly there is controversy surrounding the role of presumption in policy debate. But there are well-developed and well-reasoned positions for the role presumption should take in policy debate.

The place of presumption in value debate, at present, is not as well defined. Matlon suggests three alternatives:

First, presumption might rest against the proposition being argued . . . Second, presumption might rest with the specific judge's belief in the value judgment prior to the start of the debate round.<sup>5</sup>

Alternative number three is the least reasonable and the least practical. It would be unfair to the team having to attack the judge's belief in the value. Anyone familiar with persuasion and attitude change literature would recognize immediately the great burden facing the advocate. In addition, it would be logistically problematic. How would the advocates know the judge's belief in the value? At a minimum, value propositions of all prospective judges would have to be available to the debaters. The problem would be even greater in the case of multiple judge rounds where judges might hold disparate values. Finally, what one reports as a belief and what one actually believes may be discrepant. We reject this alternative even while recog-

nizing that it may be the most "real world."

Alternative number two suggests that presumption might rest with popular belief. A "presumptive value" might be validated by public opinion polls, statements by political and social leaders (assuming they represented majority or popular opinion), statutes, and Supreme Court decisions. In this case presumption would not be automatically assigned. It would vary from round to round. In all probability, presumption would be awarded to the team best able to prove a "presumptive value" through substantive argument.

Matlon's alternative number one, that presumption might rest against the hypothesis being argued, is also suggested by Vasilius. She writes, "hypothesis testing seems to be the most appropriate paradigm for value proposition debating . . ." <sup>6</sup> We agree. The first of Vasilius' ten reasons for why hypothesis-testing is well suited to value debate is that "hypothesis testing established presumption." <sup>7</sup> Vasilius provides an advantage for stipulated presumption when she writes, "Arbitrariness in both 'games' status quo and 'games' presumption is thus avoided, and a model which can claim rigor in verification is employed." <sup>8</sup>

Willard, in attacking the hypothesis testing paradigm and defending the "policy perspective" for policy debate, makes an argument for consistency: "The term 'coherent' also implies that the disputants must defend consistent (emphasis his) policy positions." <sup>9</sup> He goes on to say that, "Consistency, after all, has enjoyed a long Western tradition of respect; and it is not unreasonable to claim that it has

gradually acquired the status of a primary social and intellectual value." <sup>10</sup> Of course, Willard is arguing against contradictory and inconsistent negative positions taken under the guise of hypothesis-testing. <sup>11</sup> Do we now offer a turnaround? Not really. But we do enjoy the same regard for consistency. We are using the term consistency in a somewhat different sense here than did Willard. The hypothesis-testing paradigm allows for consistency on the issue of presumption: presumption is always against the resolution. If nothing else, this position on presumption helps to clarify which team has what responsibilities.

The traditional view of presumption resting with the status quo, with the negative, and against the affirmative is inconsistent. What is the status quo on some value resolutions? Do value emphases change over time? Undoubtedly it is subject of debate. Consider, for example, the compulsory national service topic. Cases that argued jury duty as a form of compulsory national service probably supported a status quo value. Presumption, in this case might flow affirmative. In contrast, those who advocated the draft as desirable, argued for something that was not status quo. Presumption would probably be with the negative. Who knows where the locus of presumption might be on such cases as blood donation, garbage collection, energy conservation, participation in the census and so on.

For consistency, for parsimony, and for clarity, we suggest that presumption should be against the resolution. Zarefsky asserts, "The hypothesis tester regards presumption as stipulated rather than natural. Moreover, he recognizes that there are risks in both change and stability and that neither change nor stability

is a complete characterization of the normal state of affairs."<sup>12</sup>

Zarefsky goes on to justify why rigor is preserved when presumption is placed against the resolution:

But the negative is not proposing a thesis for adherence; its aim is only to negate. Rejecting the proposition does not preclude taking any other position. An alternative hypothesis may be provided for testing, the original hypothesis may be refined and then reexamined, further study may be undertaken, and so forth. By contrast, to affirm the proposition is to make a personal commitment that it is probably true. Since, rejection involves fewer risks than does acceptance, it is appropriate to locate presumption against the resolution.<sup>13</sup>

Note the phrase "since rejection involves fewer risks than does acceptance." By placing presumption against the resolution the probability of a judge voting for a false claim is reduced.

