Chapter 4
The Strategies of Misattribution of Commitments

The distinctions mentioned in Chap. 3 between strengths of contents and levels of commitments are useful for establishing what a speaker can be held to endorse and be responsible for (Capone 2016). In order for a commitment to be attributable to the speaker, it is necessary to establish whether it results from a strong intention (Capone 2009), which is made explicit (and retrievable by the interpreter or quoter) through textual and contextual evidence (Allan 2013; Capone 2012) and the hierarchy of presumptions the interlocutors can reasonably rely on (Dascal 2003; Macagno and Capone 2016). As mentioned in the previous chapters, quotations mostly represent only an illocutionary act and the proposition expressed, selecting, marking, and emphasizing the dimension thereof more convenient to the quoter’s interests (Clark and Gerrig 1990, p. 779). However, in order to establish the correctness of a quotation, other factors need to be taken into account such as the conversational dimension and the context. In this sense, a test for the reasonableness of a quotation would be the fulfillment of a burden of quotation (Macagno 2016b; Macagno and Capone 2016). The quoter, responsible for the selection of the aspects reported (Clark and Gerrig 1990, p. 792), should be able to prove that the direct or indirect quotation (which is often the result of a pragmatic processing of the utterance) is supported by the context. In this sense, the representation (or “demonstration”) of the speaker’s commitments can be conceived as a conclusion of an implicit interpretive argument, grounded on textual, contextual, and conversational evidence. The speaker is held responsible for the contents directly resulting from his strong communicative intention, namely the ones relevant to the conversation. Such contents can be conceived from an argumentative perspective as an implicit micro-argument, or better a pattern of reasoning supporting the implicit conclusion that constitutes the goal of the concerned discourse or part of discourse (Lascarides et al. 1996; van Eemeren and Grootendorst 2004; Walton 1989, 2003a, b). In cases of weak or non-strong commitments, resulting from pragmatic processes that are not overtly connected with his strong communicative intention (namely not clearly relevant in the specific context), the quotation can be extremely dangerous and fallacious, unless adequately backed by reasons fulfilling a burden of quotation.
4.1 Types of Straw Man

Straw man is a dialogical and dialectical strategy aimed at pursuing different goals (Aikin and Casey 2011). It consists in a distortion of the Original Speaker’s commitments, relying on the possible ambiguity of his statements. As seen in the previous chapter, ambiguity can be at a semantic or “pragmatic” level, which includes dialogical (in the sense of dialogical purpose) and implicit ambiguity (including the types of indirectly conveyed meaning). Semantic, dialogical, and implicit ambiguity affect the perlocutionary effects of the move, which is a further type of ambiguity. All these types of ambiguity can be used to alter or misinterpret the dialogue move of the Original Speaker, introducing into the latter’s commitments store commitments that he never held, and that he now needs to correct (Macagno and Damele 2013). This strategy thus places onto the Original Speaker an undue burden of disproof. Clearly, the less explicit and the smallest the distortion of the original move (and more importantly of the quoted or reported statement), the higher is the burden of disproving it.

In order to describe straw man fallacy, it can be useful to bring to light its components, which can provide criteria for distinguishing different types of mischievous strategies that can fall under this label. The first and essential dimension of straw man is the distortion, or rather the type of distorted content that results in the misattribution of commitments. The second dimension is the use of the distortion. The commitment attributed to the Original Speaker – and “unsubscribed” by the latter – is used by the speaker (the quoter or the reporting party) for pursuing specific argumentative goals. We will classify the most common ones in two broad categories, the meta-dialogical and the dialogical purposes.

Meta-dialogical purposes refer to the attacks to the person. Such attacks are aimed at discrediting the Original Speaker (who can be directly engaged in a discussion, and whom, in this case, we will also refer to indistinctly as the “interlocutor” or H), in order either to pursue a further argumentative or meta-argumentative goal. In the first case, the attack on the person can be aimed at undermining arguments from expertise or testimony, or pointing out the higher qualities of the quoter (the Speaker). In the second case, the attack can be simply aimed at excluding the interlocutor from the dialogue (such as in cases in which the Speaker wants to avoid a problematic dialogue) or criticizing him (such as in cases of defamation). The attacks to the person based on a distortion of his commitments can be carried out by relying on two broad type of tactics, namely the direct attack grounded on his commitments (OS is a bad person because he said that $p$) or the indirect attack, i.e. the victimization (the interlocutor is a bad person because he treated me badly).

Dialogical purposes refer to the attacks to the argument or the claim of the interlocutor in a dialogue (real or fictitious) in order to reject it, and possibly thus supporting the opposing one. The Speaker can rely on different tactics of attack. The first tactic is to use OS’s argument or claim to support the Speaker’s position directly. The Interlocutor’s position is distorted so that its unacceptability becomes evident, and thus can be used to support a specific conclusion, which is either alternative to
it, or grounded on the very unacceptability of the claim. The second tactic is the direct attack. The conclusion or the claim is simply distorted and thus easily rebuttable by a contrary argument or criticism. The third and the subtler one is the underminer. The Speaker distorts an implicit component of H’s argument (a presupposition or an implicit premise) in order to show how the whole argument is not sound or not reasonable. The Speaker can also undermine in this way a claim: by distorting one of its presuppositions, he can show how the claim makes little sense, or is contradictory, or is unacceptable.

The classification of straw man strategies can be represented in the following Fig. 4.1:

Fig. 4.1 Types of straw man

These attacks can be classified from the point of view of the structure of an argument as explicit or implicit. The speaker can convey the distorted meaning explicitly or implicitly. He can simply state the distorted quotation or report, but then he would incur the burden of proving that his interpretation is the most reasonable one in case it is challenged. Or he can take for granted the distortion, thus avoiding any burden of proof. These strategies can be more complex, in the sense that the burden of disproof cast on the interlocutor or the Original Speaker can be increased by means of rhetorical tactics, grounded on emotions. These rhetorical strategies are often used in meta-dialogical attacks, and are based on the arousal of emotions such as hate, contempt, or indignation. In the next sections, we will illustrate these different types of straw man using cases drawn from legal and the political contexts.
4.2 **Meta-DIALOGICAL STRAW MAN – DIRECT ATTACKS IN NON-DIALOGICAL SETTINGs**

The straw man strategy can be used for directly attacking the Original Speaker, which can be a party to a dialogue (an interlocutor) or simply the source of a claim. The simplest scenario is the non-dialogical one, in which the quoter or reporting party (the Speaker) alters the commitments of the Original Speaker in order to draw a conclusion about his character, which can be used to draw the audience’s attention by means of emotions (defamation, criticism, etc.).

In non-dialogical scenarios, the argumentative goal of the Speaker is to attack the Original Speaker by distorting his commitments. This move can be aimed at discrediting him, or proving a specific point, for example that the Original Speaker is morally questionable, in order to achieve a further goal (arouse emotions). The original statement can be distorted in various ways, depending on the type of content that the Speaker intends to distort.

4.2.1 **DIRECTLY CONVEYED CONTENT**

In defamation cases, the Original Speaker’s commitments can be distorted by quoting his words without providing the explication of the underspecified expressions. In other words, by taking the words out of their context, the Speaker (the quoter) can then explicate their meaning in a way that is the most convenient to his purposes. Whereas the context provides clear indications on how to explicate the implicit dimension of what is explicitly said, by taking the quote out of its context the quoter can rely on the presumptive interpretation of the meaning. This presumptive meaning can be different from the contextual one.

A clear example is the following famous defamation case, in which the plaintiff, Dr. Frederick Price, a minister known for his television evangelism, was quoted in a clip broadcasted by the American Broadcasting Companies as having claimed the following during a sermon (*Price v. Stossel*, 620 F.3d 992 at 995. 2010):

**Case 4.1: The Sermon**

I live in a 25-room mansion. I have my own $6 million yacht. I have my own private jet, and I have my own helicopter, and I have seven luxury automobiles.

