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## A Tool for Rhetorical Citizenship

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**A Tool for Rhetorical Citizenship: Generalizing the *Status* System**

In this chapter I suggest how to generalize and integrate ancient *status* theories into one coherent scheme. I suggest that an approach to public argument which integrates principles from *status* thinking could be an important element in what we may call “rhetorical citizenship.” I do not pretend to offer a new and more accurate interpretation of what certain ancient thinkers wrote or had in mind, but to present a tool which can help present-day debaters as well as observers in deliberative debates narrow down the range of a dispute and identify the reasons that may be decisive for winning adherence. By deliberative debates I mean all kinds of social disagreement over action.

When debaters disagree, each debater has a strategic interest in knowing the precise reasons that make opponents differ, because arguing against those reasons is probably the best way to change one’s opponents’ minds. The deliberating observer, looking for enlightenment on an issue, also has an interest in knowing the exact reasons that make the debaters differ, because these are probably just the ones that will best help him decide for himself.

In public debates, however, such a precise understanding of where standpoints differ, and why, is often lacking – in debaters as well as observers. Debaters routinely misrepresent and radicalize opponents’ standpoints. They often neglect or distort the reasons underlying these standpoints, or attribute altogether imaginary reasons to their opponents. Debaters impute base motives to their opponents that the opponents have not expressed, and never would. Frequently, debaters assume that anyone who disagrees with them on a specific point has a coherent cluster of views, all equally repugnant, on everything. Thus, debaters may see any opponent as representing one hostile, monolithic block. From there the step is short to personality slurs. Partisanship and polarization rule. Debaters see their own standpoint as representing righteousness; divergent positions are seen as not only divergent but opposite, usually in a dichotomous sense: there are only these two positions, nothing in between, no neutral ground – a situation well analyzed by Govier (2007). There is a characteristic *widening* of the front zone where the two sides clash, and a concomitant entrenchment of positions.

Litigation lawyers know the need to focus their argument and present a pointed, “coordinative” argumentation - to use the terminology of Snoeck Henkemans (2000) - rather than a set of unconnected reasons. A study by Jørgensen, Kock and Rørbech (1994, 1998) of televised political debates where representative audiences voted on issues before and after each debate showed the coordinative strategy as superior: "single ground" debaters won 11 times and lost 3 (binomial test:  $p = .0574$ ), "multiple ground" debaters lost 12 times, and won only twice ( $p = .0130$ ).

Theories of *stasis* (or *status*) were developed in antiquity to help forensic debaters focus on the point (s) at the heart of a dispute. Central to these theories were the *status rationales*: the conjectural, the definitional, and the qualitative, equivalent to the questions: What are the facts? How are the facts to be categorized? What particular circumstances characterize them?

The *status rationales* problematize the facts at issue, but another component of *status* thinking was the *status legales*: questions problematizing the ‘laws’ or rules by which the facts were to be judged. In most versions there are four *status legales*. In all, the debater argues that there is no clear one-to-one match between a norm or law and the fact at issue. A debater may resort to *ratiocinatio/collectio* when no existing norm applies to the fact; instead he draws an inference by analogy from an existing norm about something else. A second legal *status* is *ambiguum*: a norm may be vague or ambiguous, so it might apply to the fact, or it might not; we might say that the formulation of the norm is too abstract for us to be certain whether the fact is covered by it or not. A third legal *status* is *scriptum et voluntas*. We may see this as the converse case: here there is also a norm, but its overt meaning is too specific. Taken literally, it might not cover the fact, but the argument is then that it should be understood in a broader sense: not according to the letter but to the spirit. The fourth legal *status* is *leges contrariae*; this means that there are two or more norms which may both apply, but which argue for different conclusions.

A leading modern legal theorist, Robert Alexy, in explaining why a judicial verdict will not always follow deductively from a correlation of facts and rules, mentions essentially the same four conditions that constitute the traditional *status legales*: the vagueness of legal language, norm conflicts, lack of a relevant norm, and a contradiction between letter and intent (1983, 17); this adds credence to the claim that the four *status legales* usefully articulate problems inherent in attempts to correlate rules and facts.

The order in which I present the *status legales* above is not arbitrary. First, the argument is that there are *no* applicable norms at hand. In the second and the third cases *one* norm might apply, but either it is too abstract or too specific. In the fourth case, *more norms than one* apply, supporting opposite conclusions, and the issue is one of priorities.

