

POISONING THE WELL

Abstract

In this paper it is shown that although poisoning the well has generally been treated as a species of *ad hominem* fallacy, when you try to analyze the fallacy using *ad hominem* schemes, even by supplementing with related schemes like argument from position to know, the analysis ultimately fails. The main argument of the paper is taken up with proving this negative claim by applying these schemes to examples of arguments associated with the fallacy of poisoning the well. Although there is a positive finding in this quest, in that poisoning the well is shown to be based on and associated with these forms of argument in interesting ways, the paper in the end is led to the conclusion that the fallacy is irreducibly dialectical. Poisoning the well is analyzed as a tactic to silence an opponent violating her right to put forward arguments on an issue both parties have agreed to discuss at the confrontation stage of a critical discussion. It is concluded that it is a special form of strategic attack used by one party in the argumentation stage of a critical discussion to improperly shut down the capability of the other party for putting forward arguments of the kind needed to properly move the discussion forward.

Key Words: *ad hominem*, bias, commitment, personal attack, fallacy, argumentation schemes, strategic maneuvering, silencing an opponent, position to know argument.

Poisoning the well has become familiar in logic textbooks, where it has often come to be treated as a species of *ad hominem* fallacy. It is also closely related to other common forms of argument like argument from bias, arguments alleging group bias, argument from position to know, and special subtypes of *ad hominem* argument like the bias type and the situationally disqualifying type (Walton, 1998). The problem confronted in this investigation is whether the fallacy of poisoning the well can be analyzed by identifying it as a distinctive type of argumentation represented by one of these argumentation schemes, and showing how the scheme was wrongly used in a set of fallacious cases. This sort of problem arises with many fallacies, because even though the fallacy relates to a particular argumentation scheme, there turn out to be several ways the scheme can be misused or exploited, as shown by examples. It is shown in this paper that even once a serious series of attempts have been made to analyze the fallacy of poisoning the well using *ad hominem* schemes and related schemes like argument from position to know, each analysis ultimately fails. This negative hypothesis is proved by applying the schemes to examples of arguments that commit the fallacy of poisoning the well. But there is a positive finding in this quest, in that poisoning the well is shown definitely to be based on and associated with these forms of argument in interesting ways.¹

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Following through this procedure of analysis leads to some surprising and controversial results. One conclusion arrived at is that poisoning the well is a distinctive pattern of argumentation in its own right, one that can exist separately from the *argumentum ad hominem* in some instances. Another is that poisoning the well in some cases is based on a kind of argumentation that has an inherent plausibility and that, to some degree, represents a kind of rational argumentation. Based on analyses of examples, the study reveals how poisoning the well works as a fallacy, one that is both subtle and dangerous. Like all fallacies, it is based on some superficial plausibility enhanced by argumentation that is not only persuasive to an audience and has a rational core, yet is exploited, misdirected, or blown out of proportion in a cleverly misleading way, making it useful as a powerful tactic of deception. It is concluded that this fallacy can only be explained adequately by seeing how it functions as a tactic to suppress the capacity to rationally persuade and to be persuaded (Johnstone, 1981). Evaluation of a case is achieved by identifying the argumentation scheme and seeing how it violates normative requirements of a critical discussion agreed to at the prior confrontation stage (van Eemeren and Grootendorst (1984, 1992, 2004). On this analysis, poisoning the well is explained as a dialectical tactic used to silence an opponent by a blocking technique deployed improperly at the argumentation stage.

1. Poisoning the Well

Argumentum ad hominem is taken both in logic and common speech to refer to a case in which one party has put forward an argument and her opponent uses personal attack instead of trying to refute or address her argument based on the evidence for or against it.² Personal attack may be taken to refer to an attack on the arguer's character, particularly his ethical character (*ethos*). In its other forms, *ad hominem* can also be based on an arguer's personal circumstances, arguing he does not practice what he preaches, or it can be an attack that alleges that an arguer is biased, and that his argument is based on self-interest. Recent research (Johnstone, 1959, 1978, 1981; Walton, 1998) has shown that *ad hominem* arguments are by no means always fallacious. Johnstone (1978, p. 134) even argued that *argumentum ad hominem* is "the only valid argument in philosophy", defining it as "the criticism of a position in terms of its own presuppositions." To cite another kind of example of reasonable use of *ad hominem*, attacking the character of a witness can be admitted in court in many instances. It is often judged to be a reasonable way of trying to assess the worth of witness testimony through cross-examination of the witness in the trial. Even so, personal attack is extremely dangerous as a form of argument. It can be irrelevant, and it can prejudice an audience. It can be based on innuendo rather than real evidence, and can have a powerful smear effect in persuasion much out of proportion to the real worth of the argument.

The classic case of poisoning the well is the Cardinal Newman Argument. Copi and Cohen (1998, p. 169) defined it under the general category of *ad hominem* arguments using this historical example that has become a paradigm of the fallacy.

² Generally the proponent is designated 'she' and the respondent 'he' in dialogues, but from time to time the gender is chosen that leads to the least confusion for purposes of exposition.

The Cardinal Newman Argument

One argument of this kind, called “poisoning the well,” is particularly perverse. The incident that gave rise to the name illustrates the argument forcefully. The British novelist and clergyman Charles Kingsley, attacking the famous Catholic intellectual John Henry Cardinal Newman, argued thus: Cardinal Newman’s claims were not to be trusted because, as a Roman Catholic Priest, (Kingsley alleged) Newman’s first loyalty was not to the truth. Newman countered that this *ad hominem* attack made it impossible for him and indeed for all Catholics to advance their arguments, since anything that they might say to defend themselves would then be undermined by others’ alleging that, after all, truth was not their first concern. Kingsley, said Cardinal Newman, had poisoned the well of discourse.

Newman was so upset by Kingsley’s attack that he wrote a whole book, *Apologia Pro Vita Sua* (1864), directed to refuting what he felt was the argument against him.³ He felt that Kingsley’s argument was unfair, because it was based on a misinterpretation of what he (Newman) had written. But even worse, he felt that Kingsley’s argument threw such an aura of suspicion on anything he might write, or any argument he might put forward in the future that the well would be poisoned. Any such argument would always be tainted with the suspicion that Newman’s views were based on putting group interest before a concern for the truth. Not only would such an attack make it impossible for Newman to have a say on any intellectual or political issues. It would make it impossible for any Catholic to do so with any credibility. Newman was right to be upset, and to take great care to reply to Kingsley’s attack, because this type of poisoning the well argument can be extremely powerful as an unfair method of attacking an opponent. The attack could be highly effective even if it was only an implicit argument against Newman, or anything he had written, by claiming that Roman Catholics generally have no regard for truth.

One can easily see why poisoning the well is categorized under the *ad hominem* fallacy in the textbook accounts. The *ad hominem* argument is an attack on the person that throws an arguer’s credibility into doubt or disrepute, thus undermining the worth of her argument. Poisoning the well is the same kind of attack because it attacks the trustworthiness and the intellectual honesty of the arguer as a credible source, undermining her sincerity or objectivity in a way that makes an audience discount the worth of her arguments. Attacking an arguer as biased is also often classified under the *ad hominem* category in the textbook accounts of fallacies. Since poisoning the well appears to be a form of bias attack, it too naturally seems to fit in the *ad hominem* category. It is well to be warned, however, that there is much variation in these accounts.

In the current textbooks, we find examples (Moore and Parker, 2001, p. 176) that are comparable to the Cardinal Newman argument, and are placed in the category of the *ad hominem* fallacy, but not under the poisoning the well classification.

³ David Hitchcock pointed out that Kingsley did not actually argue that Newman’s future claims were not to be trusted, but rather attributed to Newman the claim that truth need not and ought not to be a virtue with the Roman clergy. On this interpretation of Kingsley’s argument was part of a broad attack on Roman Catholicism, and was not used to make claims about Newman specifically. The reader can judge for herself by examining the original text of the argument (Correspondence, 1864). If this interpretation of the text is correct, the description of the case by Copi and Cohen should be revised to indicate that there was no direct *ad hominem* argument against Newman, but rather an indirect and implicit attack.

John says that we should reject what Father Hennesy says about the dangers of abortion because, “After all, he’s a Catholic priest, and priests are required to hold such views.”

