

STANDING NORMS IN ARGUMENTATION

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1. Introduction

Interpersonal arguing is the process of (at least purporting) to pursue reasonable progress through the mutual sharing and evaluation of reasons. This activity pervades nearly every aspect of human interaction. We argue about where to have dinner, what to do about the thing one friend said to another, the permissibility of abortion, the viability of scientific hypotheses, the meaning of life. Some arguments take less than 30 seconds, others span hours, days, sometimes (with interruptions) years. Through arguing, we influence each other in what we believe, how we feel and what we do. And as an interpersonal engagement with (at least purported) reasons, arguing has both a logical and a social dimension.

Normative argumentation theory is the academic discipline dedicated to research into the norms of good argumentation. It investigates not only what makes arguments-as-objects good, but also what constitutes good arguing as a social activity. And it seeks to formulate norms meant to reliably guide people to perform well during real-life argumentation.

We argumentation theorists commonly share two important assumptions. First, we tend to believe that ideal argumentation should allow unrestricted exploration of issues, with no limits on what can be discussed, questioned, or challenged. And second, we tend to believe that normative argumentation theory's guidance for good arguing ought to direct arguers towards *realizing* this ideal during real-life argumentation. As an effect, we tend to offer norms that indiscriminately remove limits to the exploration of even only potentially relevant matters. We can observe this in normative theories of argumentation as different as van Eemeren and Grotendorst's *Pragma-Dialectics* and Gilbert's *Coalescent Argumentation*, both of which I will introduce as examples and discuss later in this paper (Gilbert, 1997; van Eemeren, 2018; van Eemeren and Grootendorst, 1983).

I question the appropriateness of these assumptions, especially the second one. I think that they are based on a narrow focus on

theory-identified functions of argumentation and a disregard for the non-argumentative normative structures that arguers have weighty *pro tanto* moral reasons to observe even while arguing. I suspect that a multitude of such structures exists, but in this paper, I will concentrate on the example of *standing* norms, and even more specifically, *standing norms against impertinence* and their clash with what I want to call *freedom-to-explore* norms in argumentation theory. I will rely on work done by moral philosophers of standing to argue that standing norms against impertinence fulfill an important function, and that even *ideally*, we ought not to get rid of them (though the specific *de facto* social standing norms that exist in a society may be unjust and in need of change). Given that normative argumentation theories usually claim to provide norms for “real life” arguing, the clash between these standing norms and freedom-to-explore norms poses a problem for them. I argue that this problem ought to be resolved in favor of preserving at least some of the normative force of standing norms against impertinence. This does not mean that we normative argumentation theorists ought to scrap freedom-to-explore norms altogether. Rather, we should present them as *prima facie* norms and advise arguers to look out for clashes with other norms, like standing norms against impertinence. When such clashes occur, we ought to direct arguers to decide which norm should take precedence by determining whether each norm’s motivating values apply, and how weighty the reasons arising from each are in the given context.

Though I will limit myself to discussing standing norms against impertinence here, I intend this paper as a starting point for further research. I think that standing norms against impertinence are *one*, but likely not the *only* example of valuable norms that can come into tension with norms endorsed by normative argumentation theory.¹ I hope their example will show that it is worthwhile to address how norma-

tive assumptions taken for granted by argumentation theorists should interact with other, valuable norms identified in the broader moral literature.

I will begin by discussing what standing norms, and specifically those against impertinence, are and why they are valuable. Then I will use the examples of two normative argumentation theories, Pragmatic-Dialectics and Gilbert’s Coalescent Argumentation, to describe what freedom-to-explore norms in normative argumentation theory are and what makes them valuable. From there, I will explore how freedom-to-explore norms in argumentation theory interact with standing norms against impertinence. My goal here is to show that normative argumentation theory suitable for guiding real-life interpersonal arguing needs to make space for identifying arguing that observes these standing norms as “good” in some (potentially many) contexts. Finally, I explore one of the possible effects of this – a re-evaluation of certain kinds of situationally disqualifying *ad hominem*s and *poisoning the well*.

2. The Nature and Value of Standing Norms against Impertinence

Standing norms are social norms that regulate the perceived moral and/or social permissibility of actions based on the identity of the actor rather than the nature of the action (compare, e.g. Herstein, 2020; O’Brien and Whelan, 2022). As such, they add an additional layer of restriction to the more familiar, action-centered moral and/or social norms; even an action that, independent of who might carry it out, is all-things-considered permissible (or even required) may not be permissible *for a person without standing*.

