

Varieties and effects of emotional content in public deliberation

A comparative analysis of advocate arguments
at a citizens' initiative review

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The Citizens' Initiative Review (CIR) is a deliberative process that has been used in the United States to involve panels of citizens in producing balanced and easily understandable accounts of proposed ballot measures and their potential effects. The goal of this paper is to demonstrate how the CIR process is shaped by evaluative framing in which the rational component cannot be clearly separated from the emotive base of assigning responsibility. We analyze the argumentative dynamic of advocates' presentations during the 2010 CIR on Measure 73 and discuss emotional claims as products of narrative structures that define problem situations. We explore how the distinction between manipulative and valid emotional claims within the context of public deliberation can be made with the help of three categories of analysis: Themes, Ideals, and Scenarios.

Keywords: public deliberation, emotion, values, Citizens' Initiative Review, scenarios, narrative, coherence, discourse analysis

1. Introduction

The Citizens' Initiative Review (CIR) is a deliberative process, used in the United States, to promote a focused public consideration of ballot measures (i.e., laws that are being put up for statewide referenda). CIRs involve a panel of 18 to 24 citizens who meet for five days to study a ballot measure. These citizens collectively produce a statement that describes the measure itself, as well as its potential positive and negative effects. The statement contains four parts: common findings, arguments for

and against the measure, and a comment on the CIR process itself. The statement is subsequently included in the voters' pamphlet that goes to all households with registered voters in the given state. The purpose of the statement is to help voters make an educated voting decision (Gastil and Knobloch 2010; Knobloch et al. 2013; Gastil et al. 2014; Knobloch et al. 2015). In most of its iterations so far, the CIR process was observed and documented by a research team on the invitation of CIR conveners.

This paper presents a case study of the 2010 CIR on Measure 73. The measure was concerned with increased mandatory minimum sentences for certain sexual offenses and DUII (driving under the influence of intoxicants) crimes; it was passed in the 2010 election and is now Oregon law (Gastil and Knobloch 2010, 5). The discussion of this measure involved highly emotional content. Both CIR participants and researchers made critical remarks about "emotional appeals" and low-quality input from advocates. In connection with this, our purpose is to explore the analytical distinction between narratively coherent and narratively manipulative argumentation and to demonstrate how this distinction can help in assessing the quality of CIR discussions. We propose that distinguishing between manipulative and coherent emotional claims within the context of public deliberation can be more helpful than the default dichotomy between emotional and rational argumentation. We pose the following research question: "What syntactic structures are characteristic of arguments that are perceived by CIR participants as emotionally manipulative or valid in the course of deliberation?"

On the theoretical level, we are concerned with challenges for critical linguistics arising from the recognition that, ultimately, emotion is an essential regulator of human thinking, without which goal-setting or meaningful processing of information is impossible (McShea and McShea 1999; Modell 2003, 37–38; Tenenbaum 2003; Mameli 2004, 171–174; Spottswood 2014). This recognition implies that all argumentation has emotional impact, albeit of different kinds (von Scheve 2013, 2017). However, attempts to develop widely acceptable analytical categories to explore this theoretical framework are necessarily constrained by the dominant post-Enlightenment tradition that associates emotions or emotional appeals with manipulation and aggression in contrast to rational argumentation, particularly in the political context (for a critical account of this tradition, see Marcus 2002, 33–47; Spezio and Adolphs 2007).

The rationalist tradition allows the researcher to assume a stance of superiority with regard to all of the positions represented in a discursive event. However, the researcher then risks imposing external and/or irrelevant criteria on the communicative process under study. If, on the other hand, we accept that human thinking and communication are grounded in emotion-driven value imperatives, the critical approach requires relating structural analysis of textual data to the way participants experience the discursive event.

In addition, we hope that our observations can be applied to develop innovations in deliberative practice. The CIR process is largely driven by the standard of rational argumentation. Analysis of apparent disruptions in adherence to this standard would have implications for the design of the process.

CIR panelists are selected to be representative of the population of the state. In order to arrive at a collective judgment, the panelists interact with teams of proponents and opponents of the measure (advocates), as well as with various “witnesses,” i.e., experts in the field. Panelists also have group discussions for developing questions, selecting witnesses and formulating findings. In all these activities, panelists are aided by two professional moderators. The moderators encourage the panelists to identify “objective and reliable” information in their statement and present the “best and strongest” reasons in favor of or against the measure.

Over the course of the deliberation in the CIR on Measure 73, panelists indicated that they were not getting enough “fresh information” from the advocates. At the end of day 4, criticisms for being “offensive” and losing control over “emotions” were directed specifically at the pro-advocate team. For example, one panelist complained about “scare tactics”; he said that the pro-advocate team made him “angry that they wasted my time when they could have been giving me facts.” Researchers observing the process made similar remarks. Thus, one researcher characterized arguments of the pro team as “emotional appeals” (day 4, observer 2).

It is remarkable that both researchers and panelists used the word “emotion” in their critical characterizations of the pro-advocate presentation (or implied it by contrasting the pro-advocates’ strategy to “giving facts”).

