

CATASTROPHE AND CRITERION: A CASE FOR JUSTIFICATION

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The theory of nonpolicy debate and the historical practice of most affirmative CEDA teams involve positing a criterion as a standard for judgment. The remainder of the case, then, is designed to meet the criterion. In an effort to win the ballot, negative teams have the option of offering a straight refutation of the affirmative case, suggesting a counter criterion which the affirmative case does not meet, or arguing that facts related to the topic do not meet the criterion that the affirmative has established. In any event, the establishment of criteria is central to such debates.

Recently, this model for nonpolicy debate has been weakened by the increasing use of inappropriate "catastrophe" arguments in CEDA. These arguments link the opposing team's position to the precipitation of a cataclysmic disaster. The introduction of such arguments into CEDA is noted by Meldrum (1987), who chronicles their appearance in second negative speeches, drift to first negative, and eventual migration to affirmative cases. An accompanying phenomenon of the move to such catastrophe arguments by teams is the underdevelopment, or disappearance altogether, of criteria as standards for judgment. In this essay, I examine several problems created by the misuse of catastrophe arguments in nonpolicy debate. Further, I argue for increased attention by both teams to criteria development and justification. This latter argument is based on Wasserstrom's (1961) analysis of judicial decisions.

Catastrophe: Nuclear War Does Not Outweigh

Although catastrophes can be of any species, the catastrophe of preference seems to be nuclear war. Using unrelated evidence and a deductive chain of reasoning, the conclusion of one argument is linked to the major premise of another by a common or similar word or phrase in the evidence that is, more likely than not, used in different contexts by the various authors cited. For example, a negative team debating the Spring 1988 CEDA topic, "Resolved, That the American judicial system has overemphasized freedom of the press," might use the following catastrophe argument:

A. Free press avoids misperception.

Philip Schlesinger, "Terrorism, the Media and the Liberal-Democratic State: A critique of the Orthodoxy," *Social Research*, Spring 1981, p. 83. "The media can and do play an important role by stilling rumors and speculation."

B. Misperceptions lead to war.

John Sloessinger, *Why Nations Go to War*, 1974, p. 223. "The most important single precipitating factor in the outbreak of war is misperception."

C. Misperceptions lead to arms race.

Richard Shearer, *Arms Control*, 1984, p. 4. "The arms race evolves in an 'action-

reaction' pattern with each side misunderstanding and overreacting to the other's actions."

D. Arms race and local wars lead to superpower confrontation.

The Center for Defense Information, *The Defense Monitor*, v. 11, no. 3, 1982, p. 10. "Increased U. S. arms transfers will lead to increased Soviet arms transfers and enhance the likelihood of a regional conflict which could escalate into a superpower confrontation."

AND

William P. Neufeld, "Forecasting Potential Crises," *The Futurist*, April, 1984, p. 18. "The possibility of a U.S.-Soviet war arising from competing interventions in local conflicts is also likely to be greater in the future."

E. Superpower confrontation equals nuclear war. Barnett, *New York Times*, June 6, 1978, p. A 17. "In the politics of confrontation all it takes is one wrong guess about what the Russians will do and the result is an uncontrollable chain reaction of move and counter-move leading straight to nuclear war."

The affirmative team, on the other hand, could argue as follows:

A. The American judicial system does not require the press to print truthful information.

Miami Herald Publishing Co. v. Tornillo, 418 U.S. 241, 284, (1974): "[A] compulsion exerted by government on a newspaper to print that which it would not otherwise print . . . is unconstitutional. A responsible press is an undoubtedly desirable goal, but press responsibility is not mandated by the Constitution."

B. Free press created misperceptions.

Michael Fumento, "The AIDS Cookbook," *The New Republic*, April 4, 1988, p. 19. "Others [books on AIDS] have been devastatingly misleading, such as Gene Antonio's *The AIDS Cover-Up?*, which in defiance of Public Health Service officials pushes the case for casual transmission."

Adding to this subpoints B through E from the negative block above, the affirmative team could arrive at a nuclear war catastrophe by an almost identical and equally ridiculous route.

Catastrophe arguments such as these create several problems. The most obvious is that the deductive chains involve such tenuous links, the only warrant for the argument becomes the common or similar word or phrase. To attempt to argue that such a warrant has backing is ludicrous. As argumentation switches from the topic to the magnitude or weight or competing catastrophes, or numbers of "deade bodies on the flow," debates no longer serve to illuminate issues related to the topic. Such debates become a game of quantity, one in which the more extreme the better, and one in which quality and

soundness of argument get lost in masses or irrelevant, questionable, or out-of-context evidence. Although games play an important role in society, the time-honored tradition of debate involves a larger obligation to the education of individuals and the betterment of society. CEDA debate ought to be devoted to reasoning about a topic and reasoning about reasoning, with an eye to furthering understanding of both.

