

## The Methodological Usefulness of Deep Disagreement

### La inutilidad metodológica del desacuerdo profundo

**Steven Patterson**

Department of Philosophy, Marygrove College, Detroit, United States  
spatterson@marygrove.edu

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**Abstract:** In this paper I begin by examining Fogelin's account of deep disagreement. My contention is that this account is so deeply flawed as to cast doubt on the possibility that such deep disagreements actually happen. Nevertheless, I contend that the notion of deep disagreement itself is a useful theoretical foil for thinking about argumentation. The second part of this paper makes this case by showing how thinking about deep disagreements from the perspective of rhetoric, Walton-style argumentation theory, computation, and normative pragmatics can all yield insights that are useful no matter what one's orientation within the study of argument. Thus, I conclude that deep disagreement—even if it were to turn out that there are no real-world occurrences of it to which we can point—is useful for theorists of argumentation. In this wise, deep disagreement poses a *theoretical* (and not, as is widely thought, a *practical*) challenge for argumentation theory not unlike that posed by radical skepticism for traditional epistemology.

**Keywords:** Deep disagreement, Fogelin, argumentation, Wittgenstein.

**Resumen:** En este trabajo comienzo examinando la perspectiva de Fogelin sobre el desacuerdo profundo. Mi alegato es tanto que esta perspectiva es profundamente defectuosa como sembrar dudas sobre la posibilidad de que tales desacuerdos profundos realmente sucedan. Sin embargo, mantengo que la noción de desacuerdo profundo en sí misma es una herramienta teórica útil para pensar la argumentación. La segunda parte de este trabajo argumenta por esto mostrando cómo pensar los desacuerdos profundos desde las perspectivas retórica, al estilo de la teoría de la argumentación de Walton, la computación, y la pragmática normativa, arrojando luz útil todos estos campos sin importar la orientación que uno tenga dentro del estudio de la argumentación. De este modo, concluyo que el desacuerdo profundo —incluso en el

caso que nos demos cuenta que no hay en el mundo ocurrencias reales a las que podamos señalar— es teóricamente útil para los teóricos de la argumentación. En esta vena, el desacuerdo profundo instala un desafío *teórico* (y no, como se piensa ampliamente, uno *práctico*) para la teoría de la argumentación sin diferencia al que se instala por el escepticismo radical en la epistemología tradicional.

**Palabras clave:** Desaceurdo profundo, Fogelin, argumentación, Wittgenstein.

## 1. Introduction

The last ten years have seen what many interpret to be an unprecedented intensification of divisiveness in both domestic and international political rhetoric. Internationally, the clash between fundamentalist visions of Islam and the largely secular ideologies of much of the West seems intractable. In the US and Europe, the discourse between left-leaning and right-leaning political parties and their representatives in the media frequently borders on the apoplectic. It is perhaps no surprise then, that recent years have seen a renewed interest in deep disagreement among students of informal logic and argumentation theory.

In this paper, I shall argue that much of this attention is perhaps misplaced. Deep disagreement, though no doubt a phenomenon of some interest and importance, is nowhere near as troubling a prospect as has often been assumed. I will show this in three steps. First I will begin with an analysis of Fogelin-type deep disagreement, offering several arguments to show that the line of argument that first introduced deep disagreement into the literature is based on questionable assumptions. Second, I will argue that even if we allow that deep disagreement of a profound sort exists (as I believe that we should), the philosophy of argument provides us with completely adequate resources for dealing with it. Lastly, I will conclude the paper by arguing that even though this is the case, the idea of deep disagreement can still play a useful methodological role for theorists of argumentation.

## 2. Fogelin's Case for Deep Disagreement

It will be helpful to have a rough sketch of Fogelin's argument in hand. The following summary is drawn from Fogelin (1985).

1. Any disagreement is resolved only when all parties are rationally convinced of the position of one of the parties.
2. Argumentation is the primary means by which such resolutions take place.
3. A deep disagreement is a clash not between individual propositions or arguments, nor is it simply the failure of one or more parties to sincerely engage the dialectic (i.e. “pig-headedness”) but between incommensurable forms of life—deeply rooted frameworks of grounding assumptions, values, and practices.
4. If two forms of life are incommensurable then there is no way of reconciling them by rational means.
5. The notion of “forms of life” includes such things as standards of argumentation.
6. This means that argumentation is powerless in the face of deep disagreements; it effects nothing.
7. Therefore deep disagreements must be approached through *non-rational* persuasion.
8. That such an important class of disagreements cannot be handled by rational means suggests troubling limits to the efficacy of argument.

In what follows I will offer some reasons to doubt key premises of this argument, particularly its first, fourth, and fifth premises. My focus on these premises is not meant to indicate that the others are uncontroversial. Indeed, nearly every premise of the argument has met with substantial challenge at some point.<sup>1</sup> I simply will not be challenging them in order to focus on what I take to be more important points. It is to these points that I now turn.

