

# Burdens of Proposing On the Burden of Proof in Deliberation Dialogues

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Article abstract

This paper considers the probative burdens of proposing action or policy options in deliberation dialogues. Do proposers bear a burden of proof? Building on pioneering work by Douglas Walton (2010), and following on a growing literature within computer science, the prevailing answer seems to be “No.” Instead, only recommenders—agents who put forward an option as the one to be taken—bear a burden of proof. Against this view, we contend that proposers have burdens of proof with respect to their proposals. Specifically, we argue that, while recommenders that  $\Phi$  bear a burden of proof to show that  $\Box\Phi$  (We should / ought to / must  $\Phi$ ), proposers that  $\Phi$  have a burden of proof to show that  $\Diamond\Phi$  (We may / can  $\Phi$ ). A burden of proposing may be defined as, which reads: Those who propose that we might  $\Phi$  are obliged, if called upon, to show that  $\Phi$  is possible in any of four ways which we call worldly, deontic, instrumental, and practical. So understood, burdens of proposing satisfy the standard formal definition of burden of proof.

# Burdens of Proposing: On the Burden of Proof in Deliberation Dialogues

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**Abstract:** This paper considers the probative burdens of proposing action or policy options in deliberation dialogues. Do proposers bear a burden of proof? Building on pioneering work by Douglas Walton (2010), and following on a growing literature within computer science, the prevailing answer seems to be “No.” Instead, only recommenders—agents who put forward an option as the one to be taken—bear a burden of proof. Against this view, we contend that proposers have burdens of proof with respect to their proposals. Specifically, we argue that, while recommenders that  $\Phi$  bear a burden of proof to show that  $\Box\Phi$  (We should / ought to / must  $\Phi$ ), proposers that  $\Phi$  have a burden of proof to show that  $\Diamond\Phi$  (We may / can  $\Phi$ ). A burden of proposing may be defined as  $\langle P, \Phi, \Diamond\Phi \rangle$ , which reads: Those who propose that we might  $\Phi$  are obliged, if called upon, to show that  $\Phi$  is possible in any of four ways which we call worldly, deontic, instrumental, and practical. So understood, burdens of proposing satisfy the standard formal definition of burden of proof.

**Résumé:** Ceux qui suggère une proposition ont-ils la charge de la preuve? Si on s'appuie sur les travaux novateurs de Douglas Walton (2010) et sur la base d'une littérature croissante en informatique, la réponse dominante semble être "Non". Ce sont seulement ceux qui recommandent une unique option à prendre qui ont le fardeau de la preuve. À l'encontre de ce point de vue, nous soutenons que ce sont ceux qui avancent une proposition qui ont la charge de la preuve en ce qui concerne leur proposition. Plus précisément, nous soutenons que, tandis que ceux qui recommandent  $\Phi$  portent la charge de la preuve pour montrer que  $\Box\Phi$  (Nous sommes obligés / nous devrions / nous devons  $\Phi$ ), ceux qui suggèrent  $\Phi$  ont la charge de la preuve pour montrer que  $\Diamond\Phi$  (Il nous est permis / nous pouvons  $\Phi$ ). Un fardeau de la preuve qui découle d'une suggestion peut être défini comme  $\langle P, \Phi, \Diamond\Phi \rangle$ , ce qui veut dire: Ceux qui suggèrent que nous puissions  $\Phi$  sont obligés, s'ils sont appelés, de montrer que  $\Phi$  est possible selon l'une des quatre manières que nous appelons mondaines, déontique, instrumentale et pratique. Ainsi compris, les charges de suggérer une proposition remplissent la condition formelle standard de la charge de la preuve.

**Keywords:** argumentation, burden of proof, deliberation, deliberation dialogue, persuasion dialogue, probative burdens

## 1. Introduction

In his keynote lecture, delivered to the 2009 Sixth International Workshop on Argumentation in Multi-Agent Systems (ArgMAS),<sup>1</sup> Douglas Walton observed that “there appears to be no serious investigation so far on the special problem of how burden of proof should be modeled in deliberation dialog” (Walton 2010a, p.2). In a paper appearing in 2010, Walton, together with his coauthors Atkinson, Bench-Capon, Wyner, and Cartright, wrote that “[t]here appears to be no burden of proof in a deliberation dialogue comparable to the central notion of burden of proof in persuasion dialogue, but this matter has not so far been studied” (2010). In his ArgMAS keynote, Walton ventured the following as a “working hypothesis”:

Burden of proof only becomes relevant when deliberation dialog shifts, at the beginning of the argumentation stage, to a persuasion dialog ... [and] that the shift can be classified as an embedding of one type of dialog into another ... . (2010a, p.2; cf. 2014, p. 211)