Other theorists in modern times have attempted to broaden the relevance of ancient *status* thinking to cover practical, political or deliberative debate (most recently Hoppmann); others have developed theories of argument or communication that have much in common with *status* thinking (e.g., Brockriede & Ehninger; Benoit; Marsh). I too argue that the usefulness of *status* theory is not limited to legal argument, but I further contend that it should be applied to practical argument in the broadest sense, and (unlike Hoppmann and others) not just from the defender's point of view, but from the viewpoints of any of the debaters involved, as well as audiences, observers and critics. Like many of these theorists, I would stress the analogy between practical and legal argument. The difference is mainly that in legal argument most of the norms are formal rules written down explicitly in statutes etc., recognized by all involved as valid; in practical argument, such as political debate, they are mostly vague, informal, unwritten, and not necessarily recognized as valid by all, or valid to the same degree. Moreover, in practical argument the norms are most often not explicitly cited, and they are much more heterogeneous than legal rules. We might call them "multidimensional" (Kock 2003, 2006): some are prudential, perhaps exclusively concerned with economy; others are ethical, concerned with moral or honourable conduct or notions of fairness or justice; others are formal and legal, for example considerations as to whether a given policy is constitutional or in accordance with international law. The *status* system offers a typology of potential problems in correlating facts and norms, and as such it is just as useful in political and ethical debates as it is in legal argument.

Besides merging these two domains, I propose another merger which has not, to my knowledge, been suggested by previous theorists: the *status legales*, I suggest, are properly seen as subdivisions of the *status* of definition. In the *status* of definition, we discuss how a fact can be subsumed under a rule or norm. The *status legales* are about the same kind of discussion, but approach it from the other end, applying norms to facts. They are useful because they specify the problems this application may engender. Many *status* theories in the rhetorical tradition are curiously underspecified on this: while the qualitative *status* is

hierarchically subdivided at several levels, the *status* of definition often gets short shrift (e.g., in Hermogenes). My point is that disputes about correlating facts and norms are innumerable and varied, in particular when we include deliberative disputes; but the four usual *status legales* provide a model for how to distinguish and specify such disputes.

Ancient *status* theorists, notably Hermogenes, also included lists of so-called “practical” *status*, basically naming the main warrants that could be invoked in political reasoning, such as legality, justice, advantage, feasibility, honour, consequence; the earliest such list is to be found in the anonymous *Rhetorica ad Alexandrum*. But the items on the list are the same 'multidimensional' norms that clash in political debates today. For example, one debater recommends a policy as advantageous, another opposes it as dishonourable. Such clashes, common in politics, ethics and everyday life, parallel the *leges contrariae* in legal argument.

So the three central moves in my proposed reformulation of *status* thinking are these: 1) generalizing the legal concept of laws/rules into a broader concept of regulatory norms, applicable also to political, ethical, or personal issues; 2) seeing the four *status legales* as specifications of the *status* of definition; 3) seeing the “practical” issues as specifications of the heterogeneous norms that clash in political and other practical debates.

The complete, reformulated *status* system for practical debates is given in the following table. I have identified the cells in the table with letters and numbers, supplied terms from ancient *status* theories and given examples of the different types of disagreement. The columns represent *status* types and their subtypes according to my reinterpretation. The rows represent 1) the traditional classical terms for the three *status rationales*, which I retain as a ground structure; 2) the exact nature of the issues debated under each of the three main *status*; 3) references to a set of concepts used in works of “informal logic” (such as, e.g., Govier, 2009) which identify three aspects of an argument that, in my view, correspond closely to the three *status rationales*; 4) subtypes (to be discussed below) of the three main *status* types; 5) rhetorical characterizations of these subtypes; 6) some explanatory comments; and 7) specific examples of issues or debates belonging under the subtypes, most of which are discussed below.

