

## The Fallaciousness of Threats: Character and *Ad Baculum*

DOUGLAS WALTON

*Department of Philosophy  
University of Winnipeg  
515 Portage Avenue,  
Winnipeg, Manitoba,  
Canada R3B 2E9  
E-mail: d.walton@uwinnipeg.ca*

and

FABRIZIO MACAGNO

*Department of Linguistics  
Catholic University of Milan  
Milan,  
Italy*

**ABSTRACT:** Robert Kimball, in “What’s Wrong with *Argumentum Ad Baculum*?” (*Argumentation*, 2006) argues that dialogue-based models of rational argumentation do not satisfactorily account for what is objectionable about more malicious uses of threats encountered in some *ad baculum* arguments. We review the dialogue-based approach to *argumentum ad baculum*, and show how it can offer more than Kimball thinks for analyzing such threat arguments and *ad baculum* fallacies.

**KEY WORDS:** abductive reasoning, dialectical argumentation, fallacies, negotiation, threats, virtue ethics

In his paper “What’s Wrong with *Argumentum Ad Baculum*?” Robert Kimball puts forward a criterion for analyzing arguments from threat that is supposed to be an alternative to the dialogue-based models of rational argumentation that are currently the dominant models for analysis and evaluation of *ad baculum* (Kimball, 2006, p. 89). He thinks that the shift in analysis from the syntactical argument form technique applied in isolation from use, to the newer pragmatic approach of analyzing *ad baculum* arguments in a context of dialogue, has been a good thing. However, he argues that the dialogue-based analysis, although it explains well why mild or benign threats can be legitimately used in some situations, like negotiation, does not satisfactorily account for what is objectionable about more malicious uses of threats. As an alternative, Kimball proposes an analysis of threats based on a Kantian ethic of respect for persons. From his analysis of

social relationships of parenting, partnering, and other similar cases, Kimball proposes criteria for distinguishing between objectionable and permissible threats, which he frames in terms of ethical character traits, virtues, and vices. His explanation of argument from threat stems from the concepts of character, intentions, and purposes of persons who make threats.

We think that such singular ethical judgements about specific persons and their intentions are beyond the reach of the technology of argumentation designed to identify analyze and evaluate arguments. However, we do agree that inferences drawn from reasoned assumptions about an arguer's character can sometimes be relevant for the analysis of argumentation. The purpose of this reply is to show that the dialogue-based analysis can do a lot more than Kimball thinks to analyze the kinds of malicious threats he considers. Kimball, in our perspective, instead of presenting an alternative to dialogue theory, offers an approach that needs to be more firmly based on it. We offer suggestions for developing these parts of it, especially the dialectical analysis of abductive reasoning, in a more comprehensive direction. We review the fundamental characteristics of the dialogue-based approach to *argumentum ad baculum*, and show how a dialectical perspective can offer more assistance than Kimball thinks for analyzing threat arguments and *ad baculum* fallacies.

#### 1. KIMBALL'S THEORY ON THREAT ARGUMENTS

Kimball centres his analysis of *ad baculum* argument on the distinction between malicious and benign threats. As he recognizes (p. 93), the dialogue-based theories of Walton and Krabbe (1995) and van Eemeren and Grootendorst (2004) successfully explain why and how benign threats are acceptable in some contexts of dialogue. The study of linguistic exchanges in dialogue patterns characterized by a set of dialectical rules allows one to identify dialogical violations and illicit shifts from one type of dialogue into another. This framework, when applied to the analysis of specific cases where the *ad baculum* fallacy is suspected, can be successfully used to identify a threat used inappropriately in a particular context of dialogue. For instance, while the use of a threat is generally inappropriate in a critical discussion, the same argument could be acceptable in a quarrel or a negotiation.

However, as Kimball highlights (p. 94), there is another important difference in addition to the distinction between appropriate and inadmissible threats. Some *ad baculum* arguments, even though used in negotiations, quarrels, or information-seeking dialogues like prisoner interrogations, should be judged malicious, independently of the dialogical context in which they are employed. For example, use of torture or threats of death or violence should always be considered

unacceptable and malicious, in virtue not of dialogue-relative rules of rational argumentation, but of some even more general universal categorical discourse norms (p. 94). The weakness Kimball identifies in dialogue-based theories is basically the absence of such general rules transcending the essential conditions of a type of dialogue. These latter conditions might simply state what has to be brought about in order to take part of a certain dialogue game, but they do not prescribe which moves absolutely should not be carried out in any type of verbal exchange. The solution Kimball envisages, grounded upon the concept of virtue and character, is advanced as an alternative to the dialogue-based theories.

Instead of inquiring into dialogical conditions of acceptability and fallaciousness using dialectical criteria based on dialogue rules and dialectical shifts, Kimball examines the consequences of a threat on the interlocutor's relationship with the speaker, and the character of the speaker. If the speaker's character is characterized by good will, empathy, patience, or other virtues stemming from a good character, the threat is likely to be benign (p. 96). On the contrary, in Kimball's view, a threatener's narcissism and arrogance are usually the causes of a malign threat, and malicious people are less likely to be able to recognize manipulative from persuasive uses of threat (p. 96). The argument analyst, using such evidence, is able to distinguish when the argument is malicious and when it is benign. If the fallaciousness of an appeal to threat can be assessed by using character criteria, the character of a person is strongly influenced by the arguments he uses. The repetitive use of threat shows a character that tries only to bend the interlocutor to his own will, by means of coercion and intimidation instead of cooperation (p. 97). The evaluation of a person's character, in other words, is strongly influenced by the type of interpersonal relationship he establishes by means of his arguments.