Since that time, it seems to have become received wisdom among computer scientists working on developing formal, computational models of argumentative dialogue that, starkly put, *there is no burden of proof in deliberation dialogue*. At least among those working from within a Waltonian approach. Walton, for example, claims that the notion of burden of proof is “not generally appropriate” for deliberation dialogue (2010b: 20; cf. 2019, p. 211). Walton, Toniolo, and Norman (2016b: p. 1) argue that “burden of proof [BoP] of the kind present in persuasion does not apply to deliberation,”<sup>2</sup> and that “in contrast [to an inquiry, in which burden of proof, they claim, is characteristically set at a high standard], there is no burden of proof in deliberation dialogue, only a burden

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<sup>1</sup> And subsequently published as “Burdens of proof in deliberation dialogues” in *Argumentation in multi-agent systems* ed. P. McBurney, I. Rahwan, S. Parsons, and N. Maudet, (Berlin: Springer 2010, p. 1-22). A substantially revised version of that address is reprinted as Chapter 7, “Burdens of proof in different types of dialogue,” in Walton’s monograph *Burden of proof, presumption, and argumentation* (New York: Cambridge University Press 2014, p. 211-244).

<sup>2</sup> Page references correspond to the version of the paper appearing here: <https://scholar.uwindsor.ca/crrarpub/40/>

of explanation” (2016a, p. 164). Elsewhere Walton (2019, p. 210) writes that “There is no global burden of proof in a deliberation dialogue,” though he concludes that same paper by contending the stark thesis: “there is no burden of proof in deliberation dialogue” (2019, p. 228). Similarly, Atkinson, Bench-Capon, and Walton (2013, p. 115) conclude the stark thesis writing: “There is, therefore, no burden of proof in a deliberation dialogue.”

The claim that there is no *global* burden of proof in deliberation dialogue amounts only to the unobjectionable claim that there tend to be no proponents at the opening stage of a deliberation. Let’s call this the *innocuous* view. Indeed, the absence of proponents is stipulated to be a *defining* feature of deliberation dialogues on Waltonian classificatory models.<sup>3</sup> In Section 3, we will explain how this observation yields the conclusion that deliberations lack a burden of proof of the sort set in the opening stage of persuasion dialogues (the kind of burden of proof Walton often calls “global”), by way of something we call the *no opening standpoint argument*. While unproblematic in itself, we find that the innocuous view has been misleadingly interpreted and incautiously stated in ways that are mistaken, and problematically so.

As we saw in the opening paragraph, the innocuous point has come to be stated less cautiously. Qualifiers get dropped, a general inapplicability of burden of proof to deliberation is taken to follow, and we get the stark view: There is no burden of proof in deliberation dialogues. In this more problematic guise, what the stark view amounts to is this: In deliberation dialogues, *proposals* have no attendant burden of proof. Following Walton (2010b, p. 15; cf. 2019, p. 202), we distinguish proposals from recommendations, where, in the context of deliberation dialogues, a *proposal* is to be understood as the suggestion of an action or policy option as a possible course of action for consideration, while a *recommendation* should be taken to mean the putting forward of one such action/policy option as *the* one to be adopted or implemented.<sup>4,5</sup>

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<sup>3</sup> See, for example, Atkinson, Bench-Capon, and Walton (2013).

<sup>4</sup> Importantly, our usage here must be taken as stipulative. Its purpose is to flag the distinction between these two kinds of speech acts which are typically said to occur at different stages of a deliberation dialogue. That said, what we here call ‘recommendations’ are often called ‘proposals’ in the literature. Sometimes

The view that proposals have no attendant burden of proof marks the conclusion of an argument we, in Section 3, call the *proposing is non-committal argument*. And this argument, together with its conclusion, we find to be problematic. Seemingly, because the act of proposing comes with no burden of proof, Walton, in later work, “doubled down” on the stark view, contending that even *indefensible* proposals should not be subject to retraction (Walton, Toniolo and Norman 2016b, p. 11)—something we, in Section 3, call the *no obligation to retract corollary*. Here we take issue with the *stark* view.

In this paper we explore the operation of probative burdens in deliberative dialogue. The stark view, we contend, is false, although we agree with many of the insights taken to inform it. Specifically, we agree that there are important differences between the operation of burdens of proof in the discursive activity of deliberation as compared to that of persuasion. The innocuous point of fact that deliberations often lack proponents at their outset should be granted (see, e.g., McBurney, Hitchcock and Parsons 2007, p. 98).<sup>6</sup> And we take those differences to have important consequences for the proper design of both formal, computational systems which might be called deliberation dialogues, and of normative models seeking to regulate human communicative interactions. Yet, those insights, when carefully examined, do not support the stark view. Indeed, the view that there is no burden of proof in

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differences between the speech acts are not terminologically marked at all. Indeed, Walton himself does not adopt a consistent usage. In the same work we just cited, he writes: “A party who offers a proposal is generally advocating it as the best course of action to take” (2019, p. 211). On our usage, such a party is offering a recommendation, not a proposal.

