

Negotiation, Persuasion and Argument

CHRIS PROVIS

*School of International Business
University of South Australia
North Terrace
Adelaide 5000, Australia
E-mail: chris.provis@unisa.edu.au*

ABSTRACT: Argument is often taken to deal with conflicting opinion or belief, while negotiation deals with conflicting goals or interests. It is widely accepted that argument ought to comply with some principles or norms. On the other hand, negotiation and bargaining involve concession exchange and tactical use of power, which may be contrasted with attempts to convince others through argument. However, there are cases where it is difficult to draw a clear distinction between bargaining and argument: notably cases where negotiators persuade others through 'framing' and cases where the aims of negotiation have to do with public assertion and acceptance. Those cases suggest that the distinction between negotiation and argument is not absolute, and this raises the question whether rules about what is acceptable in argument and rules about what is acceptable in negotiation can all be viewed as instances of more general common norms about human interaction.

KEY WORDS: argument, assertion, bargaining, concession exchange, framing, negotiation, persuasion, rationality

NEGOTIATION, BARGAINING AND ARGUMENT

We tend to think of 'argument' as a process that deals with beliefs and opinions (e.g. van Eemeren and Grootendorst, 1996, p. 10). There has been long-standing discussion about the extent to which argument can yield conclusions about what to do, accepting that the standard or uncontroversial use of argument is to reach conclusions about matters of fact (see e.g. Toulmin, 1950; Habermas, 1983). But whatever the scope of argument may be, significant effort has gone into identifying principles or norms that can be used to evaluate arguments (e.g. van Eemeren and Grootendorst, 1996, pp. 10–13). Such principles or norms can be used to call into question either actions by individuals that constitute part of the process of argument, or outcomes of the process, the conclusions that it leads to.

On the other hand, 'negotiation' is a process that certainly leads to decisions about what to do, but much less attention has been given to whether there are principles or norms that apply to the process. While 'negotiation' may sometimes be distinguished from 'bargaining', it is not uncommon for those terms to be used interchangeably (e.g. Lewicki et al., 1994, p. 1), and bargaining certainly tends to involve threats, deception and other sorts of tactics that would normally be excluded by principles of



Argumentation 18: 95–112, 2004.

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argumentation (see e.g. Schelling, 1980; Walton and McKersie, 1991, chap. 3). Elster considers the possibility that rational discussion might be considered a form of bargaining, but notes that the different principles and norms that seem to apply give reason to maintain a distinction. He says:

Bargaining must be distinguished from attempts to reach agreement by rational discussion. One way of characterizing the latter is as bargaining in which strategic misrepresentation and other forms of jockeying for position are not allowed. Although this may capture part of the idea of rational discussion, it gives too much weight to the bargaining power of the parties. In rational discussion, the only thing supposed to count is the 'power of the better argument', including arguments that are radically dissociated from the bargaining power of the parties. . . . Bargaining, by contrast, takes account of all actual features of the parties (1989, pp. 50–51).

The association of 'argument' with 'rational discussion' is a well-established one: for example, 'we shall mean by "argument" that element in our expressions which carries the power to convince people in rational discussion' (Naess, 1966, p. 97). In any case, it seems clear that those same reasons that can be given to distinguish bargaining from rational discussion apply *a fortiori* to distinguish bargaining from argument.

However, some recent discussion tends to blur any distinction between argument and negotiation. Sycara claims that 'persuasive argumentation lies at the heart of negotiation and embodies the dynamics of negotiation' (1990, p. 203). Some artificial intelligence literature intermingles forms of communication and information exchange that appear to constitute 'argumentation' and 'negotiation', without making any important distinction between the two (see e.g. Parsons et al., 1998; Tambe and Jung, 1999). There seems to be some tension between the uncritical intermixture of argument and negotiation, on the one hand, and Elster's emphatic distinction, on the other hand.

Different approaches may arise because different authors focus on different aspects of bargaining and negotiation. Thus, for example, in establishing a formal model of argumentation-based reasoning and negotiation, Parsons and his colleagues have their agents make proposals about agreements and trade-offs that are reminiscent of ideas emphasised in Fisher and Ury's popular negotiation handbook *Getting to YES* (1981), ideas such as 'focus on interests, not positions'. This approach to bargaining, sometimes referred to as 'mutual gains bargaining', revisits earlier ideas of 'integrative negotiation' (e.g. Walton and McKersie, 1991, chap. 5). But it is doubtful whether all bargaining is or can be 'mutual gains bargaining' (Rojot, 1991, p. 90): there remain some bargaining episodes that verge on 'limited war' (cf. Schelling, 1980, chap. 3). If we focus on that sort of bargaining, which uses tactics such as threats, positional commitment, and maximisation of bargaining power, then we shall be more likely to notice differences between bargaining processes and processes of argumentation. Thus, while there are bargaining processes like exploring possible trade-offs that fit neatly with argument processes, the nature of many bargaining

processes seems to imply that we must maintain some distinction between bargaining and argument, at least because norms and principles that apply to argument do not apply to bargaining.

The difficulty might not be noticeable if we maintained a view of argument, according to which argument deals only with opinions and beliefs. However, it seems clear that much 'argument' commonly so-called is argument about 'what to do' rather than argument about 'what is the case' or 'what to believe'. It is at least as common to argue about which restaurant to go to as it is to argue about how many planets there are. Walton makes the point that a dictionary definition of argument 'is much broader and richer than the truncated version of it partially expressed in the traditional logicians' definition' (1990, p. 410). He puts the suggested definition that 'argument is a social and verbal means of trying to resolve, or at least to contend with, a conflict or difference that has arisen or exists between two (or more) parties' (1990, p. 411). Walton intends this definition of 'argument' to be broad enough to include 'negotiation' as a type of argument. Parties engaged in argument differ in their 'claims', but 'in a negotiation argument, the claim could be to goods or to financial assets'.