Interrelationships: Presumption, Burden of Proof, and Significance.

In order to avoid acceptance of a false claim how much weight should presumption be assigned? In Lichtman and Rohrer's discussion of decision rules for policy debate they suggest that if presumption "is not debated by either side, a feather's weight presumption is granted to the present system over any proposed change."<sup>14</sup> Their justification is that, "the adoption of a new policy generally involves more uncertainty than maintenance of the existing order, and that the substantive importance of this uncertainty is impossible to determine."<sup>15</sup> Lest we be accused of misconstruing, we hasten to add that Lichtman and Rohrer definitely are not hypothesis-testers. In fact, they appear to argue against hypothesis-testing when they say:

there should be a feather's weight of presumption against whichever advocate is in a position to expand the debate by enumerating new alternatives to his opponent's proposals. Proliferation of proposals and deterioration of debate were seen as undesirable . . . an initial affirmative proposal should be granted a presumption over subsequent counter-proposals.<sup>16</sup>

We are not sure how much a feather weighs. We assume it means, that in the case of an absolute tie, presumption would be employed as a decision rule to break a tie.

While Zarefsky operates from an hypothesis-tester paradigm and Lichtman and Rohrer from a comparison of policy systems--two radically different decision-making paradigms--we submit that they are not really antithetical when it comes to the issue of presumption. It is a matter of locus. In Henderson's terms, "The locus of a judge's decision would be the acceptance or rejection of that resolution."<sup>17</sup> The locus of presumption for Lichtman and Rohrer, as previously noted, would be against "whichever policy system entails more uncertain consequences."

In other words, the hypothesis-tester makes a judgment about the probable truth of the resolution based on the arguments and proofs presented in the debate. The focus is on whether the resolution is probably true or probably false, and along value dimensions, whether the value contained in the resolution is probably good or probably bad. The policy-maker, in contrast, makes her decision based on the certainty/uncertainty of effects of the policy or policies being advocated. Acceptance or rejection of affirmative's policy, assuming it is an example of the resolution, is tantamount to accepting or rejecting the resolution. Lichtman and Rohrer suggest,

"The basis of a decision rule should be the level of uncertainty surrounding the policies that are debated. Policies including little or no uncertainty should be favored over those with highly uncertain consequences."<sup>18</sup> Presumption links to the level of uncertainty of the policy or policies. For the hypothesis-tester focusing on the resolution, and that is where the focus is in value debate since no plan is offered, presumption is linked to the certainty (probability) that the claim (resolution) is true or false.

Presumption is now linked to the affirmative's burden of proof. The affirmative burden is twofold: First, the affirmative must present sufficient proofs to overcome our feather's weight presumption. The affirmative must demonstrate to the judge that she is not being asked to vote for a false claim. We might suggest that this constitutes the affirmative's minimal prima facie burden. Second, as the debate goes forward, affirmative must sustain not only enough proofs to overcome the false claim risk but also a preponderance of arguments, proofs, evidence, and reasoning over and above those advanced by the negative team. If the affirmative is successful in accomplishing both requirements they have probably, in the context of the debate, proven the probable truth of the resolution.

Our approach is very similar to that espoused by Smith and Hunsaker, "By 'presumption' we mean that, in absence of proof by a preponderance of the evidence, the case against a proposition of action or belief will prevail."<sup>19</sup> Trapp summarizes our position on presumption when he writes, "These rigors, inherent in the argumentative perspective, (stipulating presumption against

the resolution) provide a method that rhetoric might avoid accepting a false claim."<sup>20</sup>

Now we turn our attention to the interrelationships of the issue of significance for debating propositions of value preferring that such standards be established within the context of a particular debate. Significance arguments, in large measure, are situationally dependent on the arguments advanced by the affirmative and negative teams. Debaters should present not only reasons why their arguments are more significant but also should provide criteria by which significance comparisons can be made.

Minimally, the affirmative must demonstrate sufficient significance to overcome the risk of the false claim; in other words, to overcome presumption against the proposition. How much significance is necessary to overcome the "feather's weight" is subject to dispute within a given debate round. As we have mentioned previously when discussing burden of proof, the affirmative must also provide enough significance to overcome both presumption and negative arguments. If a tie were to result when comparing affirmative and negative significance, presumption would be invoked to avoid the risk of the false claim.