The crucial criterion of the abusive *ad baculum* argument, in Kimball's view, is the prior negative evaluation of the speaker's character. Not only does the use of a threat depend on the intentions, will and empathy of the speaker, but also the character of the speaker is often judged on the basis of arguments put forward. In his theory, the argument *ad baculum* can be, in fact, a useful indicator of speaker's *habitus*, or habitual element in his character. A person using repeated speech acts of making threats shows lack of respect for his interlocutors; he prefers imposing his own will than persuading the hearer with rational arguments. Regularity in using such *ad baculum* arguments plays a role in not only revealing but also in producing negative traits in speaker's character. The bully shows bad character by a pattern of repeated use of threats when confronted with any problem or need to engage in argumentation.

The strict interrelation between threat and character is the foundation of the four conditions for the use of threat to be even possibly legitimate (p. 97). These conditions are aimed at distinguishing between threats that are always malicious, and threats that might be permissible in some contexts of dialogue.

- (1) the speaker has good reasons for believing that a threat would be an effective means of persuasion,
- (2) she uses the minimal threat necessary for persuasion,
- (3) she herself has good reasons for what she is trying to persuade her audience of, and
- (4) she had good reasons for believing that her audience would not be persuaded by reasons.

These four rules, we notice, are grounded upon two crucial points: (1) acceptable threats must be arguments, and (2) acceptable threats must be means of persuasion. Regarding the first point, we observe that in Kimball's account there is not a clear distinction between an argument from threat, a fallacious threat and a simple threat. There is a substantial difference between the use of a speech act of threat to achieve a dialogical (interactive) goal, and the employment of such an act only to scare the interlocutor. Also, if we take other possible dialogue types into consideration, we should notice that threats are frequently used in negotiation dialogue, and some are acceptable dialogical moves.

The second observation we want to make is closely related to the first, and regards the relation between threat and persuasion. Kimball highlights the ethical superiority of reasonably persuading the hearer over forcing him to acceptance by means of threat. We should notice that his concept of legitimate use of threat is based on the persuasive power of *ad baculum* argument, and on the conflict between persuasion by threat and persuasion by reasons. The crucial problem that has to be addressed is whether a threat could be a means of persuasion or whether it is a simple strategy of interest-based collective decision-making. To better explain our question, we can use Kimball's example. Let us consider the example of a child whose parents use the argument "If you don't eat your vegetables, you can't have dessert" to make him eat the veggies he has refused to eat. Our question is: is the child really persuaded of the importance of eating the vegetables, or does he simply recognize that eating the vegetables would prevent him from facing what he regards as a bad consequence? Are these two reactions identical, closely related, or do they merely belong to two different dialectical fields? Can a threat be persuasive? Are all means used to induce the interlocutor to do something arguments, that is, reasons advanced to support a standpoint? Or is simply the goal of the use of reason different in distinct dialogical situations? If we analyze

Kimball's conditions from this point of view, it seems that the boundaries he identifies are too strict. For instance, for Kimball in order for a threat to be acceptable, the speaker must have good reasons supporting position. However, we can think about cases of bargaining, in which there is a simple conflict of interests and the whole interaction is a simple sequence of offer-counteroffer moves. Would a persuasive argumentation be reasonable in this case? In other words, are all types of dialogue persuasive?

To summarize, we have highlighted two crucial theses in Kimball's theory: the necessity of overarching meta-dialectical rules, perhaps ethical rules for communication, and the dialogical importance of character. Kimball's proposal explains the reason why making a threat is an indicator of bad character, and should only be used as a last resort for making the other party bring about a certain course of action. His theory, grounded upon the notion of intention and purpose, identifies some overarching rules of an ethical nature that are advanced as alternative to the more usual dialectical types of analysis of fallacious argument. The implication is that dialogue-based models of rational argumentation are too weak to judge whether a threat is benign or vicious, and use such judgements to evaluate *ad baculum* arguments as fallacious or not. We will reply, however, that this opposition Kimball sets up between the two approaches to the *ad baculum* fallacy is not necessary. We will argue that character should be an important part of dialectical theories and that the kind of judgements Kimball wants to make can already be used as part of the evidence for evaluating *ad baculum* arguments in existing dialogue models of rational argumentation.

A virtue-based theory should be, in our perspective, integrated into a dialogue-based account, but the problem is that a virtue-based theory risks not being successfully applicable to a dialogue analysis. The reason for this claim lies in the notions of persuasion and negotiation. The fundamental problem Kimball highlights is a lack of foundation of dialogue rules, and the solution he envisages is to substitute the dialogical model with an argumentative framework based upon ethics. His observation is extremely challenging, thorough, and revolutionary. However, it seems to suggest new possibilities of development to dialogue-based theories, more than proving their inadequacy.