However, that definition then leads Walton to make a distinction between 'negotiation dialogue' and 'persuasion dialogue'. He says:

In contrast to persuasion dialogue, negotiation is a form of interest-based bargaining where the goal is to 'get the best deal.' . . . The goal here is not to show that a proposition is true or right, based on evidence, as it is in a critical discussion (1990, pp. 412–413).

Fallacies like *ad baculum* 'may violate one or more of the negative rules of persuasion dialogue' (1989, p. 98), whereas bargaining dialogue 'is completely adversarial' (1989, p. 8). It allows some moves that would count as *ad baculum* or *ad hominem* in persuasion dialogue (Walton, 1998, p. 115).

Thus, there is a recurrence of the earlier difficulty: in order to maintain that different principles and norms apply in one sort of dialogue than in the other, it is necessary to maintain a distinction between them. The same result would be achieved if we restricted the terms 'negotiation' and 'bargaining' to exclude processes of 'argument'. For ease of exposition, I shall for the time being do that, and assume that 'bargaining' has the sense that Elster gives to it and that Walton gives to 'negotiation dialogue', while 'argument' means what Walton refers to as 'persuasion dialogue'. (That does not seem any less natural than Walton's usage, since 'persuasion' need not be through rational discussion, and could be through bargaining, so that a distinction between 'negotiation dialogue' and 'persuasion dialogue' is at least as unnatural as a distinction between bargaining and argument, perhaps even more so.)

One way or another, there is clearly one strand of thinking, represented at least by Elster and Walton (despite their different terminologies) to the

effect that bargaining (or negotiation, or 'negotiation dialogue') needs to be distinguished from argument (or 'persuasion dialogue') because of the different standards that apply to them. But that view has to confront Sycara's that 'persuasive argumentation lies at the heart of negotiation'.

If we look at specific examples of argumentation that Sycara identifies as contained in negotiation, we may think that there is still some basis for a distinction between dialogue that conforms to principles of 'rational discussion', and other bargaining-type dialogue. Sycara (1990, pp. 217–219) identifies detailed arguments derived from empirical study of labour relations. They are: (1) appeal to universal principle (or 'socially sanctioned belief'); (2) appeal to a theme (which may 'appeal to affect rather than logic or reality'); (3) appeal to authority; (4) appeal to 'status quo'; (5) appeal to 'minor standard' (to refute arguments based on prevailing practice, by pointing to differences between the instant case and the general case); (6) appeal to 'prevailing practice'; (7) appeal to precedents as counterexamples; (8) appeal to self-interest; (9) threats and promises. Many of these, at least, would be counted as fallacies in traditional analysis of arguments, and seem to be more at home in Walton's 'bargaining dialogue' than his 'persuasion dialogue'.

We might suggest that some of the persuasive tactics noted by Sycara should be distinguished from traditionally accepted argumentation because they do not attempt to persuade the other party about the truth of a proposition; they are attempts to persuade the other party directly about what to do, rather than about what to believe. Although we have noted already that argument is often about what to do, and not just about what to believe, we might attempt to distinguish argument from bargaining by suggesting that attempts to change people's behaviour by argument at least try to do so via changing beliefs that underpin their intentions. However, Sycara at least does not seem to consider that this would be the basis for a distinction, saying that

In order to be persuasive, a persuader needs to decide what kind of argument will be most effective in a given situation. To do this, he needs to first decide whether he wants to change only the behavior of a persuadee or change his beliefs as well (1990, p. 200).

Nevertheless, if our concern is to maintain a distinction between processes to which some established standards of argumentation can be applied and others to which they cannot, we might still focus on some distinction like that, a distinction between trying to change behaviour *via* change of underpinning beliefs, on the one hand, and trying to change behaviour more directly, on the other. There are many cases where negotiation involves one party trying to change another party's beliefs, and doing so may well include argument in the traditional sense. In negotiating about a wage increase, a union may argue that the increase is necessary to allow for prospective inflation. The employer may argue in response that inflation has declined and contrary to union claims the cost of living will not

increase over the coming year. The employer's argument may involve reference to a number of economic indicators and various pieces of economic theory. There seems no reason then to distinguish it from other cases where argument is used to support or establish a proposition. But other parts of negotiation that involve threats or promises or the like might in Sycara's terms be construed as attempts to change only behaviour.

CAN WE PARTITION NEGOTIATION INTO BARGAINING AND ARGUMENT?

That approach is effectively an attempt to distinguish pieces of argument from the larger negotiation process in which they are embedded. Actual processes might involve close successions of bargaining and argument. In his 1989 book, Walton suggested that some cases of argumentative discourse contain successions of different types of dialogue, including negotiation dialogue and persuasion dialogue. He gives an example of divorce proceedings, saying that

if the dialogue turns to a consideration of the issue of which party is best suited to look after the children, the dialogue may cease to be an interest-based bargaining dialogue and become a persuasion dialogue (1989, p. 8).

This sort of dissection would be consistent with scientific procedures that discern various combinations of ideal types or pure cases to make up the jumble of reality. It could be that actual negotiations involve successions of various processes. Pruitt and Carnevale note several different strategies that parties may use in negotiation, including 'concession making', 'contending' and 'problem solving' (1993, p. 3; see also Firth, 1995a). We might be able to partition any actual interaction into a series of parts of different types, the parts clearly distinct, without overlap.