A familiar and intuitive example are standing norms regarding who may intervene when children misbehave. Imagine observing the small child of a loose acquaintance throwing an empty juice-container on the floor in the park. We may agree that the child’s behavior warrants correction, maybe even that *someone ought* to correct it. Still, I suspect that we also agree that not *anyone* may permissibly do so. You, standing in no special caregiver relationship to the child, are not the right person to correct their behavior (even if we may assume that the child knows you

1. In fact, Hoppmann (2017, 2019) investigates the potential for clashes between argumentative norms and the norms of politeness and humor respectively.

enough that a mere interaction would not cause harm, e.g. by frightening her). It would be inappropriate for *you* to chide the child and to direct her to pick up her litter.² This is not because the child should not be told – she absolutely should. Rather, it is because we accept that at least *prima facie*, only a child’s caregivers may engage in broadly “educational” activity with respect to the child, and *you* are not such a caregiver. So it would be *impertinent* for you to correct the child; you would be *sticking your nose where it does not belong* and should instead be *minding your own business*. We can therefore call the standing norm that restricts you from correcting the child a standing norm against *impertinence* (also variously called (not) minding-your-own-business, age tuum negotium, meddling (Herstein, 2017, 2020; Radzik, 2012, 2011; Seim, 2019)).

Standing norms, including those against impertinence, are a pervasive feature of our social world, and they extend to the regulation of who may perform certain speech acts under certain conditions. For example, there is a large literature on who has or loses standing to blame – and on whether the associated *de facto* social norms are morally appropriate. Much of this literature discusses the loss of standing that occurs when the person doing the blaming is a hypocrite (e.g. Fritz and Miller, 2018; Piovarchy, 2020). However, an important sub-section is concerned with the implications of *impertinence* in blame; i.e. when the blaming, even though the blamed person is indeed *blameworthy*, constitutes meddling (e.g. Radzik, 2012, 2011; Seim, 2019).

Importantly, though, standing norms against impertinence are not restricted to blaming. One can be impertinent by offering *an opinion*. An example of this is O’Brien’s story of Busybody Frasier, who overhears a couple arguing on the bus over who should empty the dishwasher and interjects by saying that it is one partner’s turn based on what he has heard (O’Brien, 2025). Such behavior is impertinent, even

2. Assuming a caregiver is present and you are not currently tasked with minding the child. Further, it might well be appropriate for you to address your concerns about the behavior to the caregiver. Standing norms can be very intricate!

if we hypothesize that the overheard information is enough to make a reasonably well-grounded judgement. One can also be impertinent by asking a question, e.g. by inquiring into the private matters of a mere acquaintance. One can be impertinent by expressing doubt, e.g. when interacting with someone who legitimately occupies a position of authority with respect to the matter, and when one does not occupy a similar position (or has a special justification). One can even be impertinent merely by *mentioning* something, e.g. someone’s mood when one is not in the right kind of relationship to make comments on non-intentional displays of emotion.

To generalize, standing norms against impertinence tend to forbid or allow that people perform acts, including speech acts, based on the relationships they have. This may be because they have (or lack) the right kind of relationship to the addressee, as is the case when someone is impertinent for asking a question about private matters to a mere acquaintance. Or it may be because they do (not) occupy the right position within the broader web of relationships, as is the case when someone without comparable authority expresses doubt about the decisions of a legitimate authority.

It may seem that standing norms against impertinence are unnecessary politeness-restrictions, standing in the way of a more straightforward world. But several authors have convincingly shown that these social norms have significant value (Herstein, 2020; Radzik, 2012, 2011; Seim, 2019):

Standing norms against impertinence can protect privacy by restricting the number of people who may gather and distribute information about and seek to gain influence over our private lives. They allow us some control over who has access to knowledge about and may try to influence our personal decisions, histories and details through our ability to select the people we have certain relationships with (compare, e.g. Herstein, 2020).

They also protect autonomy by creating a sphere for what John Stuart Mill called “experiments in living”, shielding individuals from the potentially coercive effects of broad social opinion (Mill, 2007; Radzik

2011, 2012).³

And they create the environment for special relationships to flourish that human beings need: The fact that only close friends have the standing required for commenting on one's continuously foul mood is part of what *constitutes* the friendship (Herstein, 2020).