ABC quoted Price out of the context of his sermon, and suggested that he was boasting about his own wealth. The whole ABC program, hosted by John Stossel and entitled “Enough,” focused on “wealthy preachers,” namely ministers who were not forthcoming about their wealth. The program begins by stating “[t]hey preach the gospel of giving to God,” then asks “[b]ut how much of what you give do they keep for themselves?” The quote mentioned above was aimed at criticizing the way Price used the money given by the members of his congregation (it was shown after interviewing members of the congregation about their opinion on Price’s use of money).
However, in the original sermon, Price was “speaking from the perspective of a hypothetical person who, though wealthy, was spiritually unfulfilled” (Price at 995). The defamatory interpretation of the claim relied on a presumptive explication, consisting in assigning to the pronoun “I” its presumptive reference, namely the (original) speaker (Price, in this case). Clearly, this presumptive interpretation is subject to default in the context in which Price was criticizing wealth for its own sake, and was speaking from the perspective of the unfulfilled rich man. The quotation in context could be interpreted as follows (Macagno and Capone 2016, p. 410):

\[
\text{(Let us suppose that) I (as a hypothetical person) live in a 25-room mansion. (Let us suppose that) I (as a hypothetical person) have my own $6 million yacht. (Let us suppose that) I (as a hypothetical person) have my own private jet, and I have my own helicopter, and I have seven luxury automobiles. (However, despite all this wealth, let us suppose that I am spiritually unfulfilled).}
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In this case, the missing specification of the nominal phrase (I – as a hypothetical person) leads to a presumptive and univocal interpretation, which is completely different from the one that can be drawn considering all the contextual evidence.

### 4.2.2 Indirectly Conveyed Content

A straw man can consist in a distortion of the possible implicitly conveyed meaning of an utterance. By omitting the co-text, the speaker can lead the audience to drawing the presumptive conclusion from a statement and the context in which it was made. A clear case was the story that circulated in the American newspapers concerning a statement made by Vice-President Al Gore in an interview in a CNN program, concerning his plans for running for president. Gore became the subject of a controversy when his statement “I took the initiative in creating the Internet” was reported by the media out of context, and used for ridiculing Gore for claiming that he invented the Internet (Walton 2013, p. 153). This claim was taken to be preposterous, and when widely passed around on the media as a joke, it was used to discredit Gore’s credibility by making him appear to be a person given to making exaggerated claims. It even suggested that Gore is a liar.

The quotation and the attack, however, need to be analyzed by considering the whole co-text and context in which it was made, namely considering the whole evidence that can be found. In the CNN program, the interviewer asked Gore to tell what distinguished him from a challenger for the presidential nomination, Gore gave the following reply¹:

Case 4.2: Gore and the Internet

I’ve traveled to every part of this country during the last six years. During my service in the United States Congress, I took the initiative in creating the Internet. I took the initiative in moving forward a whole range of initiatives that have proven to be important to our country’s economic growth and environmental protection, improvements in our educational system.

The problem posed then was to try to pin down what Gore could have been reasonably taken to have meant, according to the wording of the above quotation. From a Gricean point of view, the speaker may have relied on flouting the maxim of quantity, being less informative than required, thus triggering the implicature that he in fact created the Internet himself (Israel 2006). Alternatively, he can have abided by it. It all depends on the amount of information that was required, which would be extremely complex to calculate. This does not solve the problem of determining what Gore meant. If we analyze the presumptions underlying the straw man, we can reconstruct the reasoning and then assess it based on the other available presumptions and the cotextual and contextual evidence. The quotation out of context can lead to the following reasoning:

1. **Premise**: I took the initiative in creating the Internet.
2. **Presumption (habits)**: Who claims, in order to point out his own merits, to have taken care of doing something, usually refers to what he has done personally.
3. **Premise**: Gore’s communicative goal was to point out his own merits.
4. **Preliminary conclusion**: Gore was presumably referring to what he did personally.
5. **Conclusion**: Gore’s statement presumptively means, “I have personally invented the Internet.”

However, the presumption used in the interpretive process is easily rebutted by other presumptions arising out of the co-textual evidence available in the whole quote. More specifically, Gore is listing his policies, namely the initiatives important for the US that he “moved forward,” including education and the Internet. We can represent the presumptive mechanism in the following Fig. 4.2:

![Fig. 4.2 Presumptions in reconstructing Gore’s statement](image-url)
In this framework, the evidence that can be used to support an interpretation is carefully evaluated (Blum-Kulka and Weizman 2014, p. 109) and represented as a micro-argumentative structure (Macagno 2011, 2012; Macagno and Walton 2013). The conclusion of this process is hardly defeasible, considering the evidence provided by the context and co-text.

This micro-argumentation, within the interpretive process, can be also supported by external arguments by example. For example, to support this interpretation, one could argue that taking the initiative to do something does not imply actually doing it yourself, as also President Franklin D. Roosevelt claimed that he took the initiative in creating the atomic bomb. We all know that he did not create the atomic bomb by himself, or even take part in the building of it alongside the scientists and engineers. However, we also know that it required his support to back the continuing work on building the nuclear weapon. So it could reasonably enough be claimed that he took the initiative in creating the bomb without drawing the conclusion that he created the bomb.

4.2.3 **Dialogical Purpose and “Perlocutionary” Effects**

A quotation can be wrenched from its co-text and context in order to lead the audience to misinterpreting its dialogical purpose. By preventing the audience from accessing evidence relevant to assessing the various presumptions needed for retrieving the best interpretation of an utterance or discourse move, the speaker can trigger a presumptive interpretation of its dialogical purpose, which in turn can support a further conclusion or arouse specific emotions. In this sense, the so-called “perlocutionary effects” can be manipulated by altering the interpretation of a dialogue move or text. This misinterpretation, in turn, can be grounded on a presumptive interpretation of the semantic or implicitly conveyed meaning.

4.2.3.1 **Dialogical Purpose and Linguistic Presumptions**

The presumptive interpretation of semantic meaning is clearly defeasible when evidence of the dialogical context is provided. By omitting it, the quoter can trigger strong conclusions about the possible dialogical goal of the Original Speaker. The famous Blackmail case (Case 4.5) is a clear example of straw man arising from the alteration of the dialogical purpose based on the presumptive semantic interpretation of an utterance. As seen above (p. 48), Mr. Bresler was accused of “blackmailing” the city council of Greenbelt, and he pressed charges based on the presumptive meaning of the word “to blackmail.” Since “blackmail” means “extortion through threat,” the presumptive dialogical purpose attributed to the council members was to accuse him of a crime (denouncing his criminal activity). However, Bresler took the quotation out of context in order to attack the newspaper (and then claim compensation). The actual co-text and most importantly context (a heated negotiation)
excluded that the city members intended to denounce him of a crime. Rather, using loaded language, they presumably were aimed at attacking him and giving vent to their emotions.

The omission of the dialogical context is the misquotation strategy used in another famous case of straw man, *Horsley v. Rivera* (292 F.3d 695, 2002). The context was a television debate concerning a website created by the plaintiff, Mr. Horsley, on which the names of the doctors that were practicing abortion were published. In October 1998, a medical doctor who performed abortions as part of his practice was shot and killed, and soon after the killing, Horsley added the name of the murdered doctor to his list and then graphically crossed out this entry. In the television debate, Mr. Rivera accused Horsley of being an “accomplice to murder” (*Rivera* at 698, 702):

**Case 4.3: Accomplice to Homicide**

*Rivera:* You are an accomplice to homicide, Mr. Horsley.

*Horsley:* You are, too, because you’re—you’re showing exactly the same information.

You’re telling people about The Nuremberg Files list. You’re a collaborator just like I am, if that’s true.

*Rivera:* If giving you publicity is, then I feel ashamed. I feel deeply ashamed of myself.

Horsley pressed charges, claiming that Rivera was accusing him of the crime of complicity to a murder. In his complaint, Rivera omitted the relevant contextual evidence and pointed out only the expression “accomplice to homicide,” which presumptively means, “actively participating in the commission of a crime.” Without evidence of the context, the presumptive dialogical purpose for which this utterance was made can be presumptively reconstructed as an accusation. However, the court found that the purpose of the dialogue move could be retrieved from the type of dialogue in which it was put forward, which was an eristic dialogue. Since Rivera’s utterance was followed by a similar attack by Horsley, the presumptive purpose of the interaction was to give vent to emotions and insult each other. For this reason, the presumed goal of charging the interlocutor of a crime is subject to defeat, and the semantic meaning needs to be reconstructed as referring to a hyperbolic way of claiming that the interlocutor’s website resulted in criminal acts.