### **3. Some Criticisms of Fogelin’s Argument**

#### **3.1. Fogelin’s Premise 1: Victory as the Proper Aim of Argument**

The first difficulty with Fogelin’s argument is that it fundamentally misconstrues the aim of argument. Fogelin’s assumption is that we argue to

<sup>1</sup> An excellent overview of the literature around this argument is contained in a paper given in Finocchiaro (2011).

achieve a victory for our point of view, and that an issue is resolved only when the dispute is settled in favor of one or the other thesis. This assumption views dialectical exchange in far too flat a way. As I have argued elsewhere (Patterson, 2011) and as many others have said before me, including, most recently Johnson (2009) and especially Pinto (2010), and (well before all of us if in a slightly different way) Jacobs (1987) to name just a few, the point of argument has at least as much—and perhaps even more—to do with coordinative purposes than competitive ones. This is evident in the very common experience of an exchange of ideas resulting in the production of new ideas and positions that represent that consensus or coordination. Rather than one party emerging as the victor and another the loser, it may well turn out that everyone wins (if a mutual understanding can be reached over a “third way”) or that everyone loses (if, for example the parties simply squander time and good will talking past one another). This is especially true of practical deliberations, where the view that achieves consensus is very often not one advocated from the start by some party, but a compromise position that is acceptable to all, even if it wasn’t what anyone had in mind at the beginning of the deliberations. If it is true that dialectical exchange frequently enough results in convergence on such “third alternatives” then it seems reasonable to doubt that the resolution of a dispute always—or even most of the time—means the triumph of one party’s standpoint or thesis over that of the other participants.<sup>2</sup> There are other alternatives too. It may be, for example, that the parties discover in exchange that their differences are merely verbal, or that new facts render their difference of opinion moot. Hence the first premise of Fogelin’s argument seems doubtful.

### **3.2. Fogelin’s Premises 4 and 5: The Incommensurability Premises**

Fogelin’s fourth premise is that there can be no rational way of reconciling two incommensurable forms of life. In essence, Fogelin’s reasoning is that incommensurability between two positions in a dispute is a product

<sup>2</sup> Indeed, it isn’t clear that such a mindset is even a desirable one with which to enter into argumentation in the first place, but more on this later.

of the positions of the parties being derived from two antecedent (also incommensurable) frameworks. Since it seems clear that there disputes where the points of view are incommensurable, it follows that there are deep, incommensurable frameworks too. This line of reasoning deserves careful scrutiny. All hangs on whether or not there are plausible alternative explanations of incommensurability between positions besides deeply incommensurable *frameworks*. As one might think of the requisite incommensurability either from the perspective of the individual or from that of the group to which she might belong, I address both sorts in order to show that this premise, for all it's apparent "common-sense" appeal, must fall short of the mark.

### **3.2.1. Incompetent Epistemic Agency and Rational Incommensurability**

Though Fogelin doesn't make such a claim, it should be clear that the point made in this premise is a close cousin to the position in moral philosophy that the existence of sustained disagreement over time establishes some or other skeptical position with regard to moral realism. Thus, it calls for a particularly full-blooded reply. Let us begin this reply with a brief look at a highly effective response to the problem of disagreement in ethics, that offered by David Brink.

Brink's principle concern is to respond to the moral skepticism of John Mackie by way of answering Mackie's charge that the realist bears the burden of proving that actual moral disagreements are at least *in-principle* resolvable. Brink agrees that the moral realist bears this burden. His strategy for discharging it involves three principal avenues of response. The first of these involves clarifying the nature and scope of Mackie's charge. The second rests on a closer analysis of the details of actual moral disagreements, and the third addresses what Brink refers to as the "diachronic" nature of Mackie's charge—that element that focuses on the endurance of moral disagreement over large stretches of time. Of these three aspects of Brink's response, only the second two are really relevant to the present discussion. This is because, unlike Mackie's stance regarding moral disagreements, Fogelin's does not involve commitment to the position that no disagreements of any sort are ever rationally resolved. Fogelin's position concern is with

only a limited subset of disagreements that are beset by the property of being unresolvable. Thus Brink's first strategy, which relies on showing that Mackie is wrong to think that all moral disagreements are of a piece in being unresolvable by rational means, is somewhat idle here.

The second of Brink's strategies is not idle, however, as it counsels special care in looking at the finer details of moral disagreements. If we look hard enough, Brink argues, we will see that a number of possibilities account for the recalcitrance of the disagreement that have little or nothing to do with the fact that they are moral disagreements. Instead, they have to do with the *nonmoral facts* attendant to the situation. We can simplify his position by classifying these possibilities into two categories: those relating to agents and those relating to underlying factual considerations. In both cases, the failure to achieve agreement is not due to the fact of the dispute's being a moral one, but due to failings of the agents or difficulties that beset the circumstances in which they must exercise their rational powers. With respect to the first category, which Brink describes as an agent's being culpably ignorant of information that would make resolution possible, he has this to say:

Often, at least one disputant culpably fails to assess the nonmoral facts correctly by being insufficiently imaginative in weighing the consequences for various people of different actions or policies. Culpable failure to be sufficiently imaginative may result from negligence (e.g. laziness), prejudice, self-interest, or social ideology. Brink (1989, pp. 198-209)

Now, Fogelin does address something like this concern when he dismisses from the category of deep disagreement those disagreements that are the product of one or both parties being merely "pig-headed". To this much I think, Brink and Fogelin would agree. Brink's point is larger in scope, however, as he goes on to address cases of non-culpable ignorance that result in moral disagreement (my emphasis):

Other genuine moral disputes depend on reasonable (non-culpable) but nonetheless resolvable disagreements over the non-moral facts. The correct answers to controversial moral questions often turn on nonmoral issues *about which reasonable disagreement is possible and to which no one may know the answer.* (ibid.)

The emphasized portion of this sentence is key. Just because the relevant nonmoral facts may not be known at the time of the disputants' clash in viewpoints, this is no reason to conclude that they could not, in time, come to be known with sufficient generality as to render the moral disagreement moot. Still other possibilities are that the agents lack the capacity to understand the relevant non-moral facts, or that these facts are so complex and so numerous as to confound even a well-meaning and otherwise bright epistemic agents. Still again, it may be that the agents' failure to understand the nonmoral facts is due to their non-culpable adherence to the best scientific theories available to them under conditions that will later be discovered to be systematically misleading with respect to the subject matter of their debate (e.g. vociferous disagreement about the movement of phlogiston prior to the discovery of chemical catalysts). In such cases the parties may simply be doing the best they can on the strength of their intuitions and whatever partial understanding of the non-moral facts they can manage. Resilient disagreement under such conditions would hardly be a surprise. Note, however, that in cases like these the failure to achieve resolution for a long-standing disagreement, though it would still be due primarily to the shortcomings of the agents, would not involve "pig-headedness" in Fogelin's sense. In such a case we would be wrong to infer from any apparent incommensurability in the agents' points of view any conclusions about the prospects for finding a rational resolution to their disagreement. We would be similarly wrong to dismiss their disagreement as not posing a counterexample to the idea of deep disagreement too.