Further, standing norms against impertinence can help distribute respect appropriately, as when they regulate the implications of gaining positions of authority for how others must behave towards a person. This is important both for the avenues through which we can gain and enact legitimate power and for the effective functioning of society.

In sum, standing norms against impertinence serve as simplifying rules that help us be responsive to important moral reasons and realize important moral values. Further, because we can refer to them to block or censor behaviors, they allow us to enforce the adherence to these reasons and values. And they do so without forcing us to engage in explanations that, at least sometimes, may do further damage, e.g. because we would have to point out that, and why, we do not want to address certain private matters, which may further injure that same privacy.

It is, of course, important to acknowledge two caveats:

First, since standing norms against impertinence are justified via the values they protect, our *pro tanto* reasons to obey them are also only as strong as the reasons we have in each context for realizing these values. They can be outweighed, and there may be situations where the values are not engaged at all – so these reasons are also only *prima facie*.⁴ For example, I would consider it impertinent of myself to approach a stranger who is quietly upset, sniffing into their handkerchief. But I may think that the reasons I have to adhere to

impertinence-related standing norms which tell me not to mention the emotional displays of strangers are outweighed when I see someone wailing, sobbing and throwing themselves around in such great distress that they clearly need a steadying hand more than their privacy. And while I might not admonish a stranger's child for minor littering, I would interfere if I saw them kicking a dog.

Second, and potentially more importantly, *de facto* socially accepted standing norms against impertinence can be unjust and we may therefore not have any moral reasons *at all* to obey them. Not all social norms are morally justified. A standing norm against impertinence that forbids women from questioning the claims of men, for example, is patently unjust. The only thing we ought to do with it is to work towards its abolishment while supporting its victims.

However, this does not mean that there should not be standing norms against impertinence at all; socially grown unjust norms of any kind exist, including ones that are not related to standing. Rather, it means that great care should be taken in evaluating the moral validity of *de facto* socially accepted standing norms, including those against impertinence. Some of these norms function as summarizing expressions that help us recognize and act on the moral reasons we have to respect important values fundamental to human well-being and dignity, like privacy, autonomy and earned authority.

3. The Nature and Value of Freedom-to-Explore Norms in Argumentation

Normative argumentation theories, i.e. theories meant to guide everyday arguers to argue *well*, frequently include what I will here call *freedom-to-explore* norms.⁵ Freedom-to-explore norms permit the uninhibited exploration of all topics relevant to the issue that is being argued about or forbid actions that would limit such exploration. In this section, I will explore the nature and value of freedom-to-explore

3. See also Stevens and Casey (2023) about autonomy threats in the context of argumentation.

4. That they are only *prima facie*, *pro tanto* reasons should not be surprising: Standing norms are social rules, and as such inescapably over- and under-inclusive, as Schauer (1991) points out. This also means that these norms can be abused. This, however, is not a reason against having them, at least unless it is also a reason for abolishing all other rule-like social norms.

5. Unsurprisingly, I am not the first to point this out. For a detailed discussion and defense of this, see Jacobs (2003).

norms by detailing the role they play at the example of two otherwise very different normative argumentation theories, namely Pragma-Dialectics and Gilbert's Coalescent Argumentation (Gilbert, 1997; van Eemeren, 2018; van Eemeren and Grootendorst, 1983).

At the moment, Pragma-Dialectics is probably the most influential normative theory of argumentation (van Eemeren, 2010; van Eemeren and Grootendorst, 2004). It is built around an ideal model of reasonable interpersonal arguing, the "critical discussion". The critical discussion takes place between a proponent, who defends a claim and an opponent who advances objections against the claim and the proponent's arguments. Its goal is a "reasonable resolution of a difference of opinion" which is achieved when proponent and opponent agree that either the attack or the defense of the claim was successful. Pragma-Dialectics is inspired by Popperian Critical Rationalism. From it, the theory takes the idea that the acceptance of a claim is warranted not by positive justification, but by successful defense against attempts at falsification (see, e.g. Popper, 1959). In the case of pragma-dialectical argumentation, attempts at falsification come in the form of objections levelled by an opponent, and attempts at defense take the form of arguments for the claim (and against the objections) by the proponent. Pragma-Dialectics treats the free exploration of reasons as centrally important because the process of evaluating a claim by exposing it to attempts at finding reasons against it and seeing whether it can be defended becomes more reliable the more reasons are marshalled. And for a real resolution of a difference of opinion, all the potential reasons that the opponent believes they have ought to be brought forward and tested. Therefore, placing no restrictions on how reasons can be accessed serves the goal of the reasonable resolution.