This argument appears quite similar to the Cardinal Newman argument. However, it’s less evident that Father Hennesy is being attacked personally. It is not explicitly claimed that he is intellectually dishonest, or has no regard for the truth. It does say that as a Catholic priest, he is required to hold an anti-abortion view. It’s not explicitly claiming he is biased, but it is saying that as a member of a group, he is required to hold a particular viewpoint on the issue being discussed. The poisoning the well type of argument can be very dangerous. It can shut down a discussion by disqualifying an arguer from putting forward any argument, no matter how good it is, or how much it based on good evidence, simply because any argument he puts forward will always be seen as simply reflecting this same bias. His (or her) arguments will always be seen as biased and one-sided, and therefore limited and unconvincing. If disqualified as arguments that only promote or advocate an interest, pushing ahead covertly for gains for an interest group, they can be discounted, even though they may have merit, and be worth considering.

The following example of the poisoning the well fallacy from the *House of Commons Debates of Canada* (Volume 2, November 30, 1979, p. 1920) was cited in (Walton, 1987, p. 217). In the middle of a lengthy debate on the abortion issue, one of the participants made the following remark.

The Abortion Argument

I wish it were possible for men to get really emotionally involved in this question. It is really impossible for the man, for whom it is impossible to be in this situation, to really see it from the woman’s point of view. That is why I am concerned that there are not more women in this House available to speak about this from the woman’s point of view.

According to the comment on this argument made in (Walton, 1987, p. 217) the speaker is arguing that a man can’t help being opposed to abortion, or at least adopting a particular viewpoint on the subject, simply because he is male. Since he is not a female, the argument implies, the topic is inaccessible to his full understanding. He is not in a position to know about it, and therefore anything he might say must be discounted in advance as representing a limited and biased point of view.

A problem with this kind of argument is that it can easily be turned on its head, and this move can result in a stalemate that effectively stops further meaningful discussion of an issue. For example, as noted in (Walton, 1998, p. 231), a comparable argument can be made: “You can never believe or take seriously anything she says on the abortion issue because, as a woman, she will always take the feminist point of view, which supports her own interests as a female”. Layman (2000, p. 167) classified the following example as an *ad hominem* argument on the ground that “an attempt is made to discredit the argument by showing that the arguer has something to gain.” (p. 167).

Ms. Fitch argues in favor of equal pay for equal work. She says it doesn’t make sense to pay a person more for doing the same job just because he is male or Caucasian. But since Ms. Fitch is a woman, it’s to her personal advantage to favor equal pay for equal work. After all, she would get an immediate raise if her boss accepted her argument. Therefore, her argument is worthless.

In this example, the argument is used against the woman, discounting the worth of her argument on the ground that she has something to gain by adopting the point of view supporting equal pay for equal work. In this example, the argument falls into the bias category, and like the abortion example above, it also falls into the category of poisoning the well.

There are many problems with trying to better understand how such arguments work, and to see how they should be identified, analyzed and evaluated. Pointing out that an arguer is biased can be a legitimate move in argumentation. For example, in law, arguing that a witness is biased is regarded as a relevant argument in a trial. But such arguments can easily deteriorate into fallacies, the most evident being the argumentum *ad hominem*. Indeed, poisoning the well is standardly taken in the logic textbooks, as indicated above, as species of *ad hominem* fallacy. However, some textbooks characterize the poisoning the well type of argument in quite a broad way as a method of forestalling disagreement. On this approach the poisoning the well argument does not have to be a subspecies of *argumentum ad hominem*. The following example was presented as a fallacy by Davis (1986, p. 62), but as one not coming under the *ad hominem* heading.

For example, in a debate on how to put the Social Security system on a sound financial basis, a congressman might say, "It would be indecent to even suggest that Social Security payments should be cut." Note that all the congressman has really said is that Social Security payments should not be cut; he has not given so much as a suggestion as to why. Nevertheless, he has made it very difficult to disagree. Anyone doing so faces the charge of being "indecent," which might be embarrassing. Forestalling disagreement by positive characterizing those who would agree with speaker's position or negatively characterizing those who would disagree is called "poisoning the well".

My own approach to this kind of example would be not to treat it as an *ad hominem* argument at all, but as a case of argument from a verbal classification. The problem is one of the argumentative deployment of loaded terms to make a claim without, as Davis says, giving evidence to show why the claim is true.

The cases presented above show that there are serious doubts about how to understand the poisoning the well argument. To begin with, there is one pressing question that needs to be answered before any progress can be made on analyzing this type of argument. Does it belong in the *ad hominem* category or not? The place to begin is by trying to reach some agreement on how the *argumentum ad hominem* should be clearly defined as a class of arguments, on what its main subtypes are, especially as related to poisoning the well, and on how these are to be defined. There is some broad agreement on a starting point. We can take the *argumentum ad hominem* to be defined in outline by the following framework. An argument is an *argumentum ad hominem* if, and only if, (a) two parties are having a dialogue, (b) one has put forward an argument that he advocates, (c) the other attacks his argument by claiming that he lacks credibility and that his argument should therefore be discounted, or valued as less strong than it seemed. The attack can be based on several grounds. One is an allegation that the arguer has a character that is ethically bad in some respect, for example that he is a liar. Another is that his personal circumstances are in conflict with his argument. Another is that he is biased – for example, it might be argued that he has something to gain by taking the view he does. The poisoning the well examples cited seem initially to fit into this framework as *ad hominem* arguments, at least for the most part, even if in different ways. But much depends on how widely or narrowly *argumentum ad hominem* is defined. If an *ad*

hominem argument has to be a personal attack, and based on an attack on an arguer's character, not all these examples might fit, if they can be construed as making allegations about the group membership of an arguer, as opposed to his good or bad character.

There is another factor about poisoning the well arguments that makes them very dangerous and very powerful in influencing an audience. This factor is illustrated by an actual case cited by Damer (1980, p. 82).

The Black Alienation Argument

Several years ago, at a public symposium on alienation held at Emory & Henry College, Howard Fuller, a black militant, refused to listen to the integrationist-oriented remarks of well-known philosopher Sidney Hook. Fuller said: "You're not a black man, so anything you have to say on the subject of black alienation is of no interest to me. You just can't know what you're talking about." Professor Hook's well had been effectively poisoned. Anything that he had to say was regarded as tainted in Fuller's mind, and after Fuller's attack, anything that Hook had to say was regarded as tainted in the thinking of many members of the symposium audience.

This argument is similar to the abortion argument in a certain respect. The principle behind both is that if you don't belong to a certain group then you can't speak in a way that is worth listening to about some issue that deeply affects that group. Since you cannot personally be in a position to know about the issue as it affects that group, you lack the personal insight to share their viewpoint, to deeply understand it in a way that would enable you take part in a balanced discussion of it.

One can see why Damer thinks this argument is fallacious. Perhaps Sidney Hook had some things to say about the issue of integration, but as Damer noted, this argument against him poisoned the well by discounting anything he did say, as well as anything he might have said, even in advance of his saying it. It seems to be a very dangerous one because it is so emotionally powerful and because it has such a silencing effect, closing off a dialogue. However, like all powerfully persuasive arguments of this kind, the argument is not completely worthless. Like the abortion argument, it is based on a true premise to the effect that the arguer does not belong to a certain group, and correctly draws the conclusion that he or she cannot personally experience certain feelings that members of the group experience, as members of the group. Thus a man is not a member of the group of women, and thus he cannot experience certain feelings about abortion of the kind that can only be experienced by women.

The argument does have a parallel in the *argumentum ad verecundiam* in which the layperson on an issue is told, "You're not an expert. What do you know about it?" and then this argument is used to discount anything he says. This is a powerful argument, and a hard one to react to and overcome, especially for those of us who are diffident about challenging experts, and are affected by the so-called "halo effect". However the parallel is not exact. In the poisoning the well argument, the person is being silenced not because she lacks expertise or scientific knowledge on an issue, but because she lacks personal experience of a kind that only members of a certain group can directly feel. Poisoning the well is so dangerous because it has the effect of shutting down rational discussion on an issue. An arguer is portrayed as not being in a position to speak on the issue, or even as having no regard for the truth of the matter of being discussed. Such an arguer is seen as not being capable of rational argumentation. Once a party to a rational discussion sees the other as incapable of grasping the opposed viewpoint, or as merely promoting group

interests in a closed-minded way, attempting to carry on with rational argumentation of a kind aimed at finding the truth of the matter being discussed appears futile. Because of its powerful effect as a device for shutting down rational discussion of an issue, poisoning the well is worthy of study in the domain of fallacies.

