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What Makes a Fallacy Serious?

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Abstract: Among the defining criteria of a fallacy, Douglas Walton requires that its flaw must be serious. This allows his distinction between "serious" fallacies, minor ones, or mere blunders. But what makes a fallacy serious? Isn't being fallacious serious enough? Walton leaves these questions unanswered but often calls to his distinction between sophism and paralogism. Several ways to apply the adjective "serious" to fallacies are discussed. Some depend on the type, others on structural aspects, and others on a dialectical background.

Keywords: Dialogue, fallacy, fallacious argument, flaw, serious, Walton

1. Introduction

Douglas Walton's concept of fallacy is not straightforward if you heed all the conditions he requires to define it. The last sentence of his *A Pragmatic Theory of Fallacy* (1995) states that:

> (1) A fallacy is a particularly serious kind of error, or an infraction of the rules of dialogue, identified with a baptizable type of argumentation that has been abused in such a way to impede the goals of a type of dialogue the participants in the argumentation were rightly supposed to be engaged in. (p. 303)

My concern is the requirement that the error making an argument fallacious is "serious." You can broadly understand the meaning of this familiar, vague, and equivocal term: for instance, we often distinguish between a minor and a serious error. For Walton, fallacies would belong to the serious kind. Fallacies being a messy and controversial topic, you can also charitably grant that the difference between a fallacious and a non-fallacious argument is not always as clear-cut as some would like it to be when they object that, minor or not, an error is an error.

Walton has tried to find a balance in his theories on fallacies between two extreme positions, two poles that he rejects when he comes close to them. According to the first one that we could broadly call the logical one, a close examination of the intrinsic properties of a suspect argument – understood as a premises/conclusion system – is sufficient to determine whether or not it is fallacious. According to the second one, let us call it the dialectical pole—typically illustrated by the pragma-dialectical approach: what makes an argument fallacious is that it makes an infraction to the rules of a dialogue. For pragma-dialecticians, a fallacy does not respect the rules of a normative critical discussion. For Walton, it does not respect the rules of one of the six more empirically based kinds of dialogue that he fostered. He also claims that a fallacy is often associated with a shift from one kind of dialogue to another one.

The inclusion of a pragmatic and even a dialectical, or dialogical dimension to explain what a fallacy is and how it works seems quite reasonable for someone who – like me – follows the ancient tradition that considers a fallacy as a two-faced[1] argument, because each face is associated with a different linguistic aspect[2] bound to different uses and values of the argument (or of parts of it).

Walton's theory of fallacies is subtle and full of changing nuances: it describes complex situations but leaves me a bit embarrassed by its way to identify a fallacy. The vagueness of the adjective "serious" in the requirement that an argument should include or produce a "serious X" to be a fallacy seems an incentive to rely on intuition or common sense to evaluate whether it is fallacious or not. Unfortunately, intuitions and common sense are sometimes helpless in the face of a fallacy, especially a serious one, if you grant that a clever fallacy should not involve an obvious mistake, blunder or trick. If we follow Aristotle's *Sophistical refutations*, if the flaw of an argument is too salient – too serious in some sense – nobody will take it seriously and be fooled. Some people use this point to doubt the interest of a study of fallacies: they say that the flaws of the examples of textbooks are generally too big to fool anybody. Hence, you should not loose time with this topic. So, if a fallacy is a seriously bad argument, the way it is seriously bad should be clarified, although I confess that I doubt that it is a necessary condition to identify a fallacy. Minor fallacies are fallacies, whereas stupid fallacies might not be fallacies.

2. Walton's definitions of fallacy

I will limit my discussion to Walton's case, although other authors advocate that the flaw of an argument must be serious to call it a fallacy. Adler (1996, p. 329), for instance, writes: "To evaluate an argument as a fallacy is to attribute to it a serious failure of reasoning."

Let us start with (2) and (3), two definitions, more detailed than (1). They come from two books: *A Pragmatic Theory of Fallacy* (1995, pp. 237-238) and *Methods of Argumentation* (2013, pp. 247-248).