If the forgoing is sensible, then we should have some reason to doubt that apparent incommensurability between the points of view of persons entails that their attempts to resolve those disputes using rational means are doomed to failure. On the contrary, it may simply be that the incommensurability of their points of view is a temporary condition imposed on them by the epistemic circumstances of their difference of opinion. But what of differences of opinion that are the product not of disputes tied to poorly understood facts, but of clashes between "life-worlds" or ways of living we associate with the term "culture" and its cognates? Surely these will seem to many to be better candidates for generators of actual deep disagreements as adherence to one's cultural values and ways of being seems, on some level, to be reflexive; not the subject of rational reflection. Perhaps

then cultural differences generate the kind of incommensurability that renders our rational faculties powerless?

### 3.2.2. Cultural or Group Difference and Rational Incommensurability

It would seem that cultural differences do not render us powerless. We learn from Liu (1999), for instance, that different cultures or “forms of life” may not just hypothetically understand each-other’s reasoning but can and actually do take on each other’s modes of reasoning when dealing with questions of value. This point is confirmed independently in Suzuki (2008) and in Harpine (1993). This flies in the face of Fogelin’s contention that different forms of life contain different standards of argumentation, a key point in his argument for deep disagreement. If Liu, Suzuki, and Harpine are correct then standards of argumentation are not wholly creatures of antecedent cultural or ideological frameworks.<sup>3</sup> This should not be a surprise, as a diverse array of empirical research programs in cognitive science and psychology suggest the same thing.<sup>4</sup> Surely then at least some skepticism as to Fogelin’s assumption that one’s standards of argumentation are products of one’s “life-world” is warranted.

Even if one were inclined to generosity on this score, however, Fogelin’s view would not escape the further problem that individuals and groups, simultaneously inhabit more than one “way of life”. To put the point another way, no one is *only* a Muslim, or *just* Canadian. The social and cultural vectors that bear on individual and collective self-image and beliefs are many, and are interrelated and interwoven in complex ways. These take the form of social roles (father, police officer, daughter, etc.), genders, linguistic communities, historically-defined groupings (WWII-era Russian Jews), memberships in various projects (those concerned about saving Tiger Stadium in Detroit, those advocating for women’s rights in Chile), as well as

<sup>3</sup> Note that this need not be seen as a claim that such standards are *universal*. That claim is not made in any of the three essays cited here. It has, however, been advanced in Hanna (2006).

<sup>4</sup> For a classic sampling of these see Kahneman/Tversky (2000), Gentner/Kokinov (2001), and most recently Mercier/Sperber (2011).

the sort of communities of belief that Fogelin envisions in his examples of abortion and affirmative action. All such “life-worlds” overlap and form a tangle of influences that bear on who a person conceives herself to be, what she believes and how she argues. The point here is that there are no strict divides between persons, no ideological gulfs so wide that *no* points of commonality exist that could be leveraged in order to make rational appeals to persons who do not share our views. Simply because persons may belong to different cultures or classes of person does not necessarily mean that their views are going to be incommensurable. In fact, we often *do* argue outside of our own social set of descriptors, or leverage one descriptor above others to make a point. One can imagine the sort of questions that would arise in Fogelin’s abortion example as a case in point. Suppose Alva is against abortion and Britt thinks it should be legal. Would we be surprised to hear Britt appeal to social roles defined outside of their positions on abortion to make her arguments? “What if it was your sister, or your daughter?” she might ask, hoping to show that Alva’s ideological commitment is inconsistent with commitments he might have in his role as brother or father. If such questions can be legitimate—if they can be *rational*, as I believe that they can— then I think that they suggest that a more textured view of how “forms of life” shape our arguing practices is in order than the one implicit in Fogelin’s argument.

### **3.3. Fogelin’s Wittgensteinian Grounds for Rational Incommensurability**

With so many contra-indications to the idea that incommensurable positions signal the presence of deep, incommensurable frameworks or “life-worlds” it is worth asking what the grounds are on which Fogelin advances it in the first place. Those who know the essay well know that his grounds ostensibly are Wittgensteinian. The upshot of Fogelin’s Wittgensteinian case is that the bedrock commitments of one’s own “life-world” behave in much the same way that the “hinge propositions” of Wittgenstein’s *On Certainty* would—they so anchor the moral dimensions of Alva’s and Britt’s life-world that to think otherwise appears to miss something not just blindingly obvious but foundationally important to any adequate understanding of—and certainly any reasonably proficient use of language about—this aspect of the world.