2. The Situationally Disqualifying Type of *Ad Hominem* Argument

There is another type of *ad hominem* that has been recognized that is especially interesting in relation to poisoning the well, because it appears to be based on a similar principle, even if it does not quite seem to fit in the exactly the same category. It also has to do with being personally in a kind of situation that entitles one to talk meaningfully about an issue. The best place to begin to identify this type of argument is with the classic case presented in (Krabbe and Walton, 1993, p. 79).

The Gulf War Argument

(Holland December, 1990) A retired Major General argues in front of his relatives that the Dutch government must give more substantial support for the Allied efforts in the Gulf Area. "We ought to send ground forces," so he claims. His grandson retorts: "Its all very well for you to talk, Grandpa! You don't have to go there."

The supposed facts of the case are that the grandfather is retired and there is therefore no chance that he will be sent out to participate in the Gulf War. According to the grandson's argument the grandfather is disqualified as a serious advocate of a credible argument contending that we ought to send ground forces the Gulf. Since he is too old to serve in the military, and will not suffer for the consequences of this action, he is not entitled to put the argument forward with any credibility. Krabbe and Walton described this argument as a type of personal attack they called a situationally disqualifying *ad hominem* argument. According to the Krabbe and Walton analysis, the idea behind the situationally disqualifying type of *ad hominem* argument is that in certain situations a person can be viewed as not being in a position to express a particular viewpoint or argue for it in a certain way. The idea is that they are not entitled to do so because of something about their personal situation. Krabbe and Walton argued that this situational type of argument is a species of *ad hominem* argument in its own right, distinct from the direct type, the circumstantial type and the bias type. The circumstantial type is defined as applying to a narrower range of cases where there is some clash of propositions, that is, an inconsistency, representing the type of case where the person does not practice what he preaches. According to Krabbe and Walton, the situationally disqualifying type of *ad hominem* argument is more like the poisoning well type in that it is used to prematurely close off a dialogue. In (Krabbe and Walton, 1993, p. 86) the following definition of the situationally disqualifying *ad hominem* type of argument is given: "The situationally disqualifying *ad hominem* attack (or situational *ad hominem*) is an argumentative move in dialogue whereby one participant points out certain features in his adversary's personal situation that are claimed to make it inappropriate for this adversary to make a certain dialectical contribution". Such features may include lack of concern for, or lack of insight into the issue under discussion, excluding evidence for a positional inconsistency or a bias.

There is another type of argument commonly used that is comparable to the argument used in the Gulf War example above. An example would be the kind of case in which a politician lays out a farm policy for the federal government, and a farmer replies, “What does he know about it? He’s never farmed in his life.” This type of argument can be quite effective because it seems to disqualify the politician as a speaker who can say anything that ought to be taken seriously on the subject of farming. Certainly other farmers would tend to be sympathetic to this type of argument.

An actual example of this type of argument can be found on a message board on the web site [military.com](http://forums.military.com). In this case, William S. Lind had written an article on the decision to purchase LAV’s (light armored vehicles) by the US Army. Paul G. Davitt put forward a criticism of Lind’s article containing the following argument.

The Armored Vehicles Argument

Just read his piece on LAVs in Iraq and while I don't know if he's right or wrong (I'm no Armor guy, just a retired MI guy) I wonder why we care what he thinks on topics of this nature? Reading his bio I saw nothing about him serving in the military. Yes, he's a smart guy, and has some alphabet soup after his name these days, but really, what does he know about the proper uses of LAVs? I don't see where he ever served as a tank/track commander or served period. Why are we wasting time listening to someone who doesn't seem to have been there and done that? He wrote a book on Maneuver Warfare? Where did he learn how to maneuver?⁴

According to this argument, we are “wasting our time” listening to Lind’s argument because Lind has not served in the armed forces, and therefore presumably has no experience of driving armored vehicles. Hence, it is argued, we can dismiss his views on the subject, and his argument about LAV’s is refuted.

The armored vehicles argument appears to be very similar to the Gulf War argument. Both seem to be situationally disqualifying arguments in the sense of Krabbe and Walton (1993). This type of argument has the following structure.

Argumentation Scheme for the Situationally Disqualifying Argument

In dialogue *D*, *a* advocates argument α , which has proposition *A* as its conclusion.

a has certain features in his personal situation that make it inappropriate for him to make a dialectical contribution to *D*.

Therefore, *a*'s argument α should not be accepted.

Both arguments share this scheme, but there is a difference. The armored vehicles argument dismisses the argument it was designed to refute on the grounds that the arguer is not in a position to know about using armored vehicles in the military. The reason presumably is that he has never had direct experience with actually using such vehicles or directing their use in military operations. Part of the reason for the power of this argument is that it suggests that the arguer lacks the kind of practical expertise or hands-

⁴ This example, found by one of my students, Peter Campbell, is taken from a discussion board on military topics: <http://forums.military.com/1/OpenTopic?a=tpc&s=78919038&f=3381922576&m=8751972576>

on experience to offer an authoritative opinion on the subject under discussion. Since he is not in a position to know about such things, his argument, or any argument he offers on the subject, can be dismissed out of hand. Thus the armored vehicles argument is a position to know type of argumentation, whereas the Gulf War argument did not rest in the same way on disqualifying the arguer because he was not in a position to know. Indeed, the grandfather did serve in the military, and was even a general. Even so, he was held to be disqualified to speak on the subject of taking action on the Gulf War because he would not personally suffer from the consequences of such an action. The Gulf War argument is more about consequences while the armored vehicles argument is more about being personally in a position to know about something by having practical experience of it. Despite these differences, there is a certain similarity between the two arguments, and both seem to fall under the heading of situationally disqualifying *ad hominem* arguments, even though the reasons for the situational disqualification are different.

The abortion argument seems similar to the armored vehicles argument in certain respects. In the armored vehicles argument, Lind is criticized as not being in a position to make recommendations on the use of armored vehicles because he has never served as a commander of such vehicles in a military setting. He can't see it from the soldier's point of view, and hence we are "wasting time" listening to his argument. In the abortion argument, men are being disqualified because they can't see it from the woman's point of view. The reason given is that impossible for the man to be in this situation. Presumably this means that it is impossible for the man to be in the situation of having an unwanted pregnancy. Because the man can't have this experience personally, he is not in a position to know about abortion, and therefore he can't speak about it from direct knowledge. So whatever any man might say on the abortion issue, we are wasting our time listening to it, or taking his argument seriously. Thus interpreted, the abortion argument seems to be similar to the armored vehicles argument. Since the latter is classified above as an example of the situationally disqualifying *ad hominem* argument, maybe the abortion argument should be too.

The Gulf War argument seems a little different from the armored vehicles argument in that it, like the abortion argument, rests on a premise about being in a position to know about something. The argument seems to be that if a person isn't in a position to know about something, by having personal hands-on experience of it, then they can't really talk about it. Or if they do speak about it, we need not pay any attention to what they say. The Gulf War argument seems to have a different basis. The argument there is that if an arguer doesn't have a direct interest at stake in an issue, he is disqualified from talking about that issue, in a way that ought to command our paying attention to what he says. Since the Major General is retired, and will not have to risk his life in war, he can't make any recommendation on whether the country ought to go to war or not. This argument seems weaker than the others, or easier to refute. One might argue that decisions on whether to go to war are rightly made by those who have more experience with such things, and these often tend to be people who are now too old to actually fight on the front lines any more. But that might not be such a bad thing, or at any rate, an argument for it could be made.

Still, no matter how one might try to compare these four arguments at this point, a number of problems are posed. How should they be classified, as poisoning the well arguments or as situationally disqualifying *ad hominem* arguments? Are these two

categories really distinct? Are they both species of *ad hominem* arguments? After all, it is not obvious how or whether they are based on or involve attacks on an arguer's character. But if they are *ad hominem* arguments of some sort or sorts, how exactly do they fit into this category? Are they fallacious arguments? Or might they have something about them that is somewhat reasonable, at least up to a point? For pointing out an arguer's bias, or his lack of personal experience about something, can sometimes be a reasonable way of criticizing an argument he has put forward. In general, the problem with *ad hominem* arguments is that, although traditionally categorized as fallacious, they often have some basis of inherent reasonableness in them that should not be entirely discounted.