<sup>5</sup> It should be recognized that recommenders can recommend logically complex action options—e.g., “We should do  $\Phi$  and  $\Psi$ ,” “We should do  $\Phi$  or  $\Psi$ .” In cases such as these, recommenders may rightly be understood to propose several action options: in the first example both of them; in the second, one, or the other, or (perhaps) both. Importantly for our purposes, the burden of proof for such logically complex recommendations can be handled in relatively straightforward ways, by taking account of their logical structure when specifying their attendant probative burdens.

<sup>6</sup> When this point is taken definitionally, the claim becomes analytic and, hence, uninformative.

deliberation distorts, rather than clarifies, one's vision of the normative dynamics at work in deliberation dialogues. Taken as it reads, whether as the first or the final word on the matter, it misleadingly suggests that there are *no* probative burdens attaching to *proposals* made in deliberative dialogues. Yet, this is false.

What is it to say that no burden of proof attaches to a conversational move? It is important that we should understand this before assessing whether or not proposals have attendant burdens of proof in deliberation dialogues. Dialectically understood, claiming that (in dialogues of some specified type) some (type of) conversational move, †, lacks a burden of proof is to claim that there are no attendant discursive responsibilities attending to moves of that kind. That is to say, *challenges* or *why questions*, ?, are not permissible as responses to moves of that kind (when made in a dialogue of the specified kind). After all, the permissibility of *why questions*, of challenges to some discursive move such as the demand for justificatory reasons, is just the discursive mechanism by which discussants may be held to account for the conversational moves they have made. What a discussant must succeed in doing in order to discharge that responsibility is their burden of proof. To say that a conversational move of (some kind) has no burden of proof is to say that the discussant making that speech act undertakes no commitments or discursive responsibilities in doing so—that, in making the move, they have nothing to account for.

To illustrate this point, let's consider examples of a conversational move that uncontroversially has an attendant burden of proof, and another that uncontroversially lacks any burden of proof. In the pragma-dialectical *critical discussion* (van Eemeren and Grootendorst 1984, 1992, 2004), expressions of doubt (i.e., refusals to concede a standpoint contended by a proponent) lack a burden of proof. Proponents bear a burden of proof: the *obligation to defend*. In contending a standpoint, S, proponents incur the responsibility to satisfactorily answer the doubts or challenges of their audience (e.g., 1992, p. 208; cf. Walton and Krabbe 1995, p. 136). Yet, when a respondent expresses such a doubt or challenge, by making a *why-question* move like “No commitment S. Why S?”, proponents are *not* permitted to respond with moves like “Why not-S?” or “Why no commitment S?” In critical discussions,

*why questions* may not be answered by *why questions*. Permitting such moves by proponents is thought to fallaciously shift a burden of proof from proponents to their respondents, allowing them to evade discursive accountability for their views. In critical discussions, then, while expressing a standpoint comes with a burden of proof, *why questions* are moves that lack any attendant burden of proof—they are not subject to challenge; instead, they must be answered.

In our view, proposals are *not* like this. Indeed, as we will show, when it comes to burdens of proof, proposals made in deliberative dialogues resemble contentions of a standpoint far more than they resemble *why questions* made in critical discussions. In our ordinary deliberative conversations, proposals are liable to a variety of different sorts of criticism or challenge. One need only imagine a situation in which a fellow deliberator makes a proposal that strikes one as outlandish, fantastical, or a complete non-starter, to begin to appreciate our point here. And this is as it should be. We have certain expectations of proposers because we have certain expectations of their proposals *qua* proposals. Granted, it would be wrong to treat a proposal as though it were a recommendation, and to then criticize it on that basis. But, having granted that, it remains that proposers are answerable for their ventured proposals, in just the same way that proponents are answerable for their expressed standpoints. Further, as we will see, just as assertors can, proposers can undertake other discursive actions in making a proposal—such as qualifying it, or acknowledging its apparent unviability or implausibility—in order to mitigate the commitments they take on in making it.

In this paper we make the case that there is a burden of proposing in deliberation. We identify those grounds on which we take proposals to be rightly criticisable *as proposals*, and use those grounds to develop a set of standards of proof which we think proposers may properly be expected to meet during the course of deliberative dialogue. We then show how, with those standards in hand, a probative burden for proposers can be specified so as to meet the definition of a burden of proof on its standard, formal definition.