Mueller, Schuessler, and Costner note that, "Although hypothesis-testing procedures are useful in measuring the risk of being wrong, they cannot advise the investigator about how much risk he should take."<sup>21</sup> Clever and inventive negatives can devise "good reasons"<sup>22</sup> as to how much risk the investigator (judge) should or should not take when deciding whether to vote for the proposition. Thus, the risk of presumption might be contextually determined within the debate through negative arguments. Assuming that negative teams are successful in convincing the judge of an increased risk of presumption, affirmative significance

burdens would increase concurrently. Conversely, affirmatives might invent "good reasons" as to why the risk of presumption is minimal or even not important at all. In both cases the standards and criteria are best set within the debate round.

Lichtman and Rohrer argue that, "Questions of fact are resolved solely by an evaluation of the probable truth of the factual hypothesis that is being considered. Decision rules would be used to convert a particular level of probability into a yes-no decision that the hypothesis is either true or false."<sup>23</sup> They continue with examples from the courts, ". . . civil courts generally will uphold the plaintiff's claim if the probable truth of the claim is greater than 50 percent. Criminal courts, on the other hand, require the state to demonstrate close to a 100 percent probability of guilt before they will render a judgment against the accused."<sup>24</sup> Someone deciding a \$100 small claims suit is operating in a significantly different situation than someone attempting to decide the guilt of an accused murderer. The risk of accepting a false claim is obviously much greater in the latter situation. Significance burdens in debate rounds may vary accordingly depending upon the arguments, criteria, and "good reasons" presented. The greater the uncertainty of the guilt of the accused murderer, the greater the risk of convicting her.

Significance. Due to space limitations we are restricted from exploring at length methods for comparing significance. We can, however, make some general suggestions. We view debate on propositions of value as very similar to case arguments when debating propositions of policy. Policy debaters present justifications in support of their proposed

policy. Value debaters present justifications in support of a value or a set of values.

First, Value debaters can challenge the links between their opponents' justifications or criteria and their opponents' facts or values. If the links between data-claim-fact or data-claim-value are minimized the probability of the argument being true is also minimized. In addition, negatives can argue that we would call "counter-justifications." Their role in value debate is similar to what Zarefsky suggests under the hypothesis-testing model for policy debate: "The function of the counterplan is to argue by example that the specific proposition under consideration has not been justified."<sup>25</sup> No, we are not advocating counterplans in value debate but rather "counter-justifications." Zarefsky's counterplan "is merely the justification argument in a different form."<sup>26</sup>

Counter-justifications can take at least two forms. First, they can deny directly the affirmative's examples in support of the proposition. Consider the resolution: "Resolved: That Activism in Politics by Religious Groups Harms the American Political Process." Some affirmatives on this resolution argued justifications such as tax exempt status for religious groups, free media time and so on and attempted to demonstrate how this special status for religious groups harmed the political process. Some negatives issued counter-justifications that religious activism in politics led to improved civil rights conditions and that religious group activism contributed to the U.S. withdrawal from Vietnam. Restriction of freedom of speech was argued by some affirmatives while some negatives argued that religious activism enhanced debate on controversial topics

and contributed to the free marketplace of ideas.

Whether the resolution is probably true or probably false ties directly to the issue of significance. The team that is best able to prove the greater probability of their justifications/counter-justifications being true would have greater significance. In addition, advocates might attach a degree of value to each of the justifications. The team that displayed not only the most probable but also the most valuable justifications or counter-justifications would also enjoy the greatest significance. In more traditional terms, the probability of a justification/counter-justification might be likened to quantitative or empirical significance. The value of a justification is similar to qualitative significance.

Second, a counter-justification can support a counter-value. Each team will probably argue that the value they support is more important (higher in the hierarchy) than their opponents'. On the compulsory national service topic some affirmatives argued a "social contract"--that individuals owed an obligation to their society. Some negatives counter-justified with the argument that individual freedom should reign supreme. Arguments about these values in conflict were philosophical and qualitative in nature. But there were also quantitative arguments as affirmatives argued a need for a stronger Armed Forces. As with many recent CEDA resolutions, values and counter-values could be argued along both intrinsic and extrinsic dimensions.<sup>27</sup> In our view, how probable or how valuable something is or might be is also a question of significance. To the extent that one team has presented more probable and/or more valuable "good reasons" for or

against the resolution, they have also presented a more significant case for or against the resolution.