3. Types of *Ad Hominem* Arguments

Argumentum ad hominem is generally taken in logic textbooks to refer to a personal attack on an arguer used to claim that her argument should be given reduced credibility. The expression *argumentum ad hominem* is widely used in common speech where it is commonly taken to refer to the use of personal attack by one party in a dialogue to impugn the character of another party. The expression 'personal attack' means that the one party alleges that the other party has a bad ethical character. For example, the party attacked may be called a liar, or some other emotively negative language may be used to indicate a character fault worthy of condemnation. The most common subtypes of *ad hominem* featured in the textbooks are the abusive *ad hominem*, the circumstantial *ad hominem*, the bias type, the *tu quoque* type and the poisoning the well type (Walton, 1998). In the abusive *ad hominem* attack, it is straightforwardly claimed that the arguer has a bad character, and that therefore some particular argument she had put forward earlier should be discounted or rejected. Often a bad character for veracity is emphasized, which suggests that an arguer can't be trusted to tell the truth. In many cases, such a suggestion can have quite an impact on how an audience would judge a person's argument, as one can easily appreciate. For example in political argumentation, or in the case of a witness in a trial, whether the speaker's argument is credible may depend on how honest or reliable we take her to be. Even a small suspicion raised against her character can have quite a large effect on how an audience judges her argument or testimony. A small whiff of scandal can prejudice an audience. Indeed, many *ad hominem* arguments are so powerful precisely because of this "smear effect". Even a poorly substantiated innuendo leaves an audience with a lingering feeling of distrust and suspicion, raised by the personal attack.

The history of the *ad hominem* contains an ambiguity that has led to some confusion in textbook treatments. In the textbooks, that argument is mostly interpreted as a personal attack, as outlined above, But there is also a meaning of *ad hominem* which takes it to mean an argument *ex concessis* that uses an arguer's commitments (previous concessions) to try to make her follow a certain line. This meaning of *ad hominem* is found in Locke, Galileo, and Johnstone, but it can be traced back to Aristotle.⁵ The *ex concessis* type of argument is distinctively different from the *argumentum ad hominem*, but is related to it, especially to the circumstantial subtype. Let's call the party putting forward the original argument the proponent and the other party, who carries out the personal attack, the

⁵ Johnstone (1959, 1978) defined *argumentum ad hominem* as argument from commitment of a kind that could be reasonable in many instances, even though it has traditionally been considered fallacious.

respondent. The direct form of the *argumentum ad hominem*, often called the abusive *ad hominem*, is represented by the following argumentation scheme. It is better to call it the direct *ad hominem* because ‘abusive’, being a negative term, suggests that this form of argument is always fallacious.⁶

Argumentation Scheme for the Direct Ad Hominem Argument (Walton, 1998)

The respondent is a person of bad (defective) character.

Therefore the respondent’s argument should not be accepted.

Direct *ad hominem* arguments work because an attack on a respondent’s character, say for honesty, sincerity or trustworthiness, can undermine his credibility as a source. And credibility as a source is sometimes important as a reason for accepting a claim. But not all attacks on character should be classified as *ad hominem* arguments. To qualify as an *ad hominem* argument in the logical meaning of the term, the character attack must be used by the respondent to try to refute an argument previously put forward by the proponent.

Personal attack in argumentation is not inherently fallacious, and it has long been recognized, for example, in political argumentation, that a speaker's perceived goodness or badness of character is a major factor that will affect how audiences will take his arguments, and judge them to be persuasive or not. And indeed, if a person has a bad character for veracity, for example a witness in a criminal case, then attacking that person's character in order to make his or her testimony seem less plausible to a jury can be a reasonable form of argument. For example, in legal argumentation, it can be ruled admissible as evidence for an attorney cross-examining a witness to attack the character of the witness for honesty. Because this type of argument is sometimes legitimate, it is something of a misnomer to call it the “abusive” *ad hominem* argument. In Aristotle’s *Rhetoric* (Garver, 1994), argument from *ethos* (character) was regarded as highly important in public speaking, and in rhetoric of all kinds, and was recognized as a legitimate kind of argumentation. The following argumentation scheme for the negative ethotic type of argument was given in (Walton, 1995, p. 152), along with a set of critical questions matching the scheme.

Argumentation Scheme for the Negative Ethotic Argument

a is a person of bad character.

Therefore *a*’s argument α should not be accepted.

Matching Critical questions

CQ₁: Is the premise true (or well supported) that *a* is a person of bad character?

⁶ The general consensus is that *ad hominem* arguments should no longer be considered to be always fallacious, but should, in many common cases, be seen as reasonable but dangerous.

CQ₂: Is the issue of character relevant in the dialogue in which the argument was used?

CQ₃: Is the conclusion of the argument that α should be (absolutely) rejected even if other evidence to support α has been presented, or is the conclusion merely (the relative claim) that α should be assigned a reduced weight of credibility, relative to the total body of evidence available?

So, as suggested above, it is appropriate to re-name the abusive *ad hominem* type of argument and call it the ethotic type of *ad hominem* argument (or purely ethotic) to distinguish it from the circumstantial and bias subtypes. Or if the “abusive” label is retained, it could be reserved for the fallacious instances, where the ethotic argument has been misused. Thus the thesis proposed here is that the direct, or so-called abusive *ad hominem* is identical to the negative ethotic argument.

In the circumstantial type of attack, some personal circumstances of the arguer (very often, actions that she has performed) are cited as being in conflict with what she advocates in her argument. Political campaign advisers are particularly adept at deploying this type of argumentation. For an argument to qualify as a circumstantial *ad hominem*, it must meet two key criteria, on the above analysis. It must be based on an allegation of inconsistency, and this allegation must be the basis of a personal attack. What is most controversial about the system of classification proposed above is that it goes against the conventional wisdom that any argument attacking another argument as inconsistent comes under the *ad hominem* heading. On the system proposed above, this classification is too broad. On this new system, an *ad hominem* argument, even a circumstantial one, must be a personal attack. This is taken to mean that it must be an attack on the arguer’s ethical character, for example her character for honesty. If not, then it is not an *ad hominem* argument, in the technical sense proposed here for logic as a discipline. But this recommended technical sense of the term, at least arguably, preserves the commonly accepted meaning in English of the expression ‘*ad hominem* argument’.

Attacks on an arguer on grounds of bias are often classified under the *ad hominem* heading. For example, in Hurley (2003), all the examples classified under the circumstantial *ad hominem* category fit very nicely into the argument from bias category. In the bias type of attack, the arguer is said to have a personal bias, often in the form of a financial interest or something to gain. For example, suppose a speaker in an environmental debate, who has played down the damage of acid rain in the debate, is shown by her opponent to have ties with a large industrial corporation. This corporation may have much to lose by costly environmental controls that might be placed on industrial pollution.

Argumentation Scheme for Argument from Bias (Walton, 1998, p. 255)

If x is biased, then x is less likely to have taken the evidence on both sides into account in arriving at conclusion A .

Arguer a is biased.

Arguer *a* is less likely to have taken the evidence on both sides into account in arriving at conclusion *A*.

Such a bias *ad hominem* attack might have quite an effect on the audience judging the worth of the speaker's arguments in the debate. This kind of attack is even more powerful when it suggests that the arguer so attacked is not fairly considering the arguments on both sides of the issue, but has made up her mind at the outset, and is always pushing for the one side. Thus the worth of her future arguments are all devalued, even before they are advanced. Thus there is a close connection between arguments from bias and poisoning the well. If the bias alleged is used to argue that the person has a bad character, the bias argument can then become an *ad hominem* argument. For example a pattern of bias may be used as evidence to argue that the person attacked is not honest, sincere or reliable in taking part in a collaborative discussion. Like many other types of *ad hominem* arguments, the attack can be on the arguer's credibility as a person who can be trusted to sincerely take part in a dialogue exchange. Many types of dialogue require collaboration in accepting arguments that are based on good evidence, and accepted not just because they support your own position or personal interests. In a negotiation dialogue, interests loom large. But in a critical discussion or an inquiry, finding the truth should matter more. If a person keeps bending the evidence to her own interests, she can be open to a bias type of *ad hominem* attack that could be quite a legitimate argument.

What needs to be emphasized here is that the bias type of *ad hominem* argument, as well as argument from bias generally, are not necessarily fallacious. For example, such arguments are often allowed in court when an attorney is cross-examining a witness. The character of the witness for honesty (veracity) is held to be relevant in trial rules like the Federal Rules of Evidence. If the witness is being paid to testify for one side, the attorney has the right to ask her about whether she is being paid to testify. Such a question is allowed, even though an admission to this effect will have an effect on how the jury will weigh the plausibility of what she says, and the strength of the arguments she advances.