However, there are some difficulties with the idea of partition. One problem is that sometimes in negotiation, sub-processes cannot clearly be classified one way or another. Negotiation occurs when parties are in conflict. Often, such conflict may stem from people having different beliefs or different desires. If they have different beliefs, then argument may resolve the conflict, and if they have different desires or interests then bargaining may resolve it. But Schick has suggested that there may be another way to resolve conflict, which he refers to as 'persuasion'. It may be that one 'lays out the prospects differently', getting people to have a different 'understanding' of them. He suggests that in this case

Persuasion rests on a philosophical insight. It rests on a point about the semantics of wanting, that what a person wants are not events or situations in the physical raw, but these events or situations under some descriptions of them . . . (1988, p. 368).

This takes up a line of thought that Schick has developed elsewhere, to the effect that we ought to conceive of choices as choices of options under particular descriptions (e.g. Schick, 1992). For our purposes there are two

points which we can draw from Schick's discussion. Firstly, 'persuasion' in negotiation sometimes consists of getting people to conceive of things as falling under different descriptions than the descriptions they were initially inclined to use, even though it does not get them to change their beliefs. Secondly, this process is rather like persuading people through argument, in the way that it changes their cognitions of particular states of affairs. It can be a quite legitimate means of persuasion, but it does not fall neatly under the heading of 'argument'.

The first point is at least partly an empirical one. Kahneman and Tversky have demonstrated that differences in the way an issue is 'framed' can affect people's attitude towards it, notably in regard to their assessment of risk (e.g. Kahneman and Tversky, 1979).¹ Related work on 'the endowment effect' suggests that people may take a different attitude to the same outcome depending upon whether they see it as a gain, a loss, or a maintenance of the status quo (e.g. Kahneman et al., 1991). Bazerman and Neale have built upon that work in discussions of negotiation, to suggest that 'framing' is very important in negotiation. For example, consider a case of wage negotiations, where a union has proposed an increase of \$4 per hour and is offered an increase of \$2 per hour. In one 'frame' that is seen as a gain of \$2 per hour, in another, a loss of \$2 per hour. On the basis of empirical studies, they say

Whether you view your options as losses or as gains will considerably influence your willingness to accept management's position – *even if the same options are offered in both cases* (1992, p. 39, emphasis in original).

There is some question here to the same effect as may be put about Schick's view, whether the options are the same if they are conceived differently, but for our purposes the point is that getting another party to accept one 'frame' rather than another may be a useful persuasive process in negotiation.

It may be responded that a different frame is a similar cognition accompanied by different affect. Thus, Walker in her empirical study analyses a negotiator's 'formulations' of points previously put by other parties, and refers to 'optimistic' and 'pessimistic' formulations (Walker, 1995). It is conceivable that the difference between such formulations might be just in their accompanying affect. In that case, we can still separate parts of an interaction into argument processes and other processes. These other processes will include attempts to alter the affect experienced by another party in contemplating a possible outcome. At the simplest level, we might say, 'Oh, come on: you'll feel good about it afterwards, knowing that you've helped us out.'

However, it seems clear that in some cases at least, attempts to alter another party's 'frame' go beyond attempts to alter the affect they experience. There is sometimes a clear attempt to change the way they see things. It is at least plausible to suggest that on occasion the sort of

persuasion that occurs in negotiation is of that cognitive sort, and that when it is successful it affects people's willingness to agree, through 'framing' effects and the like (A related process is the appeal to alternative 'scripts' and 'schemas': see Carroll and Payne, 1991).

The process then is one of persuasion, which seems to change people's cognition, but it is not clear that the process is one of argument. A key reason is that it is not clear that the process is one for the transmission of truth from premisses to conclusion, because it is not clear that the 'ways of seeing' embodied in frames are able to be evaluated as true or false. To see Wittgenstein's duck-rabbit as a duck is not more true than to see it as a rabbit, and it is not false to see the Necker Cube one way rather than the other. It need not be false to see a wage offer one way, or true to see it the other way. This is not to say that 'frames' and 'scripts' and 'ways of seeing' cannot ever be true or false. Carroll and Payne quite rightly note that 'it is very easy for negotiators' interpretations of the negotiation situation, their specific negotiation schemas, to diverge from the objective features of the task' (1991, p. 15). However, it is at least possible in some situations that there will be nothing to choose between frames or scripts in terms of their truth or falsity. An implication seems to be that they do not have the sort of 'propositional content' that is usually associated with 'argument' (e.g. van Eemeren, 1987, p. 207).

To reiterate, the reason why these points are interesting here is that they cast doubt on the attempt to partition interactive discourse into parts, some of which can be referred to as 'bargaining' or 'concession exchange' or 'negotiation dialogue', on the one hand, and some parts which can be referred to as 'argument' or 'persuasion dialogue', on the other hand.

The idea that such partition is possible may be reflected by Elster's view that 'bargaining is a process that can be broken down into successive offers and counteroffers' (1989, p. 69). Such a process is similar to a process of 'concession exchange'. Each envisages fixed preferences for both parties. Elster says that in the sort of situation he is envisaging

The bargaining situation is fully described by a set of feasible utility pairs (derived from the set of feasible physical bargains) and a disagreement point which specifies the utility of the outcome that will be produced if the parties fail to reach agreement (p. 55).

In that sort of situation, negotiation often involves parties exchanging information about one another's preferences so as to work out a combination of actions that will give each the greatest possible satisfaction, satisfying the preferences of each to the greatest extent jointly possible (see e.g. Pruitt and Carnevale, 1993, pp. 9–10). Taking this as an archetype has led to the theories that were mentioned above of 'mutual gains bargaining' and the exhortation for negotiators to 'focus on interests, not positions' (Fisher and Ury, 1981, chap. 3). This is one sort of process that Artificial Intelligence simulations tend to model as 'negotiation'.