## 2. THREAT AND DIALOGUES

The crucial point we now turn to considering is the distinction between persuading and forcing. Kimball rightly considers persuasion to be connected to the notion of offering a reason to support a claim that is in doubt, and contrasts it with the notion of making a threat, which he sees as grounded on the notion of causation. A person is persuaded when a reason is advanced to attempt to overcome his

doubt, while he is threatened when a particular way of attempting to cause a belief or action in/by him is brought about. So conceived, the notion of attempting persuasion by means of reasons seems to be completely incompatible with the notion of making a threat. A threat, according to Kimball's theory, cannot be (rationally) persuasive. The critical problem is to define what persuasion is, and evaluate whether influencing the other person's behaviour by means of threat can be considered an act of persuasion.

Aristotle, in the *Rhetoric* individuates the three fundamental components of the "artistic" process of persuasion (McBurney, 1936, p. 60) in the speaker's ethos, hearer's pathos, and in the reasons (*logos*) given. If we analyze the meaning of "persuasion", we can notice that it derives from the notion of *πίστις*, which can be translated with "trust" (Rigotti, 1995, p. 8, 1997, p. 3). The process of persuasion can be successful when there is a relation of trust between hearer and speaker, and the arguments are reasonable. The hearer adheres to the point of view of the speaker in virtue of the reasons advanced to support it, of the credibility of the speaker, and of the benevolent attitude to believe the speaker and change his own position the hearer already has. Rational persuasion of this kind can be attempted not only in a critical discussion but also in deliberation, where the problem is to decide between courses of action. In Perelman's view, the fundamental relation between the interlocutors' *esprits* is at the basis of the speaker's influence on the hearer's intensity of adhesion to a certain thesis (Perelman and Olbrechts-Tyteca, 1970, p. 18).

If we analyze the process of persuasion applied to deliberation, we can bring in the belief-desire intention (BDI) model of practical reasoning. Following Clarke's BDI model (1985), we can analyze rational arguments leading to a conclusion to bring about an action as grounded on the concepts of desire and interest. In book III of the *Topics* (III, 1), Aristotle bases his theory of rational choice on the notion of what is preferable and desirable. We can represent the process of deliberation as follows (see also Rigotti and Rocci, 2001). In Figure 1, the hearer is represented in a grey box, indicating its role as a component of the communicative process, together with the communicative situation.

In the situation box are actions the agent knows are means that can be used to carry out the action, as well as knowledge about at least some of the likely consequences. This BDI model of practical reasoning can be applied to a case of everyday reasoning. We can analyze the following example:

Bob: I do not want to eat the vegetables. I do not like them

Parents: If you don't eat your vegetables, you can't have dessert

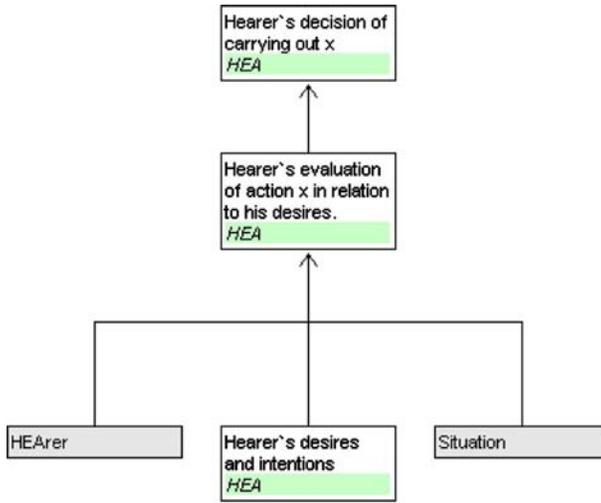


Figure 1. BDI model of the process of reasoning in deliberation.

In the diagram in Figure 2 below, Bob's process of deliberation is represented:

In this simple model, part of the example is presented showing Bob's desires with respect to vegetables, and the situation in which he can make a choice about eating them.

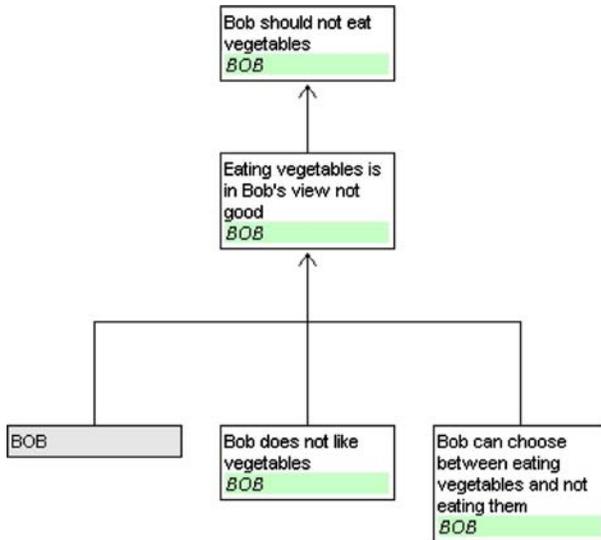


Figure 2. Process of reasoning in the vegetables example.