In contrast to Pragma-Dialectics, which structures argumentation adversarially, Gilbert's Coalescent Argumentation models ideal arguing as a mutual, cooperative exploration of each other's positions (Gilbert, 1996, 1997). According to it, interpersonal arguing takes place when arguers see themselves confronted with a disagreement or common problem, and its goal is to reach an authentic agreement that

brings the arguers' positions together respectfully and non-coercively. To make such agreement possible, arguers must seek a mutual understanding of each other's entire *positions*, which are the complex networks of beliefs, feelings, personal traits, histories, goals etc. that stand behind the commitment to a claim. From here, arguers can then access common starting points and mutually acknowledged reasons. This grounds the coalescent theory's commitment to the importance of free exploration: The broader the arguers' accomplished understanding of each other's positions, the better they can access the available reasons embedded in them, which in turn ensures that the reached agreement is rooted in the authentic realization of the arguers' goals instead of superficially imposed on one or the other arguer.

From these simplified descriptions we can see that the reasons for the various theories' commitments to free exploration can be very different. Nonetheless, normative theories of argumentation have in common two things for which Pragma-Dialectics and Coalescent Argumentation are illustrative examples. First, they typically identify an argumentation-specific goal that can only be fully accomplished by weighing all relevant reasons. And second, from the commitment to this goal results a normative commitment to the idea that arguers must have the ability to search for, consider and evaluate *potential* reasons of *potential* relevance to the issue at hand without restrictions.⁶ This commitment then cashes out in the form of freedom-to-explore norms.

Pragma-Dialectics, for example, directs analysts to evaluate everyday argumentation by whether arguers have obeyed the "Freedom Rule", according to which "[d]iscussants may not prevent each other from advancing standpoints or calling standpoints into question", the "Obligation to Defend Rule", according to which "[d]iscussants who

6. This idea is not limited to normative argumentation theories for everyday arguers. Habermas, for example, includes it both into his ideal speech situation and later into his presuppositions for argumentation (Habermas, 1991). But Habermas was sketching an idealized form of argumentation meant as the methodological foundation for a universal ethics. By contrast, normative argumentation theories offer norms for everyday arguers meant to provide guidance for all arguing.

advance a standpoint may not refuse to defend this standpoint when requested to do so" and the "Unexpressed Premise Rule" according to which "[d]iscussants may not (...) disown responsibility for their own unexpressed premises." (van Eemeren, 2018). And Gilbert tells arguers to approach disagreement by first identifying their own position and their interlocutors' positions as broadly as possible. He directs them to treat as arguments anything that may reveal part of an arguer's position. Thereby he broadens what counts as arguments beyond the logical (e.g. reasons expressed through premise-conclusion complexes). He also includes the emotional (e.g. reasons expressed through displays of emotion, like tears), visceral (e.g. reasons expressed through body language, like shrugs) and kisceral (e.g. reasons expressed by intuitions and hunches) (Gilbert, 1995, 1997). This approach allows an entirely unrestricted exploration of potential reasons.

4. The Tension Between Freedom-to-Explore Norms and Standing Norms Against Impertinence

Freedom-to-explore norms stand in obvious tension with standing norms, including those against impertinence. This is because freedom-to-explore norms imply that anyone who engages in interpersonal arguing thereby gains the standing to make any claim and ask their interlocutors about any aspects of their position that may potentially be relevant to the argument.⁷ The implications go rather far here: Since it can never be pre-determined what will make a difference for a given issue, argumentation is an activity with a tendency to sprawl. An ar-

gument about the appropriateness of a teenage daughter staying out until after midnight can easily turn into one about feminism, or the existence of God, without losing connection to the initial question (compare Stevens and Casey, 2023). So freedom-to-explore norms imply that entering an argument means gaining the standing to introduce *anything* that one deems potentially relevant, even if only to explore its relevance. In other words, according to these norms, once the argument starts, impertinence no longer exists and standing norms against impertinence lose their validity, at least with respect to any topic that is even potentially relevant.

This alone poses a problem. Standing norms against impertinence serve the realization of important values, and they continue to do so even when people argue. And at the outset of an argument, it is often hard to foresee where the search for potential reasons may lead. Freedom-to-explore norms make it so that one never knows exactly what they agree to argue about. So the fact that freedom-to-explore norms displace standing norms against impertinence and provide unlimited standing to mention/ask about/doubt/question etc. anything that appears of potential relevance threatens the protection that is usually given to important values like privacy, autonomy, earned authority etc.