Very often, however, negotiation departs from that model in that it

involves parties trying to persuade one another to alter their original preferences. It is possible for that to be done by exchange of information, or by argument. For example, a union negotiator may provide information to an employer about tax concessions for superannuation contributions made on employees' behalf, or may argue that the cost of long-service leave provisions will be offset by the value of retaining skilled employees. On occasion, however, the process of persuasion will be by trying to get another party to 'see things differently', through reframing or reformulating.

This sort of process occurs in many negotiations, like the wage negotiation described by Bazerman and Neale. It may most clearly be seen in cases where the issue for negotiation goes beyond economic or commercial interest to political or religious issues. For example, consider the negotiations between Catholics and Protestants at Regensburg in 1541, recounted in detail by Peter Matheson in his book *Cardinal Contarini at Regensburg* (1972). The process had some of the characteristics of a 'discussion' rather than a 'negotiation', but there are some respects in which the proceedings bear unmistakable resemblance to cases we do not hesitate to label 'negotiations'. Contarini is an agent, and 'his instruction drastically curtailed his freedom of action in respect to the Protestants' (p. 50). Matheson refers to the danger that Contarini faced of 'betraying the papal interests – which he was there to represent' (p. 51).

The aim of the Regensburg meeting was to attempt a reconciliation between Catholics and Protestants. Central to that had to be agreement on some contested matters of doctrine. One way to put this is to say that the aim of each party was to get the other to see things in the way they did themselves. One central item was the doctrine of transubstantiation, where Matheson writes that at one point of the discussion 'the traditional term has been retained but the thought categories are quite different' (p. 128). It is certainly true that there was room for reasoned argument. The discussions involved arguments about a range of matters, and to some extent these were attempts to convince one another about matters of doctrine: often, for example, the argument had the form that position *P* espoused by the other side was quite compatible with position *Q* held by the first side. However, there were often matters of interpretation at issue. Whether *P* entailed not-*Q* sometimes rested on intuitions by participants in the colloquium, and those intuitions were not fully defined by their previously articulated positions. Matheson says that the reason for the eventual failure of the attempt was that

For both Catholicism and Protestantism, the substance of their self-understanding was at stake. No reason – humane, political, or whatever – could justify to them their yielding here (p. 126).

The implication seems to be that rather than a set of accepted premisses, it was their ways of seeing themselves that forced the breakdown in the

discussions. If it was, that suggests the significance of framing effects in negotiations of this type.

Thus, one problem with the idea of partition is that in negotiation there are some processes of persuasion that are not easy to classify. That is not the only problem. Another that is worth noting briefly is drawn to our attention by that last comment of Matheson's. An important aim of negotiation and argument may be some agreement on what to *assert*: what statements to give public assent to. While this sort of aim is prominent in a case like the Regensburg discussions, it may be important also in many other cases, for example where one side or the other is seeking some recognition of their legitimacy or status. Matheson's suggestion that 'for both Catholicism and Protestantism, the substance of their self-understanding was at stake' reminds us of some recent work in 'identity politics', which accepts rights for individuals to have their sense of social identity fostered, often by recognition for social groups of which they are members (see e.g. Phillips, 1993). In politics of that sort, public recognition may be the aim of negotiation.

Such public recognition may not just be about self-identity, however. Recent work in 'positioning theory' suggests that many communicative acts, including parts of negotiation, are efforts to achieve a suitably located position in networks of norms, obligations and rights (Harré and van Langenhove, 1999). This is consistent with the view that often the prescription to 'focus on interests, not positions' fails to identify important aspects of negotiation processes (Provis, 1996). Public acceptance of another's position may afford them an ill-defined but important set of opportunities they desire in terms of public norms, rights and obligations.

Overall, the fact that persuasion in negotiation may involve getting parties to see things in a different way suggests that it may be difficult to find any clear way of separating argument from bargaining. So does the fact that the disagreement between parties can be about what to publicly assert or accept, as in cases where recognition of a group involves public acceptance of its status. Assertion is an act, and performance of that act can be the outcome of pure bargaining behaviour. On the other hand, the discourse about what to assert may often also involve argument about whether it is true. At Regensburg, the authority of the Holy See was at issue partly because of its effect on political interests and partly as a theological issue (Matheson, 1972, p. 60). Assertion or acceptance of that authority was partly something to be bargained over as a matter of offer and concession, partly something to be argued about as a matter of doctrine.

CAN THE PARTITION BE MAINTAINED?

Thus, we can see two sorts of cases where it is hard to make a clear distinction between 'bargaining' and 'argument'. Could these sorts of cases

be analysed as ones where there is an intermingling of two different types of process: on the one hand a process of argument and on the other hand a process of exchanging offers or concessions? At least some further attempts could be made along those lines.

1. *Accounts that maintain the partition*

For example, it could be suggested that many cases where one party tries to alter the other's 'frame' are ones where some form of argument is being used, of either a fallacious or non-fallacious kind. It is true that such arguments may not be expressed as a sequence of verbal productions, but so long as the productions are expressing propositions that are true or false, that is all that seems to be necessary (see e.g. Mackenzie, 1989, p. 102). I have suggested that ways of seeing need not be true or false. However, that leaves open the possibility that in negotiation one can identify some which are true or false, and others which are not. In trying to get another party to see something in one way rather than another, if we are trying to get them to see it truly or falsely, it may be that the process is one of argument. If there is no truth or falsity to the way of seeing I am trying to induce in the other party, then my attempts at framing or reformulation may be construed as requests for offers or concessions.² In those cases no argumentation is present, but that leaves intact the idea that negotiation processes can be partitioned into process of argument and bargaining processes like concession exchange.