In a persuasion dialogue, the crucial concept is the other person's viewpoint (see also Rigotti and Cigada, 2004). The hearer, in other words, changes his position and reasonably adheres to the speaker's viewpoint; when the two viewpoints are contradictory or incompatible, the adoption of the speaker's position means for the hearer giving up his own point of view. In the language of (Walton and Krabbe, 1995), the hearer in this case changes his commitments by retracting a previous proposition he adhered to, and instead becomes committed to a different one. The speaker needs to make presumptions about the situation and hearer's desires and intentions, based on the evidence of what is said and done to that point, and advance a reason in support of a position contrary to the hearer's based on what he takes to be the hearer's interests (or presumed desires). In other words, the speaker, in order to achieve rational persuasion, should argue adopting the hearer's perspective and use an argument presenting a stronger reason for him to come to believe the new position, even if it is contrary to the old one. For instance, knowing that Bob cares about his health, the speaker could tell him that vegetables are good for one's health and therefore, since he wants to be healthy, he should eat them. The persuasion dialogue, in such a case, should be grounded on the hearer's perspective, and its purpose is to lead the hearer to willingly agree to the new, contrary position.

For instance, consider the following simple case of a persuasion dialogue.

Bob: I do not want to eat the vegetables. I do not like them

Karl: Yes, but you want to be healthy and the vegetables are good for your health.

The structure of the argumentation in this case can be represented in the following argument diagram. In the diagram, the double line connecting Bob's premises with Karl's indicate that Bob's premises are part of Karl's argument. Karl, in order to argue for the greater desirability of the vegetables, presupposes the knowledge of Bob's desires and intentions and of his possibilities of choice.

As the diagram in Figure 3 shows, Karl's argument, in the two boxes on the right, functions as a refutation of Bob's viewpoint that eating vegetables is not good, as a general policy that he adheres to. Karl's argument leads to the opposite conclusion.

Now let's turn from persuasion dialogue and deliberation to a different type of dialogue. In a negotiation, trying to change the hearer's beliefs and viewpoint by the kind of argumentation described above may not be very effective or useful, and may not even be relevant to the purpose of the dialogue. In negotiation dialogue both interlocutors want to advance their interests (Walton, 2000, p. 181).

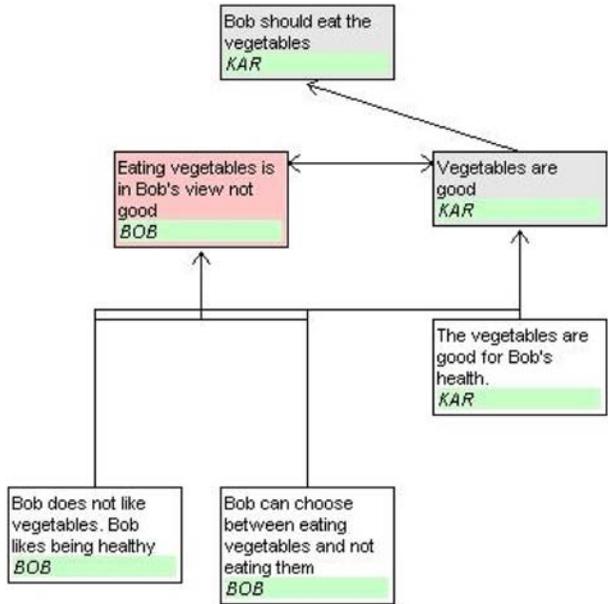


Figure 3. Presupposed knowledge of an agent’s desires and intentions.

In this kind of dialogue, the goal is not to totally defeat the interlocutor by any means, or to persuade him that some proposition is true or false, but to make a deal that is acceptable to both parties. The speaker does not primary try to persuade the other party (even though he can, and often this is the case, shift to a persuasion dialogue), but to alter the situation in order to modify the link between evaluation and action.

For instance, in the “vegetables or no dessert” example, the speaker is not trying to understand the hearer’s desires and use her grasp of that to get him to eat his vegetables. The hearer, even after the reasons were given, still believes that eating the vegetables is not what he wants to do. However, he eats the vegetables because this course of action has become, after the threat, more expedient. We can represent such a negotiation dialogue as follows:

Bob: I do not want to eat the vegetables. I do not like them.

Karl: If you don’t eat your vegetables, you can’t have dessert.

The argumentation in this small dialogue can be represented in the following argument diagram. While the role of the line connecting Bob’s second premise with Karl’s argument is the same as specified in the diagram above, the arrow directed towards Bob’s first premise

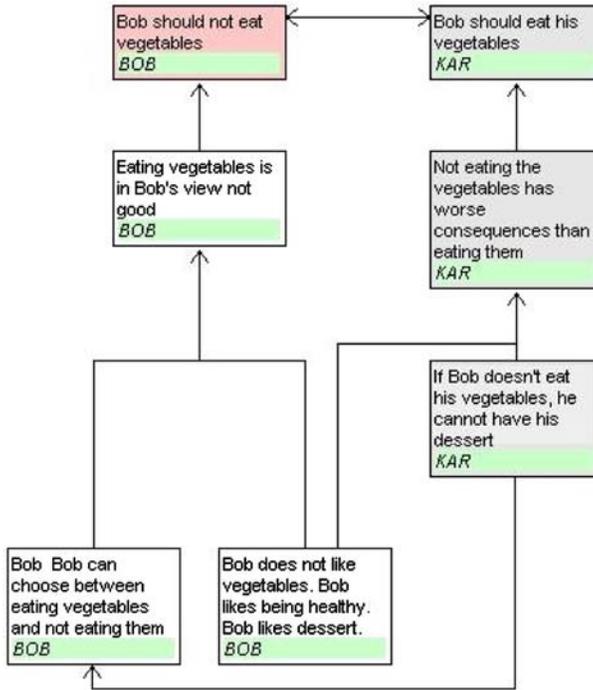


Figure 4. An argument changing the decisional situation.

represents a modification. In other words, Karl's argument changes Bob's decisional situation, as shown in Figure 4.