A second problem created by inappropriate catastrophe arguments is to misdirect research efforts. Rather than focusing on the topic, debaters seek vaguely worded books and articles about nuclear war and other catastrophes that can be linked to the topic, as the notion of "misperception" is linked in the above examples. As a result, the learning that attends research on a specific topic is lessened.

The most significant problem that results from reliance on catastrophe arguments, however, is the resulting weakness of argumentation. Frequently, reliance on catastrophe arguments is accompanied by failure to develop the criterion adequately. At times, no criterion or standard for judgment is articulated. Although the reasoning behind this omission is not made explicit, debaters appear to expect a judgment that any position leading to catastrophe is a position to be rejected. In fact, some teams assert a sort of cost/benefit analysis as the criterion. Certainly, a cost/benefit analysis must be the standard for judgment if a catastrophe argument is to be the reason for decision in a debate; this is, if a judge votes for one team because a decision for the other team would result in nuclear war, the judge is, in effect, deciding that the cost (precipitation of a catastrophe) of the team's position outweighs any benefits they have suggested. Even some teams who do not posit a criterion instinctively seem to understand this by their use of the popular jargonistic phrase, "nuke war outweighs."

The process of judgment in nonpolicy debate is devoid of logic or reason when the judge's acceptance of a catastrophe argument (such as the ones above) is the determination of whether or not the American judicial system has overemphasized freedom of the press. The concept of overemphasis is given no consideration; in fact, the wording of the topic is relevant only to the first subpoint in any given argument. After that, a generic block that leads to nuclear war is all that is necessary for the judge to vote. The problem is more fundamental than the weak links or out-of-context evidence that plague most inappropriate catastrophe arguments, for reliance on such argument obscures the premises upon which a conclusion about the topic is based.

Poor topic analysis, misdirected research efforts, and weak argumentation are not inherent to the genre of catastrophe argument. In a debate on the United States military presence in the Persian Gulf, a sound, well linked argument about that presence provoking or preventing war, even nuclear war, adds illumination to the debate. The problems cited above stem directly from the misuse of and poorly justified reliance upon catastrophe arguments. In particular, when the use of ill-conceived catastrophe arguments is allowed to supplant sound reasoning about criteria, the quality of nonpolicy debates suffers. One of CEDA's contributions to the intellectual community is the development of standards for judgment about nonpolicy propositions. Use of inappropriate catastrophe arguments in place of criteria justification diminishes the potential of

that contribution. In the following section, the need for criteria justification in establishing standards for judgment is demonstrated by reviewing Wasserstrom's (1961) analysis of judicial decision-making. Further, his discussion is used to demonstrate the illogic of reliance upon catastrophe arguments in judging nonpolicy propositions.

Justification of Criteria

A great deal has been written about standards for judgment on nonpolicy propositions. To date, no replacement for a criterion has emerged from the literature. Until such time as it does, use of a criterion as a standard for judgment remains the most sound analytical basis for deciding nonpolicy controversies. However, mere assertion of a criterion is of little help. As Cole, Boggs, and Twohy (1986) point out, "the most overlooked aspect of criteria argument is not the criteria themselves but the justification of criteria" (p. 40). The need for a justification step in the establishment of a standard for judgment by means of a criterion is explained well in Wasserstrom's theory of legal justification.

Wasserstrom's study of judicial decisions is a study not of the empirical process by which courts decide cases but the justification process they ought to use in announcing decisions. He reviews the two competing theories of justification—the procedure of precedent and the procedure of equity—and finds both wanting. His solution is to combine them into a two-level procedure that provides a sound justificational basis for decision. As judgment in nonpolicy debate is similar to decisions in a judicial setting—both involving the determination of mixed issues of fact and value—Wasserstrom's model is instructive for CEDA theory.

The procedure of precedent comes from the rule of *stare decisis*, that like cases ought to be decided alike. As Wasserstrom explains, the standard for judgment in this procedure is that "a particular decision can be justified if and only if it is deducible from an extant rule of law—a precedent" (p. 56). The major strengths he finds for this standard for judgment are certainty, reliance, equality, and efficiency. Using precedent to come to a decision essentially is a deductive process in which the rule serves as the major premise and the minor premise links the facts of the case at hand to the circumstances of the rule. However, Wasserstrom argues that precedent is not fully adequate as a justification for decision because the doctrine of precedent never will justify the overturning of precedent, that is, a court admitting past error. In addition, it cannot account, nor does it allow, for decisions in novel situations. Finally, the notion of decision by precedent does not explain nor justify the precedent itself. Wasserstrom states, "when viewed as reasons, precedents by themselves constitute justifications that require confrontation before they may be sensibly disregarded or altered" (p. 83). To follow a precedential decision rule is to be bound uncritically to anachronistic legal rules "simply because they are the extant legal rules" (p. 84).