However, from the discourse analytical perspective, saying that one party in a discussion employed emotional argumentation more than the other does not immediately amount to a reliable assessment of how productively or legitimately the party behaved.

Therefore, a critical discourse analysis would inquire into the features of argumentative strategies that make emotional appeals by the advocates more or less adequate for a deliberative dialogue. Our hypothesis is that manipulative emotional claims will be associated with invoking evaluations that are irrelevant to the specific problem at stake and will rely on structurally deficient, i.e., less coherent, models of the situation. Valid claims will have narrative coherence, the structure of which we will establish with the help of an analytical model that distinguishes between three types of mental models: Themes, Ideals and Scenarios.

We precede our study with an outline of the analytical model. Next, we provide a brief description of the communicative relationship between the advocates and the panelists. We then move on to a close analysis of the transcripts and supporting data from the five-day deliberations. Transcripts were created using audio and video recordings of the process (references to transcripts indicate the day and page

numbers of that day's transcript). In conclusion, we return to the distinction between manipulative and valid emotional claims to discuss their specific syntactic characteristics in view of the case under study.

2. Analytical model: Themes, ideals and scenarios

We will discuss argumentative strategies by the two advocate teams with the help of an analytical distinction among Themes, Ideals and Scenarios, i.e., three levels of evaluation involved in formulating problems in the socio-political domain. It needs to be noted right away that these structural categories encode different types of emotional content.

Themes are the most generic imperatives that go unquestioned in a given culture; they model the sense of social reality for members of this culture. Themes determine basic social relations. Syntactically these models include agentive nouns (e.g., *offender, victim, judge, prosecutor*) and relevant actions, which are perceived as normal, default attributes of such agents (e.g., *drink and drive, rape, defend, sentence, offer a plea bargain*). If backgrounded, thematic structures are often misperceived as evaluatively neutral; in fact, they provide baseline evaluations that do not require reflection because of their normalcy. However, when foregrounded, thematic structures produce an emotional impact of high intensity because of their fundamental nature.

This notion of Themes is similar to Goffman's (1974, 21) "primary frameworks" that render meaning to social experience and allow us "to locate, perceive, identify, and label a seemingly infinite number of concrete occurrences defined in its terms." We chose the term "Themes" to emphasize that these foundational judgments have an emotionally powerful evaluative potential and are akin to emotional complexes that are known as "core relational themes," i.e., emotional motifs that are encoded in an interaction between social agents (Lazarus 1991; Sripada and Stich 2004, 137). However, in our model, Themes are not tied to single emotional categories, such as anger or happiness; rather, we presume that Themes verbally encode a distinct emotional complex.

Ideals represent desired relationships between thematic agents from the perspective of different social groups. Ideals are, therefore, competing values within the same thematic imperative, grounded in different experiences and emotional dominants within a given culture. Such models have been hypothesized by a number of researchers. For example, Lakoff's (2004) notion of frames and Van Dijk's (2014) notion of group-specific attitudes both elucidate the presence of contestable, group-specific cognitive models that determine the discursive nature of social conflict.

Other researchers, particularly within the Discourse Historic Analysis framework, use the term “discourses” to designate the same type of verbally constructed ideological models; for example, Reisigl and Wodak (2001) write about “racist discourse,” while Krzyzanowski (2010) discusses the “EU discourse.” They emphasize the importance of group identity that is encoded in these structures. It has also been established that emotional content of such ideological constructs has a strong motivational force (Mannheim 1949, particularly 22–30 and 191–192; Lakoff 2008, particularly 119–123; Jost and Amodio 2012). We have opted for the term “Ideals” in our analytical framework to make clear the distinction between more fundamental thematic judgments that go uncontested and judgments that are recognized as group-specific *desirata* in dialogic contexts.

Finally, Scenarios are verbal structures that describe problems, as determined by the discrepancy between experience and Ideals. Scenarios involve two components: problem definitions and tentative solution proposals. This analytical category has connections with two other frameworks. Much work on developing the notion of Scenarios has been done by Andreas Musolff (2004, 2016), who defines Scenarios as structures that project “specific narrative and evaluative perspectives, which make them attractive for making strong inferences in political discourses as well as policy planning” (Musolff 2016, 30). While Musolff’s focus is on the analogical reasoning as the basis for Scenario-level narratives across texts, our interest is in mapping Scenario-level narratives that define interactions within a complete dialogic text.

The discourse analytical notion of Scenarios is similar to the notion of argumentation schemes, particularly practical reasoning schemes, the classification of which is contested in traditional argumentation theory (Walton et al. 2010, 16, 94–108). Both notions can be applied to analyze argumentative discourse. However, for us, it is important to emphasize that human thinking is driven by its capacity to formulate problems. So, structurally, a problem statement, rather than just any kind of “claim” or “premise,” is considered to be the primal node of argumentation in public deliberation.