In this example, we need to notice that Bob's evaluation remains unaltered, but his decision changes because of the situation being modified (according to Kimball's conception of threat, p. 91). Karl uses Bob's desires and intentions, but manipulates the initial situation, thereby changing Bob's decision. We can observe that in the persuasion dialogue Bob changes his point of view, that is, his evaluation of whether vegetables are good and the action of eating them. However, in the negotiation dialogue, Bob accepts a certain course of action because it is more expedient, not because it is better.

In our view, use of a threat cannot be considered to be in itself an attempt to persuade, but is sometimes a successful strategy for influencing the interlocutor's decision. Our point of view stems from a concept of persuasion as a changing of reasonable commitment to a standpoint obtained by means of argumentative discourse. The process of choice shown above is grounded upon the deliberative decision for the hearer, that is, reasons showing which choice is better for him. Obviously it is possible to influence the hearer's attitude towards a proposition, or his decisions, in many ways. If we consider totalitarian

regimes, we notice that threats of punishment for opponents can strongly influence people's attitude towards the government itself. We recognize that threats can influence a person's behaviour, or their commitment to a thesis. However, it is debatable whether in this case it is the attitude that changes, or the course of action adopted. Obviously the people in a regime choose what is better for them, that is, the government. But the agreement with the government's ideas is not opposed to disagreement, but to death or torture. Similarly, in Orwell's 1984, Winston changes his opinion about Big Brother after tortures and appeals to fear. However, can we say that Winston, after giving up his last resistance to the de-humanizing efforts of the Ministry of Love, is still the same Winston? In other terms, has Winston's evaluation of the world changed, or is Winston's perception of the world that has been distorted? Or have Winston's actions merely set him on a difference course?

The distinction we want to trace is between persuasion and influencing behaviour. This distinction is crucial to separate between manipulation and persuasion, and between persuasion and other types of dialogue. In this perspective, a dialogical approach to threat is fundamental for the assessment of this dialogical strategy.

### 3. DIALECTICAL SHIFTS, TYPES OF NEGOTIATION AND TYPES OF THREAT

In this section, we follow the direction of Kimball's theory by going beyond the dialectical level to an even broader level of argumentation analysis that takes the social and cultural setting of the use of an argument into account. Shared communicative values, for example, values that would be contravened by speech acts of making a threat, need to be taken into account at this level.

The crucial contention of the dialectical analysis of *ad baculum* argumentation in (Walton, 2000) was the proposed criterion to be used for distinguishing between legitimate and fallacious arguments from threat. The *ad baculum* fallacy arises, on this analysis, when a threat argument, which could be legitimate in a negotiation, is advanced in a persuasion dialogue. For instance, let's consider once again the situation where Karl is trying to explain to Bob, his son, that eating his vegetables is good for him. He advances several arguments, and eventually he claims, "If you don't say that eating your vegetables is good for you, you can't have dessert". In this case, we should not judge Karl's argument as appropriate and reasonable as a persuasive move. He is threatening his son in order to achieve his goal. This type of speech act is clearly contrary to the rules for the

type of persuasion dialogue called the critical discussion (van Eemeren and Grootendorst, 2004).

But we can also imagine another situation in which Karl is trying to make Bob eat his vegetables. After having tried to persuade him, and giving up, in exasperation he says, "If you don't eat your vegetables, you can't have dessert". We can also imagine a third situation: in order to make Bob study his piano lesson, his teacher, Karl says, "If you don't study the lesson, I will beat you with the strap". In the first case, Bob is shifting from a persuasion dialogue, having as a goal leading the interlocutor to reasonably adhere to a position, to a negotiation type of dialogue. The goal of the dialogue, namely persuading the other party, is not achieved by means of this shift. Still, Bob has been presented with a prudential reason for carrying out the action advocated by Karl. In this case, the threat could be judged fallacious, on the ground that it is dialectically irrelevant. In the second case, Karl's purpose is to make Bob eat the vegetables. He can achieve this goal by means of a persuasion dialogue, but he can also negotiate. If the dialogue is seen as negotiation, the threat could possibly be justified as legitimate (within that argument framework). In the third case, dialectically speaking, the shift brought about by Karl's moving to the threat argument is no different from case two. Even so, as Kimball would urge, we cannot claim that this argument is acceptable. What possible basis for such an evaluation could be invoked?