Christian Kock: Table to accompany "A Tool for Rhetorical Citizenship: Generalizing the Status System"

1	<b>Classical terms:</b>	1. <i>Status conjecturae</i> Conjecture	2. <i>Status finitionis</i> - Definition (the <i>status legales</i> are inserted here: C4-F4)			3. <i>Status qualitatis</i> - Quality.						
2	<b>What are we debating?</b>	What are the facts?	What norms apply to the facts? (Legal norms (statutes), ethical norms, ideological norms, value concepts, "doxai", "common sense", formal and informal topoi ...)			What specific features and circumstances of the facts should be considered?						
3	<b>Counterpart in argumentation theory:</b>	<i>Truth/Acceptability</i>	<b>Relevance</b>			Weight, Strength, "Sufficiency", "Good Grounds" (= <i>gradual and quantitative</i> considerations)						
4	<b>Classical subtypes:</b>		<b>Assimilation</b> <i>Ratio-cinatio</i>	<b>Ambiguity</b> <i>Ambiguum</i>	<b>"Letter and Intent"</b> <i>Scriptum et voluntas</i>	<b>Conflict of law</b> <i>Contrariae leges</i>	<b>Counterplea</b> <i>Antilepis</i>	<b>Counterstatement</b> <i>Antistasis</i>	<b>Counter-accusation</b> <i>Auseklepsis</i>	<b>Transference</b> <i>Metatarsis</i>	<b>Mitigation</b> <i>Synechismos</i>	<b>Justification</b>
5	<b>Rhetorical problems and strategies:</b>	Give proof, increase probability.	No norms clearly apply  Argument from either consequences or analogy	One disputable (vague) norm applies  Interpretation of norm to either include or exclude facts	One disputable (strict) norm applies  Distinction between literal and intended meaning	Two or more contradictory norms apply:  Arguments to show that norms on own side have more relevance and/or weight than those on other side	Norm recognized, but breach justified by extraordinary circumstances  "It is just"	Norm recognized, but regretfully disregarded  "It is necessary"	Norm recognized, breach blamed on object of breach  "They asked for it"	Norm recognized, breach blamed on external party  "They made us do it"	Norm recognized, breach attenuated  "Mitigating circumstances"	Norm recognized, breach deplored, forgiveness  "I apologize"
6	<b>Comments:</b>	About what is the case, independently of value concepts and policy preferences	Mostly about novel phenomena	Many debates in politics and ethics belong here (cf. Warnke)	Often a last resort in argument	Many debates in politics and practical ethics belong here - "Conductive reasoning" (cf. Wellman, Govier) - "Value pluralism" (cf. Berlin et al.) - "Incommensurability" (cf. Raz et al.) - "Normative meta-consensus" (cf. Dryzek) may apply - Types of norms invoked include: - legality - justice - advantage - feasibility - honour - consequence	All these resemble, or are even identical with, those issues where contradictory norms apply (F5); the difference, if any, is that in the qualitative status (as we are here), one argues for an exception to the strict application of a certain general norm, the relevance of which is not contested					
7	<b>Examples:</b>	WMD's in Iraq? Man-made global warming?	Cloning, File-sharing, Stem cell research	Abortion	Anti-abolitionist: "Black slaves not intended by 'all men created equal'"; Nobel Peace Prize given to non-Peace causes	Invasion of Iraq: Spreading democracy, Deposing a tyrant, Self-defence Vs. Legality, Human and material costs Resulting chaos  Muhammad cartoons: Defence of free speech internationally Vs. Gratuitous offense to minority locally	Brutus killing Caesar; Liquidation of informers under German Occupation; "Wasteful bombing"	Torture, "extraordinary rendition", "illegal combatants"	"They broke all the rules, so we respond in kind"	"We were under orders"	Victim gets back at tormentor	"I misled people, including even my wife. I deeply regret that."
	A	B	C	D	E	F	G	H	I	J	K	L

All this is intended as a typology of contemporary social and political disagreements. If public debaters saw disagreements in terms like these, they might be more likely to avoid the characteristic widening of fronts and less likely to impute imaginary standpoints, policies, reasons, intentions and personality features to each other. Arguers as well as observers might be more clearly aware of the norms that the case for each side is based on, and they would have more reason to explicate those norms and scrutinize them. Educators might help bring a better understanding of argumentation into school curricula, including the understanding this paper aims for of how disputes may be narrowed down to their essentials, rather than being seen as all-out ideological clashes. Journalists might be less prone to portray such clashes where they are not, and more willing to lay out the essential points of disagreement in current social debates. And academics might do more to explicate the nature and norms of deliberative debate and to analyze and criticize ongoing debates for what they are.