In the case of the Regensburg discussions, it could be that secular interests were at stake for the parties. It could be that avowal of certain principles or tenets would promote or inhibit those interests, and that some processes of argument occurred, but these processes were only relevant if they could make some public avowals or positions untenable. It is possible that where argument could not finally establish one side or other of a proposition, avowals were made just depending on what interests they served, and failure of negotiations ultimately turned on failure of participants to discover a set of interest-based concession trades that were compatible with the avowals left available by argument. This account would be compatible with the statement in Matheson that:

Formally, we can distinguish two main elements in the events at Regensburg. First the colloquy at which the theologians attempted to come to grips with the theological problems. Secondly the Diet proper where the politicians dealt, *inter alia*, with the outcome of the theological discussions (p. 83).

Similarly, just as the Regensburg case might be analysed like that in terms of interest-based concession trades, the case of identity politics might be analysed as an attempt to maintain the interests people have in their self-esteem and happiness, and seeking others' recognition of their social identity is seeking the others' concession to them of some institutional status.

There is undoubtedly some substance to those moves. It is certainly true that sometimes we try to use argument to change the ways others see things, or to change their 'frame' in the sense investigated by Kahneman and Tversky. Again, it is important that very many negotiations include argument which is intended to make further adherence to some position or other untenable because it has been publicly refuted. In some negotiations, it is also true that what one party seeks of another is some public statement or other. The making of the statement may be the outcome of concession trading (for example, recognition of national sovereignty as part of a peace agreement, or inculcation of confederates in exchange for a lesser sentence), and the fact that the outcome is the making of a statement does not imply that the process was anything like an argument. If those accounts of such processes can be shown to apply to all the sorts of cases suggested, then it may be that the distinction between bargaining and argument can be maintained.

2. *Why try to maintain the partition? Decision, belief, and acceptance*

However, it is not clear why we should think that those accounts of such processes will apply generally. We need some general theoretical reason to incline us one way or the other. One such consideration is that it may be hard to see how acceptance or non-acceptance of a proposition could be the outcome of a process of concession trading, because it seems that acceptance or non-acceptance of a proposition is not something that can be *decided on*, in the way that I can decide to accept an offered concession. If you offer to extend the company's long-service leave scheme, I can assess the worth of the concession, the support it will attract from employees, the ease of its implementation, and so on, and then decide whether or not to accept it. It may be suggested that while such acceptance of a concession can be decided on, my beliefs are not things I decide on, and neither is my acceptance or non-acceptance of a proposition.

There has been some inconclusive discussion about whether one can decide on one's beliefs (see e.g. Bennett, 1990; Williams, 1973; Winters, 1979). However, there are several lines of thought which suggest that accepting a proposition can be the subject of a decision, at least in some ways and to some extent. Consider my situation when first I confront Gödel's incompleteness proof. I consider the premisses, I work through the argument, I try to view the thing as a whole, and its implications, I consider the possibility that I have missed something, and I eventually accept it. Perhaps more clearly, when I regard the Necker Cube, I may certainly decide how to see it, and if I can decide on that, why can I not decide to 'frame' something as a gain rather than a loss? If I do, I presumably may then come to accept the proposition that it is a gain rather than the proposition that it is a loss. In reality, it may be that after a protracted negotiation process, given the volatility of opinion amongst union members, the

likely outcome of arbitration, and other considerations, accepting that it is a gain is an easier course than holding out for more.

Perhaps one of the critical factors that makes us worry about the idea of deciding to believe is just the concern that doing so contravenes some requirements of rationality. We may feel that rationality requires our beliefs to be caused by the evidence for them, rather than by any decision to accept them (cf. Williams, 1973, p. 148). However, we are familiar with people refusing to believe even in the face of the evidence. Intellectual virtues consist partly of believing in accord with the evidence, and if there are such virtues it seems as though there must be some room for decision.³

Further, believing or not believing something may not be the same as accepting it or not accepting it. In developing his account of formal dialectic, C. L. Hamblin emphasises that ‘a commitment is not necessarily a “belief” of the participant who has it’ (1970, p. 264). Similarly, Stalnaker develops a notion of ‘acceptance’: ‘to accept a proposition is to treat it as a true proposition in one way or another – to ignore, for the moment at least, the possibility that it is false’ (1984, p. 79). He notes that acceptance in his sense may have ‘a social dimension’ (p. 80), and says that ‘acceptance may be the product of methodological decision rather than subjective commitment’ (p. 81). As an example, he notes that ‘the judge may direct the members of the jury to accept something, although he cannot reasonably direct them to believe it’ (ibid.). L Jonathan Cohen also develops a distinction between belief and acceptance, and draws attention to the fact that jury deliberation may be directed toward ‘acceptance’ rather than ‘belief’ (1992, pp. 117–125). He notes that although ‘you cannot decide to believe that it will rain tomorrow or that it will not’, nevertheless ‘you can, of course, decide to accept that it will, or to accept that it will not’ (p. 21).

If it is reasonable to distinguish acceptance from belief, it is at least plausible to say that argument often is more to do with what people ‘accept’ than with what they ‘believe’.⁴ That is how argument often seems to occur in negotiation, in attempts to establish or contest propositions that parties subscribe to publicly. But in negotiation, ‘acceptance’ of a proposition can also be decided on as a concession, much as other types of concessions can be decided on. As mentioned above, we can see from recent ‘positioning theory’ that they may have important effects on parties’ rights and obligations, and from ‘identity politics’ that they may have important effects on parties’ self-understanding and identity. They may also serve to unify party members (cf Bar-Tal, 1990; Provis, 1996, pp. 313–316). Often, of course, such beliefs will have some normative or evaluative character, but they need not (for example, the belief that inflation will rise next year could be an important but contested belief in some wage negotiations). In any case, the fact that they have such normative or evaluative character does not seem to affect the extent to which they may enter into argument, or the extent to which such argument may be part of negotiation.