To answer this question, we must move out of the dialectical framework to another level. At this level, a normative model of dialogue for rational argumentation, like a critical discussion, a deliberation or a negotiation, needs to be seen as embedded in a cultural or institutional framework of rules, values and accepted practices. This approach to the different levels of conversational activities and rules can be related to Van Eemeren and Houtlosser's notion of a speech event (Van Eemeren and Houtlosser, 2005). A speech event is a particular cultural or institutional framework in which a given argument was put forward. For example, in a parliamentary debate or a trial, to judge an argument as relevant or not, one must know something about the purpose of the discourse, the parties that are discussing it, and the procedural rules that govern it. Where there is an irrelevant move or argument, the rule that has been contravened is not (at least exclusively) on the dialectical level, but on a broader communicative level.<sup>1</sup> One has to make assumptions about the communicative activity the argument is supposed to be part of. Let's consider a case in point, concerning the communicative activity of teaching.

The goal of a teacher is to teach the pupil, not only to make him study, but to arouse an interest in the matter and to teach him

discipline and behaviour rules. He can achieve these results by informing the student, by explaining things to him, by setting down rules, and in many instances also by persuading him to accept propositions as true, or, when he is not successful in obtaining any result, by negotiation. The relationship between teacher and pupil can be ideally represented as follows (see also Rigotti and Cigada, 2004).

<p style="text-align: center;"><b>Teacher:</b></p> <ul style="list-style-type: none"> <li>- Have wider knowledge</li> <li>- Set down behavior rules for the pupils</li> <li>- Enforce the rules</li> <li>- Be just and fair</li> </ul>	<p style="text-align: center;"><b>Pupil:</b></p> <ul style="list-style-type: none"> <li>- Respect the teacher</li> <li>- Trust in the teacher</li> <li>- Obey the teacher</li> <li>- ...</li> </ul>
--	---

The relation between the interlocutors, in western culture, and nowadays by conventional standards, can be considered to be based on the concepts of respect and trust (Govier, 1998). Threats, for this reason, can alter the situation in the classroom, but should not shift the relationship between the interlocutors from respect to fear. The threat used, in other words, should be prudential, but without breaking the teacher–pupil relationship that needs to be taken for granted as part of the speech event for this type of communicative activity. The threat escalation should be within the limits imposed by the communicative framework. If a teacher can threaten the pupils with black marks and disciplinary sanctions, he cannot spank them. In other cultures, or in a different speech event, where the relationship between teacher and pupil may not be conventionally based on values of mutual respect and concern, a more severe type of threat might be legitimate. We can think about examples of threat appeals commonly used by European teachers at the beginning of the last century.

In cases of parental and partnering relations, we can postulate the same kind of setting with its set of accepted procedures, values, and goals. The same point applies. The use of threat, when admissible, should not alter the nature of the relationship between the parties. The conversational admissibility of a move depends on the relationship between the interlocutors and on how the relationship is culturally conceived. The use of severe or even violent threats is relevant according to the situation in which they are employed. For instance, in diplomatic negotiations, an appeal to violent threat is sometimes a relevant and powerful prudential argument. For instance, in cases of diplomatic tension between nations, the following argument could be relevant and acceptable:

The U.S. should not attack our ally. The U.S. exports many goods to our country and our decision to block the import of American goods to our state could be detrimental to U.S. economy.

Various kinds of appeals to the threatened use of violence, for example in the form of threats to deploy powerful weapons, are extremely common in cases where normal cooperative diplomatic negotiations fail to resolve a deadlocked conflict of interests.

One link between interlocutors' relations and types of relevant moves has been integrated into argumentation theory by proposals for distinguishing between different kinds of negotiation. In (Walton and McKersie, 1965)<sup>2</sup> four kinds of negotiation are analyzed: distributive (conflicting), integrative (partially cooperative), attitudinal structuring (involving not only economical interests but also personal relationships), and inter-organizational bargaining (whose purpose is to reach an agreement and alignment between organizations). Threats are often used in all four kinds of negotiations, but the severity of a threat that is considered relevant can vary, depending on which kind of negotiation is supposed to be the framework for the negotiations.

Procedural principles of admissibility can also be set or imposed by national or international law. For instance, in the following example, the use of threat should not be judged as legally appropriate or even permissible, even though the nature of the relationship is one of conflict (Morris, 1980, p. 160):

Former Governor George C. Wallace, during his 1968 campaign: If any demonstrator ever lays down in front of my car, it'll be the last car he'll ever lay down in front of.

Similarly, the use of torture and physical violence in the examination of prisoners is a kind of negotiation escalation that has been banned by human rights conventions. However, these appeals to threat were permissible and common in the legal system of some centuries ago.

Obviously, together with the goals of the dialogical activity we should consider other factors such as the expectations about an interpersonal relationship. The more social aspect we analyzed is only a broader and simplified perspective. Human relationships can be damaged by threats, and the goal of avoiding conflicts can be considered the foundation of many politeness and behaviour rules. These rules can be social, as seen above, or interpersonal. Thereby, a threat can be dialogically sound, but inappropriate to the activity, inappropriate to the social context, or unsound from an inter-relational point of view. Logical or dialectical normative models of argumentation cannot decide, by themselves, in such cases, whether a threat should be judged to be an unacceptable *ad baculum* or not. Moving to a wider communicative framework by specifying goals and rules of a speech event is a necessary step to make such an evaluation.