I should stress that in proposing the 'system' I lay out in this article, I am particularly addressing academics and educators in rhetoric, argumentation, critical thinking, and related fields. I would readily agree that the breakdown of types of issues that I am proposing here is probably too complicated or

cumbersome for use by the general public—not so much because 'everyday people' are unable to understand it but because they would hardly be sufficiently patient with such close or detailed analysis. Ancient *status* theory, admittedly, was designed for professionals. Another circumstance that might raise doubts regarding the practical applicability of the system proposed here is that the purpose of *status* theory was to facilitate invention, that is, help these professionals find what might be argued against opponents' views, rather than for determining where points of convergence might exist. So it is true that neither ordinary citizens nor political candidates or other partisan debaters can be expected to immediately take this system to heart. However, the potential practical relevance that I do see in it resides, at least initially, in its usefulness for educators, academics and other critics and commentators of public debate in realizing when such debates are broader, more polarized and less focused than they might be on what the disagreement is essentially about. Having realized that, such observers might then explain this core of the controversy to the public audience, and, while pointing out what it is really about, they might make clear what it is *not* really about. An awareness of this would foster, I suggest, a wish in some members of the public to hear more about the core of the issue and less about the rest of the controversy, including false versions of opponents' views, personality slurs, etc. Some audience members (voters) might even be inclined to let themselves be more persuaded by debaters who would focus on core issues, mainly because they would be of more help for undecided voters trying to make up their minds. Conversely, some voters might be inclined to turn away from candidates and debaters who fail to focus. Thus, eventually, even then public candidates and debaters themselves might find that an increased awareness of what core issues are, and what they are not, might in fact be to their own benefit, even strategically. This is the main mechanism by which I suggest the 'system' proposed here, and the awareness it aims to foster, might be useful and socially beneficial.

Sometimes, for instance, such an increased awareness might make clear that a dispute is about an issue where no pre-existing norm indisputably applies (cell C5). That understanding might stimulate both parties to help formulating a relevant norm, perhaps by considering consequences of the act or policy at issue. Such discussions might be particularly productive in new domains like digital technology. For example, web-based file-sharing is a novel and disputed phenomenon where debaters tend to invoke old norms to little avail: on one side norms relating to theft and piracy, on the opposite side freedom of information, etc.; a

more constructive debate might start from the insight that no existing norm applies indisputably because the phenomenon is indeed novel. A similar type of consideration might be apply to both novel and anticipated phenomena in fields like bio-technology, e.g., stem cell research, human cloning, and others.

In other cases, reflection on a given dispute might lead arguers and/or observers to the insight that both sides actually agree on the norms or values invoked, but their disagreement is about interpretation; in other words, they disagree on whether the phenomenon at issue can meaningfully be subsumed under a norm they both support *per se* (cell D5). This is the sort of “interpretive” dispute that Georgia Warnke has analyzed with the abortion debate in the US as her prime example. Both sides are undoubtedly “pro life,” seeing the preservation of human life as an important norm, but they may disagree as to whether the removal of a new human foetus, or fertilized egg, constitutes the taking of a human life. Similarly, both sides are probably “pro choice,” insofar as letting people choose instead of dictating their choices is seen by them as a good thing *per se*, in particular when a person’s own body is concerned; but they have an interpretive disagreement about whether a woman’s decision to have a new foetus removed from her body can be subsumed under this norm.

Practical disagreements corresponding to the *status* known as *scriptum et voluntas* (cell E5) are less common; as mentioned, the *scriptum* often lacks in practical argument, most of the norms invoked being unwritten (and implicit). However, an important historical example might be the abolition debate in the US, in light of the famous statement in the Declaration of Independence about all men being created equal and possessing, among their unalienable rights, that of liberty; Stephen Douglas, in the 1858 debate with Lincoln at Jonesboro, made a clear *scriptum et voluntas* argument by declaring, “Thomas Jefferson meant only English people when he said, ‘All men are created equal and all men should be free’.” A recent example occurred in Norway, whose parliament awards the Nobel Peace Prize; a critic accused the Prize committee of having awarded the Prize to other causes than Peace, but the counterargument was that the wider interpretation under which, e.g., Al Gore and the IPCC won it were “in the spirit” of Nobel’s will.