But can there be “private” hinge propositions like this? It seems a deeply problematic interpretation of Wittgenstein, especially when Wittgenstein’s ambivalence about the idea of hinge propositions is so well known and so clearly evident in *On Certainty*.<sup>5</sup> Though this is not the place for such an investigation, it seems to me for various reasons that there could not be, on pain of accepting deeply problematic forms of philosophical intuitionism in ethics. One has to bear in mind that for Wittgenstein there is a rather important difference between a proposition’s *being the case*, its *seeming to be the case*, and its *being impossible for one to imagine that it is not the case*. With hinge propositions, we not only find ourselves closest to the latter situation, we simply cannot speak sensibly to our linguistic fellows without committing ourselves to them to at least some degree. This is manifestly not the case with moral controversies like the one over abortion, no matter how deeply felt. It’s not that Alva and Britt cannot *understand* one another. In fact they understand each other perfectly well. *It is this very fact that brings about their disagreement in the first place!*<sup>6</sup> If the difference between Alva and Britt rested on their having competing sets of hinge propositions, then there would be no controversy between them. They would not understand each other well enough to know how their views differed, or if indeed they did at all. It would be as though they actually spoke radically different, non-translatable languages—as though one of them communicated only by emitting certain scents from a special gland, and the other spoke the language represented by Greek Linear B. For us to cast moral disagreements such as the hypothetical one between Alva and Britt as being like this is tempting, but involves us in problematic hyperbole. To know that one has a difference of moral opinion with another presupposes some sort of mutual understanding of the basic terms of the other’s moral vocabulary.<sup>7</sup>

<sup>5</sup> See for example Wellman (1959) for an excellent argument that ties together Wittgensteinian concerns about the possibility of a private language and the kind of semantic egocentrism that would be entailed by “private” hinge propositions. On Wittgenstein’s ambivalence regarding hinge propositions and a very interesting suggestion that it signals a deep problem in his thinking about them see Wolgast (1987).

<sup>6</sup> Fogelin’s reading here is simply strange. The more orthodox, objective status assigned to hinge propositions in Miller (1995), for example, supports anything but Fogelin’s reading of the concept of “hinge propositions”.

<sup>7</sup> This point is also made in Morawetz (1980).

That we might share such a vocabulary, among other non-trivial things underwrites the criticism in Phillips (2008). There, Phillips suggests that the shared background for argument is far greater than it might at first appear. If she is right about this, as I believe that she is, then argumentation is far from hopeless even in cases of apparently deep disagreement.

This does *not* mean that argumentation will always succeed given sufficient time and effort. No such guarantee is necessary to redeem the usefulness of argumentation in cases of deep disagreement. (I will have more to say on this below.) As the present focus is on Fogelin's diagnosis of deep disagreement, it is more pertinent to observe that the fact that direct argument fails in a range of cases does not entail, as he seems to think, that there is a single cause of the failure that explains them all—not even for the same discussants dealing with the same issue. Fogelin's case for deep disagreement is therefore somewhat question-begging in the end. The only way to establish that argumentation will always fail in cases where world-views clash is to assume beforehand that world-views are rationally incommensurable. But as argumentation is a rational method of reaching an accommodation between two different points of view (be they world-views or viewpoints of a more pedestrian kind), it follows only trivially that among the other things it might mean, incommensurability involves a foreclosure on argumentation.<sup>8</sup>

In order for Fogelin's case to get off the ground in a non-trivial way, he needs to demonstrate not that there are arguments that people presently cannot solve through argumentation but that there are disputes that *in principle* could not be resolved by argumentation, i.e. that there are disputes so fractious that there is no possible world in which argumentation can move them forward. He does not do this. It's hard to see how anyone could do it. For when we look at the worst disputes we have, we have no problem forming judgments about the possible conditions under which the

<sup>8</sup> This picture of incommensurability in itself is troubling, as it involves what Pinto (1995) calls "flat-out epistemic relativism"—a view with several features that make it worthy of our avoidance. If it is a Wittgensteinian brand of moral relativism that is supposed to be on offer things go no better. Strangely enough it seems that Wittgenstein himself did *not* endorse such a relativism. For an overview of Wittgenstein's moral thought see Rhees (1965). For his own words see Wittgenstein (1965).

parties might move forward. Nor do we have any problem at all making judgments about what the “real causes” of their inability to make progress are. This should increase our overall doubt about Fogelin’s picture.

A final consideration in this vein should give us additional pause about Fogelin’s fifth premise too. In addition to the difficulties I have raised here about individuating the “forms of life” at issue in a deep disagreement, we do well to recall Adams worry that even if we could settle this matter we still might not be able to tell when a disagreement was “deep” enough to license the abandonment of argument:

More generally, the logic of deep disagreement makes it impossible to specify *a priori* conditions such that, for any disagreement, satisfaction of just those conditions would be necessary and sufficient epistemically to conclude that the disagreement is deep. The only way for the parties to know whether such a state of affairs obtains is by continuing to work through an attempt at rational discourse, and this because the question of whether a given disagreement is deep can only be settled by exhausting the possible resources of normal discourse. All of this means that the only way for the parties to establish that their disagreement is deep is to reject the very path of non-rational persuasion recommended by Fogelin and concentrate instead on their collective efforts at mutual persuasion by reasons. The only way, in other words, to come to know whether discourse is normal is to proceed as if it is. Adams (2005, p. 76)

This brings us to the sixth premise of Fogelin’s argument. If the foregoing considerations are correct, then Fogelin-style deep disagreements simply don’t happen. Importantly, they do not happen because they are not possible, and they are not possible because there are no such things as private “hinge propositions”. Where human beings are capable of understanding each other’s speech, there always exists at least the potential for the reasoned resolution of any disagreement.

#### **4. The Methodological Usefulness of Deep Disagreement**

If the considerations are correct, then the likelihood of encountering the sort of incommensurability needed for Fogelin-style deep disagreements is vanishingly small. Why then, should we bother talking about “deep dis-

agreements” at all? This is far from an idle question as it may seem to be in our best interest—at least from a practical point of view—to banish the language of deep disagreement from our vocabulary. This is because such language has the potential to be practically counter-productive: Simply declare a disagreement to be “deep”, and we absolve ourselves of any moral or rational obligations we may be under to continue to struggle with it. We can see the rhetorical effect of such declarations in the American political context, where each side declares the other to be so far away from a reasonable point of view that dialectical engagement is not only seen as impossible, but as a kind of betrayal in that it might encourage the perception that the enemy’s point of view is to some degree reasonable. The opinion seems to be that rather than pursue rational dialectic it is better just to declare the disagreement “deep” and urge fidelity to “our way” of seeing things among those who already follow that way. Giving up rational means is easy, even satisfying in some instances. But very often our unwillingness to argue has little or nothing to do with the real (or supposed) “depth” of a disagreement. This is not to say that there are no *serious* disagreements. There surely are. That said, we do well to resist, as far as we are able, the temptation to draw the conclusion that we have arrived at such a pass until it is beyond the shadow of a doubt that we have. (And *even then*, argumentation may still be better of the alternatives before us!)