**4.2.3.2 Dialogical Purpose, Perlocutionary Effects, and Implicitly Conveyed Meaning**

The reconstruction of the possible implicit conclusions that can be drawn from a dialogue move can be also manipulated by omitting the evidence needed for defeating the presumptive reasoning normally triggered. A famous case of manipulation of the dialogical purpose of an assertion and its perlocutionary effects is the quote on which the lawsuit *Sherrod v. Breitbart* (case no. 000157 11, District of Columbia 2011) was focused. The complaint stems from a March 2010 speech that Ms. Sherrod, an African American former Georgia state director of rural development...
for the United States Department of Agriculture, gave to the NAACP (National Association for the Advancement of Colored People). A conservative blogger, Andrew Breitbart, and his colleague Larry O’Connor posted an edited video of Sherrod’s speech along with slides alleging that Sherrod carried out her USDA duties “through the prism of race and class distinctions,” pointing out that her words elicited racial reactions in the audience. The video, apparently aimed at discrediting Afro-American leaders, ignited a racial firestorm. After the publication of the video, Sherrod was asked to leave her job. The excerpted video contained the following language (emphasis added)²:

**Case 4.4: Redemption or Racism**

The first time I was faced with having to help a white farmer save his farm, […] he was taking all that time trying to show me he was superior to me, was I was trying to decide just how much help I was going to give him. [audience chuckled] I was struggling with the fact that so many black people have lost their farmland, and here I was faced with having to help a white person save their land. So, I didn’t give him the full force of what I could do. I did enough so that when he—I—I assumed the Department of Agriculture had sent him to me, either that or the—or the Georgia Department of Agriculture. And he needed to go back and report that I did try to help him. […] So I figured if I take him to one of them that his own kind would take care of him. That’s when it was revealed to me, ya’ll, it’s about poor versus those who have, and not so much about white—it is about white and black, but it’s not—you know, it opened my eyes, ‘cause I took him to one of his own…”

The video was posted on a blog addressing the debate on racial discrimination within the Tea Party and the NAACP. In this context, considering Breitbart’s comments and his insinuation that the speech was received with applause by the audience, the excerpt sounded as clearly intended to convey a racial message, a personal story of discrimination (Sherrod 2012, p. 10). Breitbart thus provided the audience of his blog with the following presumptions and factual evidence:

1. The sentence “I didn’t give him the full force of what I could do” can be explained based on the previous sentences as “I didn’t give him the full force of what I could do because he was white and I wanted to take revenge,” (linguistic presumption) due to the following:

   (i) “the farmer was trying to show me he was superior to me;”
   (ii) “I was struggling with the fact that so many black people have lost their farmland, and here I was faced with having to help a white person save their land;”
   (iii) (implicit) Who acts as a racist and supremacist (i and ii) deserves a lesson. Failing to give someone the full force of what it is possible to give is a good lesson (factual presumptions).

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2. If someone tells a story about his or her own racist experience or behavior without condemning it, then presumably he or she is still committed to it (factual presumption).

   (a) Ms. Sherrod has not condemned her racist behavior (fact).

3. If someone tells a racist story to a racist audience, then he or she is presumably aiming at stressing his or her commitment to it (pragmatic presumption).

   (a) The audience laughs at the story (fact).
   (b) Whoever laughs at a racist story is presumably racist (factual presumption).

4. Conclusion: Ms. Sherrod is committed to racism against white people, and is aiming at stressing her commitment and arousing negative emotions against white people.

This interpretation, however, can be easily defeated considering the whole co-text and context.

   Sherrod’s aim was to tell the audience how she changed her commitment to help black people, and decided to commit instead to the struggle against poverty. Later in the video, she made clear later that she helped the farmer as much as she could, and described her internal struggle when she was appointed as State Director of Rural Development:

   But when I…made the commitment years ago I didn’t know how—I didn’t…I prayed about it that night and as our house filled with people I was back in one of the bedrooms praying and asking God to show me what I could do. I didn’t have—the path wasn’t laid out that night. […] And young people I just want you to know that when you’re true to what God wants you to do the path just opens up—and things just come to you, you know. God is good—I can tell you that. When I made that commitment, I was making that commitment to black people—and to black people only. But, you know God will show you things and He’ll put things in your path so that—that you realize that the struggle is really about poor people, you know.

Her dialogical goal was to tell a story of redemption from old resentments for the racial discriminations that she and her family suffered from since she was a child. In this sense, her goal was to condemn racism through her rejection and condemnation of her past racial commitments. Moreover, the audience received Sherrod’s story not by applauding, but rather with silence or murmuring, indicating disapproval more than approval of a racist experience.³ These facts lead to a defeat of the aforementioned reconstruction and to interpreting the quotation as pursuing an opposite dialogical purpose.

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4.3 Meta-dialogical Straw Man. Dialogical Scenario

In the second scenario (the dialogical one), the distortion of the textual, co-textual, and contextual evidence, triggering different presumptions in turn leading to the intended misinterpretation, follows the same strategies as the ones indicated above and in the previous Chaps. 1 and 3. However, two factors need to be taken into account in a dialogical setting: the possibility of a counter-attack and the use of emotions. First, in a dialogical scenario, the straw man is more complex due to the interlocutor’s possibility of stopping the dialogue and clarifying the misreported or misinterpreted quotation (Sect. 4.3.1 below). The straw-manning party thus needs to be aware of the risks and lower the possibility of being attacked. Second, in dialogue and more importantly before audiences, rhetorical side-tactics are used to increase the burden of disproof. Emotions such as fear, contempt, or pity can affect both the audience’s and an interlocutor’s rational assessment of an argument or interpretive reasoning (Blanchette 2006; Blanchette and Richards 2004; Macagno 2014a). Moreover, emotions give rise to the presumption of truth; the emotion make us experience an “apparent reality” that becomes present to our senses and we cannot doubt (Clore and Gasper 2000, p. 26; Frijda and Mesquita 2000, p. 69). By providing the audience with an emotional representation of a fact (in this case, an interpretation), it is possible to arouse an emotion and give the audience the appearance of truth (Elster 1994, p. 27, 1999, p. 252). By arousing emotions, the force of a straw man (or a counterattack thereon) can be combined with lowering the chances of its rebuttal.

4.3.1 Ambiguity of Implicitly Conveyed Content and the Risks of Straw-Manning

In dialogues, straw man can be a dangerous strategy for the quoter, as the same ambiguity that can be used for attributing to the Original Speaker a commitment can be turned against the speaker, who can be accused of manipulation or worse. The Original Speaker can rely on the ambiguity of his original statement and point out the omission of textual or contextual evidence that can lead to a different interpretation of the quotation. This meta-dialogical claim can lead to a discussion or a controversy, unless this possibility is blocked by a side tactic, such as the use of emotions, more specifically anger and indignation. A clear example of a counter-straw man is the following case drawn from a recent interview with Donald Trump before the elections:

Case 4.5: Trump and Abortion

“In 1999, you said you were pro-choice in all respects,” NBC newsman Peter Alexander starts to ask Trump about a long-ago “Meet the Press” interview.

Trump doesn’t wait for the question. “Read the full statement!” he shoots back. “You didn’t read the full statement. What did I say? Read the full statement!”

The sharp retort seems to catch Alexander off guard, but he soon regroups, pointing out that Trump’s full comment in 1999 included the mild caveat that he was uncomfortable with “the concept of abortion.”

But Trump senses an opening. “Why didn’t you say that when you asked the question before, that I hate the concept of abortion?” he asks Alexander. “Do you apologize? Do you apologize for not reading my words?” When Alexander responds that he was merely reading Trump’s words back to him, Trump scowls. “Do you apologize?” he demands. “No? … Okay, forget you. Just forget you.”

This excerpt shows the risks of attributing commitments based on incomplete or ambiguous textual evidence. The reporter (and also other political opponents in other debates) used the ambiguous quotation “I am very pro-choice” and interpreted it as committing Trump to the pro-abortion position. The ambiguity of the implicitly conveyed content (pro-choice refers to supporting the possibility of having the option of abortion available, and therefore (by factual presumption), it may refer to the position of favoring abortion) can lead to a straw man. In the aforementioned case, the reporter (and other politicians) intended to accuse him of being inconsistent with his present position advocated. Trump reacted by stopping the dialogue and referring to his whole quote, in which he claimed to be pro-choice but against abortion. For this reason, the reporter could not interpret his statement as claiming to be “pro-choice in all respects” (i.e. including favoring abortion). Trump relies on the vagueness of the concept “pro-choice,” which can support different implicit conclusions, including the one based on the presumption that “leaving a possibility available does not mean approving of it.” The reporter relied on the same ambiguity to draw the opposite implicit conclusion. However, as mentioned in Chap. 3, due to an ambiguous interpretation, the commitment attribution is highly defeasible in this case, resulting in possible attacks such as the one made by Trump.