More common, in fact perhaps the standard case in practical argument, are disagreements where both debaters can actually be shown to recognize the norms invoked by both sides, and even each other’s interpretations of these norms. For example, two debaters disagreeing on abortion might agree that the



removal of even a new foetus does indeed constitute the taking of a human life, but at the same time they might also agree that to deny a woman the right to have such a foetus removed does indeed constitute a denial of her free choice concerning her own body and is thus a bad thing. In that case, we have a dispute of the kind we find in cell F5: there is agreement that *two* norms clearly apply, and there is no disagreement on the interpretation of them, but these norms point to contradictory conclusions. The dispute is now whether one of them can be said to be *more* relevant to the facts than the other, and especially whether the argument relying on one of these norms can be made to appear *weightier or stronger* than the other. So we are talking about perceived *degrees* of weight or strength. This is the practical counterpart of the *status of leges contrariae*. We may think of all those cases, not just in politics but also in our personal lives, where two or more normative concepts are used as warrants on opposite sides of an issue. To cite a political example, the invasion of Iraq in 2003 was supported by some with reference to a) defence against terrorism, b) dissemination of democracy, and c) the need to overturn a tyrannical regime; but it was opposed by others with reference to d) its illegality under international law, e) the loss in human as well as material terms that would follow, and f) the political chaos that would most likely result. All of these considerations were in some sense at least potentially relevant to the issue. This plurality of relevant, contradictory considerations made the issue a case of what Trudy Govier and others, following Carl Wellman, have called “conductive reasoning,” i.e., a situation where it is necessary somehow to weigh the pros and cons. Such situations also exemplify the condition which, since Isaiah Berlin, has been called “value pluralism”: there may be several norms that a given culture, and even a given individual, finds relevant to a certain issue, but which nevertheless speak for opposite decisions. Other philosophers (e.g., Joseph Raz) have emphasized that such norms may be “incommensurable,” i.e., it cannot be determined in an objective way whether one or the other norm should have priority in a given case. This, I would suggest, has to do with the fact that the set of relevant norms is multidimensional. In legal argument the *status of leges contrariae* makes us aware of such situations, but if we widen the scope of *status* thinking to social and political disagreements we are reminded that similar contradictions are also common there, in fact much more so. Arguably, there can be no real deliberation about an issue without an understanding that relevant considerations on both sides must somehow be weighed against each other.

Another concept that may be relevant in such situations is that of *normative metaconsensus*, as defined by the political theorists John Dryzek and Simon Niemeyer, that is, “agreement on recognition of the legitimacy of a value, though not extending to agreement on which of two or more values ought to receive priority in a given decision” (639); the term “normative metaconsensus” may be said to correspond to Rescher’s “axiological consensus.”

As is readily seen, the “practical issues” (e.g., legality, justice, advantage, feasibility, honour, consequence, as cited in cell F6) illustrate the multidimensionality of the open set of norms that may be invoked on both sides in debates on contentious political issues, as well as some of the different categories of norms constituting this multidimensionality. There is no need to insist that the list just cited, or any other, is exhaustive; the main point is that the set of applicable, relevant norms is multidimensional. From this follows incommensurability, so that there is no objective or philosophically compelling way to decide the issue: although a given, relevant norm speaks for one line of action, another relevant norm usually speaks for the opposite line of action. Hence debaters invoking a certain norm should not lightly assume that ‘their’ norm alone decides the matter; instead they have an obligation to engage in conductive reasoning and compare the reasons on the two sides, making a case for why their own side outweighs the other. Also, a debater should not lightly accuse her opponents of rejecting or betraying the values or norms that she herself relies on; as we have seen, often there is normative metaconsensus between opponents, even though they do not seem to recognize this themselves. Thus, both supporters and opponents of the Iraq invasion might probably agree on values such as spreading democracy as well as respecting legality; their dispute concerns the *priority* in the specific case of one norm over the other.

Often, normative metaconsensus probably also exists between two opponents in the abortion controversy: “life” and “choice” are probably values that both recognize, but their dispute may either be one of priorities, or it may be one of interpretation – a dispute stemming from the fact that both these key concepts are ambiguous, or rather: vague.