(2) *A Pragmatic theory of Fallacy.* A fallacy is paradigmatically :	(3) *Methods of Argumentation* A fallacy is :
1. … a failure, lapsed, or error, subject to criticism, correction or rebuttal (...wrong use of argumentation schemes)	1. An argument
2. … a failure that occurs in what is supposed to be an argument (argument requirement).	2. … that is often an instance of a defeasible argumentation scheme
3. … a failure associated with deception, or illusion.	3. ...that is reasonable, but is somehow used wrongly
4. … a violation of one or more of the maxims of reasonable dialogue or a departure from acceptable procedures in that type of dialogue.	4. ...that falls short of the standard of proof set for it in the dialogue the arguer is supposed to be taking part in.

[1] In principle, this requirement could be generalized to more than two. In practice, two is quite enough.
[2] I use this broad term to stress that the difference is related to syntax or semantics or pragmatics.

5. … an instance of an underlying, systematic kind of wrongly applied technique of reasonable argumentation (argumentation theme)	5. ...that plausibly seems correct (in its given context of dialogue)
6. … a serious violation, as opposed to an incidental blunder, error, or weakness of execution.	6. and committing it poses a serious obstacle to reaching the goal of the dialogue

Separated by almost twenty years, these definitions show a few differences, but also striking similarities, including the qualification of 'serious' in the last condition.

They are closely connected: the most recent one comes from a chapter beginning with a reminder of the oldest and is introduced as an "improvement on the pragmatic definition", namely the oldest. This will be enough for us to consider them as representative of Walton's concept of fallacy, despite slight changes.

What can be said about the word 'serious'? It can be a merely factual descriptive term, for instance when you compare two pictures of a human face. One will be said serious because it expresses no emotion, whereas the other will be said to be not-serious because, for instance, the person is laughing while blinking an eye. However, 'serious' is very often a normative moral term: something is serious because it conforms to an expectation, a norm, an ideal type or situation: "This is a serious work", "Fred is not a serious person", "The ontological argument is not really serious." Sometimes you can hesitate between a factual and a normative interpretation: "This was a serious fight." 'Serious' can also be used as a gradual term: this is very serious, serious, rather serious, not very serious (but serious), not serious, not serious at all, and so on. It also allows comparisons: you can find some things more serious than others. Furthermore, people may disagree about whether something is serious or not, and how serious it is. Especially in the case of a controversial argument! So, to make a decision, we need more information and analysis. A first question to Walton could then be: can you provide any criterion to decide that the "kind of error" in (1), the "violation" in (2), the "obstacle" in (3), is (really) serious?

3. The right tool for the right use

In definition (2), "serious" qualifies a « violation » of at least one of "the maxims of reasonable dialogue" or "a departure from acceptable procedures in that type of dialogue." In (3), it is the "obstacle" to the goals of dialogue that is serious. This violation, or that obstacle, is itself produced – according to Walton's very words – by a wrong use (of an argument) "that falls short of the standard of proof set for in the dialogue, but seems plausibly correct." Hence, the violation, or the obstacle, is the manifestation of this "wrong use". Walton claims that, by itself, the structural argument is not sufficient to produce this effect: it has to be used in a specific kind of dialogue, with all its requirements. I grant the principle that an argument has to be used to put its potential badness at work. Yet, it seems to me that the very possibility of a wrong use depends on prior features that are proper to the argument, often to its very type. Perhaps, not any argument would lead to a wrong use. The idea of a pragmatic abuse, more precisely of a kind of cheating, is already present in the first page of *On Sophistical Refutations* when Aristotle illustrates how a paralogism can be abusive. But he also stresses that it depends on a structural property of the argument: it comes "from a similarity" (1064a, p. 25). But not any similarity.