This case illustrates the effectiveness of side-tactics in preventing further reactions by the interlocutor. Trump attacks the reporter directly, accusing him of distorting his commitments. Trump does not leave to the interlocutor room for discussing what his quotation can mean. Instead, he acts as indignant and offended, presupposing that the statement has been misquoted willingly. In this fashion, the dispute over the ambiguous statement is turned into an offence that Trump takes for granted. The emotions are thus used to presuppose a fact (the offence) that is not shared at all (Macagno and Walton 2014, pp. 196–204).
4.3.2 Irony, Contempt, and Semantic Distortions

As mentioned above, a party to a dialogue can “straw man” the other’s position (argument or dialogue move) in order to attack him directly and block the dialogue. In this fashion, he can avoid dangerous attacks or dismiss a possibly thorny issue. A clear example of this use of straw man is the following excerpt. In this case, Sarkozy has to address a problematic question asked by Joffrin, a journalist who inquired on whether the concentration of powers in Sarkozy’s hands amounted to an elective monarchy. Sarkozy replied as follows5 (authors’ translation):

Case 4.6: Elective Monarchy

Monarchy means hereditary […] do you think then that I am the illegitimate son of Jacques Chirac who put me on a throne […] a man well educated as you, talking such nonsense […] Mr. Joffrin, words have a meaning […].

The journalist’s question was very clear, and implied that, since Sarkozy was holding too much power (elective monarchy) he was acting against the principles of democracy. In order to avoid answering this question, which could have resulted in the risk of being attacked, the former French President straw-manned the journalist combining his move with the effects of irony. Sarkozy introduced ambiguity by ignoring the qualification of “monarchy” as “elective” stated by Joffrin. In this fashion, he constructs a move that is different from the one performed by the journalist, and attacks it by defining the meaning of “monarchy.” The weaknesses and fallaciousness of Sarkozy’s straw man – defining what “monarchy” is, but not “elective monarchy” – is hidden by the comic acting. The former French President acted as a professor teaching the lesson to an ignorant pupil, almost reproaching him. By using irony, he conveys an implicit argument (Macagno 2013), consisting in accusing the journalist of being an ignorant person talking nonsense and, for this reason, not deserving an answer. The comic effect places the discussion in non-serious scenario (Meyer 2000) in which the journalist plays the role of the intellectually inferior (not praiseworthy) and thus less credible for the audience (Ben-Ze’ev 2000, pp. 390–391).

4.3.3 Self Straw Man: Victimization and Dialogical Ambiguity

Sarcasm and contempt are not the only side-tactics that can be used for bolstering the straw man. Another powerful emotion is indignation (Ben-Ze’ev 2000, p. 149), namely an emotion of anger arising out of perceived offenses. The “righteous anger” has a factual presupposition that an injustice has been committed against the agent.

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and the emotive reaction is justified as a means to address and change the other’s basic faults. Indignation can constitute one of the components of a strategy of straw man aimed at attacking indirectly the Original Speaker. We will refer to this strategy as the “self straw man.” The speaker provides a distorted interpretation of OS’s words, but he does not use the distorted commitments to attack him. On the contrary, the commitments are used against the speaker himself, to show how OS has offended the speaker. This manufactured injustice is used indirectly against OS; the quoting or reporting party (the speaker) acts as indignant and offended, pointing out the bad moral qualities of OS.

A widely known example is the notorious Berlusconi’s reply to Martin Schulz before the European Parliament. In the discussion of 2 July 2003, the German delegate attacked the former Italian Prime Minister on several grounds, including the conflict of interests between his political office and his extensive Italian media interests. He criticized the racist statements of his political partner and member of the Italian delegation, Mr. Bossi, and the intelligence and the political abilities of Berlusconi’s ministers. He pointed out the problem of conflict of interests in Italian politics and reminded the audience of Berlusconi’s trials. Finally, he asked the Italian politician to apply the European directives in the matter of criminal law. Schulz attacked Berlusconi from a purely political perspective, as his target was the clear incapacity and inadequacy of a public and political figure. Berlusconi replied as follows:

Mr Schulz, I know there is in Italy a man producing a film on the Nazi concentration camps. I would like to suggest you for the role of leader <Kapò>. You’d be perfect.

This attack was scandalous, and provoked a serious reaction against the former Italian Prime Minister in the European Parliament. Berlusconi, however, managed to defend himself (at least in the Italian media) using a self-straw man. Berlusconi provided an interpretation of his own counter-attack and of the criticisms made by Schulz, claiming to the press that Schulz attacked him personally and wickedly, and, therefore, the reply was on the same personal level (Macagno 2013). Berlusconi acted as a victim of a personal attack:

Case 4.7: Berlusconi’s Kapò

Mr. Schulz attacked me and was offensive to me and my country. He was gesticulating and he used a tone of voice which is not acceptable in a parliament. I have said what I have said with irony. If you don’t understand irony, I am sorry for you. I will not withdraw what I have said ironically; if Schulz does not withdraw his personal offenses. I have spoken ironically; he has spoken wickedly. …

Berlusconi distorted the dialogical purpose of Schulz’s criticisms. Schulz was aiming at denouncing political inabilities of the Italian leader and the dangers he poses

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to democracy (in order to inform the members of the EU parliament and Italian voters of these problems and act consequently). Berlusconi, on the contrary, provided an interpretation of the move as a personal attack, aimed at hurting his personal feelings. However, this interpretation relies on a set of unacceptable facts and presumptive reasoning:

1. (Fact) Schulz claimed that the political and public behavior of Berlusconi (and his delegation) is unacceptable [conflict of interests, legal proceeding, racial statements…].

2. (Pragmatic presumption) Whoever criticizes falsely in a political debate a politician’s political behavior is attacking him personally and wickedly (aims at offending him on a personal basis).
   
   (a) (Factual presumption) Usually people take political criticisms as personal attacks.
   (b) (Fact) Schulz’s accusations were based on false facts, and thus his claim was wicked.

3. (Conclusion) Schulz was aiming at insulting Berlusconi personally and wickedly.

Clearly 2, including (2a) and (2b) cannot be accepted. However, Berlusconi took them for granted, and thus inserted these commitments into Schulz’s and the audience’s commitment store. The strategy is represented in Fig. 4.3:

<table>
<thead>
<tr>
<th>SCHULZ’s commitments</th>
<th>SCHULZ’s commitments as distorted by Berlusconi</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>EXPLICIT COMMITMENTS</strong></td>
<td><strong>The political and public behaviour of Berlusconi (and his delegation) is unacceptable [legal proceeding, racial statements…]</strong></td>
</tr>
<tr>
<td>** IMPLIED COMMITMENTS**</td>
<td><strong>The alleged behavior is based on evidence</strong></td>
</tr>
<tr>
<td></td>
<td><strong>Whoever behaves in an unacceptable fashion from a political point of view is a bad representative of Italy and a bad politician.</strong></td>
</tr>
<tr>
<td></td>
<td><strong>Whoever behaves in an unacceptable fashion from a political point of view is a bad and wicked person.</strong></td>
</tr>
<tr>
<td></td>
<td><strong>Berlusconi is a bad and wicked man.</strong></td>
</tr>
</tbody>
</table>

Fig. 4.3 Inserting distorted commitments – Berlusconi’s kapò

Berlusconi distorted the purpose of Schulz’s attack, and consequently he manipulated his implicit commitments. Berlusconi took for granted this misrepresentation in explaining his insult as a counter-attack. He insulted him personally, putting the criticism of the German representative on the same level of his vulgar joke. However, Berlusconi’s reconstruction of the implicit dimension of Schulz’ move was completely unreasonable and unlikely, and could not be anyhow accepted by the audience (Macagno and Damele 2013).
4.3.4 Self Straw Man: Indignation and Semantic Ambiguity

Indignation can also be provoked by the overt distortion of a quote, which can be slightly modified in order to support an interpretation of its meaning and dialogical intention different from the one resulting from the original words uttered. A clear example of this two-step distortion (distortion of the semantic meaning leading to a distortion of the dialogical intention) is the following excerpt from the Republican Debate held in Jacksonville, Florida, in January 2012. In this excerpt, Gingrich and Romney address the issue of immigration and Gingrich points out that Romney holds the most radical views against immigrants of the four Republican candidates. His goal is to share an opinion of fact, in order to point out his own position on this topic. Romney understands the possibility of being criticized for his position, and distorts Gingrich’s words as follows (emphasis added)8:

Case 4.8: The Anti-immigrant

Blitzer: Speaker Gingrich, you had an ad, but you pulled it this week, in which you described Governor Romney as the most anti-immigrant candidate. Why did you do that?