The examples so far all illustrate disagreements corresponding to the four traditional *status legales* (columns C-F in the table). But the other *status* types are equally relevant for identifying types of social disagreement and demarcating their true scope. The conjectural *status* may remind practical debaters that

many disagreements are, and should be limited to, questions of *what is the case*, and they should be debated as such, independently of values and policy preferences. Unfortunately, in political debates this separation is often suspended. For example, in the controversy over the Iraq war there was a tendency for advocates of activist, strike-first foreign policies to believe, *for that reason*, that Saddam Hussein had WMD's; on the other hand, liberal war sceptics were inclined to believe, *for that reason*, that Saddam did not. Similarly, in the debate on global warming adherents of conservative economic policies and unrestrained growth may be inclined to believe, *for that reason*, that there is no anthropogenic global warming calling for strong measures, while environmentalists and people sceptical of economic growth might, *for that reason*, tend to accept the reality of man-made global warming. But no one's beliefs about factual issues like the presence of WMD's in Iraq or the reality and magnitude of man-made global warming should be induced by the values or policy preferences they endorse; moreover, debaters should not lightly suggest that their opponents' beliefs on such issues are thus induced.

As for the third main *status* category, that of "quality," notice first that there is only a gradual transition rather than a sharp boundary separating it from the *status* of definition. In particular our fourth subtype of the definitional status (F5, corresponding to the *contrariae leges*), is very similar to what Hermogenes calls *antilepsis* (translated by Heath as "counterplea"), for which our counterpart is G5. The difference is that whereas in F5 cases, the argument concerns the balancing of two contradictory norms, in G5 the argument is that extraordinary, perhaps unforeseeable, circumstances call for a suspension of, or exception to, a norm whose relevance is fully recognized. Examples of "counterplea" might be Brutus's defense for his murder of Caesar; or there is the issue of resistance people in occupied countries during WW II who liquidated fellow civilians acting as informers to the Nazis. In Denmark, for example, about four hundred civilians were killed by resistance people, against whom no legal steps were subsequently taken. Other examples might be "whistleblower" cases where, e.g., intelligence officials divulge information they consider vital for the public; they thus clearly break a law they have pledged to observe, yet their conscience tells them that due to extraordinary circumstances this breach is just and necessary. Arguably, such cases might also be described as clashes of two contradictory norms – one formal and another vaguer, informal one.

From cell G5 the further passage through cells H5-K5 is gradual. In all of these, the issue is the breach of a norm whose relevance is not contested. As we move towards K5, there is less that speaks for an outright exception to that norm; whereas in G5 the argument is whether the breach represents justice of a different order, in H5 it is merely necessary, although regrettable. Issues belonging here might be the use of torture, “extraordinary rendition,” or indeterminate detention of “illegal combatants” to prevent acts of terrorism. Few argue that these practices represent justice in the traditional sense, but many argue that owing to exceptional circumstances they are necessary. The latter practice also has a tinge of I5 in it: for example, we sometimes hear its advocates arguing that Guantanamo detainees, being “the worst of the worst,” have “broken all the rules” and thus “deserved” whatever treatment they get. In J5 no form of justification is claimed – the breach is merely presented as inevitable because forced by a superior power. In K5 neither justification nor inevitability is claimed, only mitigating circumstances which lessen the gravity of the breach. In L5, no mitigating circumstances remain except one: the remorseful apology of the accused. In the nature of these cases, however, these latter two types of argument are more or less endemic to defence rhetoric and are uncommon in practical argument as such.

All this exemplifies an important general benefit that may follow from seeing social disagreements in terms of this generalized *status* typology: it may help opponents in public debate, *as well as* their audience, the deliberating public, to realize not just what exactly separates the two sides – but also what does not. Their dispute is narrowed down, but not necessarily resolved. On the contrary: in a certain sense the dispute might become more intense because the argumentative resources of the opposite sides might be more sharply focused on the exact disagreement that does separate them, e.g., the interpretation of the concept of “life.” The full argumentative resources of the debaters are then concentrated on that issue rather than being diffusely distributed across a much wider target area that assumed speculative motives and personality features of opponents, etc. Such a focused debate would be likely to generate more insight, more enlightenment and hence probably more informed attitude formation (and change), in debaters as well as observers.

It should be emphasized again that in proposing this application of *status* thinking to social, ethical and political disputes I do not expect to see consensus emerge on vexed and complex issues like the ones I have

mentioned. The belief that rational argumentative discourse will necessarily lead to consensus, or towards it, has been championed by Habermas in philosophy, by political theorists such as Elster, and by “pragma-dialectics” in argumentation theory (van Eemeren & Grootendorst). However, as Rawls (1989, 1993) and others have maintained, there are good reasons why people may not ever agree on controversial topics where values are involved; hence Rawls’s term “reasonable disagreement.” Among these reasons are precisely the fact that people may, even within the bounds of absolute reasonableness, interpret or prioritize values differently.