It is clear then, that there is a practical price to pay for retaining the notion of deep disagreement. Is that price worth paying? I want to suggest in the remainder of this paper that it is. The principal reason for holding onto the idea of deep disagreement is not that there are or might be such things in the real world. It is because the idea of deep disagreement can serve a useful methodological purpose akin to that played by Cartesian skepticism in epistemology. In order to see how, it will be necessary to re-conceptualize what it is for a disagreement to be “deep” in terminology other than that given in Fogelin’s problematic analysis.

## 5. Deep Disagreement Reconceived

Fogelin’s idea of deep disagreement, as we have seen, is subject to a large number of highly substantial objections. This does not, however, invalidate

the intuition that some disagreements are far more serious than others. This sensible intuition is often confirmed in our experience, as we often find ourselves in conflicts with others that resist easy dialectical resolution. For those who want to develop a theory of argumentation that can respond to these difficult cases, it will prove a useful theoretical exercise to imagine features of disagreement that make the prospect of successful argumentation diminishingly small. This exercise must be pursued with care, for like Descartes' evil demon case it is likely to be misunderstood. We are here seeking after the hypothetical limit of argumentation. The task is one of identifying those conditions under which it might seem that argument is as close to impossible as it can be. The point of the task is to see what, if anything, of argumentation might endure in such cases. Some or all of the following characteristics, or characteristics like them, seem to fit the bill:

1. *Duration*: The dispute is not resolvable in a short span of time.
2. *Intensity*: The parties to the disagreement exhibit a more powerful motivation to hang onto their positions than to seek a resolution to the disagreement.
3. *Opposition*: The dispute would involve clear, diametrical opposition between what seem to be inconsistent propositions.
4. *Zero-summed-ness*: The parties would see their gains as the losses of the other side, and vice-versa.
5. *Affect*: The dispute would seep into the ways the parties see themselves, others, and the world, and the ways in which they respond to persons and conditions quite outside the scope of the disagreement.
6. *Polarization*: The continued deliberation of the parties would tend to entrench them deeper in their own positions rather than opening them up to new positions.
7. *Fragility*: The parties would exhibit a greater than usual readiness to engage in intentional behavior that derails the dialogue (e.g. name-calling, straw-man attacks, etc.).
8. *Mistrust*: The parties would not trust each other to judge objectively, but expect them to seek their own advantage at all times, using any means available to them including fallacious means.
9. *Indeterminateness*: There would be no external principles, criteria, judgments or authoritative figures acceptable to all parties to whom

appeal can be made for uncontroversially just resolution of the disagreement.

While this list makes no pretense at being a complete account, it does sum up some of the central features that together make a disagreement deep in the sense of reducing considerably the chance for successful episodes of argumentation. A brief look at each of these characteristics, with the help of a few examples, will help us get clearer as to the nature of the proposal.

## **5.1. The Characteristics of Deep Disagreement**

### **5.1.1. Duration**

Most of the disagreements human beings experience are resolved within the space of no more than a handful of conversations. In a deep disagreement, however, there seems to be no end to the process of mulling over the clashing positions. Neither side will admit defeat nor give concessions that it sees as leading to defeat. As the making of concessions is typically the engine that drives a dialectical exchange to its close, deep disagreements are prolonged beyond the usual lifespan of differences of opinion. The public debate over abortion in the United States is one such disagreement. While most of the world has reached a social settlement regarding the question of whether or not abortion should be legally permitted, the debate in the US, now well over forty years old, shows no sign of impending resolution. This dispute also illustrates the kind of thing that people often have in mind when they characterize a debate as “interminable”. In point of fact this is not something that can be known. What can be said is that a debate has gone on for a very long time, and that is all the property of duration is meant to pick out.

### **5.1.2. Intensity**

The intensity of a deep disagreement is marked by the resistance to downward revision of the participants’ levels of confidence in their standpoints despite being bombarded with counter-arguments and evidence to the contrary. Indeed, there are cases where the resolution of a difference of opinion is clear but neither side will follow the path to it out of blind adher-

ence to their own position. It is worth noting in this connection the familiar point from the logic of belief revision that an agent who never revises his levels of confidence is irrational in particularly problematic way. Nevertheless, that is what seems to happen in debates like the abortion debate. On both the pro and contra sides, positions become so entrenched as to make their proponents appear to be oblivious to rational criticism.

### **5.1.3. Opposition**

That opposition should be a hallmark of deep disagreement should not be surprising, so we may pass over it with little comment. Suffice it to say that typically the parties to a deep disagreement hold positions that are so opposed that they straightforwardly entail the falsehood of their opposite number. Deep disagreements by definition are not situations where one party is undecided, or simply playing the “devil’s advocate.”

### **5.1.4. Zero-summed-ness**

It is because of the intensity and the opposition of the views of the parties that the dialectic takes on the character of a zero-sum game wherein one party’s loss is the gain of the other and vice-versa. There are, of course, models of dialectic on offer wherein every argued exchange is like this, but here I wish to hold something different.<sup>9</sup> In an ordinary round of argumentation it is possible for all of the parties to come closer together in at least some way, to wind up with better coordinated sets of commitments than they otherwise would were they to forego argumentation for some other communicative choice. Hence zero-summed-ness is a very special property indeed.