In public politics, problems are generated by perceived disruptions of social Ideals. So, the credibility of a claim about an existing problem has to be “warranted” by an Ideal that prescribes social responsibility for maintaining positive relationships. In this, Ideals are very similar to “warrants” in Toulmin’s model (Toulmin et al. 1984, 46–47 and 52). However, an Ideal is a very particular kind of warrant – it is not any general rule as in Toulmin et al. (1984, 26); rather, it is a generic aspiration that has a prescriptive modality in the domain of public politics. Therefore, Scenarios that comprise problem statements and/or solution proposals are emotionally laden by definition since they are warranted by a human aspiration specific to the political domain.

Production of meaning in argumentative socio-political discourse entails all three levels: Themes, Ideals and Scenarios. However, certain markers, particularly modal verbs and other such features, can foreground one or the other of these levels. Thematic and ideological value judgments provide the emotional basis for the processing of scenario-level structures. Themes and Ideals are neither supremely rational or irrational. It is on the level of Scenarios, i.e., descriptions of problematic circumstances and proposed solutions, that coherence and, consequently, rationality can be judged. However, the very definition of what constitutes a problem will always depend on fundamentally emotional ideological premises.

Methodologically, it is important to point out that we are dealing with linguistically constructed emotional complexes rather than affect-program responses to immediate environmental stimuli, e.g., snakes or drowning. Such emotional complexes have been labeled as “constructed emotions” by Griffiths (1990, 193–194) to emphasize the role of linguistic evaluative structures that cultivate them and, hence, the difference between such complex emotions and instinctive affect programs.

Therefore, when identifying the emotional message of an utterance produced in the course of a socio-political dialogue, we are looking at a narrative pattern of evaluations, which, in many cases will not fit into a label such as “fear,” “anger” or “hope” (de Sousa 2008). Rather, ideological orientations tied to specific Themes will produce emotional complexes that often don’t have “names” but will be unmistakably evoked by ideologically driven narratives. Such emotional complexes encoded by linguistic models of social relations have been recently termed “emotifs” (von Scheve 2017). In our analysis, we will reconstruct Themes and Ideals, i.e., two main types of “emotifs” in the CIR discussion and then show how these elements are foregrounded to produce heightened emotional impact in scenario-level statements.

3. Advocates, panelists, researchers and the problem of emotional claims

The structure of the CIR is based on principles of debate. Thus, there are advocates for two positions – one pro, one contra. Advocates appear before the panel to make statements four times: twice during day 2 and twice during day 4 of deliberations (for details, see Richards 2012).

In the CIR on Measure 73, the pro-advocate team was led by Doug Harclerod and Kevin Mannix. This team advanced arguments in favor of the measure. The con-advocate team, which advanced arguments against the measure, was led by Jennifer Williams and Gail Meyer (Gastil and Knobloch 2010).

The pro and the con teams have different communicative goals. The pro side needs to elicit emotion, since only an emotionally driven description of a problem

and a possible solution can serve as a motivation for action. The side arguing against an action needs to “dispel” the emotion invoked by the pro side. The con side may attempt to elicit very strong competing emotions but does not have to do so as long as it succeeds in invalidating the problem definition that the pro side advances and, hence, the associated emotions. Yet, the alternative evaluation pattern of the con side will have its own emotional content so that the panelists can process the con arguments.

3.1 Normative and ideologically specific values in the CIR on mandatory sentencing

In the CIR on Measure 73, both pro advocates and con advocates advance their positions primarily within one relational Theme. This Theme can be reconstructed from the verbal data in the following way:

The GOAL OF THE criminal justice system IS TO guarantee public safety on the basis of fair laws, where law enforcement agencies and courts ensure that actual and potential victims are protected, while criminals bear appropriate responsibility for their actions.

It should be noted that the proposed formula is an analytical construct – a matrix – that highlights the core of the judgment. The individual words in the formula should be regarded as “slots” that point to a variety of similar functions. For example, the noun *criminals* in the formula would stand for such specific expressions used by CIR participants as *sex offenders, thieves, drug traffickers, drunk drivers*, etc. This group can be designated as the “wrongdoers” – these are agents whose very designations create the expectation of negative social behavior. Similarly, the slot *law enforcement agencies and courts* would entail *judges, prosecutors, parole boards*, etc. These agents are expected, by virtue of the thematic matrix, to perform positive social roles. The verb *ensure* would signal a variety of observable verbal expressions such as *send <them> to prison, order to go to treatment, review all the police reports, supervise these people, hold a parole hearing*, etc.