Nevertheless, although consensus cannot be expected to emerge, in some cases it actually might. But if it does not, to realize that there is normative metaconsensus is also an achievement. For one thing, it might reveal that a dispute is probably not an all-out clash between monolithic blocks that utterly reject each other’s values. The polarization and the trench warfare we often see in public debates would lose some of its fuel. Also, debaters on both sides might find better and more persuasive arguments for their views. The *status* system in antiquity had this kind of purpose. The reason it might work like that is that it makes it easier for debaters as well as for observers to focus on the decisive point of disagreement. If a debater could change her opponent’s mind about that reason, then and only then she might change the opponent’s mind about the whole issue. Similarly for undecided observers: a debater is most likely to make them take her side if she focuses on the decisive point of disagreement and makes them accept her case on that precise point as the stronger one.

As a final illustration, let us consider the debate about the Muhammad cartoons published by the Danish newspaper *Jyllands-Posten* in 2005. In Denmark, most people supporting the right-leaning government, but also some left-leaning academics and intellectuals not known as government supporters, saw the publication of the cartoons as a praiseworthy act in support of freedom of speech, and in defiance of threats and violent acts calling for its suppression. Other debaters, however, mostly on the left but also some from the business and diplomatic communities, argued that the publication of the cartoons was a harmful, uncalled-for gesture. The controversy reached a maximum of polarization in February of 2006, when Prime Minister Fogh Rasmussen used the words of Christ from Matthew 25:32, turning them against writers and others who had failed to defend the cartoons: “as far as I am concerned, the sheep have been separated from the goats”

(Larsen). In October of 2008, the debate was revived in another leading newspaper, *Politiken*, between its editor, Tøger Seidenfaden, a leading critic of the cartoons, and Frederik Stjernfelt, a well-known academic who supported them (Mogensen). Seidenfaden here repeated that the cartoons were an act of gratuitous harassment of a minority not deserving such treatment, namely all those peaceful Muslims in Denmark who seek integration, but who might be hurt and alienated by such an act. Stjernfelt, a self-declared enlightenment thinker, objected that the cartoons were part of a global fight for freedom of speech, against special rights for cultural groups, rebuking Seidenfaden for wearing "blinkers" and seeing only "the tiny Danish corner" of the issue, while ignoring the global aspects.

As an observer, one might wonder why two highly intelligent and articulate debaters did not see more clearly the simultaneous relevance of two different norms, both of which they undoubtedly both support. In other words, there probably was normative metaconsensus between them, but they did not realize it. Stjernfelt persisted in assuming that opposing the cartoons meant betraying freedom of speech, and he appeared insensitive to the relevance of the "harassment" argument; Seidenfaden, on the other hand, appeared similarly insensitive to the global context, where some Muslim forces did in fact want to curtail freedom of speech by legislation or violence, and he was unwilling to concede that the cartoons might relevantly be seen in that context.

In an interview with another Danish daily the celebrated German writer Hans-Magnus Enzensberger took a clear stand but at the same time showed an awareness of the contradiction: by one set of norms that he endorses he would criticize the cartoons, while by another norm that he endorses even more strongly, he would still support them: "I defend those malevolent, idiotic, dreadful, distasteful Muhammad cartoons. Should those responsible for them put up with murderous threats? No, no, no" (Kassebeer).

Debaters as well as observers to this debate might have been reminded by a *status*-based approach to social disagreements that the debate was not between believers in one supreme principle battling the believers in another supreme principle; instead it was about which of two principles, both recognized by both sides, should be prioritized in the specific case.

More generally, I suggest that democracies like ours need a greater awareness among debaters, audiences, media people and educators that social disputes should not be seen as all-out clashes along enormous front

lines, but that they may often be narrowed down to focused disagreements on more specific points – on which either side might also have a better chance of persuading non-sympathizers. I suggest that the insights contained in ancient *status* theory as reinterpreted here can help bring such awareness about. We probably all want to avoid the plight of the two lovers in Matthew Arnold’s famous poem “Dover Beach,” who feel that

we are here as on a darkling plain

Swept with confused alarms of struggle and flight,

Where ignorant armies clash by night.

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