In brief, the paper proceeds as follows: In Section 2, we introduce the central tenets of dialectical approaches to argumentation as they pertain to formal models of deliberation. We set out the basics of a Waltonian classification of dialogue types, and review the normative, discursive foundations of burden of proof and its operation in argumentative dialogue. Then, using the McBurney, Hitchcock, Parsons (2007) model as a reference point, we introduce the dialectical macrostructure of deliberation, and critically survey those dialectical features taken to distinguish deliberation from persuasion as dialogue types on a Waltonian typology. Section 3 elaborates on the stark view that there is no burden of proof in deliberation, setting out in detail its various aspects while attempting to clarify the reasoning informing it. Having identified what we take to be the controversial aspects of the stark view, and the arguments offered in support of them, Section 4 offers our critical response. Here we make our case that proposing comes with a distinctive burden of proof, by considering an illustrative example of our ordinary deliberative practices that we take to reveal the expectations we ordinarily make of proposers and their proposals together with the kinds of criticisms we are willing to make of them when they don't seem to meet our expectations. Building on this discussion, we offer an analysis of what we take to be the standards of proof that properly attend to proposals. We then specify a burden of proposing, showing specifically how it differs from the burden of recommending, and demonstrating how our conception of each burden satisfies the standard, formal definition of burden of proof. In Section 5 we offer our conclusions, and outline the future work that needs to be undertaken in revising existing formal, computational models of deliberation dialogue if our conclusions bear out.

## **2. Argumentative dialogues as normative models of argumentation**

### *2.1. Dialectical approaches to argumentative norms*

Dialectical approaches to argumentation model argumentative norms as procedural rules obliging, permitting, and prohibiting



discussants to make certain kinds of conversational moves at specific junctures in an argumentative discussion. These rule-sets, called *protocols*, are partly definitive of dialogues of different kinds.

The dialogues themselves are abstract, idealized, normative models which can, though needn't, serve to represent salient features of human conversation (Walton 2010b, p. 13; cf. McBurney, Hitchcock, and Parsons 2007, pp. 96-97). That said, the extent to which such models have application in either representing or regulating the various activities humans engage in during the course of transacting reasons with one another will depend on the extent to which the normatively salient features of those discursive practices are correctly incorporated into the models. Similarly, the extent to which formal dialogical systems designed for artificial agents are intended model (whether descriptively (replicating or reliably producing the results of) or prescriptively (providing an ideal or corrective mechanism for their execution)) those argumentative exchanges after which they are named (e.g., deliberation, negotiation, persuasion dialogue) also depends on the extent to which the normatively salient features and dynamics constitutive of those argumentative exchanges are correctly incorporated into the formal systems intended to model them.

## 2.2. *Types of argumentative dialogues: A Waltonian typology*

On a Waltonian typology, six different types of dialogue are distinguished: persuasion, inquiry, negotiation, information-seeking, deliberation, and eristic (Walton and Krabbe 1995; Walton 1998) to which a seventh, discovery, was added following the work of McBurney and Parsons (2001). Formally understood, argumentative dialogues of all types are divided into three stages: the opening stage, O, the argumentation stage, A, and the closing stage, C. In this way, any dialogue can be defined as the ordered tuple  $\langle O, A, C \rangle$  (Gordon and Walton 2009, p. 5; cf. Walton 2019, p. 199).

On a Waltonian system of classification, types of dialogue are distinguished from one another according to three principal features: their initial situation (which consists of the discursive catalyst for the argumentative discussion, together with any relevant conversational context such as background information and shared

commitments), the overall conversational goal (shared among discussants, which is a source of the cooperative nature of their conversational exchange), and the goals of individual discussants (which can be different and which can be a source of adversariality or competitiveness between discussants within the conversation) (Walton 2010b, p. 13). These features are taken to mark normatively salient features common to all dialogues of a given type while distinguishing dialogues of one type from those of another. For example, the adversariality of persuasion dialogue and negotiation are taken to follow from their initial situations of, respectively, disagreement and competing interests. While the cooperativeness of inquiry and deliberation is taken to follow from their initial situations: a collective need for proof in the first case and a collective need to act in the second. Similarly, in dialogues portrayed as adversarial, discussants are said to have participant goals that are jointly unsatisfiable, while in dialogues characterized as cooperative, discussants are said to have participant goals that are jointly satisfiable. So, these gross, rough-hewn aspects of dialogues are taken to prefigure their normative character or tenor. Moreover, dialectical norms are taken to derive from these differentiating features. For example, the argument from negative (practical) consequences can be a legitimate argumentation scheme in deliberation and negotiation, though it would not be in inquiry. Generally speaking, dialectical norms are specified in terms of rules (protocols) stipulating those moves that are permissible, obligatory, and prohibited at each stage in the dialogue (Walton and Krabbe 1995; cf. Walton 2019, p. 199).

Rather than rehearse these distinguishing features for each dialogue type, we will instead concentrate our attentions on those features distinguishing deliberation dialogues from the rest—particularly from persuasion dialogues—, since it is in virtue of those distinguishing features that deliberations are said to lack a burden of proof for proposers. Before doing that, though, we need first to consider the notion of burden of proof.