This relational Theme is a common, culturally irrefutable, imperative assigning the nature of interaction between the key agents.¹ It is referenced by both parties, and thematic elements are very often invoked when members of advocate

1. We would not want to equate *Themes* with *topoi*, as used by the DHA approach, given the complexity of methodological arguments around the category of *topos* (Reisigl 2014). *Theme* is a narrower category and, like *Ideal*, is domain specific. Although a separate paper on how our tripartite model could interface with DHA on the one hand and Walton’s theory of argumentation schemes on the other hand would be useful, there is no space for an extended argument of this sort here.

teams introduce themselves before making their presentations or in response to questions, challenging the responsibility of their position:

- (1) a. “I’m the retired Lane County District Attorney. I spent 24 years, six elections, as the district attorney. I currently represent the Oregon Anti-Crime Alliance, whose **goal is to make Oregon one of the five safest states** in the country in terms of **low crime rates**. And that immediately triggers, “Where are we now?” And the answer is about 27th in the country. Somewhere below the top half.”
(Doug Harclerod from the pro-advocate team introduces himself to the panel before launching the pro-advocate presentation; day 2, p. 4.)
- b. “As a survivor, that’s why I’m here. You know, I said that I **don’t want what happened to me to happen again**, and ultimately the **desire to create safe communities** is what fuels my advocacy.”
(Arwen Bird from the con-advocate team answers a question by a participant after the con-advocate presentation; day 2, p. 70.)

Thematic markers include such structures as “whose goal is to make <Oregon one of the five safest states>,” “leading on <public safety>,” “desire to create <safe communities>,” “in a <criminal justice> system.” These structures feature words that describe the ultimate purpose or goal of agents involved in the situation (“desire to create,” “leading”), as well as words that imply this ultimate goal (e.g., reference to the “criminal justice system”). One can see how the same syntactic slot is occupied by either “states” or “communities.” Similarly, “low crime rates” would be an expression equivalent to “I do not want what happened to me to happen again.”

Within this one Theme, pro and con advocates advance competing Ideals of how the system should function in order to conform to the thematic imperative. We have coded the position of pro advocates as Ideal 1 and the position of con advocates as Ideal 2:

Ideal 1: *To achieve public safety in a just way (thematic imperative), the primary role of the government is to lock up dangerous repeat predators swiftly and surely and vindicate the victims, leaving rehabilitation and prevention as subsidiary options for amenable cases; prosecutors and politicians should take the lead in giving judges, parole boards and other agents in the system the necessary guidance on the basis of public mandate; victims and citizens should support political leaders by asserting their sense of justice and demands for safety.*

Ideal 2: *To achieve public safety in a just way, the justice system (particularly the judges) should treat offenders adequately to the degree of danger they pose (limiting prosecutorial power), negotiate their future behavior by attempting to rehabilitate them before releasing them from custody, and compensate*

the victims; 2a – there should be comprehensive treatment available for individuals who commit DUI offenses and moderation in punishment for victimless crimes; 2b – there should be comprehensive help for sexual abuse victims, as well as rehabilitation programs for the perpetrators, who should be treated proportionately to their age and the type of offense.

Ideals are *should* judgments. They are grounded in the same thematic imperative (e.g., what a judge does, how a prison functions). Ideals provide emotional orientation that integrates various aspects of a complex Theme into a stable evaluative hierarchy. Similar to the reconstructions of thematic judgments, the patterns proposed above are abstracted from CIR data by noting modalities that indicate group-specific views and selecting general terms that subsume agents and actions with equivalent evaluative force.

For example, Ideals are often invoked when the speaker is summarizing their position or is questioned on the coherence of their beliefs. The following quote features an assertion of Ideal 1:

- (2) “I’ll tell you the thing that government has to do. We coalesce governments **for one reason – to protect our citizens ... It’s not to educate people. It’s not to pour concrete and make roads or build parks or provide any other services ... Am I against education? Absolutely not. That’s the next thing we’ve got to do.**”

(Statement by Steve Dole made as part of the pro-advocate rebuttal; day 2, p. 81.)

In Example (2), Ideal 1 is referenced by the sequence “government has to ... protect our citizens ... not educate people.” Such phrases point the listener to the evaluative structure that integrates circumstantial and topical elements into a motivational structure.

Example (3) features cues of Ideal 2 (e.g., “looking at the whole person and trying to figure out what’s the addiction that’s functioning in this person”):

- (3) “The reality of what helps to create safety in our communities is it’s a complex answer. The reasons why people are harming each other is complex ... It’s coming up with interventions that, for me, are more based on accountability, which is actually **looking at the whole person and trying to figure out, you know, what’s the addiction that’s functioning in this person? How can we help them get on a better path?** And prisons serve a place. You know I **definitely think that certain people need to be removed from our society ... But we need to give judges the discretion.**”

(Statement by a member of the con-advocate team in response to a panelist’s question; day 2, p. 70.)

References to Ideals are marked syntactically. It is noteworthy that both the pro and the con sides employ the same structures. First and foremost, they contain deontic imperatives (*need*, *want* and other modality markers). They are also often explicitly positioned as “reasons” to support a course of action: “that’s a powerful reason,” “we coalesce governments for one reason,” “but the real reason,” “because he does run a very effective and rigorous program.” These reasons are often foregrounded with the help of appropriate adjectives, e.g., “wonderful <thing>,” “powerful <reason>,” “best <way>,” “number one <reason>,” etc. Emphatic structures are also typical: “what <we know/ I think> is that ...” or “I/ the criminal justice commission/ the literature/ criminal defense lawyers will tell you,” as well as structures with the words *real/ really/ reality*, such as “But the real reason here is ...”; “The reality of what helps to create safety in our community is ...”; “Really, the question is ...” These are not all of the possible markers of Ideals in dialogic texts; however, this list gives a sufficient idea of how the researcher would go about locating such elements.