Let us follow this idea. You can use a screwdriver to drive a screw or to stab someone. Why is it more difficult to stab someone with a tomato? Because it lacks some similarities with a knife, even if you can murder someone with a tomato.[3] On the other hand, it is not serious to try to stab someone who wears an iron shield. To perform an action in the right way you certainly need the right kind of tool but also other relevant conditions. The first time you hand a screwdriver to a child, you will perhaps tell her: "Be careful, you could hurt someone, even yourself!" You foresee kinds of deviant uses that a clever child could discover by herself, "from a similarity" between a screwdriver and a knife. To understand that an argument or a kind of argument is fallacious, amounts to understanding – more or less quickly – that it can be used in a misleading way. To understand is enough, you don't have to get into details. A screwdriver can have an indefinite number of deviant uses, but to understand that it can be dangerous you need to imagine at least one dangerous use. A fallacious argument *can* be dangerous: this disposition is enough to make it an actual (kind of) weapon, i.e. an object that can make *serious* damages.

On Walton's account, to be fallacious is not an intrinsic property of a type of argument, nor of a particular token. In other words, you cannot decide whether a particular argument is fallacious just by inspection, without taking into account the type of dialogue, its goal and its rules. If I correctly interpret Walton's position, the possibility of a deviant (misleading) use is not enough to make of a structural argument a fallacy: it is only if it is actually used in a non-critical way and, so, violates a rule or creates a serious obstacle that it is a fallacy. The type of the argument only makes it an acceptable candidate to the status of fallacy: it has to be used in a seriously wrong way to become a fallacy. Potentiality is not enough; Walton requires actuality. To return to the screwdriver used as a dagger, Walton's position amounts to saying that a screwdriver is dangerous only if it has actually been used in a way that has made serious damages. Danger is *a posteriori*.

Furthermore, as suggested by our previous short discussion of the concept of 'serious', the lack of any explicit and sharp criterion to distinguish between serious and non-serious obstacle or violation, paves the way to a gradual status of fallacy. Thus, according to the (kind of) verbal exchange, the same argument could be more or less fallacious. Several aspects of Walton's position go in this direction that makes of fallacies gradual sins, for example when he considers as not seriously fallacious the use of an argumentation scheme that is logically or critically wrong but does not create serious obstacles to the goals of a dialogue. Here is a quotation where the potential of the type of the argument is not sufficient to make a fallacy. You still have to climb the moral scale to reach the status of full (serious) fallacy. A blunder is not a fallacy:

> (4) In a typical case of this type [*i.e when you have not enough material to decide between a fallacy and a weak but non fallacious argument*], an argument may be an instance of a general technique associated with a fallacy – for example it may be an ad hominem argument – but the error committed does not seem serious enough to justify calling it a fallacy as used in this particular instance. It may seem more like a blunder than a fallacy in this instance. (1995, p. 236)

Another consequence of this kind of gradual view will be discussed in next section on the importance of the arguer's intention – or lack of intention – to deceive.

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[3] You can perhaps try to choke her with the tomato!

You could object to the requirement of a serious damage that the traditional concept of fallacy – if there is such a thing as a traditional concept of fallacy – is often introduced, illustrated and understood by means of examples of structural arguments that are said fallacious without any explicit association to a type of dialogue they would block. Although he is not very keen on psychological speculations, at least on that matter, Walton would perhaps reply that when you grasp that an argument is fallacious, you have in mind two (kinds of) dialogues: one where the argument is fine, one where it creates a serious obstacle. Although I grant that to understand that an argument is fallacious requires foreseeing two diverging linguistic uses, I doubt that they always clearly are two dialogues with specific goals and rules, partly broken in one case but not in the other. We don't need all this with the fallacies that Aristotle called "depending on language", somewhat neglected today. General semantic competence is enough here: you don't have to get into explicit pragmatic details. Take Hamblin's example (1970, p. 12): "Everything that runs has feet; the river runs: therefore, the river has feet." A basic knowledge of English is sufficient to acknowledge the two faces of 'run', or the metaphor, and then the possibility of a trick. Some fallacies are like puns (many are puns): they play on words and so, only indirectly on distinct speech situations. You don't always need to conceive a dialogue, moreover with specific goals and rules, to grasp that an argument is fallacious. This is the case of most "fallacies dependent on language" and it is interesting to note that they belong to the "seven major fallacies that do not fit any of the argumentation schemes" (Walton, 2013, p 223). This suggests that Walton's theory of fallacy is not global but local and that his requirement of a "serious" flaw is limited to a specific subset of pragmatic situations.