### *2.3. Burden of proof*

Burden of proof, according to Walton, “is defined as an allocation made in reasoned dialogue which sets a strength (weight) of argu-

ment required by one side to reasonably persuade the other side” (1988, p. 234). This informal specification of the concept can be formally operationalized. Formally understood, a burden of proof can be defined as a 3-tuple  $\langle A, P, S \rangle$ , where:  $A$  is a set of arguers, agents, or conversants;  $P$  is a proposition, statement, or standpoint; and  $S$  is a standard of proof against which the acceptability of  $P$  is to be evaluated (Walton 2010a; 2010b, p. 23).

Burdens of proof are discursively incurred by discussants when they make conversational moves that are not met with acceptance by their audience. For example, Walton writes: “By declaring a proposition as his thesis [e.g., by asserting it], a participant thereby incurs a burden or obligation of proof—meaning that he is obliged to offer proof, or at least evidence of backing, for the thesis, if challenged by [some] other participant in the argument” (1988, p. 246, *emphasis added*). Called the initiating burden (or *I*-burden) by Rescher (1977, p. 27), this burden is taken to stay fixed throughout the remainder of the dialogue.

Although one might reasonably hold that anyone committed to the claim  $P$  bears a burden of proof with respect to it, standardly the obligation to satisfy, or discharge, that probative burden is only activated (i.e., some conversant is called upon to discharge their discursive obligation) when their expressed standpoint is not accepted by their interlocutor—that is, when the acceptability of some standpoint they have contended is challenged by some other conversant. The set,  $A$ , of arguers, then, consists of that subset of conversants who are both proponents of (i.e., committed to) the standpoint  $P$ , and whose contention that  $P$  has been challenged by another conversant. Informally, the idea is this: That proponents,  $A$ , of the claim  $P$  are obliged to produce a proof that satisfies  $S$  in order that their standpoint,  $P$ , be acceptable.

Waltonian models distinguish several different kinds of burden of proof. One important distinction is that between global and local burdens of proof. The global burden of proof is set at the outset of an argumentative dialogue, in its opening stage. This allocation ascribes, for each thesis at issue (i.e., each standpoint about which there is disagreement occasioning the dialogue itself), both (i) the standard of proof to be met in order to resolve the disagreement, and (ii) the party that must show that this standard

of proof has been met to the satisfaction of the other discussants. In this way, Walton (1988) writes:

The setting of the thesis of a participant at the outset of a dialogue is a global consideration, for this designation, once set, affects every subsequent move. By contrast, a local consideration could be whether a specific reply, at some particular point in the dialogue, is an acceptable response to the preceding question posed by the other side. (p. 241)

Importantly, there is a sense in which the distinction between global and local burdens of proof is an artifact of Waltonian modeling rather than a feature of our ordinary conversational practices. That there is an opening stage to our ordinary argumentative discussions is not merely an idealization—it is a fictionalization. In practice, when we encounter disagreement and we wish to resolve the issue, we begin transacting reasons. In doing so, we learn, empirically by trial and error, which of our reasons and which episodes of our reasoning will “stick”—which will be accepted by our disagreeer(s). Should one of the claims we offer as a reason, or moves made in our reasoning (equivalently, a rule cited in justifying some inferential step), not be accepted by our interlocutor(s), that claim or rule will not be among the shared commitments taken in the idealization to be identified in the opening stage. In practice, though, we discover this common ground, and the ground not shared in common, piecemeal—one move at a time.

The point here is this: Should we discover that a claim or rule we need to rely on in making our case is not accepted by our interlocutor, then we must look elsewhere for common points of agreement. Hopefully, those points of agreement will both be close-to-hand and will bear sufficiently upon the points about which we do not agree in ways that contribute to resolving our disagreements (now plural). Understood in this way, there is one continuous argumentative activity in which we resolve our disagreements and transact our reasons, and within the context of this activity every burden of proof is local. When forced into a dialectical model like Walton’s, it may equivalently be said that, at every point of disagreement, a new argumentative dialogue begins within which a new global burden of proof is set with respect to the

new claim at issue. Thus, what Walton distinguishes as a “local” burden of proof is really a global burden of proof for an argumentative dialogue that is nested within some other argumentative dialogue. This point will become important later when we attempt to make better sense of the claim that, in deliberation, there is no burden of proof.

In addition to different burdens of proof, there are also a variety of different standards of proof against which the acceptability of some claim, *P*, can be evaluated. For example, Gordon and Walton (2009) provide a formal dialogue model that operationally defines the variety of proof standards operative in legal argumentation: scintilla of evidence, preponderance of the evidence, clear and convincing evidence, and beyond a reasonable doubt (p. 244ff.). With these definitions in hand, they proceed to define dialectical validity, the burdens of claiming and questioning, the burden of production, the burden of persuasion, and the tactical burden of proof (p. 247ff.).