Bringing in a communicative framework can supplement the dialectical approach to make a fuller judgement of certain kinds of cases to help provide a useful instrument to analyze the argumentation moves

from a critical perspective grounded upon notions of institutional rules and interpersonal relations. In this account, we can notice, some of Kimball's four conditions can be easily integrated. For instance, a dialectical shift can be reasonable when a persuasion dialogue comes to an impasse and the use of threat must be minimal, that is, the threat must respect the boundaries of the interpersonal relationship.

#### 4. ABDUCTIVE REASONING ABOUT CHARACTER

The last observation we want to advance concerns the logical form of reasoning about the notion of character. Kimball emphasized the factor of good or bad character in judging the uses of *ad baculum* arguments. We would like to extend the analysis to another kind of argument, the *ad hominem*, in order to show how the notion of character needs to be analyzed from a dialectical perspective, and inquire into the reasons for the strict interdependence between ethical judgements and reasoning. The argumentative principle that can be specified as lying at the basis of character evaluation is that of abductive reasoning from an agent's words and deeds to a hypothesis about the agent's character. In this form of reasoning a critic starts with a set of facts, and considers several competing accounts, each of which is a set of connected propositions that could explain these facts. One property of an account is that it is supposed to be consistent, and if it is found to be inconsistent, the inconsistency needs to be resolved. Based on such a notion of account, an argumentation scheme for abductive reasoning can be represented as follows (Walton, 2002, p. 44):

PREMISE 1  $D$  is a set of data or supposed facts in a case.

PREMISE 2 Each one of a set of accounts  $A_1, A_2, \dots, A_n$  is successful in explaining  $D$ .

PREMISE 3  $A_i$  is the account that explains  $D$  most successfully.

CONCLUSION Therefore  $A_i$  is the most plausible hypothesis in the case.

This scheme can be applied to character judgements as follows. The evaluator  $E$  perceives a situation in which an agent  $A$  carries out an action  $C$ , for instance:  $A$ , risking his own life, enters a building in flames and saves a baby from certain death.  $E$ , in addition to the data he perceives, possesses a commonly shared knowledge base called a script (Walton, 2006, p. 128). For instance,  $E$  knows, and knows that  $A$  thinks or knows, that the consequence of leaving the baby in the building is his death, and that the only means of avoiding this outcome is to enter the building and bring him out.  $E$ , in other words, assumes that the goal of  $A$  is to save the baby, since

this explanation is the best available at the moment. The fact that *A* is risking his life to save the baby's life can best be explained by *A*'s altruism and strong commitment to important values. This explanation is an account that contains characteristics fitting the definition of "courage" (p. 133):

an agent is courageous if that agent persists in carrying out, or trying to carry out a worthy goal in the face of obstacles that pose danger for her, or at any rate represent something that would be highly painful or difficult, like likelihood of personal injury or even death. It might be added that courageous action typically involves altruism, so that the worthy goal is not just selfish, and involves giving up selfish interests to help others.

The reasoning that follows can be analyzed according to the following abductive pattern for the argumentation scheme for argument from classification.

Agent *a* did something that can be classified as fitting a particular character quality.

Therefore *a* has this character quality.

For instance, *A* did a courageous action therefore *A* is courageous. Abductive reasoning can work in the other direction as well (p. 195):

Agent *a* has a character quality of a kind that has been defined.

Therefore if *a* carries out some action in the future, this action is likely to be classifiable as fitting under that character quality.

For instance, since *A* is courageous, *A* is likely not to have other interests to save the baby and therefore this action was courageous.

This analysis can be applied to the ethical reasoning Kimball attempts to employ in his analysis of *ad baculum* arguments. The fallacious use of such an argument, he hypothesizes, can be based on some ground if we can classify the arguer's character as arrogant, and if arrogance can be seen as the reason for the behaviour. Vice versa, the inferred character of a person who carried out an action or made a threat can offer some weak reason to classify an argument as fallacious in cases of uncertainty. Consider the example of an arrogant and violent child advancing a threat to a friend: "If you do not lend me your bike I will beat you up". In this case, the use of the threat is socially unacceptable and breaks the boundaries of the relation of friendship. From the data in the case, the framework of the dialogue and the social context, we can draw conclusions about the inappropriateness of the threat. For example, we can say that if this dialogue is supposed to be a persuasion dialogue, a negotiation, or a deliberation type of dialogue, the threat used was inappropriate for argumentation

in that type of dialogue. If no information is given about the type of dialogue or the speech event, all we can do is to note the lack of evidence, and venture a hypothetical evaluation of the *ad baculum* argument, based on assumptions about the context of dialogue and speech event.

We observe that in many cases, even though character reasoning might be a useful instrument to evaluate ambiguous cases or the speaker's personality, it cannot be a basis to evaluate the acceptability of an argument. However, given the strict relation between argumentation and character, evidence showing bad character (for example dishonesty or hypocrisy) might provide a defeasible reason for having reservations about accepting an argument. From this perspective, Kimball's proposal of analyzing the relation between character and argument highlights the dialogical importance of taking into account the social relationship between the interlocutors as a principle for pragmatic interpretation and disambiguation of a text of discourse.