Yet, you can also find in Walton's writings some definitions less focused on the dialectical requirement, to the benefit of the logical one. For instance: (5) "According to the new theory, a fallacy is (first and foremost) an argumentation scheme used wrongly" (1995, p. 18). But, as shown by the case of these seven major fallacies, the scope of the usefulness of the notion of argumentation schemes for the study of fallacies is more limited in 2013 than in 1995 where some arguments are even "inherently fallacious", while others "can be reasonable".[4] Other examples of a balanced position between the logical and the dialectical poles can be found in (1) and in (6): "According to the new theory, a fallacy is an underlying, systematic error or deceptive tactic" (1995, p 15). The disjunction in (6) suggests that a fallacy can have two independent sources: either a "systematic error" unfortunately committed or a deliberate "deceptive tactic". This alternative is a bit surprising, for it appears a few lines after the following passage that only stresses the dialectical pole and the (presumably) bad intentions of the arguer:

> (7) The new theory is not a psychologistic theory but a pragmatic theory. It is a rich explication of the concept of fallacy as a calculated tactic or deceptive attack or defense when two people reason together in contestive disputation. So conceived, a fallacy is not only a violation of a rule of a critical discussion but a distinctive kind of technique of argumentation that has been used to block the goals of a dialogue, while deceptively maintaining an air of plausibility, either by using a type of argumentation that could be correct in other cases or even by shifting to a different kind of dialogue illicitly and covertly. (1995, p. 15)

According to (7), the use of an argumentation that "could be correct in other cases" is only an option, not a necessary condition for a fallacy since the arguer could covertly shift to another

[4] See the problem of "fallacy names" in *A Pragmatic Theory of Fallacy* (p. 209-211).

kind of dialogue. But a will "to block the goals of dialogue" appears necessary in both cases. On the other hand, to avoid the radical split between structural flaws and dialectical stakes that may be suggested by the disjunction, you could interpret (6) not as stating two independent ways to product a fallacy, but as a return to the idea of a two-faces phenomenon or entity, just like in the case of homonymy (one word for two things) or synonymy (one thing for two words). This seems closer to the spirit of Walton's new theory,[5] but this interpretation is not plausible in (6) because of the tension between an error – especially a systematic one – and the free choice associated with a tactic – especially calculated – and a deceptive attack.

A few lines further, we find again the disjunction: (8) "a serious error or deceptive tactic", where the adjective 'serious' qualifies the error rather than the deception. And still a few lines further:

> (9). The term 'fallacy' refers to an underlying systematic error or misdemeanor in the structure of an argument, a basic flaw indicating that the argument is fundamentally flawed in some way. A fallacy, therefore, is not just any error or violation of a rule of critical discussion that occurs in an argument. It is a serious kind of underlying failure in the way the argument was executed as a strategy in a conversational exchange, as a misleading or deceptive tactic to get the best of one's speech partner. (p 15)

Because of the equivocation of the English word 'argument', you can hesitate on the meaning of "the structure of an argument", especially when associated with a misdemeanor. Is it the structure of the premises-conclusion system or the structure of the process? Both? Is the underlying systematic error relative to the structural argument while the deceptive tactic would be relative to its use in the process? This seems the most plausible: the stress of words like 'systematic' or 'basic flaw' suggest a flawed product used to create a flaw in the process. But in this case, the ambiguity of Walton's numerous disjunctive formulations – met since (1) – should be avoided.

A shift between the requirements of the logical and the dialectical poles appears again when Walton takes some distance from the pragma-dialectical approach that notoriously stresses the dialectical pole:

> (10) The problem with the view of Van Eemeren and Grootendorst is that it sees all violation of the rules of a critical discussion as fallacious. This procedure fails to distinguish the relatively trivial violations blunders (non-fallacious errors that are failure to support an argument adequately) and fallacies (more serious, systematic, underlying errors, or deceptive tactics used), which mean that an argument is radically wrong, from a logical point of view, in a way that makes it more difficult (or even impossible) to repair. (1995, p. 16)

So, the pragma-dialectical criterion is too loose because it cannot discriminate a blunder from a fallacy because it forgets that a fallacious argument is "radically wrong from a logical point of view". But notice that the disjunction between error and tactic is still offered.