The procedure of equity, on the other hand, offers a case-by-case standard for judgment. Justification for decision is individualistic, natural, and equitable. The correct

decision is that which is most just for the case at hand, whose consequences are more desirable than the consequences of any other decision. The basis of equitable judgments is an intuitive, inductive process that apparently defies scholarly analysis. Wasserstrom reviews various attempts to analyze it and concludes that equitable decisions are either intuitive or involve reference to some unarticulated rule or principle, which implies a precedent and takes the decision out of the realm of pure equity.

Several problems can be discovered in an equitable justification procedure, not surprisingly the very problems that are the strength of the procedure of precedent. A procedure of equity lacks the predictability that rules give. Further, a lack of consistency in decisions leads to a perception of, if not actual, unfairness. This leads to an inefficient and unreliable decision-making process.

Wasserstrom's preferred model for justification of decisions is a two-tiered procedure that is a meld of both precedent and equity. This preferred procedure has as its standard for judgment, "that a decision is justifiable if and only if it is deducible from the legal rule whose introduction and employment can be shown to be more desirable than any other possible rule" (p. 138). This is, according to Wasserstrom, a description of a rational decision-making process that involves the canons of logic in deducing the correct decision from assigned premises but has the added advantage of empirical questioning of those premises. In other words, the rule is a necessary but not sufficient condition of decisions. The justification for the selection of the rule supplies the sufficient condition. Rules are the equivalent of a precedent; the equitable portion of the justification comes in deciding among competing rules that could be applied to the particular case.

Adopting Wasserstrom's model for CEDA suggests that proposing a standard for judgment of a nonpolicy proposition ought to be a two-step process. First, a criterion ought to be proposed, and second, adoption of that criterion as the standard for the round must be justified. The former is the necessary condition, the latter, the sufficient condition for a reasoned decision. The judge reasons inductively to choose the criterion that will function as the standard of judgment. That criterion then becomes the major premise of the deductive process whereby a conclusion is reached. The affirmative case, negative's refutation of it, or second negative arguments function as minor premises leading from criterion to a proper conclusion.

Wasserstrom's model gives specificity to what Matlon (1981, p. 497) and others refer to as the "definitive" issue—the justification of judgment. The model does not specify what type of rules, principle, or value might be suggested as a criterion. Ulrich (1983) suggests philosophical systems; debaters often suggest "highest values" such as "life" or "national security." Any sort of rule, procedure, or standard for judgment—including cost/benefit—might be set forth, so long as the concept is given in the form of a method of determination or a rule for decision. However, before a judge accepts any criterion, the justification for its acceptance ought to be established. Further, a major portion of the opposition's refutation, unless they accept the criterion, ought to be directed against the justification, followed by their own proposal for criterion and its

justification. The judge uses this argumentation to make a judgment, choosing the best justification and, thereby, adopting a criterion. Only then can a reasoned judgment be made, determining which side best meets that criterion. As Wasserstrom explains, requiring justification for the adoption of a rule or criterion "demands that the [arguer] make explicit all the premises of his [or her] argument" (p. 159). This explicitness results in better argumentation, for it exposes a given position to scrutiny and makes clear the logic of a position. Correlatively, decisions made thusly will be more sufficiently reasoned than those based on intuition or an inductive process that assigns a vague weight to competing catastrophes.

In the freedom of the press example, an affirmative team might argue that the criterion for overemphasis ought to be an imbalance of constitutional rights, offering proof that society is based upon a balance of rights and illustrating the dangers of allowing certain rights to supercede others. Having established and justified that criterion, the case would demonstrate that U.S. Supreme Court decisions have placed First Amendment rights of the press above other rights on numerous occasions. In order to refute the logic of this position, the negative team must either show that, in fact, the Court has not placed press rights over other rights, a position that implicitly accepts the affirmative criterion, or challenge that criterion as a standard for judgment about the topic. Unless the negative team successfully refutes the affirmative justification of criterion, the "misperceptions-lead-to-nuclear war" argument is irrelevant to the debate and cannot rationally be used as a reason for decision as it does not bear on the rights-in-balance criterion.