Gingrich: Why did we describe him that way? Because, in the original conversations about deportation, the position I took, which he attacked pretty ferociously, was that grandmothers and grandfathers aren’t going to be successfully deported. We’re not – we as a nation are not going to walk into some family – and by the way, they’re going to end up in a church, which will declare them a sanctuary. We’re not going to walk in there and grab a grandmother out and then kick them out. We’re not going – and I think you have to be realistic in your indignation. I want to control the border. I want English to be the official language of government. I want us to have a lot of changes […].

Blitzer: I just want to make sure I understand. Is he still the most anti-immigrant candidate?

Gingrich: I think, of the four of us, yes.

Blitzer: Go ahead, Governor.

Romney: That’s simply inexcusable. That’s inexcusable. And, actually, Senator Marco Rubio came to my defense and said that ad was inexcusable and inflammatory and inappropriate.

Mr. Speaker, I’m not anti-immigrant. My father was born in Mexico. My wife’s father was born in Wales. They came to this country. The idea that I’m anti-immigrant is repulsive.

Don’t use a term like that.

Romney needs to attack the viewpoint that “he is the most anti-immigrant of the four Republican candidates.” In order to rebut this claim, Romney chooses to distort Gingrich’s utterance and ignore the qualification “of the four of us.” Thus, he turns a political statement (aimed at informing the electors of the different positions on the issue of immigration and indirectly attacking Romney) into a personal offense. He acts as the victim of an insult, and underscores the immigration history of his

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family, to show how he cannot be considered as a racist. As Berlusconi did in the self straw man above, Romney arouses the emotion of indignation, presupposing that Gingrich’s utterance can be considered as a personal insult (i.e. interpreting the utterance as “Romney is anti-immigrant, namely racist”) aimed at inflaming the audience and exciting their indignation against him. The effects of this emotion are twofold. On the one hand, moral indignation guides the interpretation of Gingrich’s utterance as an eristic move (aimed at insulting Romney unjustly) – not allowed in a political debate – and not as an information-sharing move concerning his views on the other positions. On the other hand, this emotion allows Romney to attack Gingrich for both offending and telling a lie. For Romney, it is very easy to show that he is not racist; it would have been much more difficult to prove that his proposed policies (expelling illegal immigrants) are not strongly anti-immigrant.

The effectiveness of this move lies in the relationship between semantic interpretation and the possible ambiguity of the implicitly conveyed contents. Labelling a candidate as “the most anti-immigrant republican candidate” (or “extreme on immigration”) can easily trigger the implicit conclusion that he is anti-immigrant, as presumably one who holds the most radical political position against immigration has also a negative attitude towards it. Clearly, this is only a possible implicit conclusion that can be drawn from the statement. However, this is enough for allowing Romney to distort it without being criticized for it. The triggered emotion shifts the burden of proof (Gingrich now has to show that he did not insult him or call him racist) and the ambiguity of the possible implied content makes it difficult for Gingrich to point out his qualification and his original (even though ambiguous) dialogical purpose.

4.4 Dialogical Straw Man – Exclusive Strategies

Dialogical straw man is different from the meta-dialogical one as it is directed directly against the interlocutor’s argument and not his person. The goal is to show that the argument or the claim made by the interlocutor cannot be accepted, in order to pursue a further goal, such as supporting the opposing argument, proving a further conclusion, or indirectly attacking the interlocutor. In this sense, the attack is at the level of the dialogue, and not at the level of its conditions and participants.

As illustrated in Fig. 4.1 above, we distinguished three different ways in which the interlocutor’s argument or claim can be attacked. The speaker can distort and undermine its presuppositions; or he can attack the conclusion of the Original Speaker’s argument. Alternatively, he can show how a claim or an argument is unacceptable (ridiculous) and thus cannot be even taken into account. This latter strategy is the clearest and most defeasible (attackable) one, as it normally involves an interpretation without a clear argument supporting the interpretive reconstruction, and without a clear argument for rebutting the interlocutor’s position. We will start our analysis from this latter strategy, which we have called “exclusive straw man,” in
order to show the generic mechanism of dialogical straw man and then move on to
discuss in detail the subtletest strategies and tactics.

Exclusive straw men strategies consist in a distortion of the interlocutor’s claim
or argument so that its unacceptability becomes clear to the parties and the inter-
locutor. The effectiveness of this argument lies in the burden of disproof that the
speaker casts onto the Original Speaker. Either the distortion is so subtle that it can
be taken as a possible interpretation of the original statement, or the speaker (the
quoter) relies on side-tactics such as the use of emotions to increase the burden of
disproof. We will distinguish two clear cases of exclusive straw man, both drawn
from legal dialogues.

4.4.1 Summarizing and Distorting

A strategy for excluding a whole argument or a set of arguments is to summarize
and describe it using charged epithets or analogies. Bosanac (Bosanac 2009, p. 393)
described the straw man strategy using the following case from a closing statement
in United States v. Barker (553 F.2d 1013, at 1025, 6th Cir. 1977). The prosecutor
summarized the arguments of the parties and the conflict of opinions as follows:

Case 4.9: Open All the Banks

I submit to you that if you can’t take this evidence and find these defendants guilty on this
evidence that we might as well open all the banks and say, “Come on and get the money,
boys, because we’ll never be able to convict them.”

In summation, a prosecutor can refer to his own and the defendant’s arguments,
summarize them, and point out the aspects thereof supporting his own position. He
can also draw some inferences from the evidence provided. However, he cannot
distort them, draw inadmissible or unsupported inferences from the evidence, and
elicit emotions such as fear in the jury. In this case, the prosecutor is distorting both
his own and the defendant’s case. He is summarizing the evidence on both sides as
incriminating the defendants so clearly that their acquittal would be ridiculous and
even dangerous for law and order. The prosecutor is not describing the evidence and
drawing inferences from it; rather, he is taking for granted that this evidence is
beyond reasonable doubt, and simply characterizes it using hyperbolic
expressions.

This type of straw man can be used in a subtler way thereby avoiding the risk of
being considered as irrelevant. The speaker can summarize the evidence on both
sides and exaggerate the implications of the evidence favorable to the speaker’s
conclusion, diminishing the weight of the contrary arguments. A clear case is the
closing argument in People v. Simpson (No. BA097211, 1995 WL 704381, Cal.
Super. Trans. Oct. 10, 1995), in which the defense attorney summarizes the evi-
dence and the arguments against the key witness, detective Mark Fuhrman. Fuhrman
found the crucial pieces of evidence incriminating O. J. Simpson, and the whole
defense strategy was aimed at showing that he was actually lying and could have
likely planted the evidence in order to harm an Afro-American. One of the crucial arguments could be reconstructed as follows:

1. Fuhrman stated that he never used racial epithets;
2. In the last 10 years, Fuhrman was found to have used privately racial slurs 42 times in some interviews he gave to a writer (for the purpose of writing a novel and a screenplay).
3. Therefore,
   (a) he lied and is not credible as a witness; and
   (b) he is a racist and hates Afro-American people.

This argument is extremely weak, as it is grounded on the following defeasible premises:

(i) (Pragmatic presumption) Statements made in an interview for a novel are serious;
(ii) (Factual presumption) Statements made in an interview for a novel are truthful and reveal what a person thinks;
(iii) (Linguistic presumption) A conflict between assertions made in an interview and a statement in court can be considered as a contradiction;
(iv) (Factual presumption) A contradiction can be explained by concluding that the speaker was lying.

Clearly, the racial slurs could be non-serious (as they were then proven to be), and thus the whole argument would have been easily defeated (Croom 2014). However, in the closing argument the defense attorney summarized the prosecution argument (based on Fuhrman’s testimony) as follows (Bayor 2004, p. 928; A. Davis 2008, p. 341):

Case 4.10: Fuhrman’s Racial Slurs

Then we come, before we end the day, to Detective Mark Fuhrman. This man is an unspeakable disgrace. He’s been unmasked for the whole world for what he is, and that’s hopefully positive. […] We owe a debt of gratitude to this lady that ultimately and finally came forward. And she tells us that this man over the time of these interviews uses the “N” word 42 times is what she says. And so-called Fuhrman tapes. And you of course had an opportunity to listen to this man and espouse this evil, this personification of evil. […] Talking about women. Doesn’t like them any better than he likes African Americans. They don’t go out and initiate contact with some six foot five inch Nigger who has been in prison pumping weights. This is how he sees this world. That is this man’s cynical view of the world. This is this man who is out there protecting and serving. That is Mark Fuhrman. […]

Why did they then all try to cover for this man Fuhrman? Why would this man who is not only Los Angeles’ worst nightmare, but America’s worse nightmare, why would they all turn their heads and try to cover for him?