3.2 Models of problem situations and solution arguments in the CIR on mandatory sentencing

In this section, we discuss how advocates flesh out problem Scenarios within Ideals that they espouse. Scenarios describe states of affairs that compromise Ideals, i.e., situations where social agents do not act as prescribed. Thus, Scenarios add a conflicting layer of evaluations on top of default thematic expectations and ideological prescriptions.

The Theme creates a basic expectation that some members of society will breach the social contract; criminals are wrongdoers by default. In scenario-level narratives we see an additional set of wrongdoers (*wrongdoers2*). *Wrongdoers2* are agents that are expected to perform a positive social function but fail to do so from the perspective of a given Ideal (i.e., judges who give unfair sentences or victims who perpetuate their own suffering). They are different from *wrongdoers1* (e.g., criminals), whose negative social function is encoded in the Theme itself and is not essentially modified by Ideals.

Scenarios model current, actionable problems of varying priority, where the positive social function of *wrongdoers2* is perceived as amenable to restoration. Structurally, Scenarios have two important elements: a problem statement and an outcome. The outcome actually presents a narrative model that envisages a solution to the problem. In the course of argumentation, the focus may be on the problem statement or on the outcome or on both. In some cases, we can see “truncated” Scenarios, where only the problem statement is present with no outcome envisaged. However, the CIR format generally encourages the use of full Scenarios with outcomes.

Argumentatively, Measure 73 is a set of solutions that presupposes a set of problems, motivated by Ideal 1. Proponents of Measure 73 advance their position relying on the following set of Scenarios:

Ideal 1

Scenario 1.1

Legislators and many citizens are insensitive towards the plight of the victims of crime, ignoring the fundamental moral questions hiding behind financial considerations; therefore, Oregon citizens should vote “yes” on Measure 73 in a referendum and force the government to increase mandatory minimum sentences for repeat sex offenders and drunk drivers.

Scenario 1.2

Helpless victims <of sexual violence> versus callous parole boards <lax judges>, devious attorneys and misguided advocates of treatment; benefactors are activist victims and politicians who push for longer sentences; therefore, Oregon citizens should vote “yes” on Measure 73 and increase mandatory minimum sentences for repeat sex offenders.

Scenario 1.3

Wounded/helpless victims <of drunk drivers> versus the unfair justice system (no specified agent) and misguided advocates for endless treatment; benefactors are active victims, politicians and citizens who push for stricter punishments and incarceration of offenders; therefore, Oregon citizens should vote “yes” on Measure 73 and increase mandatory minimum sentences for drunk drivers.

Scenario 1.3a

Happy-go-lucky citizens who do not realize how much drunk drivers endanger them are oblivious to risks, while professionals and activists try to impress this information on them; therefore, CIR panelists should take this information to heart and impress it on voters that they should vote “yes” on Measure 73.

As with thematic and ideological judgments, Scenarios are generalizations that represent matrix structures. Each word stands for a range of possible equivalents observed in specific utterances. When formulating Scenarios, we did not seek to rationalize arguments advanced by CIR participants; rather, we used the process of induction on the basis of syntactic structures in the data.

The pro advocates mostly advance their Ideal by prioritizing descriptions of wrongdoers¹ (rapists and drunk drivers) and providing only scant references to wrongdoers² (judges and parole boards). For example, team leader Kevin Mannix brings up Scenarios 1.1 and 1.3:

- (4) “Because since 1999, at least we have tried to get the legislature to address the grievous issue of repeat drunken driving [Problem statement] in this state ... Someone has gone out on the highways, got a diversion after one drunk driving, had two convictions within 10 years, then they’re out there again and they’re caught a third – well convicted a third time, it’s their fourth offense, and we’re still saying it’s a Class A misdemeanor when they are basically roadside bombs waiting to go off [Problem statement]. The victimization, the killing of people is what this is about ... Prevention can be done and needs to be expanded, **but we need to send a message to the legislature that we will hold people accountable for their misconduct** [Outcome] – serious, serious misconduct.” (Kevin Mannix day 2, pp. 16–19.)

This description focuses on wrongdoers1: “someone has gone out on the highways, got a diversion ... then they are out there again ... it’s their fourth offense.” Mannix implies wrongdoers2 in phrases such as “we’re still saying it’s a Class A misdemeanor.” However, this reference points to all possible wrongdoers2, from citizens to judges, attorneys and legislators. In this context, such phrases as “roadside bombs waiting to go off” and “the killing of the people” play up the basic thematic evaluation of criminals as bad and dangerous people, bringing it to the foreground. Mannix does not speak of specific circumstances that define the current problem. Unless the audience has those circumstances in mind and shares the speaker’s ideological perspective, this argumentative structure is likely to come across as “emotional.”