Insistence by judges on the articulation and justification of criteria thus will help to solve the problems created by inappropriate catastrophe arguments. Justification of criterion makes clear which arguments are irrelevant to the topic area and focuses research efforts and debates themselves more squarely on the issue at hand. Further, judges can use well developed and justified criteria to separate appropriate catastrophe arguments from more abusive examples of the genre. If a catastrophe argument meets the criterion deemed best justified in the round by the judge, then, provided it is internally well linked and evidenced, it ought to be a basis for decision. Correlatively, debaters who wish to use catastrophe arguments ought to develop and justify criteria that demonstrate the relevance of such argumentation to a decision about the topic. This is a far cry from current practice in which the judgment accepting catastrophe arguments lies somewhere between an inductive process, albeit a poor one, and a standardless intuition that is akin to Wasserstrom's description of purely equitable judgment.

CEDA is in danger of allowing current practice to define principle. By rendering and explaining judgments in actual debate rounds, the CEDA community must reverse this process and encourage not only the articulation of criteria but its justification, leaving catastrophe arguments to compete with other factual claims as minor premises. The practice of justifying criteria should spawn new ideas about acceptable justifications, the rationality of judgment about nonpolicy propositions and, perhaps, alternatives to criteria as possible standards for judgment. Nothing productive, on the other

hand, has been forthcoming from the practice of relying on competing catastrophes as the sole basis for deciding CEDA debates.

References

- Cole, M. S., Boggs, R. G., & Twohy, K. M. (1986). The function of criteria in non-policy argumentation: Burdens and approaches. *CEDA Yearbook*, 7, 36-42.
- Matlon, R. J. (1981). Propositions of value: An inquiry into issue analysis and the locus of presumption. In G. Ziegelmüller & J. Rhodes (Eds.), *Dimensions of argument: Proceedings of the Second Summer Conference on Argumentation* (pp. 494-499). Annandale, VA: Speech Communication Association.
- Meldrum, V. D. (1987, February). *A case for further criteria development in non-policy debate*. Paper presented at the meeting of the Western Speech Communication Association, Salt Lake City, UT.
- Ulrich, W. (1983). Philosophical systems as paradigms for value debate. *CEDA Yearbook*, 4, 22-28.
- Wasserstrom, R. A. (1961). *The judicial decision: Toward a theory of legal justification*. Stanford, CA: Stanford University Press.

DEFINITIONAL ISSUES IN THE PURSUIT OF ARGUMENTATIVE UNDERSTANDINGS: A CRITIQUE OF CONTEMPORARY PRACTICE¹

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While it is customary for scholars of human communication to recognize the complex nature of symbolic interaction, casual observation reveals our tendency to avoid any great concern over the actual use of words. So very often we fail to appreciate the need for clarity when we rely upon language in the commerce of daily affairs. Rather, most of us assume that an element of common understanding exists between individuals and that the meaning of a specific term is shared. It is only when ambiguities arise or when we interact in unique environments requiring explicit definitional analyses that the fundamental shortcomings associated with the use of words become apparent.

Among other specialized activities (e.g., jurisprudence), academic debate is one of those contrived situations in which, ostensibly, the clarity of terms is essential. However, the practice of tournament debating frequently gives short shrift to the role of definitions and obscures the fact that the meaning of words rests on more than a first affirmative's construction of argument. The following pages support this indictment by discussing three problematic trends concerning the definition of terms in academic debate, examining the basis for those problems as rooted in the misconceptions of participants, and reassessing what definitions are meant to be vis-a-vis debate while specifying rules for the appropriate clarification of terms in any given round. Ultimately, coaches and debaters may be guided to a deeper appreciation of definitional disputes and encouraged to use methods for critically inspecting the nature and utility of definitions in academic debate.

The traditional importance of definitions in reasoning and debate almost goes without mentioning. Textbooks uniformly highlight the need to clarify the terms of a resolution (e.g., Baird, 1950; Church & Wilbanks, 1986; Freeley, 1981; Rieke & Sillars, 1984; Toulmin, Rieke, & Janik, 1984). Furthermore, recent scholarship in social argumentation (e.g., Miller & Nicholson, 1976; Nelson, 1985) and tournament debate has explored the analytic distinctions between policy and value controversies regarding definitions. In policy debate, definitions are governed by either a "reasonability" (e.g., Herbeck & Katsulas, 1985) or a "more reasonable" (e.g., Parson, 1981) standard. Others (e.g., Ulrich, 1984; Warnick, 1981) argue that even more stringent justifications must be applied to definitions in the realm of value debate.

Regardless of policy/value distinctions, however, all would seem to grant the affirmative the right and obligation to define key terms at the start of a debate. Consequently, debate coaches and teams spend considerable portions of time analyzing