All this makes our leading question sharper. What is and where is the serious wrong essential to a fallacy? Is it a basic structural flaw in the premises-conclusion argument? Or the violation of the rules of the dialogue that impedes reaching its goals? Both? Although a serious

[5] Although I am not sure that in this case he would not be just adding footnotes to Aristotle.

logical mistake does not entail a serious dialectical one, and a serious dialectical one does not entail a serious logical one. And how do you decide whether it is serious or not?

4. Strategic maneuvering and the will to deceive

Quotations (4) and (10) make a distinction, often stressed by Walton, between a blunder and a fallacy. The sixth condition in definition (2) also stresses the contrast between a "serious violation" and "an incidental blunder, error, or weakness of execution." This suggests that the intentions of the arguer matter and could provide a decisive key to this elusive "serious" feature that makes an argument fallacious.

Although he is not keen on psychological considerations, Walton maintains an old distinction, often dropped or neglected in contemporary writings on fallacies. Definitions (2) and (3) state that a fallacious argument "plausibly seems correct (in its given context of dialogue)" (2013 version) or has a failure "associated with deception, or illusion" (1995 version). Let's ask: is this correct (but fake) appearance or this deceptive association intentional or not? A link between a possible deception and the qualification of "serious" seems straightforward because of the quite common tendency to consider that an intentional deception is morally more serious than a non-intentional one.

Let us read Walton. After the claim that the examination of the pattern of two *ad* arguments (*ad hominem* and *ad autoritatem),* hence of two kinds of arguments involving the status of the opponent, is not sufficient to make a decision about their fallaciousness, he goes on:

> (11) The fallacy in both instances is found not in the argumentation scheme, as applied to a single argument, but in a pattern that can be found only by examining a connected sequence of moves by both parties. (2013, p. 216)

In the context of this dynamic approach, Walton makes a distinction[6] between two kinds of fallacies. In some cases, a fallacy is merely a blunder or an error, while in other cases, it is a sophistical tactic used to try to unfairly get the best of a speech partner in dialogue, typically by verbal deception or trickery. The evidence of such a tactic can be found in the pattern of moves made by both partners. The pragmatic theory published in 1995 already distinguished between these two kinds of bad arguments. Both are fallacious; the distinction is somewhere else, namely in the intentionality to deceive:

> (12) The paralogism is the type of fallacy in which an error of reasoning is committed typically by making a blunder by failing to meet some necessary requirement of an argumentation scheme. The sophism is a sophistical tactic used to try to unfairly try to get the best of a speech partner. (2013, p. 216)

A quick interpretation suggests that a paralogism is an involuntary wrong use of a kind of argument, thus a mere mistake; whereas a sophism is deliberately used to deceive. In 1995, Walton had already stuck to this approach: a paralogism "fails to be valid because it fails to fit some structural (characteristically semantic) relation that the premises should bear to the

[6] The principle of this distinction is not new. It can be found at least in Kant's *Logic* (1819, § 90, p. 193) and relies on the German distinction between *Trugschluss* and *Fehlschluss.* Walton discusses this German distinction in (1995, p. 246-247)

conclusion", while a sophism is "the intentional perpetration of a deceitful trick or fraud of a perpetrator on a victim" (1995, p. 244). Yet, in 2013, Walton purports that to draw the line between "mere mistake" and "intentional deception," would "miss the point." (p. 218) He explains that arguers with strong interests at stake, or fanatically committed to the position advocated by the argument are "blind to the weaknesses in it that would be apparent to others not so committed." In this case, the deception is not intentional because the proponent does not see the argument as faulty. Walton repeats that, in such cases, the arguer is "blind to errors that others might find in it [i.e., this kind of argumentation]." I confess that I do not see how this misses the point. I grant that people who have great interests at stake or are fanatically committed to a point may use fallacious arguments deliberately, as well as without any calculation, i.e., 'blindly'. But this does not blur the line, even if we cannot say whether the fallacy is deliberate or not. Blindness is a necessary condition to speak of an error or a blunder. The fact that the agent does not "see as faulty" or "is blind" to something that others may see as faulty is what makes an essential difference between an error or a blunder and a trick, a lie or a sophism (in Walton's sense).