The testimony by a sex crime victim, Tiffany Edens, is more comprehensive than other pro-advocate statements; it spells out a very coherent Scenario with wrongdoers1, victims, wrongdoers2 and benefactors:

- (5) “I was a seventh grader at Dexter McCarty Middle School in Gresham when Richard Troy Gillmore broke into my house and violently raped me ... It took forever. His attorney, a well-seasoned attorney, Des Connell, he chose all of the different tricks and the trades [Problem statement] of how to elongate the time and get you flustered as a victim and hopefully probably wanted us to just drop it and not push forward [Problem statement] ... But I just heard that people like Gillmore in this state only get eight years and four months at this time for rape – for violent rape [Problem statement]. It has been 24 years since I was raped and it’s still there ... It affects me, but it affects my family, my mom, my dad, my cousins, now my children, my husband, and society as a whole really ... I sued the Oregon State Parole Board for not giving me all of my rights ... But I have to every two years go to a parole hearing and hear Richard Gillmore talk for four to five hours about how his mom was mean to him, and his dad was mean to him, and it’s everybody else’s fault and not his own. **Now with this initiative ... at least**

for future victims in Oregon, we could at least save them from the going to see them every two years for that first twenty five [Outcome].”

(Tiffany Edens day 2, pp. 19–21.)

In this utterance, there are very specific descriptions of wrongdoers²: “His attorney, a well-seasoned attorney, Des Connell, he chose all of the different tricks”; “I sued the Oregon State Parole Board for not giving me all of my rights ... But I have to every two years go to a parole hearing and hear Richard Gillmore talk for four to five hours.” In line with other pro-advocate statements, Tiffany Edens projects an image of injustice, where the source of the evaluative tension is located in the incommensurability of punishment for the offender and the suffering of the victims (“8 years and 4 months <that the rapist received>” vs. “it has been 24 years since I was raped and it’s still there, and now it’s there for my children”).

In principle, opponents of Measure 73 have three ways of undermining the “solution” status of Measure 73:

1. They can argue that problem statements by proponents are invalid, contesting various temporal, spatial and agentive characteristics.
2. They can argue that solutions put forward in Measure 73 are unlikely to bring about desired results and/or that they will generate other problems.
3. They can argue that there are other problems within the given Theme that are more pressing, thus reducing the motivational pull of emotions associated with the problem Scenarios invoked by the pro team.

Of these strategies, the first one is the most important – the primary task of the con team is to project a sense of normalcy and stability by undermining the emotional impact of the evaluation pattern promoted by the pro-advocate team. In our analysis, we reference three Scenarios that the con team advances within the relational Theme, even though other Scenarios are present (most of them are variations of Scenario 2.1, including the outcomes of punishment and rehabilitation for drunk drivers):

Scenario 2.1

Power-grabbing punitive prosecutors, who subsequently usurp the power of judges, perpetrate injustice to helpless defenders, while still failing to deal with real criminals; therefore, Oregon citizens should vote “no” on Measure 73.

Scenario 2.1a

If Measure 73 were to pass, teenage (under 18) sex offenders with no opportunity for rehabilitation would be imprisoned for most of their lives, sometimes for marginal offenses (specifically, sexting); therefore, Oregon citizens should vote “no” on Measure 73.

Scenario 2.2

Deranged politicians and members of the public seek more severe punishments for <both sex and DUI> offenders who are already punished severely under Measure 11 and beyond, while neglecting the needs of victims for help and rehabilitation, with help being available only short-term; therefore, Oregon citizens should vote “no” on Measure 73.

One important success of the con team is their ability to invalidate Scenario 1.2 – the key Scenario that the pro team exemplifies by Tiffany Edens’ story. The con-team positions Tiffany Edens’ story as a matter of the past and insists that a previously passed Measure 11 creates conditions under which concerns about sex crimes, generated by Ideal 1, are sufficiently addressed:

- (6) “There was a question about Ms. Edens’ instance where her offender was given a 30-year sentence and then a parole board reduced it to 15. Her crimes, and the conviction of those crimes, occurred before Measure 11. **Now we do have Measure 11** [Outcome], Mandatory Minimum Sentencing Schemes, and the parole cannot reduce those crimes ... as it stands right now, Measure 11 crimes cannot be reduced by the parole board, and so **what happened in Ms. Edens’ instance would not be happening today** [Outcome].”

(Gail Meyer speaks during the con-advocate rebuttal after the initial pro-advocate presentation; day 2, p. 46.)

Here Gail Meyer creates a coherent narrative structure, where Tiffany Edens’ story becomes part of a multi-stage sequence with the same agents. The parole boards, which are represented as wrongdoers₂ in Tiffany Edens’ story, are now represented as having lost the power to harm victims, due to Measure 11. The con team reiterates this narrative two more times (day 2, pp. 59–60, 130). Cumulatively, it amounts to an assertion of a satisfactory status quo and, therefore, dispels the emotional impact of Scenario 1.2 and provides an alternative evaluation of the situation: “Oregon already does have mandatory minimum sentences for sex offenders and judges are able to sentence that person to a longer period in time. In fact, it looks like judges across the state are doing [that].” (Kerry Naughton day 2, p. 55.)