In addition, since people value this protection, and may be reluctant to engage in activities where it is diminished, this also threatens the accomplishment of the theory-identified argumentative goals. I certainly would be more reluctant to argue about, e.g., the value of marriage as an institution if I knew that nothing prevents others from interrogating me on my failures in my own marriage (potentially in front of others⁸)

7. This is not restricted by requirements of epistemic standing: While it may be important that only those with epistemic standing give advice or testimony, arguing inherently invites the critical engagement of the addressee and allows for objection and subsequent dismissal, and so arguments can legitimately be offered even by those with no special claim to experience or knowledge. Of course, time restrictions etc. may justify selecting only arguers with a certain epistemic standing in some circumstances. But even that, in some sense, already goes against the spirit of the freedom-to-explore norm: Any exclusion, even of those with little epistemic standing, brings with it a risk (however small) that access to some reason may be lost.

8. You may ask whether this could be more about finding the appropriate place/time for having a certain argument or bringing up a certain point. And indeed, we can have the standing to mention something to someone in private, but not to bring it up with others present. Standing can be very intricate. But note that argumentation happens in context, including in time and space. If we are having this argument now, in front of these people, then what matters is what I may or may not introduce now. In another argument, later, in private, I may be allowed to introduce additional things.

as a way to gain a potentially relevant premise in an argument from example.

But unfortunately, things are even more complex and more upsetting than this. We have reason to worry that when applied to real-life argumentation, the *de facto* effect of introducing freedom-to-explore norms won't be to simply expose *everyone* involved in an argument to *equally* heightened risks of having their privacy invaded and their autonomy and earned authority threatened. Instead, introducing freedom-to-explore norms will only weaken the *de facto* influence of standing norms against impertinence and their associated protections for privacy, autonomy and earned authority. This weakening will occur along pre-existing lines of power. Here is why:

When social norms that are backed by weighty moral reasons are broken, this is regularly harmful. The victims of impertinence may suffer loss of privacy or breaches of their autonomy, or see their authority-related rights disrespected. We may expect that this reliably results in negative feelings like anger, hurt and resentment. The existence of standing norms against impertinence authorizes victims to express these feelings, and to use social sanctions, such as rebuke, refusal to engage, the downgrading of relationships etc. Victims can (directly or indirectly) invoke the norms to justify these sanctions, or to protect themselves against further impertinence by using reference to the norms as a warning. For example, in *Eat Drink Man Woman*, Jia-Jen tells her estranged, more beautiful and successful sister straight-out that she has no right to express her feelings about Jia-Jen's life because she has let the relationship that would usually allow it fall into disrepair. Her sister accepts this even though it is clear from how the movie continues that she does not revise her assessment.⁹ Jia-Jen has wielded a standing norm against impertinence as an effective protection against further incursion (Lee, 1994).

But by then, this argument will be over.

9. I.e. she accepts it as a point about whether she may *express* her judgement, not as a point about whether she is in an epistemic position to *make* the judgement.

Imposing conflicting norms as overriding, like freedom-to-explore norms, removes neither the harm that comes from breaking standing norms against impertinence, nor the resulting feelings, nor the ability of those who would under normal circumstances be bound by standing norms to predict either. The only thing that imposing overriding norms removes is the ability to appeal to standing norms against impertinence as a *justification* for sanctions. After all, complaints that rely on these norms can now be countered through referral to the other, officially overriding freedom-to-explore norms. These complaints can even be presented as norm-breaking themselves (e.g. as *ad hominem* attacks or as poisoning the well, see below for further discussion). So the freedom-to-explore norms effectively give license to generate these kinds of harms in the name of "good" argumentation.