## 5. CONCLUSIONS

Kimball's analysis of *ad baculum* arguments has raised questions that stretch dialectical argumentation methods to their limits. How do you determine whether someone has a bad or good intention when they make a threat? The basic problem with Kimball's attempt to answer this question is that it takes us into the zone of virtue ethics, where we have to judge other people's motives, intentions, and values. This is not a place where we want to be, as argumentation analysts, for it would surrender argumentation theory into making judgements about values and virtues of individual persons that may not be based on clear and objective criteria and evidence that can be verified and reproduced. Using argumentation technology to identify, analyze, and evaluate the given argument would take us into the territory of making judgements about ethical values and criminal actions of the individual persons. We're now in the terrain of ethics and law. However, the fact is, to analyze argument and informal fallacies like *ad hominem* and *ad baculum*, we are taken, to some degree anyhow, into the realm of values, character, intentions, and so forth, subjective notions. The best we can do is to take the given text of discourse and use that to judge whether a character allegation made by one party in a dispute is justified by the textual and contextual evidence in the case. But this is where we need dialectic, because we need to look at each case individually, and use the evidence given in that case to judge whether an inference that might be based on character, values, motives or intentions, is reasonable or not, based on the evidence. We have argued

that abductive reasoning is the dialectical tool needed to draw inferences from the known facts of a case, based on an account of an arguer's words and deeds, to a conclusion about the arguer's imputed goals and motives.

Some discussion of how motive evidence works in law can help to illustrate the point. In general, we never really know what another person's true motive is, because of the problem of other minds. However, using practical reasoning, we can draw inferences about what somebody's motive presumably was in a given case, based on the evidence concerning their words and actions as known in that case. But motive evidence is tricky. In some cases in law attempting to bring in character is inadmissible, on the grounds that it might tend to prejudice a jury. In other cases, however, motive evidence can be admissible. For example in a murder case, motive could be relevant if a suspect stood to gain a large inheritance. The reason is that the prospect of gaining a large amount of money would be a motive for the crime.

What has been shown is that we need dialectic to help us judge whether inferences drawn on the basis of presumed motive, character, or other internal factors that might relate to values and virtue ethics, are reasonable or not. To some extent, as we've tried to show, to make such judgements it is necessary to go somewhat beyond formal dialectic to consider the communicative context of an argument by taking institutional or cultural factors, including values, into account. But going to this level, by itself, is useless, unless it is based on an underlying dialectical structure, with argumentation schemes and clear and precise distinctions drawn between different types of dialogue in which arguments are used.

## NOTES

<sup>1</sup> The idea of the dependence of "conversational activities" on the interlocutors' position has been suggested by Andrea Rocci (personal communication).

<sup>2</sup> Quoted in Walton (2000, p. 186).

## REFERENCES

- Aristotle: 1967, *Topiques*, J. Brunschwig (trans.), Les Belles Lettres, Paris.
- Clark, D.: 1985, *Practical Inferences*, Routledge, London.
- Van Eemeren, F. H. and R. Grootendorst: 2004, *A Systematic Theory of Argumentation*, Cambridge University Press, New York.
- Van Eemeren, F. H. and P. Houtlosser: 2005, 'Theoretical Construction and Argumentative Reality: An Analytic Model of Critical Discussion and Conventionalised Types of Argumentative Activity', in D. Hitchcock and D. Farr (eds.), *The Uses of Argument: Proceedings of a conference at McMaster University, 18–21 May 2005*, pp. 75–84, OSSA, Hamilton, ON.
- Engel, M. S.: 1980, *Analyzing Informal Fallacies*, Prentice-Hall, Englewood Cliffs.
- Govier, T.: 1998, *Dilemmas of Trust*, McGill Queen's University Press, Montreal.

- Kimball, R.: 2006, What's Wrong with Argumentum ad Baculum? Reasons, Threats, and Logical Norms, *Argumentation* **20**, 89–100.
- McBurney J. H.: 1936, 'The Place of Enthymeme in Rhetorical Theory', *Speech Monographs*, **3**, 49–74.
- Perelman, C. and L. Olbrechts-Tyteca: 1970, *Traité de l'Argumentation*, Éditions de l'Institut de Sociologie, Bruxelles.
- Rigotti, E.: 1995, Verità e Persuasione, *Il nuovo areopago* **1**, **3**, 3–14.
- Rigotti, E.: 1997, 'La Retorica Classica Come una Prima Teoria della Comunicazione', in G. E. Bussi, M. Bondi and F. Gatta (eds.), *Understanding Argument. La Logica Informale del Discorso*, pp. 1–8, CLUEB, Bologna.
- Rigotti, E. and A. Rocci: 2001, Sens – Non-sens – Contresens, *Studies in Communication Sciences* **1**, 45–80.
- Rigotti, E. and S. Cigada: 2004, *La Comunicazione Verbale*, Apogeo, Milano.
- Walton, D.: 2000, *Scare Tactics*, Kluwer, Dordrecht, Holland.
- Walton, D.: 2002, *Legal Argumentation and Evidence*, The Pennsylvania State University Press, University Park, PA.
- Walton, D.: 2006, *Character Evidence: An Abductive Theory*, Springer, Berlin.
- Walton, D. and E. C. W. Krabbe: 1995, *Commitment in Dialogue*, State University of New York Press, Albany.
- Walton, R. E. and R. B. McKersie: 1965, *A Behavioral Theory of Labor Negotiations*, McGraw-Hill, New York.