In projecting Ideal 2 Scenarios, con-advocates Kerry Naughton and Arwen Bird recount personal stories that involve sex crimes and drunk-driving. However, they focus their statements on the need for funding victim services, arguing that the ability of the state to support victims is likely to be compromised by misguided proponents of Measure 73:

- (7) “... the more money that the state is **forced to** spend on incarceration, the less money the state **actually has** to spend on these services like shelter,

counseling, and advocacy, and sustaining our entire public safety system including the courts and the police.” (Kerry Naughton day 2, p. 56.)

Example (7) suggests that proponents of incarceration are aggressive impostors who impinge on society’s resources (note the use of the verb *force*). At the same time, the con-advocates’ stories present relatively satisfactory outcomes because of victim services. They emphasize that more services are needed and that crime can, in principle, be compensated for. This narrative reduces the emotional impact of the pro-advocate stories and keys participants to enter into a transactional mode of thinking. For example, Kerry Naughton’s story serves as an alternative to Tiffany Edens’ experience:

- (8) “... it was committed by someone who seemed very nice and was doing renovations in my parent’s house. What my parents didn’t know is that he was sexually abusing me when my mom cooked dinner, and this happened over the course of a few months ... And over the course of two years of me being exhausted and just in a state of crisis, and my family trying to figure out how to find me help, it took about two years before we finally found a counselor who had the experience and expertise in being able to **help survivors of sexual violence**. And so I’m happy to say that I was able to rebuild my life with a lot of help and with a lot of time.”

(Kerry Naughton day 2, p. 53)

Kerry Naughton’s narrative of overcoming trauma and assuming an active stance in social life is representative of other con-advocate stories. Con-advocate stories involve a significant degree of resolution (“I was able to rebuild my life”), while the pro-advocate stories focus on trauma that cannot be healed (“It has been 24 years since I was raped, and it’s still there”). Thus, we are looking at narratives that call for two different types of emotion: one is associated with raw pain, the other one is associated with a sense of relative control over one’s condition and pragmatism. This difference is one of quality and intensity of emotion, rather than of emotionality versus rationality.

The other strategy that con advocates employ in undermining the position of the pro team is contesting the status of wrongdoers¹, and, contingently, of wrongdoers² in both DUII and sex offense scenarios. In both cases, con advocates foster evaluative ambiguity and seek to show that some offenders do not meet the prototypical negative image of a criminal. Thus, they uphold Ideal 2 that involves a discerning judge capable of making contextually sensitive decisions.

For example, when presenting sex crime Scenarios, the con team dwells on younger offenders, describing actions that do not meet the culturally established image of a grave crime:

- (9) "... a 16-year old boy in the neighborhood sexually exploring some other kid ... There's one instance at the neighborhood picnic. Another instance a week later behind the tool shed ... **The kid finally comes forward** ... this crime would merit a 25-year mandatory minimum sentence."

(Gail Meyer day 2, p. 45)

Note such lexical choices as "sexually exploring" (in contrast to "abusing"). The phrase "the kid finally comes forward" evokes a narrative where the child is ashamed rather than traumatized. This narrative clearly has an affective force that undermines the message of the con team.

The strength of such "factual" arguments as "Mandatory minimum sentences actually decrease public safety" (con-advocate day 2, p. 55) and "Incarceration does work ... Measure 11 has reduced just a huge number of crimes" (pro-advocate day 2, p. 125) is largely contingent on how successfully the advocates flesh out and defend their definitions of problem situations. Both sides quote statistics, while neither is in a position to prove these generalized statements definitively. The impossibility of definitively assessing such arguments as valid or invalid in their own right in the context of public deliberation is discussed in Fairclough and Fairclough (2012, 49–50).

As advocates continue to argue for their positions and answer questions from panelists, some dynamic can be observed in thematic priorities and in the development of some Scenarios. The strategy of the con team is more stable. However, from the perspective of this study, it is remarkable that one panelist, who eventually ends up endorsing the con side, directs two challenging questions at the con team, asking them to explicate their Ideal for the criminal justice system:

- (10) "... coming out of a sense of confusion after hearing a lot of information ... **I feel like** one issue in my mind is the victim versus the offender and **how do you balance out fairness to both of them** [eliciting the Ideal]? I believe Gail, you said that there was an unintended consequence – for example, if the beloved uncle or a coach may have been repeatedly harming or something a child – that if that person came up to the judge for the first time, the fact that he had done something repeatedly would kick in the maximum 25 year minimum. **Is that wrong** [eliciting the Ideal]? I'm not saying it is or isn't, but **apparently you think it's wrong and I was wondering why** [eliciting the Ideal]."

(Ann Backinson, day 2, p. 141)

It may be a sign that the con team challenges baseline thematic evaluations to the degree of being interpreted as emotionally disorienting. They border on implying that "real criminals" don't exist by repeatedly dwelling on examples where sex offenders are teenagers engaged in sexting, while intoxicated drivers are women using prescription medications.