Finally, to discover other methods of arguing and minimizing significance, we suggest that debaters examine the fallacy of hasty generalizations, tests of induction, and Paulsen and Rhodes' work on counter-warrants.<sup>28</sup>

We agree with Zarefsky when he wrote:

I think our theories of argument would be given greater validity and wider utility by grappling with issues such as the nature of presumption and burden of proof, the responsibilities of the advocates, the role of the judge, and the nature of 'good reasons' in the context of non-policy propositions.<sup>29</sup>

This paper represents an initial attempt to grapple with some of these issues. Nothing would please us more than vehement disagreement and widely published counter-perspectives. For then, our students would have more options from which to choose "good reasons."

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<sup>1</sup>Robert Trapp, "A Situationally-Guided Perspective for Propositions of Judgment," in Don Brownlee, ed., Perspectives on Non-Policy Argument, CEDA, 1980, p. 25.

<sup>2</sup>Ibid.

<sup>3</sup>Jan Vasilus, "Presumption, Presumption, Wherefore Art Thou Presumption?" in Don Brownlee, ed., Perspectives. . .

<sup>4</sup>Allan J. Lichtman and Daniel M. Rohrer, "Decision Rules in Policy Debate: Presumption and Burden of Proof," in David Thomas, ed., Advanced Debate: Readings in Theory, Practice, and Teaching (Skokie, IL: National Textbook Co., 1979), p. 63.

<sup>5</sup>Ronald Matlon, "Debating Propositions of Value," Journal of the American Forensic Association, 14, (1978), pp. 199-200.

<sup>6</sup>Vasilus, p. 36.

<sup>7</sup>Ibid.

<sup>8</sup>Ibid.

<sup>9</sup>Charles Arthur Willard, "The Nature and Implications of the 'Policy Perspective' for the Evaluation of Debate," in David Thomas, ed., Advanced Debate. . . p. 441.

<sup>10</sup>Ibid.

<sup>11</sup>Although we appear to be hypothesis-testers, we also have our reservations about

the paradigm as employed in policy debate. Too often, we think, policy debaters misunderstand and misuse the paradigm. Where opportunities do not exist for inherency/disadvantage contradictions, for example, in value debate perhaps the same kinds of problems will not arise. And, arguing counter-justifications, in our view, is not the same as arguing counterplans.

<sup>12</sup>David Zarefsky, "Argument as Hypothesis Testing," in David Thomas, ed. Advanced Debate. . .p. 432.

<sup>13</sup>Ibid.

<sup>14</sup>Lichtman and Rohrer, p. 64.

<sup>15</sup>Ibid.

<sup>16</sup>Ibid.

<sup>17</sup>Bill Henderson, "Debate as a Paradigm for Demonstrating Truth Through Hypothesis-Testing," in David Thomas, ed., Advanced Debate. . .p.421.

<sup>18</sup>Lichtman and Rohrer, p. 64.

<sup>19</sup>Craig R. Smith and David M. Hunsaker, The Bases of Argument: Ideas in Conflict. (Indianapolis: Bobbs-Merrill, 1972), p. 150.

<sup>20</sup>Trapp, p. 26.

<sup>21</sup>John H. Mueller, Karl F. Schuessler, and Herbert L. Costner, Statistical Reasoning in Sociology, 2nd ed. (Boston: Houghton Mifflin, 1970), p. 400.

<sup>22</sup>this phrase is borrowed from Karl R. Wallace, "Substance of Rhetoric: Good Reasons," Quarterly Journal of Speech, 49, (1963), pp. 239-249.

<sup>23</sup>Lichtman and Rohrer, p. 53.

<sup>24</sup>Ibid.

<sup>25</sup>Zarefsky, p. 434.

<sup>26</sup>Ibid.

<sup>27</sup>see, for example, Don Brownlee, "Advocacy and Values," in Don Brownlee, ed., Perspectives. . .p. 43.

<sup>28</sup>see James W. Paulsen and Jack Rhodes, "The Counter-Warrant as a Negative Strategy: A Modest Proposal," Journal of the American Forensic Association, 15, (1979), pp. 205-210.

<sup>29</sup>David Zarefsky, "Criteria for Evaluating Non-Policy Argument," in Don Brownlee, ed., Perspectives. . .p. 16.