The defense attorney is summarizing the whole prosecution’s argument in support of the evidence found and the defense’s attack on the credibility of Fuhrman. The straw man is twofold. On the one hand, Fuhrman’s past declarations are interpreted out of context, as he used racial slurs in interviews in which he was bragging and
exaggerating his negative, racial, and sexist attitudes to fit into the screenplay. They are used as serious assertions for showing both his untruthfulness and his racist attitude. On the other hand, the selective quotes are mentioned to depict the thesis of the prosecution, summarized as grounded on evidence allegedly found, in fact probably planted, by the “America’s worse nightmare.” The straw man is not simply a self-sustaining attack on the prosecution’s arguments, but at the same time a support for the defense’s claim, i.e. “Fuhrman planted the evidence and Simpson is innocent.” The whole strategy is grounded on the emotions of racial anger triggered by the quotes out of context, and the emotive language used.

4.4.2 Explicating and Presupposing

The distortion of a quotation can be used as a self-evident argument against the speaker’s claim or argument, which in turn provides support to the contrary one. In the subsection above, we have shown how this type of straw man can be used in closing arguments and be grounded on the summarization of the opponent’s arguments and viewpoints. However, it can be used also in a subtler way, as an interpretation of a quote that results in an unacceptable claim. This distorted statement is thus a condensed argument that does not need further support; the speaker only by manipulating the interlocutor’s commitments can defeat the latter’s claim and support his own. This strategy is extremely powerful in cross-examination, in which the examiner needs to support a specific viewpoint by interrogating the witness (or the defendant). In particular, a common attack is the attack on his credibility; by showing that the witness’s (or defendant’s) claims are contradictory or not-credible, the attorney can prove his point, namely that the witness cannot be trusted. A clear example is from the aforementioned case People v. Simpson. In the cross-examination of detective Clark (another detective present at the crime scene), the following questions and answers were exchanged (emphasis added)9:

Case 4.11: The Walking Rate

Q. Wait just a minute. How much of your 15 min was spent back in the small yard that you viewed as a situs for potting plants?
   A. Several minutes, probably more than five.
   Q. Several moments has no real definitive meaning. Could you please use minutes or seconds and minutes to describe each step that you took. How many minutes were you present from the far side or east side of the alleyway between the fence and the building?
   A. Talking about the pathway?
   Q. No. You have walked how many feet from the glove to the end of the building?
   A. 75.
   Q. If a normal walking rate is 350 ft a minute, what would you think that your rate was at that time, that it took you several minutes to go 75 ft?

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4.5 Straw Man for Rebutting Claims and Arguments

The strategy of distorting the interlocutor’s statement or argument in order to show its self-evident unacceptability is a powerful strategy, consisting in implicit arguments. In our analysis of straw man, we distinguish the grounds of the distortion (the possible type of ambiguity the speaker relies on) from the structure of the argument itself (the focus of the attack and the support provided to it) and the
side-tactics (emotions). To this purpose, in this section we will investigate the second type of straw man – considering the argument structure – namely the rebuttal straw man. This type of straw man consists in distorting an argument or a position in order to advance against it an explicit argument. It is different from the one above, in which the attack is implicit in the distortion itself, and can indirectly affect the Original Speaker’s character.

4.5.1 Distorting the Meaning of Lexical Items

The most prototypical case of straw man is what we refer to here as the rebuttal straw man. It consists in (1) reporting a distorted interpretation of the interlocutor’s position, and (2) attacking it (to prove the contrary). In this sense, it is apparently explicit in two senses: (a) the attack is explicit (different from the exclusion straw man), and (b) it is directed against an explicit component of the argument (different from the undercutter, as we will see below). However, the boundaries are not always so clear; these distinctions are merely drawn for pointing out various possible tactics that can be used.

The clearest case of rebuttal straw man is when the directly conveyed meaning of claim or an argument is distorted. Walton provides a textbook example to illustrate this point (Walton 1996, 2003b, p. 22):

Bob and Arlene are arguing about environmental laws that regulate industrial pollution, and Bob has taken a moderate “green” position. Arlene argues, “People like you want to make the planet into the pristine place it was hundreds of years ago. You preservationists don’t want to let anybody do anything to the land that could possibly have ecological consequences. Therefore, what you are committed to is the elimination of all private property and all industrial manufacturing. Imagine the unemployment and social destruction of private homes implied by this.”

Arlene is misrepresenting what Bob refers to as his “green” position. She interprets it as referring to the extreme view (an interpretation that is not the prototypical nor the one advocated by Bob). In this fashion, she can easily attack it.

This textbook example represents a very weak and easily attackable straw man. If we want to find more strategic examples, we need to look at courtroom cases, in which the manipulation is often carried out in subtler ways. A famous case of rebuttal straw man can be found in Bush v. Gore (531 U.S. 98, 2000), analyzed in Bosanac (Bosanac 2009, pp. 395–396). In this case, the United States Supreme Court resolved the dispute surrounding the 2000 presidential election. This controversy concerned the manual recounting (namely manual tabulation) of the so-called “undervotes,” namely votes in which there was a clear indication of the voter’s intent, but that the machine did not detect. Florida’s election laws allow a candidate to request a county to conduct a manual recount, and Gore, considering the close margin of victory of Bush (327 votes) requested manual recounts in four Florida counties. Among the various arguments used against Gore, Chief Justice Rehnquist...
in delivering the majority opinion, advanced the following attack on a misrepresented position of Gore’s claim (at 121, emphasis added):

**Case 4.12: “Tabulating” Votes**

Yet in the late afternoon of December 8th –four days before this deadline –the Supreme Court of Florida ordered recounts of tens of thousands of so-called “undervotes” spread through 64 of the State’s 67 counties. This was done in a search for elusive-perhaps delusive-certainty as to the exact count of 6 million votes. **But no one claims that these ballots have not previously been tabulated; they were initially read by voting machines at the time of the election, and thereafter reread by virtue of Florida’s automatic recount provision.** No one claims there was any fraud in the election. The Supreme Court of Florida ordered this additional recount under the provision of the Election Code giving the circuit judge the authority to provide relief that is “appropriate under such circumstances” Fla. Stat. Ann. § 102.168(8) (Supp. 2001).

The Justice misrepresented Gore’s position by relying on the possible lexical ambiguity of “tabulate the votes,” which was used by Gore to mean, “to manually tabulate,” i.e. to record “the intent of the voter to choose a presidential candidate” (Bosanac 2009, pp. 395–396). The Justice, instead, reported Gore’s claim by using the same term with a different meaning, i.e. “to count numerically.” The straw man can be represented in the following Fig. 4.4:

<table>
<thead>
<tr>
<th>Gore’s argument (disputed issue)</th>
<th>Rehnquist’s interpretation of the problem at issue</th>
</tr>
</thead>
<tbody>
<tr>
<td>Undervotes have not been tabulated. Undervotes should be recounted using different means, including manual tabulation.</td>
<td>But no one claims that these ballots have not previously been tabulated; they were initially read by voting machines at the time of the election, and thereafter reread by virtue of Florida’s automatic recount provision.</td>
</tr>
<tr>
<td>“To tabulate” means recording the voter’s intent to choose a candidate. Presumption: The common standard used is to record the intent of the voter using different means.</td>
<td>“To tabulate” means counting numerically the votes by means of machines. Presumption: The common standard that should be used for guaranteeing constitutionality is numerical counting.</td>
</tr>
<tr>
<td>There is a clear reason for recounting manually the votes. The recounting method is valid.</td>
<td>There is no reason for recounting manually the votes. The recounting method used by Florida is invalid.</td>
</tr>
</tbody>
</table>

**Fig. 4.4** Gore’s straw man

In this case, the Chief Justice Rehnquist interpreted Gore’s claim manipulating the definition of “tabulating” used by the latter. By using a different definition, which he claims to be the commonly accepted one, he shows the unreasonableness of Gore’s position. In this case, the straw man is explicit inasmuch as it is a distortion of what Gore claims explicitly. However, the distortion is carried out implicitly, by presupposing a different definition to “to tabulate the votes” in his explication of the Original Speaker’s position. Moreover, the very fact of using a different definition of the crucial term triggers a controversial pragmatic presupposition, i.e. “the common standard for recording the intent of the voter is numerical counting.” This presupposed proposition is not argued for, but simply taken for granted despite
that it is unshared and disputed (McConnell 2001, pp. 673–674). By taking it for
granted, the Justice takes also for granted that the principle of recording the voter’s
intent by different means cannot be considered as acceptable. In this sense, the straw
man hides a deeper (and strategic) move (see the dissenting opinion at 152–153).