Of course, for arguers who have reason to fear negative consequences from causing feelings of resentment in their interlocutors, this license is effectively meaningless. They must continue to avoid mentioning/asking about/doubting/questioning in ways that will breach their interlocutor's privacy, injure their autonomy or disrespect their legitimate (or even illegitimate) authority even if those interlocutors cannot *officially* rely on standing norms to express their unhappiness. Only arguers who need not concern themselves with the feelings of their interlocutors can use the license that the freedom-to-explore norms grant. So, e.g., a philosophy student in their professor's office who has entered a philosophical argument about the value of the institution of marriage may be "officially" licensed by freedom-to-explore norms to draw on the professor's own failing marriage if they think it may provide relevant material for an argument from example. But even if such an addition would have some epistemic value (say in making the professor understand a point about the oppressiveness of the institution), and even if the details about the professor's marriage are well known to the student, they will not do so because they have good reason to fear angering their professor, who has far-reaching power over their professional advancement. By contrast, the professor has no such reasons to hold back, assuming they are untroubled by causing the

student discomfort. They can draw on examples from what they know about the student's failing marriage, justifying what would otherwise be an invasion of privacy by claiming that they were "just making a point". Such a justification may even be self-assuring for the professor.¹⁰

You may have noticed that above, I said that I *would* be reluctant to argue about, e.g., the value of marriage as an institution if I knew that when I do, people will freely draw on what they know about my private life. It should now be easy to explain why I used hypothetical language there: I usually find myself in positions of relative power, so I do not have to worry about harm coming to me. This is so because the harm that imposing overriding freedom-to-explore norms can cause when they clash with standing norms against impertinence is not only morally relevant but also distributed unjustly.¹¹

5. Making Space for Standing Norms Against Impertinence in Normative Theories of Argumentation

It is important to acknowledge that the proponents of Pragma-Dialectics show awareness that their norms may have unintended consequences if they are applied under conditions of unequal power. This is why the theory includes so-called "higher-order conditions". These higher-order conditions include two key requirements: first, "the participants do not face power-imbalances or relationships of authority that could interfere with their ability to participate in the critical discussion"; second, there may be "no standpoints that are unavailable (because taboo) or that cannot be questioned." (van Eemeren, Grootendorst, Jackson, and Jacobs, 1993) When these conditions are not

fulfilled, following the pragma-dialectical discussion rules no longer guarantees the reasonableness of the argument-achieved resolution of a disagreement. The proponents of Pragma-Dialectics are also well aware that the fulfillment of (all) higher order conditions rarely happens (Castro, 2022; van Eemeren et al., 1993). However, despite this, Pragma-Dialectics does not account for the morally relevant harms that applying their norms, including the freedom-to-explore norms, can cause when higher order conditions are unfulfilled. Nor do they provide ways to deal with or prevent these harms. Where proponents of the theory offer ways of dealing with situations in which higher order conditions are not fulfilled, the aim is to realize the theory's epistemic aims, not to protect the arguers from potential morally significant harm that may come in the wake of doing so (Castro, 2022; van Eemeren et al., 1993, compare also Stevens, 2025).

This disregard for the harm that may arise when freedom-to-explore norms are enforced at the expense of other norms, including standing norms against impertinence, is a serious flaw in normative argumentation theory. I say this even though I see the value of freedom-to-explore norms and am not advocating for abolishing them altogether (as should become clear in this section). The goals that normative theories like Pragma-Dialectics and Coalescent Argumentation identify for argumentation are extremely valuable, and arguers regularly have weighty moral reasons to pursue them. In so far as freedom-to-explore norms support the accomplishment of these goals, these moral reasons speak for adhering to these norms.

But I suspect that these reasons are generally only *pro tanto* reasons of a certain weight, and therefore they can be balanced against other moral *pro tanto* reasons and *their* weight. This includes the moral reasons we have for protecting privacy, autonomy, earned authority etc. Therefore, I do not think that normative argumentation theory is justified in telling arguers to always give freedom-to-explore norms precedence when they come into conflict with standing norms against impertinence.

Rather, normative argumentation theory should direct arguers to

10. Importantly, having to refer to the underlying value of privacy and explain why it applies would itself breach that privacy further – that is why this particular standing norm is so valuable.

11. The problem here is not that people will abuse freedom-to-explore norms. Arguably, they can abuse standing norms too. The problem is that normative argumentation theory, by promoting freedom-to-explore norms as overriding (rather than, e.g., *prima facie*) creates harms, and that these harms are then, in addition, distributed unevenly.