To summarise so far, there are some cases where *prima facie* it is hard to distinguish processes of argument in negotiation from cases of concession exchange and other such bargaining processes. It might be possible to explain those cases away, but there would need to be some theoretical reason for doing so. One such reason could be the fact that argument but not concession exchange aims (proximately, at least) at changing belief, which is not able to be decided on in the way that concessions and actions are. In fact, however, there are some reasons to think that belief may be decided on, to some extent, in some cases, and anyway argument may aim not only at changing belief but also at public acceptance of propositions.

WHAT IF WE ABANDON THE PARTITION?

That leaves us with significant cases where argument and concession exchange seem to be closely interwoven, with no convincing theoretical reason to analyse them one way rather than another. But it has emerged that there are ways that argument in negotiation may have a character somewhat different from the usual picture. It may be an attempt to induce a different 'frame' in another party. Or its point may be to establish a proposition or position for public acceptance, rather than to convince an interlocutor of its truth. Both of these possibilities make it hard to maintain the separation between 'bargaining' and 'argument' or between 'negotiation dialogue' and 'persuasion dialogue', if we use Walton's terminology. Establishing a different 'frame' may be an integral part of 'bargaining' and processes of concession exchange, but seems to have some of the characteristics we associate with 'argument'. Discussion about what position to maintain publicly seems likely to be 'argument', but one party might decide to concede the other's point in exchange for some other concession, of either a similar or different kind.

That then takes us back to our earlier problem. The possibility we have been considering is that actual discourse can be partitioned into distinct sub-processes. But if parties are at odds over the terms of some public statement, then the boundary between bargaining and argument may start to break down. So may they if I am attempting to convince you to accept some concession, by getting you to 'frame' it more favourably. But what then of the view stated by Elster that 'bargaining must be distinguished from attempts to reach agreement by rational discussion'.

Here perhaps we have to confront that question squarely. Why should rational discussion be contrasted with bargaining? Bargaining can be rational, and usually resembles discussion. We noted Naess's identification of argument with rational discussions. For him, the contrast seems to be bound up with the fact that rational discussion requires 'intellectual honesty' rather than the influence of 'personal desires and interests' (1966, pp. 98–99). That is not so different from Elster's view that rational dis-

cussion must not give too much weight to ‘the bargaining power of the parties’: ‘bargaining power’ may seem to give unreasonable scope for appeals to ‘personal desires and interests’. That conforms to other writers’ ideas about what constitutes ‘negotiation’. For example:

My answer to the question ‘What makes a discourse a negotiation?’ is based on the participants’ activities in the interaction in certain settings. A discourse counts as a negotiation if the participants relate themselves to each other’s goals and interests and to the problems of implementing their goals (Wagner, 1995, p. 30).

But it is not clear how satisfactory that line of thought will be. ‘Interests’ is a notoriously contested idea (see e.g. Connolly, 1993). As for ‘desires’, ‘goals’ and so on, it is hard to see how they can be absent from argument, any more than from bargaining. Attempts might be made to identify just a certain class of goals or interests as those which identify argument rather than bargaining, such as an aim to achieve true beliefs. But argument could be misused, to induce false beliefs, and still be argument.

It might be contended that argument paradigmatically aims at true belief, but even if aiming at true belief were a necessary condition for paradigmatic argument, it is not clear that it is a sufficient condition, since there are other ways of inducing people to have true beliefs. It would seem necessary to add the proviso that argument tries to get others to have such beliefs through a process of reasoning.⁵ And that only pushes the question back one stage, because ‘reasoning’ is not better defined than ‘argument’ is. Bargaining involves various kinds of reasoning, much of it good and laudable.

What the idea of reasoning does is import some normative or prescriptive requirement: in effect, the suggestion is that ‘argument’ is a process that is constrained by certain rules. On this view, a process is one of argument if it is governed by certain rules such that certain moves or sequences can be pointed to and excluded as ‘against the rules’. Such moves may be honoured with certain established terms such as ‘*ad hominem*’ or ‘affirming the consequent’, and fall under the generic label ‘fallacies’. That is, the suggestion may be that argument is the process of trying to get others to have true beliefs – or beliefs that accord with one’s own – in a way that conforms to certain rules.

There are then, however, two difficulties. It is not straightforward to state what the relevant rules are. The rules of ‘argument’ are a smaller class than the rules which might endorse one getting another to believe something true: there are all sorts of ways of doing that which might be acceptable from time to time but which do not constitute argument (for example, I might leave an encyclopaedia open on your desk, or I might have you consult someone whose opinion I know you respect). And what of ‘negotiation’? There are rules that apply to negotiation.⁶ These rules may vary from place to place and from culture to culture, but so, it seems, do rules that apply to argument, at least to a similar extent (Solso, 1995,

pp. 434–436). Negotiators may violate the rules that apply to negotiation, but equally so may arguers violate the rules that apply to argument. It is not possible to say that argument is governed by rules and negotiation is not, even though the rules governing argument have been subject to much more formal scrutiny.