4.5.2 Explicating and Distorting

A similar tactic on which the rebuttal straw man can be grounded consists in distorting
the implicit aspects of the interlocutor’s claim or argument. The speaker thus
explicates what the Original Speaker left implicit and is necessary for understanding
the explicit meaning, but in doing this, he alters the commitments. This move
can be extremely effective, as it consists in only a partially explicit distortion. The
interlocutor cannot attack the straw man by simply appealing to a statement that can
be “on record,” as the distorted elements of meaning have never been explicitly put
forward. In order to reject the move, the interlocutor needs to reconstruct his own
move, and provide arguments to support it. He needs to show that the speaker’s
interpretation is not correct, or not acceptable, or in any case less likely than the one
that the interlocutor is advocating.

To illustrate this strategy we will analyze the following example (Macagno and
Damele 2013, pp. 384–385), taken from the case of Cesare Battisti, an Italian terror-
rist sentenced to life in prison in Italy, who flew first to France and then to Brazil in
order to receive protection and avoid imprisonment. The following discussion
between two judges of the Supreme Federal Court of Brazil, Mr. Eros Grau and Mr.
Cezar Peluso, is about the appeal issued by the Italian Government against the
Minister of Justice, who offered protection to Battisti as a refugee. The matter of the
controversy is the reason put forward by the Minister of Justice (in this case repre-
senting the Public Administration) on the right of asylum to Battisti. Mr. Grau holds
that the Minister has the (procedural) right to appear before the Court to explain his
reasons and clarify his position. On the contrary, Mr. Peluso aims at avoiding any
appearance of the Minister and attacks the interlocutor’s argument by distorting it as
follows (emphasis added, author’s translation)10:

Case 4.13: Grau’s Right of Appearance

Grau: When there is a discussion before the court concerning the validity of a decision of
the Public Administration [...] the Administration shall be considered as a party.
Peluso: [...] Why do you insist on claiming that the Minister of Justice has not expressed his
reasons, or that his claims are not valid?
Grau: Because what I have read is not enough for me.
Peluso: Then, you should have told to the lawyer of the Minister of Justice to be clearer in
writing his statement of defence.
Grau: This claim of yours is a serious one.

10 Debate entre ministros do STF no caso Cesare Battisti (4.30–5.35). Youtube – uploaded by

fabriziomacagno@hotmail.com
**Peluso:** Your excellence, you have said that you are not happy with the reasons put forward by the Minister of Justice!

**Grau:** I have already said what I think. I will just vote.

Peluso provides an interpretation of Grau’s following statements different from the one that can be provided in the context, reconstructed in the following Fig. 4.5:

<table>
<thead>
<tr>
<th>Grau’s statements</th>
<th>Peluso’s interpretation of the explicit meaning</th>
</tr>
</thead>
<tbody>
<tr>
<td>“The Minister of Justice has not expressed his reasons; his claims are not valid <em>&lt;inasmuch and as long as he has the right to challenge the objections.&gt;</em>”</td>
<td>“The Minister of Justice has not expressed his reasons, or that his claims are not valid <em>&lt;inasmuch as what he said is not clear enough.&gt;</em>”</td>
</tr>
<tr>
<td>“What I have read is not enough <em>&lt;procedurally correct&gt;</em> for me.”</td>
<td>“What I have read is not enough <em>&lt;clear&gt;</em> for me.”</td>
</tr>
</tbody>
</table>

Presupposition: The Administration has the right to reject possible objections to his reasons.

Presupposition: The statement of defence of the Administration is unclear.

Fig. 4.5 Grau’s straw man

Peluso is not altering what Grau literally says; he simply explicates what Grau semantically says by integrating his claims with (contextually unacceptable) explicatures. According to Peluso, Grau wants the Minister heard because the reasons advanced in his brief are not clear enough. However, as shown in the opinion supporting his vote (Supremo Tribunal Federal, Ext 1085, Voto Eros Grau, at 5–8), Grau requested the hearing of the Minister because the Minister had the procedural right of appearance, which in this case amounts to the right to reject possible objections to his reasons. Considering this background presupposition, Grau’s claim is that the Minister has not expressed his reasons in a procedurally correct way.

### 4.6 Straw Man for Undercutting Claims and Arguments

The most complex straw man strategy is the undercutter straw man. The speaker distorts an implicit component of the interlocutor’s argument (a presupposed premise or definition, for example) and attacks it by drawing weak or hardly acceptable conclusions from he has misrepresented and taken for granted. In this sense, this type of strategy is implicit inasmuch as the distorted material is not explicitly stated, but taken for granted by the Original Speaker. What is distorted is a content that has not been said, but constitutes what the Original Speaker presupposes in his statements. We can provide a clear example of the undercutter straw man and then analyze a more complex case.
4.6.1 **Imposing Presuppositions**

During the discussion on the constitutionality of the American health law (Affordable Care Act) – requiring every citizen to purchase a mandate, or rather health insurance – Scalia attacked the health insurance mandate advocated by the interlocutors (and in particular Mr. Verrilli, Solicitor General) using the following analogical argument:

**Case 4.14: Scalia’s Broccoli**

“Could you define the market—everybody has to buy food sooner or later, so you define the market as food, therefore, everybody is in the market; therefore, you can make people buy broccoli,” Scalia said.

Scalia depicted Mr. Verrilli’s point as defending the imposition of the purchase of a *market product* (health insurance or broccoli) against the will of the buyers. This argument is an implicit straw man of the Government’s point (“The Government shall require individuals to buy health insurance in order to maintain the health insurance market”). Scalia is not distorting the statements of the supporters of the Affordable Care Act. Instead, he is drawing a conclusion from something that they had not stated in their argument, nor could they presumably have intended, namely that “the existence of a market for a product justifies the Government’s infringement of the citizens’ liberty to buy or not to buy what they want.” The straw man can be represented in the following Fig. 4.6:

<table>
<thead>
<tr>
<th>Verrilli’s argument</th>
<th>Scalia’s interpretation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Imposing the purchase of health insurance will result in defending the existence of the market and everybody having it (at a reasonable price).</td>
<td>Health insurance is like broccoli (they are both a product on the market). Imposing the purchase of health insurance will result in defending the existence of the market and allowing everybody to have it.</td>
</tr>
<tr>
<td>Presupposition: It can be difficult, or impossible, for the insurance market to operate in case someone does not buy insurances.</td>
<td>Presupposition: The purpose of the law is to force people to buy a product. Health insurance is a normal product.</td>
</tr>
<tr>
<td>Therefore, requiring people to buy health insurance is constitutional as there are compelling reasons to do it.</td>
<td>Therefore, requiring people to buy health insurance is unconstitutional as it infringes an individual liberty.</td>
</tr>
</tbody>
</table>

**Fig. 4.6** Scalia’s broccoli

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Scalia did not provide reasons for taking for granted the classification of health insurance as a normal product. On the contrary, his presupposition hides two problematic presumptions. On the one hand, Scalia presumes that the common understanding of health insurance is a product like any other one, namely a product whose market trend cannot affect other buyers’ rights or buying opportunities. This factual presumption cannot hold, as insurance costs are commonly associated with the trend of the insurance market. On the other hand, Scalia presumed (factual presumption) that the equivalence between insurance and broccoli could justify Verrilli’s argument that the imposed purchase can solve possible problems or defaults of the insurance market. The asserted purpose of the imposition of a health insurance was to avoid insurance market issues and allow everyone to afford insurance. Scalia’s interpretation simply fails to provide an explanation for it. On the contrary, Scalia’s presupposition makes Verrilli’s argument absurd. The essential differences between broccoli and health insurance (fundamental need for health insurance; devastating effects of inaction/failure to buy on the insurance market) cannot be disregarded without breaching some basic pragmatic presumptions (in addition to the factual ones), namely the presumed presence of a justificatory link in Verrilli’s argument between his proposal and the justification thereof.

4.6.2 Presupposing and Misattributing Redefinitions

In the case above, Scalia took for granted the classification of health insurance as ordinary market products, misrepresenting the interlocutor’s argument. Scalia’s move was partially successful because of the possible different respects under which an insurance product can be regarded (in this case, the relationship between its cost and the market trends was the respect relevant to Verrilli’s argument). In the following case, the manipulation of presuppositions is even subtler. The speaker implicitly attributes to the Original Speaker a presupposition that he could have never upheld, because it consisted in a redefinition introduced by the speaker himself. The move is twofold. First, the quoter redefines a concept in a way that cannot be presumed to be accepted or acceptable by the Original Speaker. Then, he presupposes that the Original Speaker introduced this redefinition and based his argument thereon. This complex move was completely implicit. The speaker only stated the (unacceptable) implications of this distorted position without even reporting it.