see clashes between freedom-to-explore norms and standing norms against impertinence as a reason to suspect that the guidance of the applicable social and argumentative rules is insufficient. They should then attempt to determine whether the *pro tanto* moral reasons they have for adhering to the freedom-to-explore norms are stronger or weaker than the *pro tanto* moral reasons they have for adhering to the conflicting standing norms against impertinence. In doing so, arguers should ascertain whether the standing norms are, in this case, protecting privacy, autonomy, etc. and how important such protection is given the context. And they should consider that the reasons for adhering to freedom-to-explore norms with respect to exploring a specific *potential* reason that *may* be relevant are not necessarily as weighty as the reasons they have for pursuing the goal of, e.g. reasonably resolving a disagreement or coming to an authentic agreement altogether. How much weight arguers should attribute to a reason for giving the freedom-to-explore norm precedence depends on how likely they can reasonably expect that their exploration will wield relevant reasons, and how important they can reasonably expect those reasons to be in the scheme of the whole argument. I suspect that often, arguers will realize that the reasons they have for observing the boundaries that standing norms against impertinence draw are weightier than the reasons they have for pressing on in pursuit of discovering something that may or may not have a significant impact on the progress of their arguing.¹²

6. Implications for Situationally Disqualifying *Ad Hominem* and *Poisoning the Well*

Let's assume that I am correct that whether the reasons for observing standing norms against impertinence or the reasons for observing

freedom-to-explore norms are weightier depends on context and needs to be determined by the arguers when these norms clash. If this is so, then it must also at least sometimes be admissible to *appeal to* standing norms against impertinence to reject an argumentative move or even prevent an arguer from pursuing a *potentially* relevant sub-issue. And that should make a difference for the evaluation of individual arguments – i.e. to fallacy theory. More specifically, the range of legitimate *ad hominem* and *poisoning the well* arguments ought to be broader than argumentation theorists working on these argument-types have so far acknowledged.¹³

Krabbe and Walton (1993) identify the *situationally disqualifying ad hominem* argument as a sub-type of the *ad hominem*. It is characterized by using the target's personal situation to show that the target's argument ought to be dismissed. This sub-type alleges that the target is "not in a position to express a particular point of view or criticism, or to argue in a particular way. They are not supposed, or not entitled to do so (p. 89)" because of the situation they are in, the group they belong to or the relationships they have or lack. According to Walton (2006), this type of attack turns into *poisoning the well* when it is aimed at silencing someone completely instead of dismissing a single argument. This happens by portraying them as unable to make a legitimate contribution at all – either with respect to a certain sub-issue that has come up during a wider argument, with respect to an entire argument, or with respect to *all* arguing about a given issue. Walton goes on to explain that not all instances of *poisoning the well* are correctly understood as *ad hominem*s because this type of silencing can also be achieved without attacking the target *personally*. Instead, the well could be poisoned by pointing out that the target belongs to a given identifiable group and that *no one* from that group can make any legitimate contributions.

12. I thank a reviewer for pointing out one interesting corollary of this view: Since standing norms can have the effect that only a handful of people have the standing to argumentatively address an issue that ought to be addressed by *someone*, having the standing to argue can come with an obligation to do so (since it needs to be done and no one else can). This explains why people in intimate relationships with us may feel responsible to argue with us over our private matters, and may feel guilty if they fail to do so.

13. In the case of pragma-dialectics it would be much broader, since pragma-dialectics treats all *ad hominem* and *poisoning the well* as fallacious. But since I only used that theory as an illustrative example, and since pragma-dialectics is an outlier in this regard, I will here address fallacy theory more broadly.

As Kotzee (2010) explains it, this means that poisoning the well can be done without personalized insult; the poisoner communicates that the target is excluded from contributing not necessarily based on some personal flaw, but simply because for them, “entering into a discussion regarding the issue is illegitimate”.

So far, argumentation theorists have acknowledged that these argument types can sometimes be used legitimately when someone lacks *epistemic standing* – i.e. because of bias, lack of expertise or lack of epistemic access. For example, Walton, Krabbe and Kotzee (2010; 1993; 2006) all concentrate on cases of situationally disqualifying *ad hominem* and *poisoning the well* that allege some form of bias interrupting the target’s epistemic access to the issue. This lack then renders the target’s arguments or contributions worthless: In their examples, a grandfather is told that his argument for going to war ought to be dismissed because he is too old to worry about having to serve; a man’s contributions to the abortion debate are rejected because he has no direct access to the relevant experiences¹⁴; a white person’s attempts to weigh in on affirmative action are attacked because they lack experiences of being oppressed based on their skin color. Krabbe and Walton (1993) argue that sometimes, such an epistemically based situationally disqualifying *ad hominem* may be acceptable, specifically if the charge of bias is warranted and relevant.