To sum up then, the system of classification proposed here is that there are three basic types of *ad hominem* argument, the direct (negative ethotic) type, the circumstantial type, and the bias type. All of them have historically been identified with argument from commitment. The latter two types have been identified with respectively with argument from inconsistent commitment (of the two kinds identified above) and argument from bias. It has been argued here that this old way of classifying such arguments is incorrect. To be an *ad hominem* argument, the given argument must be a personal attack. That is, it must be an attack on the arguer's character used to discredit her argument. Now we can go on to examine the fourth category of commonly recognized *ad hominem* argument, the poisoning the well type.

4. Poisoning the Well and Alleging Group Bias

My original hypothesis was that the poisoning the well type of argument should be classified as a species of *ad hominem* argument. In (Walton, 1995, p. 213) it was argued that the poisoning the well type of *ad hominem* argument is best treated as an extension of the bias type of *ad hominem* argument. The differentiating factor cited (Walton, 1995 p. 215) is that in the poisoning the well type of *ad hominem* argument, the bias is alleged

to be of the type that the person attacked can never change, or at least cannot practically change as far as the circumstances relevant to the argument are concerned. For example if someone is said to be biased because of gender, that is a factor that is not subject to change, at least practically speaking, with respect to the argument.⁷ The problem is that no matter how far such a person is balanced and fair in his argumentation, whatever he says in the future will be clouded by this allegation of bias. Thus the poisoning the well type of *ad hominem* attack can be described as a tactic that diffuses a discussion by disqualifying the attacked person from taking further meaningful part in it with any credibility.

Subsequent investigations have convinced me that the poisoning the well type of argument is more complex than it initially appeared to be. Much depends on how the *ad hominem* type of argument is defined, but the problem is that once we start investigating actual cases classified as instances of poisoning the well, we can see that some of them are less well classified as *ad hominem* arguments than others. The theoretical problem is similar to that discussed above in relation to arguments from inconsistency and bias. The issue is whether such arguments should properly be classified under the *ad hominem* heading. According to the analysis given in (Walton, 1998, pp. 257-258) there is a poisoning the well type of argument should be defined as a distinctive type of argumentation scheme in its own right.

Argumentation Scheme for Poisoning the Well by Alleging Group Bias

Person *a* has argued for a thesis *A*.

But *a* belongs to or is affiliated with group *G*.

It is known that group *G* is a special-interest partisan group that takes up a biased (dogmatic, prejudiced, fanatical) quarrelling attitude in pushing exclusively for its own point of view.

Therefore, one cannot engage in open-minded critical discussion of an issue with any members of *G*, and hence the arguments of *a* for *A* are not worth listening to or paying attention to in a critical discussion

Matching Critical questions

CQ1: Has *a* given any good reasons to support *A*?

CQ2: What kind of bias has *a* exhibited, and how strong is it?

CQ3: Is the kind of bias that *a* has exhibited a good reason for concluding that she is not honestly and collaboratively taking part in the dialogue?

⁷ As some critics will point out, it is possible to have a sex change operation. But within the framework of the argumentation in the case, that may not be a practical possibility that anyone is considering as altering the argument.

CQ3: Is there evidence of a dialectical shift in the case, for example, from a persuasion dialogue to a negotiation?

CQ4: Is the bias indicated in CQ2 of the very strong type that warrants the conclusion that *a* is not open to any argumentation that goes against her position (or seems to her to go against her position)?

This form of argument could be called the PWAGB (poisoning the well by alleging group bias) type. It is characteristically present in many cases of *ad hominem* arguments to be sure. But it also turns out to be present in many cases of argument from bias that should not properly be classified under the *ad hominem* category. One can easily criticize another party's argument by alleging that it shows a bias without the argument being a personal attack on the other party's ethical character. Yet of course, in many instances the bias argument is a lead-in to an *ad hominem* attack. This difference can be discussed by examining the two standard cases we began with.

The two cases classified as instances of poisoning the well in section 1 exhibit some key differences. Cardinal Newman evidently took the argument used against him by Kingsley as an *ad hominem* attack, because Kingsley used the argument to suggest that Newman, as a Catholic, had no regard for the truth of any matter being discussed. Without examining the details of Kingsley's text, it may be fair to assume that Newman was quite right to take it in this way. Interpreted in this way, the argument suggests that Newman is intellectually dishonest, a person who will put other considerations, like church interests, before the truth of a matter being discussed. Taken this way, the argument is that Newman is not trustworthy as an arguer who will admit defeat in a critical discussion, even if the evidence presented to him in the discussion is clearly shown to logically refute his opinion. Thus interpreting the argument in this way, it is true to say of it that an aspect of Newman's ethical character was being attacked – his character for intellectual honesty.

The abortion argument appears to be different in its aim, in that it is not an attack on an arguer's ethical character that uses that attack to try to refute his argument. The arguer is not attacking any individual man who disagrees with her position on abortion and claiming he is a liar, or is not trustworthy. No individual person's character is being attacked, as far as we can tell. Instead, all men are being attacked as a group, and their capability for entering into a discussion that can fully represent both sides of the abortion issue is being attacked holistically. It is a classic PWAGB argument. But it is not an *ad hominem* argument, according to the schemes laid out above. Thus a subtlety revealed by these two cases is that in some cases the poisoning the well argument is not an *ad hominem* argument while in other cases it is. The two can be combined in some instances, and this form of argument has been recognized in the literature (Walton, 1998, p. 255).

Argumentation Scheme for Poisoning the Well as Ad Hominem Argument

For every argument α in dialogue *D*, person *a* is biased.

Person *a*'s bias is a failure to honestly take part in a type of dialogue *D*, that α is part of.

Therefore *a* is a morally bad person.

Therefore *a* should not be given as much credibility as he would have without the bias.

Therefore α should be discounted (taken as less plausible than before).

Matching Critical questions

CQ1: What is the evidence that *a* has been biased with respect to every argument in the dialogue?

CQ2: Is the bias a normal partisan viewpoint that *a* has shown, or can it be shown to indicate that *a* is not honestly participating in the dialogue?

CQ3: In what respect is *a* a bad person, judging from the evidence of his participation in the dialogue that gives a reason for doubting his credibility?

The difference between the two cases concerns a wider and a narrower meaning of *argumentum ad hominem*. The narrower sense of *argumentum ad hominem* requires that the argument must be a personal attack on the individual arguer's ethical character. In this sense of the term, there must be two arguers, and one must attack the argument of the other by attacking his character. The broader sense does not require a character attack against a specific arguer. It only involves the inclusion of any arguer that might be opposed to one's viewpoint in a group, and a preemptive dismissal of the whole group as having the capability for engaging in rational argumentation. The basis of the dismissal is that the group as a whole has to be biased because they lack some kind of capability of being able to appreciate or consider the arguments on both sides.

Despite this key difference, the two arguments have much in common. Both are based on the membership of the opponent in some group, and it is in light of some alleged characteristic of this group as a whole that the individual opponent's arguments are discounted. Both are group attack arguments. However, even here there is a difference to note. Newman has voluntarily joined the group of Catholics, and presumably, he can leave it at any time. Being a man is not something that can be changed, at least so easily. You could have a sex change operation. But even if you did that, you still might not be able to see the issue of abortion from the woman's point of view. So this argument is based on a group membership that is fixed by factors, biological characteristics, that are outside of an arguer's control. In this way, the argument is more sweeping and perhaps more dangerous. It seems like an even more sweepingly dismissive strategy of exclusion than the one used in the Cardinal Newman argument. Any man who tries to support his viewpoint on the abortion issue by rational argumentation is attacked and defeated, even before he can enunciate his argument. Simply because he is a man, his argument is doomed to fail.

What these observations suggest is a new approach to poisoning the well arguments. The first hypothesis is that they are not always *ad hominem* arguments, and can exist in their own right, separately from *ad hominem* arguments. The PWAGB is a case in point. Also, it is possible that in the future other instances of poisoning the well arguments that

are not *ad hominem* arguments may be discovered. At the same time, the Newman case shows that the poisoning the well type of argument can sometimes be rightly classified as species of *ad hominem* argument that is a subtype of the bias type. But the fact that it can exist in its own right leads to the suggestion that it may represent a distinctive type of argumentation tactic or device worth study in its own right.

What seems to be essentially characteristic of the poisoning the well type of argument generally is that it has a diffusion effect in a dialogue between two parties. The dialectical situation can be described as follows. First one party in the dialogue, called the proponent, puts forward a particular argument. Then the second party, who we will call the respondent, attacks the proponent's argument by alleging something about the proponent concerning his bias or his personal credibility that disqualifies him from putting forward any argument that should carry with it any credibility. Such a reply has a diffusion effect because it does not merely refute the opponent's argument, it destroys his capability for putting forward any argument on the same subject, or perhaps even any argument on any subject, in the future discussion. In the case of the Cardinal Newman argument, he felt very threatened by the argument, even going to the extreme of writing a whole book trying to disarm it. Evidently he felt that the argument destroyed his capability for engaging in philosophical or political discourse at any future time with any degree of credibility. And he could well have been right. For such an argument can be extremely powerful. It works by sowing doubt, often on the basis of a kind of innuendo that destroys an arguer's credibility.