The issue comes down to this. There are difficulties in saying how negotiation, with the connotation of bargaining and concession exchange, differs from argument, with the connotation of dialectical reasoning aiming at true belief. One way to distinguish the processes is by reference to the rules that govern them. But there is difficulty in stating detailed sets of rules that distinguish them effectively. If we cannot state the detailed sets of rules, the best we may be able to do to characterise the rules is to refer to them as ‘the rules that apply to argument’, and ‘the rules that govern negotiation’, respectively, but obviously that does not help us distinguish the two sorts of process.

If we cannot make any firm distinction between the two sorts of process, does that mean abandoning the association of argument with rational discussion? Not necessarily. We may take it that bargaining and argument are both governed at least by rules of fairness and non-malevolence. Those principles and perhaps some other similar ones seem as though they will apply to any human interaction (although, like more specific rules, they may sometimes be honoured more in the breach than the observance). But their implications in particular situations will depend on the details of those situations. In very many cases, where you and I are in disagreement about something, it would be wrong of me to appeal to force to get you to agree with me, not just because that would constitute the fallacy *ad baculum*, but because it would violate some principles of respect for you as an autonomous person. In many cases, traditional fallacies would violate more general principles either through showing a lack of respect for one’s interlocutors or through tending to lead them into harm, or both. But similar general principles would explain what is acceptable or unacceptable in negotiation (cf Bok, 1978, pp. 130–132; Provis, 2000).

The question then is whether some such general principles can be considered sufficient to characterise a process as ‘rational discussion’. As to that, however, we might ask what more could be required of such a process than that it satisfy the general principles that govern interaction between rational beings, taking into account the particular purposes they have at any particular point in time.⁷ The fact that we cannot partition such interaction into different types each with its own set of rules need be no more worrying than the fact that we cannot find any ultimate distinction between the laws of biology and chemistry, or between equity and the law of contract. It may be true, as Elster and others suggest, that there are some types of discussion where a conclusion ought to be determined by ‘the power of the better argument’, considered as the quality of the evidence and its support for the conclusion. We may be able to give some general idea about when that

is true. However, we cannot easily give some precise, independent characterisation of such situations which will distinguish them from 'bargaining' situations: we need to examine the purposes of the interaction, the details of its context, and many other factors.

NOTES

¹ Implications of such work by Kahneman and Tversky is the particular focus of Schick, 1992.

² Indeed, that is just the way in which Walker suggests that 'formulations' are used.

³ In fact, it is not even clear that rationality does require us to believe only things that are in accord with the evidence. We may have reasons to believe things which are in conflict with evidence. For example, it is quite well documented that most of us have beliefs about ourselves and our merits and prospects that are rather more rosy than the actual facts warrant, but that the smaller number of people with more accurate views of themselves tend to be rather depressed and less effective in action than they would be with more favourable beliefs about themselves: see Baumeister (1993) and Sigmon (1993). It seems that we may possess quite sound reasons to have somewhat distorted beliefs about ourselves.

⁴ Cf Scott Jacobs: 'What people argue over is not so much the actual positions of the parties, but the ones they can be held to have expressed. In making an argument, what counts are not the actual intentions and beliefs of an actor, but those that may be warrantably attributed him' (1987, p. 237).

⁵ A move along those lines is made implicitly by van Eemeren and Grootendorst when they define 'argumentation' by reference to 'the perlocutionary act of convincing,' and restrict perlocutionary acts in general to ones 'whose success is in principle partly dependent on rational considerations on the part of the listener' (1984, pp. 28–29).

⁶ Negotiation literature does not contain many systematic accounts of the rules that govern the process, but they can be found at various points. One example is what Pruitt refers to as 'a norm of truth in signalling' (Pruitt, 1981, p. 97). See also Firth (1995b), pp. 6, 26.

⁷ Cf. Winch (1992), where he gives an account of Wittgenstein's view as being along these lines.

REFERENCES

- Bar-Tal, D.: 1990, *Group Beliefs*, Springer-Verlag, New York.
- Baumeister, R. F.: 1993, 'Lying to Yourself', in M. Lewis and C. Saarni (eds.), *Lying and Deception in Everyday Life*, The Guilford Press, New York, 166–183.
- Bazerman, M. H. and M. A. Neale: 1992, *Negotiating Rationally*, The Free Press, New York.
- Bennett, J.: 1990, 'Why is Belief Involuntary?' *Analysis* **50**, 87–107.
- Bok, S.: 1978, *Lying: Moral Choice in Public and Private Life*, Harvester, London.
- Carroll, J. S. and J. W. Payne: 1991, 'An Information Processing Approach to Two-Party Negotiations', in M. H. Bazerman, R. J. Lewicki and B. H. Sheppard (eds.), *Research on Negotiation in Organizations*, Vol. 3, JAI Press, Greenwich, Conn., 3–34.
- Cohen, L. J.: 1992, *An Essay on Belief and Acceptance*, Clarendon Press, Oxford.
- Connolly, W. E.: 1993, *The Terms of Political Discourse*, 3rd ed., Blackwell, Oxford.
- Elster, J.: 1989, *The Cement of Society*, Cambridge University Press, Cambridge.
- Firth, A. (ed.): 1995a, *The Discourse of Negotiation: Studies of Language in the Workplace*, Pergamon, Oxford.