Dialectically understood, standards of proof are operationalized into a set of discursive responsibilities that are discharged when conversants succeed in the performance of specified conversational tasks. Thus, “a proof in argumentation is a structure which [when enacted, preformed, or presented] demonstrates to a particular audience that a proposition satisfies its applicable proof standard” (Gordon and Walton 2009, p. 240). More generally, a burden of proof may be understood as that set of discursive responsibilities that attends to any conversational commitment that one undertakes.

Probative burdens, including burdens of proof, are articulated in deontic terms—they specify discursive responsibilities of conversants. As such, they consist of entitlements and obligations which, in the first place, permit or license moves of certain kind on the part of some discussants while, in the second place, require or oblige moves of other kinds on the part of different discussants. As such, burdens of proof are operationalized in terms of argumentative labor—that is, they specify those things that an arguer must do in order to discharge the discursive responsibilities comprising the burden of proof, or those things that another arguer may do in order to invoke the obligation. Because of this, burdens of proof

may be modeled as protocols, or sets of moves required or permitted in formal, computational systems.

Moreover, while these obligations are satisfied by the performance of certain discursive acts—argumentative performances, if you will—burdens of proof are not themselves behavioral in nature. Rather, they are normative with behavioral satisfaction criteria. Satisfying one's burden of proof is a success term: to say that some arguer has met their burden of proof is to offer them a bit of argumentative praise, while to say that they haven't is to offer a criticism or negative appraisal of their argumentative performance. Moreover, whether or not the performance is satisfactory is not merely a function of the performance itself—i.e., the behavior exhibited by the arguer. Rather, judgements of whether a burden of proof has been satisfied also reference certain standards which specify normative constraints of what will count as a satisfactory discursive performance—one capable of discharging an argumentative responsibility or satisfying a burden of proof. It is because of this that the protocols of formal systems can have an ideal (i.e., normative, prescriptive, and regulative) rather than merely a descriptive character.

#### *2.4. The structure of deliberation dialogue*

We next consider the dialectical structure of deliberation dialogues. A variety of different models for deliberation dialogue can be found in the computational argumentation literature (Reed 1998; McBurney and Parsons 2002; McBurney, Hitchcock, and Parsons, 2007; Dunin-Keplicz, Strachoka and Verbrugge 2011; Kok, Meyer, Prakken and Vreeswijk, 2011). As our reference point, we will review the influential model of McBurney, Hitchcock, and Parsons (2007, p. 100f.), which we will call the MHP model for short.

On the MHP model (2007, p. 100f.; cf. Walton et al. 2010), deliberation consists of eight distinct stages as follows:

Open: A governing question about what is to be done is raised. Posing the governing question and seeking its answer is motivated by a perceived need to act, and thus to decide on a course of action, in the circumstance.

**Inform:** Background information relevant to the governing question is shared, and discussion of desirable goals, constraints on possible action-options, and evaluation criteria occurs.

**Propose:** Possible answers to the governing question are proposed as action-options by any discussant.

**Consider:** Comments from various perspectives are made on the proposals, again by any discussant.

**Revise:** Goals, constraints, perspectives, and action-options can be revised in light of considerations raised in the previous stage. Information-gathering and fact-checking can also take place. Embedding of dialogues of other types (e.g., information seeking, persuasion) can occur at this stage.

**Recommend:** Action-options can be recommended for acceptance or non-acceptance by any participant.

**Confirm:** Once a recommendation has been made in the previous stage, it is either confirmed by unanimous consent, or rejected. (Other standards of confirmation are possible).

**Close:** Once a recommendation has been confirmed, the deliberation dialogue successfully terminates. The governing question has been answered in a way satisfactory to all concerned, and the course of action to be taken has been settled.

With a basic procedural structure such as this in hand, we can begin to consider factors bearing on the burden of proof in deliberation dialogues.

First, it is from Walton's discussion of the MHP model that we take our distinction between proposals and recommendations. Walton writes:

Proposals for action that indicate possible action-options relevant to the governing question [which] are put forward during the propose stage. Commenting on the proposals from various perspectives takes place during the consider stage. At the recommend stage a proposal for action can be recommended for acceptance or

non-acceptance by each participant (Walton et al. 2010). (Walton 2010b, p. 15; cf. 2019, p. 202)

What we take to be important here is the difference in commitment undertaken by a proposer as compared to a recommender. Proposers offer what they take to be a potential or possible answer to the governing question of a deliberation—a possible course of action that might be taken. Recommenders, by contrast, undertake to answer the governing question. They offer some proposal or other as the action to be taken.