Finally, a word must be added about whether PWAGB arguments are fallacious or not. It seems that such arguments could be reasonable in some cases, if the premises are supported by evidence. Obviously also, they are very dangerous, because of the powerful effect they can have. They can also be associated with other forms of argument that are perhaps even more dangerous.

5. Implicit Premises

In commenting on this paper, David Hitchcock argued that the fault in both leading cases of poisoning the well cited in section 1 is not so much that their premises do not support their conclusion as that their premises are unjustified. Cardinal Newman did not anywhere write that truth ought not to be a virtue for the Roman clergy. Indeed, he himself was a Roman Catholic priest who prized truth as a virtue. It is possible for a man to see abortion from a woman's point of view, because we have the ability to learn by empathy even if we cannot experience directly what another person experiences. If this criticism is right, these arguments fail only because their premises are not justified, and that is no real ground for classifying them as fallacious. To show an argument is fallacious, one needs to show not just that it is weak, or has unsupported premises, but that it uses some systematic deceptive argumentation tactic to get the best of a speech partner unfairly. In section 7, this deceptive tactic notion on which the concept of fallacy is based will be discussed, but here we need to return to the Cardinal Newman example and the abortion example to respond to the criticism that their premises are not justified.

Kingsley's attack on Newman, and on Newman's arguments about matters of politics and the like, was indirect. He linked Newman and his teachings to the view that truth should not be regarded as a virtue by simply classifying Newman (correctly) as Catholic,

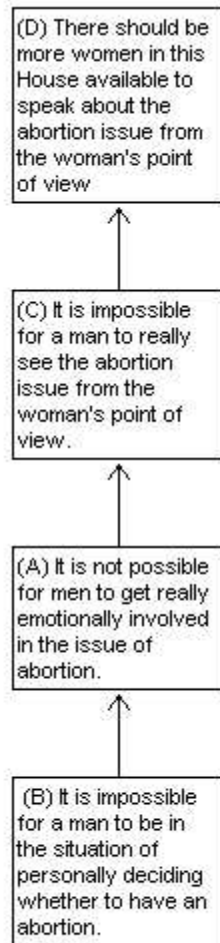
and by arguing at length that Catholics as a group do not prize truth. But the implicit conclusion of his argument, that Newman does not prize truth, since he is a Catholic, and Catholics do not prize truth, is a powerful attack. It is an innuendo, rather than an explicit premise or conclusion of Kingsley's, but even so, it does a lot of damage. The reason is that it disqualifies Newman from taking part in any critical discussion of any issue in which the participants need to put forward arguments that they really believe are cogent, and need to be open to critical questioning of these arguments. Otherwise, an arguer is not sincerely taking part in a critical discussion. How such a powerful poisoning the well attack exploits implicit premises to mount an innuendo can be shown precisely in the following analysis of the argumentation in the abortion example.

To begin to analyze the abortion argument, the basic propositions that are taken to be its premises and conclusions must be identified. These are identified in the following key list.

Key List for the Abortion Argument

- (A) It is not possible for men to get really emotionally involved in the issue of abortion.
- (B) It is impossible for a man to be in the situation of personally deciding whether to have an abortion.
- (C) It is impossible for a man to really see the abortion issue from the woman's point of view.
- (D) There should be more women in this House available to speak about the abortion issue from the woman's point of view.

We use the software system *Araucaria* (Reed and Rowe, 2002) to construct an argument diagram based on this analysis. So diagrammed, the abortion argument can be visualized as a serial argument.



If we examine this argument carefully, we can see that premise B is true, or at least it seems quite plausible, and there does not seem to be much reason to disagree with it. The inference from B to A, however, is weak, even though there is some basis for it. The generalization that warrants the inference from B to A could be stated as follows.

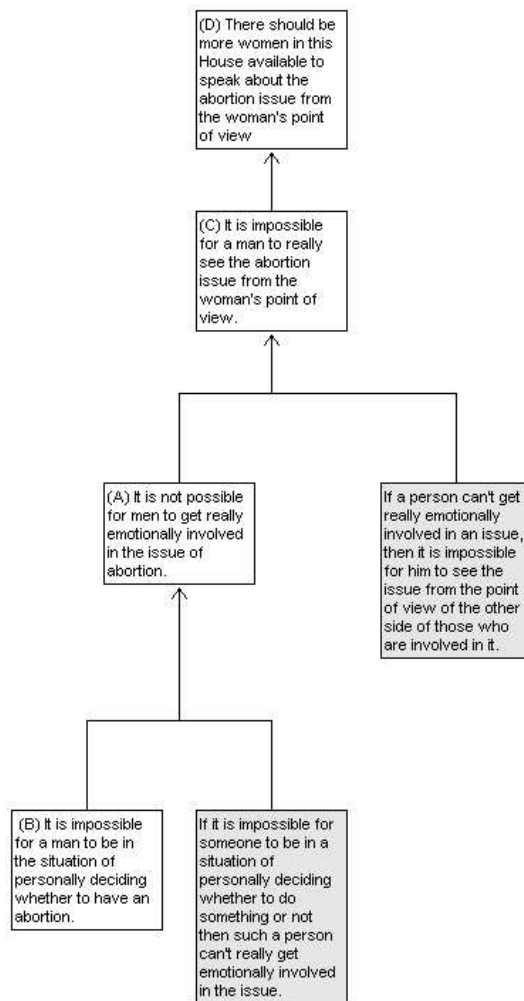
(E) If it is impossible for someone to be in a situation of personally deciding to do something or not then such a person can't get really emotionally involved in the issue.

Like many such generalizations, this one is hard to pin down to an exact meaning until terms in it like 'really emotionally involved' are precisely defined.

Similarly, the inference from A to C seems weak, but there is some basis for it. It seems to be based on a generalization something like this one.

(F) If a person can't get really emotionally involved in an issue, then it is impossible for him to see the issue from the point of view of the other side of those who are involved in it.

Thus the argument can be analyzed as an enthymeme in which E and F are premises. Each of them goes together with an explicit premise, and the structure of the whole argument can be diagrammed as follows.



In this diagram, the two generalizations E and F are represented as nonexplicit premises, and hence they are shown as shaded in the Araucaria diagram, differentiating them from the explicitly stated premises of the abortion argument. Now these two implicit assumptions have been brought to light, and the diagram has shown how they are used to draw inferences in a chain of argumentation, we need to ask what makes them plausible as assumptions.

It seems that the basis of these implicit premises and the way they are used to generate inferences is based on an even more general assumption about being personally in a position to know about something. This same aspect was at work in the examples of the situationally disqualifying type of *ad hominem* argument studied above. If you haven't had personal hands-on experience about something, it seems that an inference can be drawn that you are not really in a position to speak about it on the basis that you are in a position to know about it. This kind of inference is reminiscent of the argumentation scheme called argument from position to know (Walton, 2002, p. 46).

Argumentation Scheme for Argument from Position to Know

Source *a* is in a position to know about things in a certain subject domain *S* containing proposition *A*.

a asserts that *A* is true (false).

Therefore *A* is true (false).

Matching Critical Questions

CQ₁: Is *a* in position to know whether *A* is true (false)?

CQ₂: Is *a* an honest (trustworthy, reliable) source?

CQ₃: Did *a* assert that *A* is true (false)?

The cases studied above, including the ones classified as situationally disqualifying *ad hominem* arguments and the ones classified as poisoning the well arguments, are not position to know arguments, in any straightforward sense. But they do have a position to know aspect. They are negative arguments from a perceived failure to be in a personal position to know about something. From this negative premise, they draw a conclusion that has the effect of disqualifying an arguer from taking part in dialogue on an issue.

6. Classifying Position to Know and Situationally Disqualifying Arguments

Now we come to the problems posed by the case studies and analyses above concerning the classification of the various argumentation schemes. The first one is that although many of these forms of argument can be combined with the *argumentum ad hominem*, they can also exist in some cases as separate arguments in their own right. For example, argument from bias can be combined with *argumentum ad hominem*, producing the bias subtype, it can also exist as a separate form as an argument on its own. Also, we will now proceed to show that the two cases of the situationally disqualifying argument above, as well as the abortion argument, should not be classified as *ad hominem* arguments. This is assuming that no personal attack on the arguer's character is involved.