### **5.1.5. Affect**

Just as intensity and opposition drive zero-summed-ness, duration together with these three drives affect. The affect of a deep disagreement is measured

<sup>9</sup> Some hold that this is Krabbe’s view as result of misinterpretations of remarks in works of his like Krabbe (2008). I believe his view is more nuanced, as can be seen in Krabbe (2009).

by the degree to which the participants come to see themselves in terms of their position *vis a vis* the disagreement, and the social world they inhabit as demarcated by those on their side and those on the wrong side. The term 'affect' is chosen for this characteristic because it appropriately captures the degree to which commitment to a side in a deep disagreement slips the bounds of the straightforwardly cognitive and blends into the more straightforwardly emotional. No phenomenon better captures the idea of effect than that of the single-issue voter, whose only political allegiance is to the person or party most likely to advocate for what she sees as the correct side of some social debate. Indeed, such voters often let the whole of their political outlook be driven in such ways.<sup>10</sup> In Europe examples in which single-issue voting might be found would be environmental issues, or perhaps those of immigration. In North America single-issue voting abounds, and many persons can be found who openly profess to voting only based on their concerns about abortion, gun control, or (increasingly) free market economic policy.

#### **5.1.6. Polarization**

Polarization, according to Cass Sunstein, is the tendency of "members of a deliberating group [to] predictably move toward a more extreme point in the direction indicated by the members' pre-deliberation tendencies." (Sunstein 2003, 81) It is a well-documented intra-group phenomenon that occurs not just in contentious deliberations but in deliberations in general, across a multiplicity of contexts. It is well within the bounds of the research to claim polarization as a defining property of deep disagreements. This is because it is reasonable to think that disagreements that exhibit the properties of affect and intensity will almost certainly be the sort that lead agents to take more extreme versions of their viewpoints. Let us be clear, however, that "extreme" here does not mean necessarily that one is in the grip of a particular ideology, only that one holds an outlying position of particular force on the issue in question. For example, a party to the disagreement over whether professional athletes should make so much more money than teachers who claimed, independently of her other views, that professional athletes should

<sup>10</sup> See the account in Baron (2009) for a good description of the empirical research around this phenomenon.

be paid nothing could rightly be seen as embracing an “extreme” position in the requisite sense regardless of what her other commitments were. The extremity of her view, if maintained forcefully enough in the deliberations of her group, would (in theory) be enough to trigger a polarizing effect.

### **5.1.7. Fragility**

If polarization means that intra-group deliberations become more and more extreme, then it should stand to reason that as the group’s position becomes more and more polarized its inter-group activities become more and more deeply affected. The result of polarization then, is an increasing openness to dialectical tactics that are likely to derail a dialogue, such as straw-man and fallacious *ad hominem* attacks. Examples of this sort of state of affairs are so numerous that the reader will surely be able to call to mind a half-dozen examples of his or her own. To take a silly example, however, one might point to the readiness with which pundits and elected officials in America draw comparisons between their opponents and Adolf Hitler. Of course we dismiss these comparisons as hyperbole or just plain silliness, but the signal they send is clear: “We are willing to say *anything* to discredit our opponents.” As such, they make any dialogue that might be possible between the parties incredibly fragile.

### **5.1.8. Mistrust**

While their causes are many and varied, situations of mistrust are exactly what they sound like—situations in which neither party trusts the other to refrain from the kind of measures that would provoke a derailment. It is important to keep in mind that mistrust can exist not just in cases where the parties know each other, but in cases where they do not. There are also cases where mistrust is provoked by the flouting of conventions surrounding the type of dialogue that the parties are supposed to have, e.g. standing to speak, conventions of civility, etc.

### **5.1.9. Indeterminateness**

The indeterminateness of deep disagreements lies in the fact that there is

no party who is recognized by those in the disagreement as a legitimate authority to which appeal might be made in order to settle the difference between them. If one or the other party sees its view as licensed by the deliverances of such an authority, that authority will inevitably be rejected by the other parties to the disagreement. Since there are no agreed-upon judges the parties find themselves in the dialectical equivalent of a Lockean state of nature, with all its attendant disadvantages: partiality, susceptibility to overreaches due to passionate attachment to their own causes, and an ensuing state of “confusion and disorder”. (Locke, 1988)

## 5.2. Evaluating the Proposed Model of Deep Disagreement

Is the model of deep disagreement based on factors like the above-mentioned eight an improvement on Fogelin’s model? It seems to me that there are several reasons to think so.

Notice immediately that these factors do not include considerations about *causes* of the disagreement. It is not assumed that the parties *cannot speak* intelligibly to each other, or that they do not share standards of reason, rationality or argument. This is in part due to the fact that it is not assumed that the parties inhabit radically different life-worlds or entertain different “framework” propositions. This is intentional, as a cogent account of disagreement should be able to admit of many possible causes, including that the parties have been misled into thinking that their disagreement is deep when it really isn’t, that the disagreement might be based on mutual misunderstandings, or that circumstances are such that no party really has sufficient evidence to conclusively establish its point of view. To be maximally useful such an account should also be able to apply along a continuum of more and less serious cases. The view of deep disagreement sketched by the eight properties above can be used in this way.