While Walton and McBurney, Hitchcock, and Parsons basically agree about the illocutionary force of each act, they disagree as to the normative features of acts of each sort—specifically the commitments incurred by making one of them, and the concomitant entitlements extending to other discussants when an act of each type is made.

In particular, a distinctive feature of the MHP model is the locations (i.e., the stages) at which argumentation can occur. On their protocol, argumentation is initiated by the performance of an *ask-justify* move (2007, p. 104-105), which occasions either a retraction or a shift to an embedded persuasion dialogue. The ask-justify move may occur only in the inform and consider stages of a deliberation. The recommend stage permits only of *move* moves (understood as putting forward a motion that an action-option be adopted as the course of action to be taken), followed by what amounts to an “up or down vote” by each participant on some recommendation. An affirmative vote is subsequently confirmed in the following stage. The first recommendation to unanimously pass this “approval” process, is confirmed (2007, p. 105).<sup>7</sup> Thus, on the MHP model, proposers incur a burden of proof, while recommenders do not. Unanimous agreement is sufficient for the

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<sup>7</sup> This might be considered a drawback of the MHP model, in cases where several possible courses of action would meet with unanimous approval but where one of them is nevertheless preferable to all deliberators. In such cases, when the preferable option is not the first to be recommended, the protocol would seem to deliver suboptimal results. Seemingly, the only way this outcome could be prevented would be that it be discovered in the consider stage that some proposal is acceptable but suboptimal, and this discovery then forms the basis of a “down” vote at the recommend stage.



acceptability of a recommendation, and its absence sufficient for its rejection.

By contrast, Waltonian models of deliberation explicitly incorporate an argumentation phase—actually, a dialogue shift to a persuasion dialogue—at the point where some action option is recommended by a deliberator. But, they make no allowance for shifts to argumentation dialogue at the propose stage, for reasons we will see shortly. First, we consider those features distinctive of deliberation dialogues on Waltonian models.

2.5. *Distinguishing deliberation as an argumentative dialogue*

The distinctive features of deliberations, and those aspects taken to distinguish them from argumentative dialogues of other kinds (particularly persuasion), have been discussed extensively in the existing literature (e.g., Walton et al. 2010; Atkinson, Bench-Capon, and Walton 2013; Walton 2019).

As already noted, on a Waltonian approach to classification, types of argumentative dialogue are distinguished from one another by three principal features: their initial situation, the shared, overall conversational goal, and the goals of individual discussants. Considering just deliberation and persuasion dialogue, these may be summarized as follows (Walton 2010a; cf. Walton 2019, p. 199):

Type of Dialogue	Initial Situation	Dialogue Goal	Participant Goals
<i>Deliberation</i>	dilemma or practical choice	decide best available course of action	coordinate goals and actions
<i>Persuasion</i>	conflict of opinions	resolve or clarify issue	persuade other party

*Table 1: Distinguishing features of deliberation and persuasion as dialogue types*

It is worth elaborating briefly on each of these features since, on a Waltonian approach, they are taken to capture the normatively salient properties of dialogues of a given type, from which, at least partly, the dialectical norms governing the dialogue, including burdens of proof, are taken to derive.

Let's begin with a feature not explicitly listed in the table: what deliberations are about. Deliberations are inherently about practical matters. The guiding question of a deliberation is "What is to be done?" rather than "What is to be accepted (or believed)?" As distinct from inquiries, then, deliberations are not occasioned by open questions of knowledge, but open practical questions—questions about what to do, what course of action is to be taken. Or, importantly, about what course of action ought to be taken. Thus, the goal of deliberation is different in kind from that of proving or disproving a claim. Rather, "it is to solve a problem about what course of action to take" (Walton 2010a, p. 1).

Yet, while it is characteristic of deliberation dialogues that they are about some practical matter—what to do, rather than what to believe—this is not a feature that distinguishes deliberations from persuasion dialogues (Atkinson et al. 2013: 106f.; cf. Walton 2006, p. 174). We may disagree, and argue, about what should be done just as readily as we may disagree and argue about what should be believed. Moreover, just like contentions that we may or must (i.e., are obliged to) do something, recommendations that we should, or ought to, do something, are properly understood as standpoints. That is, such claims, when faced with disagreement, challenge, or jointly unsatisfiable alternatives, are properly understood to have burdens of proof attached to them.

Let's turn now to the initial situation of each dialogue. Atkinson, Bench-Capon, and Walton (2013) characterize the opening situations this way:

For persuasion, the initial situation is conflict: the agents do not agree as to the best option. In deliberation, the initial situation is one of uncertainty: while individuals may have opinions about what the best option for themselves is, they do not know which option is collectively acceptable, the best for the group as a whole. (p. 107)

For example, Atkinson, Bench-Capon and Walton employ a “familiar example for academic scientists ... where a group of colleagues must decide on a restaurant at a conference” (2013, p. 106, and *passim*). They argue that superficially similar dialogues in which discussants consider where they might go for dinner can have different underlying normative structures depending on whether they are, upon analysis, deliberative or persuasive (p. 108ff.). Principal among the distinguishing features is whether an initial move by some discussant in which a specific restaurant is indicated is taken to commit the discussant to the view that the group should go to that restaurant or to merely suggest the restaurant as one possible option. This *restaurant case* has become a recurring example in the literature (e.g., McBurney, Hitchcock, and Parsons 2007, p. 110; Walton 2019, p. 215), and it is one we will return to in advancing the main argument of our paper.