The first thing to be aware of is how the poisoning the well argument works in a dialogue setting. It is not just a single refutation of an arguer's single argument. It damns the source and shuts down all future arguments that the arguer who has been attacked by it might put forward in the remaining part of the dialogue. Thus it is an extremely powerful argument, and a hard one to defend against. Like all such powerful argumentation strategies, this argument is not wholly fallacious. It is based on a true premise. That premise is that the person who is directly involved in a situation, and has been personally affected by it, is in a special position to know about an issue about that situation. While you can have empathy for another person's situation, you can't have the exactly same insight into that situation, and experiences related to it, that the person

directly involved has. The situationally disqualifying *ad hominem* argument is plausible partly because it rests on the same premise. The structure of the poisoning the well type of argument can thus be seen in some instances as based on a prior type of argument from lack of being in a position to know that builds on such a premise.

Negative Argument from Position to Know Based on Personal Situation

Source *a* is not in a position to know about things on a certain issue *I* because he does not or even cannot personally be in a situation to have experienced such things.

Source *a* puts forward argument α .

α is about issue *I*.

Therefore argument α can be discounted.

This argument appears to be somewhat reasonable, as long as argument α is not discounted as being entirely worthless. Think of witness testimony in law, where the someone who did see an event himself, and was thus directly in a position to know exactly what happened, can testify about what happened in the same way that someone who did not see it cannot. Although this argument has a reasonable basis in some cases, it can also be pushed too far. As David Hitchcock pointed out, there is such a thing as communication between human beings from different groups. We can learn by analogy what it is like to experience things that we cannot directly experience ourselves. Empathy is possible, and is surely the basis for argumentation that rests on another party's viewpoint in a critical discussion. Many legitimate arguments, in cases where a conclusion has to be arrived at under conditions of uncertainty and lack of first-hand knowledge, are based on this kind of indirect knowledge of something.

In addition, it needs to be noted that the poisoning the well type of argument is different from negative argument from position to know based on personal situation. It is an even stronger form of argumentation covering three previous schemes.

Poisoning the Well Argument

Source *a* is not in a position to know or speak about things on issue *I* because he does not or even cannot personally be in a situation to have experienced such things, or is biased, or has bad character.

Therefore whatever *a* says on issue *I* can be disregarded.

In the poisoning the well argument, every argument that *a* puts forward on issue can be disregarded as worthless. This includes all arguments he might put forward in the future as well as those he has put forward in the past. Thus this is a much stronger form of argumentation than negative argument from position to know based on personal situation or than *ad hominem*.

Now we come to the question of how to judge whether arguments falling into all the various types studied above are reasonable, strong, weak or fallacious. The first point to be made is that negative argument from position to know based on personal situation is not inherently fallacious. It is a species of position to know argumentation that tends to be weak, and that can easily go wrong by being taken as stronger than it really is. But it does have some basis of reasonableness. On the other hand, the poisoning the well type of argument, although it is a species of this former type of argumentation, and as such has some rational basis, is an extremely dangerous form of argumentation. It goes too far. It starts from what could be true premises, in some cases, but then moves ahead drastically to shut down the attacked arguer's capability for taking any meaningful part in a discussion. This is a kind of fallacy. The modus operandi of it is comparable to that of the *ad verecundiam* fallacy, where an arguer's arguments are disregarded as entirely worthless because he is not an expert in a domain of knowledge on the issue being discussed. This is a tactic used to try to shut somebody up.

Having arrived at this general conclusion about poisoning the well as a fallacy, there are several other points of contention that also require attention. How does the fallacy actually work, for example in the abortion argument? It works because the basically reasonable negative argument from position to know is posed in stronger form in individual cases that makes it fit the poisoning the well scheme. But the stronger version of the argument can be concealed through the use of implicit premises, making the argument an enthymeme. Let us examine once again the implicit premises identified in the analysis of the abortion argument brought to light in the diagram above.

(E) If it is impossible for someone to be in a situation of personally deciding to do something or not then such a person can't get really emotionally involved in the issue.

(F) If a person can't get really emotionally involved in an issue, then it is impossible for him to see the issue from the point of view of the other side of those who are involved in it.

The problem with these generalizations as warrants for the inferences drawn in the chain of argumentation in the abortion argument is that they are weak. Consider E first. Suppose my mother is terminally ill with cancer and she has to decide whether to take chemotherapy or not. It's her decision, but that isn't to say that I can't get "really emotionally involved in the issue". Now consider F. Suppose I am a mediator in divorce dispute. I am not supposed to get emotionally involved, as a mediator, or to take sides. Yet I am supposed to see the issue from the point of view of the one side as well as that of the other side. Thus the problem with E and F is that they deny the possibility of skills that are admittedly difficult to achieve, but that are necessary if argumentation of various important kinds is to be useful in achieving goals.

This form of argument is represented by the argumentation scheme for the situationally disqualifying argument exhibited in section 2 above. On the other hand, it is possible to have a situationally disqualifying type of *ad hominem* argument. Such an argument has to meet the requirements for the argumentation scheme below (Walton, 1998, p. 258).

Scheme for the Situationally Disqualifying Type of Ad Hominem Argument

In dialogue *D*, *a* advocates argument α , which has proposition *A* as its conclusion.

a has certain features in his personal situation that make it inappropriate for him to make a dialectical contribution to *D*.

Therefore, *a* is a morally bad person.

Therefore, *a*'s argument α should not be accepted.

Matching Critical Questions

CQ1: What features of *a*'s personal situation make it inappropriate for him to contribute to *D*?

CQ2: Do the features of *a*'s situation cited give any good reason to make one conclude that it is inappropriate to contribute to *D*?

CQ2: Could *a*'s argument be worth considering on its merits, even though there is reason to think them inappropriate for *D*?

The leading example of this type of argument is the Cardinal Newman argument, assuming that Newman's character for honesty was being attacked. Here then is a key difference between the Cardinal Newman argument and the abortion argument. The former is a poisoning the well *ad hominem* argument while the latter is a poisoning the well argument but not an *ad hominem* argument.

Now we must turn to the situationally disqualifying type of argument, as represented by the examples of the Gulf War argument and the armored vehicles argument presented in section 2. To analyze these examples in the best possible way, utilizing the schemes set forth above, it seems necessary to take the step of revising their classification. They don't seem to be *ad hominem* arguments since they do not appear to include a negative ethotic attack on the arguer's character, in either instance. If this interpretation of the text of discourse of either case is right, then the argument in each is not properly an *ad hominem* argument, even though it is a situationally disqualifying argument. This conclusion is a significant one, and requires a revising of the classification of this form of argumentation in the earlier literature.

The poisoning the well argument turns out, therefore, to represent quite a complex type of argumentation, combining the negative position to know argument with the argument from bias in many instances, or using either separately, and often combining one or both of these with the argumentum *ad hominem*. The first problem with any case of poisoning the well is to identify the type of argument more precisely by analyzing the individual case to arrive at a hypothesis on how to judge which argumentation scheme or schemes are appropriate to represent the argument. The other problem is that many of these arguments can be reasonable in some instances, so an evaluation of the argumentation needs to be made. An assessment needs to be made on whether the

premises of the argument are true (or acceptable based on the known evidence), and whether the conclusion follows from the premises. Such arguments tend to be best classified not as being deductively valid or inductively strong. Rather they are meant to carry some weight as evidence to shift a burden of proof in a dialogue, and are defeasible arguments that should properly be seen as open to critical questioning. But if they shut down a dialogue, by impeding the asking of such questions, by impugning the source as biased or as not being in a position to know about the issue being discussed, they can be fallacious. The key to poisoning the well is that it shifts from the evidence presented by an argument to the arguer herself. This is true with other forms of argument that are source-based as well, like *ad hominem*, appeal to expert opinion and appeal to witness testimony. Poisoning the well fits well with *argumentum ad hominem* because this type of argument is negative – *ad hominem* works by discrediting the source. It does this by arguing from negative position to know or by argument from bias. But poisoning the well is a special type of argumentation tactic because it not only attacks the credibility of the source, it has a way of discrediting whatever the source says in the future of discussion on an issue. The source is not only discredited, but is even disqualified from taking any further meaningful part in a discussion. Such arguments, however, contain the seeds of their own destruction.