- Firth, A.: 1995b, 'Introduction and Overview', in A. Firth (ed.), *The Discourse of Negotiation*, Pergamon, Oxford, 3–39.
- Fisher, R. and W. L. Ury: 1981, *Getting to YES: Negotiating Agreement Without Giving In*, Houghton Mifflin, Boston.
- Habermas, J.: 1983, *Moralbewußtsein und kommunikatives Handeln*. Suhrkamp, Frankfurt. Translation partly reprinted in William Outhwaite (ed.) *The Habermas Reader* (Polity Press, Cambridge, 1996).
- Hamblin, C. L.: 1970, *Fallacies*, Methuen, London.
- Harré, R. and L. van Langenhove (eds): 1999, *Positioning Theory*, Blackwell, Oxford.
- Jacobs, S.: 1987, 'The Management of Disagreement in Conversation', in F. H. van Eemeren, R. Grootendorst, J. A. Blair and C. A. Willard (eds.), *Argumentation: Across the Lines of Discipline*, Foris, Dordrecht, 229–239.
- Kahneman, D., J. L. Knetsch and R. Thaler: 1991, 'The Endowment Effect, Loss Aversion, and Status Quo Bias', *Journal of Economic Perspectives* **5**, 193–206.
- Kahneman, D. and A. Tversky: 1979, 'Prospect Theory: An Analysis of Decision under Risk', *Econometrica* **47**, 263–291.
- Lewicki, R. J., J. A. Litterer, J. W. Minton and D. M. Saunders: 1994, *Negotiation*, 2nd ed., Irwin, Burr Ridge, Ill.
- Mackenzie, J.: 1989, 'Reasoning and Logic', *Synthese* **79**, 99–117.
- Matheson, P.: 1972, *Cardinal Contarini at Regensburg*, Clarendon Press, Oxford.
- Naess, A.: 1966, *Communication and Argument*. Trans. A. Hannay. Universitetsforlaget, Oslo.
- Parsons, S., C. Sierra and N. Jennings: 1998, 'Agents that Reason and Negotiate by Arguing', *Journal of Logic and Computation* **8**, 261–292.
- Phillips, A.: 1993, *Democracy and Difference*, Polity Press, Cambridge.
- Provis, C.: 1996, 'Interests vs Positions: A Critique of the Distinction', *Negotiation Journal* **12**, 305–323.
- Provis, C.: 2000, 'Honesty in Negotiation', *Business Ethics: A European Review* **9**, 3–12.
- Pruitt, D. G.: 1981, *Negotiation Behavior*, Academic Press, New York.
- Pruitt, D. G. and P. J. Carnevale: 1993, *Negotiation in Social Conflict*, Open University Press, Buckingham.
- Rojot, J.: 1991, *Negotiation: From Theory to Practice*, Macmillan, London.
- Schelling, T. C.: 1980, *The Strategy of Conflict*, 2nd ed., Harvard University, Cambridge, Mass. First edition 1960.
- Schick, F.: 1988, 'Coping with Conflict', *Journal of Philosophy* **85**, 362–375.
- Schick, F.: 1992, 'Allowing for Understandings', *Journal of Philosophy* **89**, 30–41.
- Sigmon, S. T. and C. R. Snyder: 1993, 'Looking at Oneself in a Rose-Colored Mirror', in M. Lewis and C. Saarni (eds.), *Lying and Deception in Everyday Life*, The Guilford Press, New York, 148–165.
- Solso, R. L.: 1995, *Cognitive Psychology*, 4th ed., Allyn and Bacon, Boston.
- Stalnaker, R. C.: 1984, *Inquiry*, MIT Press, Cambridge, Mass.
- Sycara, K. P.: 1990, 'Persuasive Argument in Negotiation', *Theory and Decision* **28**, 203–242.
- Tambe, M. and H. Jung: 1999, 'The Benefits of Arguing in a Team', *AI Magazine*, 85–92.
- Toulmin, S. E.: 1950, *The Place of Reason in Ethics*, Cambridge University Press, Cambridge.
- van Eemeren, F. H.: 1987, 'For Reason's Sake: Maximal Argumentative Analysis of Discourse', in F. H. van Eemeren, R. Grootendorst, J. A. Blair and C. A. Willard (eds.), *Argumentation: Across the Lines of Discipline*, Foris, Dordrecht, 201–215.
- van Eemeren, F. H. and R. Grootendorst: 1984, *Speech Acts in Argumentative Discussions*, Foris, Dordrecht.
- van Eemeren, F. H. and R. Grootendorst: 1996, 'Developments in Argumentation Theory', in J. van Benthem, F. H. van Eemeren, R. Grootendorst and F. Veltman (eds.), *Logic and Argumentation*, North-Holland, Amsterdam, 9–26.
- Wagner, J.: 1995, 'What Makes a Discourse a Negotiation?', in K. Ehlich and J. Wagner (eds.), *The Discourse of Business Negotiation*, Mouton de Gruyter, Berlin, 9–36.

- Walker, E.: 1995, 'Making a Bid for Change: Formulations in Union/Management Negotiations', in A. Firth (ed.), *The Discourse of Negotiation*, Pergamon, Oxford, 101–140.
- Walton, D. N.: 1989, *Informal Logic: A Handbook for Critical Argumentation*, Cambridge University Press, Cambridge.
- Walton, D. N.: 1990, 'What Is Reasoning? What Is an Argument?' *Journal of Philosophy* **87**, 399–419.
- Walton, D. N.: 1998, *The New Dialectic: Conversational Contexts of Argument*, University of Toronto Press, Toronto.
- Walton, R. E. and R. B. McKersie: 1991, *A Behavioral Theory of Labor Negotiations*, 2nd ed., ILR Press, Ithaca, N.Y. Original edition McGraw-Hill, New York, 1965.
- Williams, B.: 1973, 'Deciding to Believe', in *Problems of the Self*, Cambridge University Press, Cambridge, 136–151.
- Winch, P.: 1992, 'Persuasion', *Midwest Studies in Philosophy* **17**, 123–137.
- Winters, B.: 1979, 'Believing at Will', *Journal of Philosophy* **76**, 243–256.