Additionally, the pro and con teams use very different frames of their relationship with the panelists. The lead con advocate, Doug Harclerod, projects an evaluative framework within which the pro advocates appear as highly professional and experienced savants, whereas the audience are hardly prepared for making a reasonable decision and thus should feel inferior in the presence of true authority:

- (11) “You **can’t make a good decision** if you don’t have the information you need. And **this process scares me** because **you know very little** about the criminal justice system, and **you only have a week** to learn a lot ... Education runs deep in my family. My father is a former **college president** ... Our daughter has a **PhD** ... **I think more of this as an education project** than an advocacy project.” (day 2, p. 13)

The dismissive tone of the pro advocates is in marked contrast with the way the con team promotes its position, using a very cooperative framing. For example, Jennifer Williamson opens the con-advocate presentation with the following words:

- (12) “I wanted to first **thank you for serving** on this panel. I observed you yesterday and I was **incredibly impressed with how quickly you grasped some very complicated issues** ... So, I just want to **applaud you for taking on this challenging exercise**. And I want to introduce our panel today quickly, and I hope that **we provide you a perspective that helps** answer some of those questions.” (day 2, p. 48)

Here Jennifer Williams casts herself in the role of a valuable source of information for CIR panelists, who, in turn, are framed as excellent students with a special status as educators for the general public.

Thus, the differences between evaluative models that the two advocate teams employ set up the pro team for being perceived as more “emotional” than the con team by the panel. The following parameters specifically made panelists regard the pro team as manipulatively emotional:

1. Focus on thematic, archetypal evaluations of wrongdoers¹ and the suffering of victims at their hands, rather than on specific scenario-level parameters and wrongdoers²; focus on emotions of enduring trauma;
2. Use of ad hominem arguments like positioning themselves as knowledgeable instructors frustrated by the deficiencies of the process and lack of understanding by the panelists.

On the fourth day, the pro team further enhanced this strategy by using a video slide show. It featured photographs of cars in flames, bloody pavement, dead bodies and amputated limbs. Since the pro team had failed to provide a coherent description of the specific problem at stake, this focus on archetypal images of

wrongdoers1 and the suffering of victims came across as emotionality exploitative. As a result, the strategy of the pro team was perceived as emotional pressure by CIR participants. Overwhelmingly, panelists expressed support for the con position – out of 24 citizens, only three panelists agreed to join the group for writing up arguments in favor of Measure 73.

4. Conclusion

Our analysis of advocate statements during the 2010 CIR on Measure 73 shows that several factors contribute to the perception of argumentative strategies as being more or less emotional, as well as being more or less adequate in invoking emotions. Using the example of CIR advocate statements, we have tried to show that three factors can help operationalize the distinction between manipulative and valid emotional claims:

- Consistency of agitive structures (thematic and scenario-level wrongdoers with clear attribution of responsibility)
- Types of emotions invoked (e.g., simple traumatic episode versus staged narrative of healing)
- Degree of evaluative ambiguity (presence of absence of conflicting roles for the same agent)

The three-level analytical model that we have employed has allowed us to account for the differences in the argumentative strategies of the two advocate teams. The distinction between thematic-level and scenario-level evaluations (wrongdoers1 and 2) helps us explain how the different types of emotions, related to different levels of the problem, play into the quality of argumentation and the overall dialogic process. Particularly, we have shown that the pro-advocate team is likely to come across as inadequately emotional, because they invoke thematic, archetypal evaluations, while failing to consistently present fully fledged scenario-level statements.

These observations do not directly address such notions as the validity or persuasiveness of arguments, which are commonly of interest to rhetoricians and argumentation theorists. In our analysis, we focus on foregrounding of the motivating Themes and Ideals and on coherence of narrative Scenarios that entails the presence of a problem definition and an outcome, each of which has functionally distinct agitive structures. However, we maintain that coherence can be instrumental in setting validity standards, while careful reconstruction of Themes and Ideals can reveal emotional content and predict whether a line of argumentation will be persuasive for a given audience.

Our analysis has also allowed us to hypothesize that while some argumentative strategies can be regarded as emotional manipulation, other strategies can be emotionally disorienting. Further exploration of the latter type can lead us to better understanding of the challenges that various public deliberation formats present.

The analytical model applied in this study shows how we can approach the quality of deliberative dialogue, using the notion of coherence, particularly as related to the identification of agents and their characteristics on the level of Scenarios. This notion is grounded in our understanding of human cognition as a system that creates emotion-driven models of experience with the help of language. Philosopher Elijah Milgram (2005, 284–286) drew attention to the importance of this notion for the study of deliberation as a process of practical reasoning that involves comparisons between competing but incommensurate values.

The CIR process provides rich data for the applied study of these fundamental issues. This study has been inevitably selective of textual elements that were analyzed; dealing with dialogic texts the size of CIR transcripts always presents the problem of interpretation quite starkly. Therefore, we see this study as a solid foundation for further discussion rather than a definitive judgment on the process. Our analysis gives an account of the advocate input that is directed at panelists. When combined with analysis of inter-participant interactions, it can lead to practical recommendations regarding the amount of time needed for advocate statements, the number and order of such statements, as well as instructions to the panelists on sorting through the input.

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