For example if a proponent argues that a respondent is disqualified to speak on the issue of abortion because he is a man, and is therefore not in a position to know about abortion, the respondent can always reply that the proponent, as a woman, will always be biased in favor of the position representing the woman's point of view. Thus the best way to reply to a poisoning the well is often to use a *tu quoque* strategy by devising an opposed poisoning the well argument. Unfortunately, however, this reply tends to lead to an eristic dialogue in which each side attacks the credibility of the other. The danger is that the discussion on the issue is effectively stopped as the argumentation shifts to a different kind of dialogue.

7. Dialectical Analysis of Poisoning the Well

There may be nothing wrong with arguing that an opponent's argument should be discounted because he has lied, or otherwise shown dishonesty and disregard for the truth of matter being discussed. The many forms of *ad hominem* argument we have examined can often be reasonable. But there is a danger of using rhetorical tactics of this sort that that they can be so powerful in many instances that they can shut down a discussion by poisoning the well. Johnstone (1981, p. 310) identified the basic imperative of ethical rhetoric by stating this principle: "So act in each instance as to encourage, rather than suppress, the capacity to persuade and to be persuaded, whether the capacity in question is yours or another's." This principle was a predecessor of rules for critical discussion set out by van Eemeren and Grootendorst (1984, 1992, 2004), and formulates a duty of openness in rational argumentation. By seeing his principle of openness as incompatible with fallacious moves like appeals to force or threats in place of rational persuasion (p. 311), Johnstone also paved the way for a solution to the problem of understanding why poisoning the well arguments can be both rhetorically powerful and yet fallacious. Although parties engaged in a critical discussion are committed to norms instrumental for

achieving a successful outcome of the process, they are also interested in resolving the issue by winning the argument (van Eemeren and Houtlosser, 2002, p. 134).

As shown in the analyses of the argumentation in the Cardinal Newman example and the abortion example above, the poisoning the well fallacy in each case is not easy to diagnose. First, the structure of the arguments as a set of premises and a conclusion has to be analyzed, exhibiting an implicit premise that is inadequately supported. This weak implicit premise, however, is not all there is to explaining the fallacy. The fallacy resides in the use of the premise as part of argument that mounts an innuendo, suggesting that the arguer is somehow dishonest or biased in way that disqualifies him from taking him from taking part in a critical discussion. The attack knocks his argumentation out by disqualifying whatever he says henceforth as tainted and illegitimate, thus shutting off any future critical discussion. David Hitchcock articulated this dialectical analysis of the fallacy in the Cardinal Newman example by stating that the personal attack alleged a fault so sweeping that its target is left in a position of being unable to refute the allegation: "A person who is alleged to believe that truth ought not to be a virtue cannot protest that he prizes truth, since he has already been stigmatized as a person whose word cannot be trusted". Having a critical discussion requires that each side can have insight into the position of the other side, and that such insight into the other's viewpoint is improved through the discussion. This possibility is precisely what the poisoning the well type argument is designed to shut down. This insight about how poisoning the well works as a powerful device of strategic maneuvering (van Eemeren and Houtlosser, 2002) leads to the necessity of taking a dialectical approach to analyzing it as a fallacy.

It would not be completely right to say that poisoning the well is an interesting fallacy to study because it is included in the logic textbooks. A better reason is that it is interesting because it works so well as a sophisticated tactics type of fallacy. It is a powerful way of knocking someone out of contention in an argument even if, or especially if, he has advanced a good argument. Poisoning the well is associated with several forms of argument that can be fallacious, but it is not any particular argumentation scheme itself that is fallacious. The fallacy is dialectical one that is a violation of Johnstone's principle requiring a participant in a discussion to act in each instance so as to encourage, rather than suppress the capacity to persuade and to be persuaded. The poisoning the well fallacy is committed in the argumentation stage of a discussion, but the root of it is in the earlier stages of the dialogue, the confrontation stage and the opening stage. According to van Eemeren and Grootendorst (1992, p. 35), a critical discussion has four stages. At the confrontation stage, the one party to the dialogue puts forward a viewpoint and the other party questions it, thereby making clear that there is a dispute to be resolved. At the opening stage, the decision is made by both parties to resolve the dispute by means of argumentation following procedural rules. At the argumentation stage, the proponent defends his viewpoint by putting forward arguments, and the respondent critically questions this argumentation and poses counter arguments. At the concluding stage, it is established whether the dispute has been resolved, so that one party is obliged to withdraw its viewpoint and accept the viewpoint of the other side.

The normative basis for the fallacy of poisoning the well is essentially established by the requirement of the argumentation stage that the proponent should defend his viewpoint by putting forward arguments that supports his viewpoint. The critical discussion works very well only if the proponent puts forward the most important and

persuasive arguments that are relevant to support his viewpoint and, and the respondent actively critically questions these arguments, pointing out weaknesses in them and posing significant counter-arguments that can be used against them. This function can only be fulfilled if the proponent is allowed to put such arguments forward. If the proponent is prevented from putting such arguments forward by excluding or devaluing them in advance, the critical discussion stands no chance of successfully proceeding through the argumentation stage and arriving at the concluding stage. These requirements for success of the argumentation stage are clearly specified in the confrontation stage and the opening stage. It is clearly stated that requirements set by these earlier stages are that the proponent should advance arguments that defend his viewpoint, so that given the conflict of opinions, the other side can then challenge this defense of the viewpoint by mounting criticisms and relevant counter-arguments.

The poisoning the well fallacy is a strategy used by the respondent to block proper fulfillment of this function at the argumentation stage by violating the requirements set at the confrontation stage and the opening stage. Blocking this function can be done in various ways. Many of the most common of these ways are associated with other informal fallacies, and with argumentation schemes that are at the basis of these fallacies. However the fallacy of poisoning the well should not itself be identified with any single one of these fallacies, as is commonly done in the logic textbooks, for example by classifying it as a subcategory of *ad hominem* fallacy. It is a dialectical fallacy associated with a strategy of systematically blocking the main function of the argumentation stage by violating the norms set to make fulfilling that function possible in the prior two stages. Thus it is a dialectical fallacy. Having said that, however, it is important to repeat that it is closely allied to several of the other major fallacies, and to the argumentation schemes that underlie them. Thus it is important to study the relationships within this group of fallacies by examining their overlapping methods.

Van Eemeren and Grootendorst have made no specific comments on the fallacy of poisoning the well, as far as I can tell, but they did offer a dialectical analysis of the *ad hominem* fallacy that could perhaps be extended to it. On their analysis (1984, p. 191), the *ad hominem* fallacy is not purely an inferential failure, but a dialectical failure of an argument to meet the normative requirement of a critical discussion that the participants have an unconditional right to advance or criticize any viewpoint. On their account (p. 192), the analysis of the *ad hominem* fallacy “presents considerable difficulties” if it is “linked exclusively to the invalidity of the arguments” put forward by the proponent. Their analysis gets around these difficulties by linking their analysis of the *ad hominem* fallacy to “rules relating to the opening stage”. Van Eemeren and Grootendorst (2004, p. 178) remarked that all three variants of the *ad hominem* fallacy they studied “can be used to *silence* (their italics) the other party in the presence of a third party”. They see the abusive and circumstantial variants as violations of the rules of a critical discussion entitling an arguer to put forward and challenge arguments of the other party: “That the other party is a bad person or has a financial interest in winning the discussion is no valid reason for the protagonist to refuse to take up that party’s challenge”. The hypothesis suggested here is that the dialectical type of analysis of the *ad hominem* fallacy put forward by van Eemeren and Grootendorst can be extended, in a modified form, to encompass the poisoning the well fallacy.

The poisoning the well strategic maneuvering in a dialogue can only be understood fully by grasping the tension between pursuing a dialectical versus a rhetorical goal in a crucial discussion. Parties want to produce the most persuasive arguments they can at the argumentation stage, but they must be presumed to hold to agreements made earlier in the dialectical sequence linking the two prior stages to the argumentation stage (van Eemeren and Houtlosser, 2002, p. 135). Based on this model of a fallacy as a derailment of strategic maneuvering, an argument should only be properly judged fallacious if it fails to allow commitment to reasonable exchange of argumentative moves appropriate for a stage of a dialogue. On this basis an argument commits the fallacy of poisoning the well if it is used as a tactic to shut the other party up and prevent him from taking any further meaningful part in the dialogue. The case studies in this paper have revealed why such an argument should not be classified as an instance of the poisoning the well fallacy only because it is a weak inference, or has poorly supported premises in an argumentation scheme for an *ad hominem* argument, a bias argument, or an argument of one of the other types studied above.

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