Linker (2014) extends this point to legitimate *poisoning the well* on the basis of epistemic standing when she convincingly argues that Walton (2006) and Kotzee (2010) (who do not acknowledge any legitimate *poisoning the well*) misjudge the way that epistemic privilege should be considered in adjudicating cases of *poisoning the well*: Where the socially privileged argue with the socially oppressed (or about issues

associated with social oppression), the oppressed can dismiss or block their contributions in the same way that experts can sometimes dismiss/block the contributions of non-experts, assuming they are conscious and knowledgeable about the conditions of their oppression. Because they occupy an *epistemically privileged* position, they actually *are* in a position to know better about the issue than those who are not. And they may yield this fact as a premise in a legitimate argument from expert opinion, ending the inquiry through their say-so and thereby preventing the epistemically non-privileged from contributing further. Since this amounts to a *poisoning the well* (compare Hundleby, 2010), then, *poisoning the well* on this kind of epistemic basis can be a legitimate argumentative move, though of course it may be weak or strong depending on context.

However, none of these authors discuss cases in which arguers allege that another is not in the position to argue for reasons *other* than ones that speak to their epistemic access or epistemic trustworthiness: They do not acknowledge legitimate instances of situationally disqualifying *ad hominem* and *poisoning the well* based on standing norms referring to issues *other* than epistemic standing, e.g. based on impertinence. Yet, if my arguments so far have been convincing, arguers ought to be able to argue at least sometimes that others are not in a position to question/opine/argue because they thereby breach privacy, injure autonomy, etc. For example, the student in the philosophical discussion about the value of marriage should be able to block the professor’s attempt at making the student’s failed marriage an object of the argument by pointing out that initiating a sub-discussion of their marriage is simply illegitimate *for the professor*, no matter how illuminating an example it may be. This would constitute a legitimate instance of *poisoning the well*. Its legitimacy stems from the protection it offers to the student’s privacy. In this case, privacy grounds weightier reasons than the reasons that the arguers have for pursuing enlightenment about the value of marriage through this example.

In other words, arguers ought to be able to protect their privacy, autonomy, etc. by citing standing norms against impertinence to show

14. Actually, I think it is very important to note that Walton (2006) straw-mans the argument he cites. The argument does not end in the conclusion that men ought not contribute to the abortion debate, as he claims. Rather, it supports the conclusion that there ought to be a threshold number of *women involved* in the debate. It is unclear why Walton should think that advocating for the involvement of women somehow brings with it the claim that men ought to be excluded.

that their interlocutors may not make certain arguments or address certain topics at all because of who they are. If the standing norm is valid, and backed by *pro tanto* moral reasons, then this ought to be treated as a legitimate argument type; a potentially *good* situationally disqualifying *ad hominem* or *poisoning the well*. Their argument may still be weak if the reasons supporting the standing norm are not very weighty. But it is not fallacious.

7. Conclusion

Standing norms against impertinence are only *one kind* among a multitude of social norms that regulate our communicative interactions and are backed by weighty moral reasons. Argumentation theorists tend to ignore their existence when they generate norms for “good” arguing. Gilbert, for example, does not (to my knowledge) acknowledge that coalescent argumentation seems to advise arguers to intrude on each other’s privacy in a way that may be objectionable (Gilbert, 1995, 1997). And when argumentation theorists do pay attention to the way in which their argumentative norms may malfunction in real-life, they tend to generate models of “ideal” conditions under which these norms would work. The example here is Pragma-Dialectics, with their set of higher-order conditions.

But we may question whether these models are really “ideal”. For example, the higher order condition that “no standpoints (...) are unavailable (because taboo) or (...) cannot be questioned” (van Eemeren et al., 1993) appears positively dystopian to me because it implies the complete absence of privacy. The only sense in which the realization of such a condition would be ideal is from the point of view of someone *solely* interested in epistemic goals and entirely *disinterested* in the price at which these goals may be achieved. Such an attitude is certainly only appropriate in specific contexts.

I suspect that this is the attitude with which most normative argumentation theories currently on the market have been devised. Theorists identify goals for argumentation and construct norms (and models of ideal conditions for argumentation) based on them. The prob-

lem is that the resulting theories are then treated as applicable to real-life situations experienced by real-life people. But real people are not free to ignore the demands of morality. They must navigate a multitude of values during argumentation; if they single-mindedly concentrate on epistemic- or authentic-agreement goals, they end up doing morally relevant harm. I fear that current normative argumentation theory leaves them utterly alone in this. Or worse, we provide them with excuses to ignore it that only the already powerful can effectively use.

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