_Canesi v. Wilson_ (730 A.2d 805, NJ. 1999) is a complex case in which the misrepresentation of the other party’s commitments is based on the ambiguity of the underlying concepts. _Canesi_ is a leading case for medical malpractice concerning informed consent (Shandell et al. 2006), in which parents brought suit against two obstetricians after their child was born with the congenital defect of bilateral limb reduction. The allegation was that the doctors failed: (1) to warn them that a drug prescribed for the mother posed both general fetal risks and the specific one of fetal

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13 For the interpretation, see footnote 33 above.
limb reduction; and (2) to take diagnostic measures during the mother’s pregnancy that would have disclosed the presence of a fetal defect. The argument of the plaintiff was that medical negligence deprived the parents of the ability to decide whether to terminate a pregnancy of a child with potential congenital defects. The Court’s argument was the following one Canesi at 818:

[…] the determination to be made is whether the doctors’ inadequate disclosure deprived the parents of their deeply personal right to decide for themselves whether to give birth to a child who could possibly be afflicted with a physical abnormality. There is sufficient evidence in the record of this case to enable a jury to make that determination.

The Court’s argument can be summarized and reconstructed as follows:

1. The doctors’ inadequate disclosure of possible risks (in this case the risks related to the drug) deprives the parents of their right to decide whether or not to terminate the pregnancy.
   (a) The drug posed substantial risks to the fetus (even there is insufficient proof of a causal relationship between the drug and the defect), according to the warnings issued by the drug manufacturers.
   (b) The doctors failed to inform the parents of these risks.
2. Therefore, the doctors deprived the parents of their right to decide.
3. The emotional and economic injury suffered by the parents were proximately caused by the doctor’s negligence in depriving them of the opportunity to decide.
   (a) The child was born with a genetic defect, resulting in emotional and economic injury suffered by the parents.
4. Therefore (from 2, 3, and 3a), the doctor’s negligence to inform the parents of the risk of the drug proximately caused their injury.

The whole argument rests on a basic presupposition, namely that “the birth defect must be parallel to the undisclosed material risk concerning which the physician had a duty to warn” (at 820). The argument of the majority of opinion is based on the concept of “proximate cause,” which is described as follows in the Restatement (Second) of Torts §431 (1965):

it is not enough that the harm would not have occurred had the actor not been negligent… the negligence must also be a substantial factor in bringing about the plaintiff’s harm.

This definition (conditio sine qua non plus “substantial factor”) in turn relies on the concept of “substantial factor” (Restatement (Second) of Torts §431 cmt. A, 1965):

Although not uniformly recognized, important to the concept of the “substantial factor test” is the notion that the effect of the allegedly negligent conduct must rise above the level of something that is merely “more than nothing.” The word “substantial” is used to denote the fact that the defendant’s conduct has such an effect in producing the harm as to lead reasonable men to regard it as a cause, using that word in the popular sense in which there always lurks the idea of responsibility […]

Clearly this definition is vague (Sanders et al. 2008). The majority opinion took for granted that the drug could be reasonably considered as a cause, even though there
is no proof that it is the actual cause, of the birth defect. In this sense, they implicitly specified the meaning of “substantial factor” equating it with “parallel to the undisclosed risk.”

The dissenting opinion attacked the argument by reconstructing it as follows (at 820):

**Case 4.15: Distorting Proximate Causation**

The majority holds that a physician who fails to warn a pregnant woman of a potential adverse effect of a prescribed drug virtually insures that her child will be born without birth defects from any cause.

The argument consists in a misattribution of the implication of the aforementioned argument. The dissenting opinion’s argument can be reconstructed as follows:

Majority opinion’s argument: The doctors’ inadequate disclosure deprived the parents of their deeply personal right to decide for themselves whether to give birth to a child who could possibly be afflicted with a physical abnormality.

Majority opinion’s implication: Inadequate disclosure of a risk → No choice based on the possibility of that risk.

Dissenting opinion’s reconstruction: The doctors’ inadequate disclosure of a potential adverse effect of a prescribed drug virtually insures that her child will be born without birth defects from any cause.

Dissenting opinion’s attributed implication: No disclosure of one risk → Guarantee of no risks in general. The legal consequence would be that “the physician is subject to liability not only for defects related to the physician’s failure to warn, but for all defects, whether related or not.”

This reconstruction is grounded on a twofold strategy. On the one hand, the dissenting opinion ignores the qualification of the reported argument, in which the birth defect needs to be parallel to the material risk undisclosed. On the other hand, the reported and attacked argument attributes to the majority opinion a definition of “proximate cause” much different from the one used, equating it to the medical cause. Thus, the argument reported by the dissenting opinion is grounded on (1) a presupposed definition of proximate cause that is alleged to be shared, and (2) the attribution to the majority opinion of an unshared and unacceptable definition of proximate cause. We summarize the implicit reconstruction as follows:

1. The majority opinion holds that the drug shall be the *proximate cause* of the birth defects.
2. “Being the proximate cause” means that constituting the *medical* cause (in this case, of the child’s defect).
   
   (a) Therefore, the doctor’s malpractice (failure to disclose the risks of a drug) shall constitute the *medical* cause of the child’s defect and parent’s injury.
3. The majority opinion holds that it is not proved that the drug medically caused the child’s defect.
4. Therefore, the majority holds that failure to disclose the risks of a drug does not need to be a proximate cause of the birth defects.

5. Therefore, according to the majority opinion, failure to disclose the risks of a drug is a but-for cause of the birth defect (but for their impairment of the mother’s lack of choice, the child would not have been born; but for his birth, the child would not have been born with birth defects, see Canesi at 825).

The effectiveness of the strategy lies in the semantic ambiguity of “being the proximate cause of,” which is implicitly redefined as “being the medical cause of.” By presupposing a definition different from the one actually presupposed by the reported argument, the dissenting opinion accuses the majority judges of implicitly redefining proximate cause in a way that is unacceptable (Macagno 2014b). However, the majority opinion never upheld such a redefinition (van Eemeren and Grootendorst 1992, p. 208).14

4.7 Conclusion

The strategic effect of distorting the interlocutor’s implicit premises can be understood starting from the analysis of the effects and the dialogical risks of the straw man fallacy. This mischievous move consists in the speaker’s attacking a manipulated version of the other’s viewpoint or commitments. In this fashion, he can rebut more easily a position that he has simplified and weakened. However, by explicitly stating the interlocutor’s manipulated commitments, the speaker risks being accused of breaching the rules of the discussion by distorting the other’s ideas, incurring what Hamblin would call a “point of order” (Hamblin 1970, pp. 283–284). This risk can be avoided by relying on other tactics (emotions), and by distorting specific types of content and communicating the distortion in specific ways.

From a pragmatic perspective, the straw man encompasses three different tactics that are based on the different pragmatic nature of the speaker’s move and the hearer’s commitments:

1. the explicit distortion of the interlocutor’s explicitly conveyed contents (explicit commitments);
2. the implicit manipulation of the addressee’s explicit commitments; and
3. the implicit or explicit distortion of the interlocutor’s implicitly conveyed contents (implicit commitments).

In the first case, the speaker exposes himself to the risk of being counter-attacked. In the second case, the effect of the argument amounts to shifting the burden of interrupting the dialogue and rejecting the implicit premise onto the interlocutor.

14Van Eemeren and Grootendorst represent this type of communicative “dishonesty” as a breach to their rule no. 5: “A party may not falsely present something as a premise that has been left unexpressed by the other party or deny a premise that he himself has left implicit” (van Eemeren and Grootendorst 1992, p. 208).
The most powerful and dangerous tactic is the third one, which is closely related to the problems of interpretation and attribution of implicit commitments. In particular, the strategy consisting in implicitly attributing implicit commitments (presuppositions) to the Original Speaker is the most dangerous one, as any reply to or defense against it requires a twofold reconstruction of meaning. The Original Speaker has the burden of proving his own commitments. In order to cancel or correct the misattributed implicit commitments, he needs to reconstruct the speaker’s argument and more importantly the implicit content thereof. He then needs to show that this implicit attribution of implicit commitments cannot be accepted, and provide reasons to support this claim.

References