In addition to being neutral as to the causes, an adequate account should contain within its ambit the possibility of intra-group (or intra-framework) deep disagreement. This is an advantage of the view I am proposing and serious oversight in Fogelin’s view, as some of the most costly and lasting and otherwise “deep” disagreements in history have had their roots in intra-group disagreements wherein all the participants shared precisely the same world-view, framework propositions, etc. The rise of Protestant-

ism and the subsequent four centuries of religious warfare that followed in Europe is a particularly telling case of this phenomenon. If such cases must be accounted for, then any theory of deep disagreement must capture them if it aspires to account for the phenomenon in anything like a complete sense. The model on offer here can accommodate them. Though the parties began as members of the same group—arguably the same “life-world”—the schism between Protestants and Catholics involved nearly all eight factors by the time open war was happening. It would take this paper too far afield of its purpose to give a detailed account of the evolution of the deep disagreement between the parties, but it does seem as though properties like those described here could be used for such a purpose. Fogelin’s model could not be used in this way, and so is less powerful.

There is one further general advantage of the account on offer here that bears notice. This advantage is a logical one: The proffered analysis of deep disagreement does not necessitate that such disagreements are by nature insoluble. This prevents the criticisms of circularity, or question-begging to which Fogelin’s view is prone. To put it another way, ‘deep’ here is a synonym for difficult, not for ‘impossible’.

In the aforementioned ways, then, it seems as though the account of deep disagreement put forward in this paper does have some advantages over that put forward by Fogelin. For all that, it might still be wondered whether or not we’ve really put our finger on anything that picks out a unique property of “depth” here at all. My conclusion is that we have not. For all that the analysis may give us, it only really gives us a cluster of conditions under which reaching an agreement is very hard to do. Whether we call controversies thus afflicted “deep disagreements” or not is a matter of art. Really there are only just disagreements, and some of them are tougher nuts to crack than others. This is not to say, however, that thinking in terms of deep disagreement may not have some serious theoretical or methodological benefits. In the final section of this paper I want to argue that deep disagreement poses a limiting case for the theory of argumentation in much the same way that the Cartesian demon case poses a limiting case for traditional epistemology. If this contention is right, then I believe we should see that thinking about how to address worries about deep disagreements spurs us to interesting conclusions about the uses of argument.

## 6. Deep Disagreement and Argumentation at the Limit

Let us suppose that it seems as though Alva and Britt cannot resolve their disagreement over abortion by arguing about abortion. What argumentative strategies might work? What is required of the parties in order to make them work? If we reject Fogelin's contention that disagreement's being deep means *a fortiori* that it is impossible to resolve by argumentation, we can approach these questions in much the same way that Descartes approaches the question of what he can know even if he lives in a universe dominated by an omnipotent deceiver. While we will not find our results quite so earth-shaking as he does, the methodological parallel holds: We are asking about *argumentation at the limit*, in other words, about the uses of argumentation in those situations in which the circumstances for its efficacy (perhaps even its possibility) are least in evidence.

We can group the strategies into four generalized families of approach: rhetorical strategies, those I will call "emergent solution" approaches, negotiation dialogue, and incompletely theorized agreements. As these are not hard and fast categories but only "familial" groupings there will be some overlap between them. This, I think, is apt, because in any given case of deep disagreement one would not be surprised to see them used (whether consciously or not) in concert with one another.

My inclusion of rhetorical approaches indicates another point of departure from Fogelin's thesis that needs to be made explicit. In saying that deep disagreements require us to abandon argument in favor of persuasion, Fogelin seems to indicate that the techniques of persuasion i.e. rhetorical techniques) are non-rational. I do not accept the narrow vision of rationality that Fogelin's dichotomy implies. It would take this paper too far afield of its purpose to make the case for the rationality of rhetoric, but I believe that careful students of the discipline will have no problem seeing how such a case would be made.<sup>11</sup>

<sup>11</sup> Those who are not satisfied by my hand-waving on this score might consult Godden and Brenner (2011) in this journal. The chapters on rhetoric in Frans H. van Eemeren (1996), the essay by David Zarefsky I refer to in section 6.1 below, and Kauffeld (2007) also give good reason to doubt that there is something irrational *per se* about rhetorical methods of persuasion.

## 6.1. Rhetorical Approaches

Zarefsky (2010) suggests several rhetorical approaches to dealing with deep disagreement that maneuver around the participants' unwillingness to engage in direct argumentation. These include appeals to time constraints or a sense of emergency, a shared sense of exhaustion in living with the problem, attempts to repackage the dispute as being fundamentally about something with respect to which the participants have no problematic commitments, and uncovering inconsistencies or latent hypocrisy in one party's position. Though Zarefsky does not use the concept of deep disagreement sketched here as the limiting case, it is easy to see how his suggestions are aimed at factors that do occur in the present conception. Appeals to time constraints attack deep disagreements at the level of duration, the sense of exhaustion appeals to considerations of *affect*, and repackaging is a maneuver designed to skirt the problems of *opposition* and *zero-summed-ness*. One could even see the appeals to inconsistency as aimed at invoking principles of logic that are ostensibly acceptable to all parties in order to reduce the scope of the *indeterminateness* affecting the dispute. All of these, it is safe to say, would involve a fairly sustained and intensive level of argumentative exchange even if those arguments were not explicitly directed to the problematic difference of opinion.

In the case of Alva and Britt, one might imagine them beginning from a recognition that abortion's dominance as an issue makes it difficult to deal with other, equally pressing problems, and drawing from this recognition the cognitive and emotional reserves necessary to keep their argumentative dialogue going in the hope of reaching a settlement. This would be something akin to Zarefsky's time-based strategy. Though (sadly) these seldom make into the broader social discussion of the issue, the philosophical literature on abortion is rife with attempts to repackage the problem in ways that do not invoke the opposition of women's rights and the sanctity of the life of the fetus. The only limits to a repackaging strategy are the creativity and patience of the arguers.<sup>12</sup> Thus the failure of such strategies to produce

<sup>12</sup> Lugg (1986), following Dewey, makes a similar point though he draws a far different lesson from it than I do here.

argued agreements may say more about them than about the usefulness of argument in such situations. Clearly, at least, there is a set of options to be tried along these lines before giving up. Of course, to resist the temptation to give up requires a certain amount of good faith. Britt and Alva have to believe in each other's integrity as arguers and that continued argumentation offers the hope of resolution as well. This sort of hope figures prominently in the next family of approaches: the emergent solution approaches.