But Walton finally belittles the importance of intention because "it is an internal mental concept that can be inferred only abductively on the basis of external evidence of what the agent knew or considered." (p. 218) I doubt the last part: when I put forward a sophism, I need no abduction to know that it is fallacious. And I presume that it is also the case for other people: they can utter a fallacious argument without recognizing that it is fallacious, but whenever they utter a sophism, they know what they do. This makes a difference that, in some sense, can be said a serious one.

Up to now, our hope that the intention to deceive would provide the stepping stone for the Waltonian distinction between serious and non-serious bad arguments seems to misfire. Taking again some distance from the dialectical pole, Walton seems to confirm this point:

> (13) Whether it is intentional or unintentional does not really matter from a point of view of analyzing the argument and deciding whether it should be considered fallacious. What is important from a point of view of logical argumentation is the logical weakness in the argument, or some fault in the pattern of argumentation, not some psychological fault in the arguer. (2013, p. 218)

What does Walton mean when he says that the distinction between intentional and unintentional « does not really matter » to decide whether an argument is fallacious? As expected, from a logical point of view, the distinction does not matter. But, especially if we heed (11), it matters from the interactional one: it is from this point of view that the distinction could be identified as a serious one with serious practical consequences. This could be the reason why Walton finally seems to acknowledge that intentions do matter: the will to deceive allows a moral ranking, a sophism being morally more serious than a paralogism:

> (14) The sophistical type of fallacy tends to be a more serious kind of problem than the error of reasoning one. It is based on the idea that an organized rule-governed dialogue in which arguments are exchanged, like a critical discussion, is partly adversarial but also partly cooperative. […] Thus a critical discussion is like a free market economy in which each side tries to win by having the strongest argument that will triumph over those of its opponent. (2013, p. 218)

Here, Walton suggests that the hierarchy in seriousness between the two forms of fallacy can lead to an inversion that finally makes the flaw of the dialectical move more important – not to say serious – than the logical one, even if you can imagine a clumsy sophism with no serious impact on the dialogue and a paralogism leading to a shift toward an eristic exchange or a radical break.

You can easily find passages where the intentionality to deceive appears essential to a fallacy. For instance, among the previous quotations, (6) states that a fallacy is "a calculated tactic or deceptive attack or defense" used "to block the goals of a dialogue". Here, blunders and paralogisms seem forgotten. In a more recent passage, explicitly devoted to sophisms, we also read:

> (15) Another problem is that to analyze fallacies properly, we have to explain how each of them is used as an effective deceptive tactic that does work to fool people. The theory of strategic maneuvering (van Eemeren, 2010) is the best tool for this task because it can take the strategic dimension of fallacies into account. (2013, p. 219)

Here again, "each" fallacy seems identified with a sophism, unless you can qualify a succession of errors as a strategic maneuvering. Whereas (8) welcomes paralogisms and sophisms under the umbrella of "fallacy," Walton's theory has a tendency to expel paralogisms from it, as illustrated by (14) and (15). Expressions like "calculate," "used to," "deceptively maintaining an air of plausibility," "to fool people," "deceptive tactic," or "strategic" clearly are intentional terms, far from the blindness typical of paralogisms, errors, and blunders.

5. Conclusion

Although his distinction between paralogism and sophism provides a scale to rank the dialectical damages made by fallacious arguments, the sophistic dialectical damages being morally more serious than the ones resulting from mere mistakes or blunders, Walton finally gives no stable answer to our question on what makes a fallacy serious. He gives the impression to keep hesitating between ascribing the serious of its flaw to a matter of logic or to a matter of dialectic.

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