## 6.2. Emergent Solution Approaches

These approaches, exemplified by Adams (2005) are best characterized as aimed at *opposition* and *zero-summed-ness* that (interestingly) bite the bullet where *duration* is concerned. Adams contends that even if it is not immediately productive of resolution, continued argumentation might help to identify and isolate shared values that eventually lead to resolutions. This is the most optimistic of the approaches considered here, and perhaps potentially the most problematic. No one has infinite patience for conflict, even under ideal circumstances. It is for this reason that we have phrases like "We simply must agree to disagree about this matter." in our toolkit. Be that as it may the valuable insight in Adams' contention is that to reach an impasse in one's argumentation with others does not necessarily foreclose on the possibility of ever reaching a resolution. Even in the deepest of disagreements it is important to keep the possibility of resolution alive, and this is done in part by continued argumentation.

The benefit of doing so is that one avails oneself of the possibility for extended reflection not just about one's opponent's position but about one's own. As anyone who thinks in this way will immediately recognize, this process can be deeply revelatory of one's own intuitions and commitments. Once discovered, extended reflection about these intuitions and commitments can provide the perspective needed for rational compromise, or for the realization of previously unseen resolutions. The salient point here is that sustained argumentation, if perhaps not strictly necessary for such reflection, is undoubtedly one of the best ways we know to stimulate it. Hence Adams's suggestion is not as naïve as one might initially imagine.

There are those instances however, when one finds it so difficult to enter into imaginative sympathy with one's interlocutors that extended reflec-

tion may not be a promising way to proceed. In such instances, when the circumstances are pressing enough to warrant it, there are still the avenues of negotiation dialogue and incompletely theorized agreements—both of which yet make substantial use of argumentation.

### **6.3. Incompletely Theorized Agreements**

If emergent solution approaches to difficult disagreements are perhaps overly optimistic, Cass Sunstein's notion of incompletely theorized agreements may provide us with a more realistic strategy. He describes agreements as "incompletely theorized"

in the sense that the relevant participants are clear on the result without agreeing on the most general theory that accounts for it. Often they can agree on an opinion or a rationale, usually offering low-level or mid-level principles. They may agree that a rule—reducing water pollution, allowing workers to unionize—makes sense without entirely agreeing on the foundations of their belief. They may accept an outcome—reaffirming the right to have an abortion, protecting sexually explicit art—without understanding or converging on an ultimate ground for that acceptance. What accounts for the opinion, in terms of a full-scale theory of the right or the good, is left unexplained. (Sunstein 1996, 5)

Here, clearly, arguments are not just required, but must be skillfully deployed if the disagreement at issue is to be resolved. Unlike bargaining, incompletely theorized agreements need not be thought of as brute-force struggles between camps of different interest groups. Like bargaining, however, the parties do need to abandon any hope of total victory for their "full-scale theory" of what ought to be done or believed. If incompletely theorized agreements do allow us a reasonable path to solving apparently deep disagreements, then it is clear that they belong in the playbook.

### **6.4. Negotiation Dialogues**

One of the principal contributions of Walton (2008) and before it Walton/Krabbe (1995) is the widening of the theory of dialogue to include multiple types. Negotiation is one of these types. On pp. 6-7 of the more recent of the two works just mentioned, Walton defines it as follows:

In negotiation dialogue the primary goal is self-interest, and the method is to bargain. Bargaining makes no pretension to be an objective inquiry into the truth of a matter. Indeed, negotiation, in contrast to persuasion dialogue, need not involve commitment to the truth of propositions, or conviction that ideals are based on strong arguments. In negotiation, opinions about what is true, or convictions about what is believable, are not centrally at stake, and may even be contravened by a good negotiator. The concessions in bargaining are not commitments in the same sense as in the persuasion dialogue, but trade-offs that can be sacrificed for gains elsewhere. The position now becomes a bargaining position. Logical proof is not important in negotiation dialogue, for this type of dialogue is strictly adversarial.

The important point here is that resolution occurs not as a result of logical proof that one's position is true or the correct course of action, but as a result of the parties reaching an accord they can live with under the circumstances. Even though argumentation by itself does not settle matters in negotiation, it is difficult to imagine negotiations from which all species of argument were entirely absent. For our purposes the salient point about negotiation dialogue is that it assumes nearly all of the characteristics attributed to our Cartesian limiting case (the possible exception being duration—even though it is not unknown for negotiation dialogues to last far longer than is expected or wished).

## **7. Conclusion**

If the foregoing considerations are correct, then some form or other of argumentation is possible even in the limiting case of deep disagreement. The idea of deep disagreement is useful then, because it helps us to think about strategies for approaching difficult communicative situations where we must reason together with others. Drawing on the extant literature I have sketched some of these strategies here and shown how they answer certain features of what I've called the limiting case of argumentation: the Cartesian worst-case scenario for the prospect of successful argument. As such, in order to be useful the limiting case need not be realized in any actual encounter, its usefulness may be purely methodological. Thus, even if there are no situations that conform to the criteria for the limiting case,

it still serves argumentation theory well. In this wise it represents an improvement over Fogelin's notion of deep disagreement, which is based on questionable assumptions coupled with an equally questionable reading of one text in the Wittgensteinian corpus. Perhaps the most important respect in which the limiting case represents an improvement over Fogelin's notion of deep disagreement is that it aims not to tell us when argumentation is impossible, but how argumentation theorists can strategize to develop stronger tools with which to improve the way go about dealing with the most challenging disagreements we have.

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