More generally, persuasion dialogues are typically occasioned by disagreement. That is, persuasion dialogues are designed to resolve disagreement—i.e., to generate agreement by settling, by way of the transaction of reasons in argumentation, the rational acceptability of a standpoint. By contrast, deliberations are typically occasioned by a practical problem requiring the undertaking of some course of action, together with a collective lack of agreement about what is to be done. Notice, importantly, that reflective deliberation, or deliberative discourse, is not required in the presence of agreement about what is to be done—it is, after all, the achievement of such agreement that closes successful deliberation dialogues!

As just noted, the guiding question of deliberation is: What is to be done? Although persuasion dialogues may rightly be said to be occasioned by the open question: Is standpoint *S* acceptable?, the differentiating feature of deliberations as contrasted with persuasion dialogues is taken to be that in a persuasion dialogue at least one discussant, the proponent, enters the discussion already having a settled view on that question. By contrast, deliberations are taken to be occasioned by open questions, questions on which no discussant has already taken a stand on a point that would qualify as an answer to the guiding question. Put more simply: At their outset deliberation dialogues lack proponents (and, consequently oppo-

nents). It is for precisely this reason that deliberations are taken to lack a burden of proof.

When this is not the case (that is, when an interlocutor enters a deliberative discussion having already settled their view on what is to be done), Atkinson, Bench-Capon and Walton classify the dialogue as persuasive, rather than deliberative, even though it is about a practical matter (2013, Section 2, p. 108ff.). Of the *restaurant case*, for instance (where what is at issue is the practical matter of where to go for dinner), they write: “Whereas in the persuasion scenario ... [at least one participant is committed to some proposal], in the deliberation scenario, no one is committed to any of the proposals, although they may have their preferences” (p. 109). Thus, the feature that is taken to distinguish deliberations from persuasion dialogues is whether or not there are proponents at the outset of the dialogue.

Yet, aside from this feature, the normative structure of deliberations is no different from those of persuasion dialogues or inquiries. Anyone venturing an answer to the open questions characterizing each kind of dialogue is properly taken to have a burden of proof attending to the answer they have ventured. And, this burden of proof comes into effect at the point where they venture that answer. The difference between these dialogues, then, is rightly seen as deriving from the conversational point at which the dialogue-as-modeled is said to begin. Yet, normatively speaking, this point is arbitrary. Granted: conversationally, persuasion dialogues are typically occasioned by disagreement, where inquiries and deliberations are occasioned by open questions. As we’ve just noted, though, even persuasion dialogues are rightly understood as occasioned by an open question. Moreover, each kind of dialogue is occasioned by the absence of agreement. Yet, the way discussants come to have a burden of proof in each of them is the same: by taking a stand on a point. The conversational move that is burden-incurring is assertion, and the conversational move that activates the discursive responsibilities attached to an incurred burden is disagreement (e.g., doubt, challenge, holding an incompatible view). And, these moves can occur in dialogues of any kind.

Next, let's consider the overarching dialogue goal. This is taken to be a shared end of the participants. In one respect, the overarching goal of each type of dialogue is acknowledged to be similar. Atkinson, Bench-Capon, and Walton write: "In persuasion and deliberation alike, the collective goal is to come to agreement as to the best option" (2013, p. 107). Put differently, the collective end of argumentative discussions of each kind is to generate agreement—it is to settle, by way of transacting reasons, the acceptability of some claim or other. The difference between them seems only to be when that claim (or those claims) comes to light: either prior to, or during the course of, "the" (type-specified) dialogue. Whether that agreement generation is occasioned by disagreement (a conflict of opinions) or by lack of agreement (the absence of a shared view), the desired end is the same: reasonably-held, and reasonably-achieved, agreement. Seen in this light, both deliberation and persuasion are cooperative undertakings. Indeed, without cooperation among discussants along a variety of lines, no conversation could proceed, let alone one where reasons are transacted.

Yet, argumentation theorists who take their theoretical and methodological lead from a Waltonian-style dialogic classification of argumentative discussions tend to emphasize the differences when characterizing the overarching goals of argumentative discussions they sort differently. These classificatory categories are, after all, taken to be normatively salient. Thus, we find Walton characterizing the overarching goal of persuasion as quite different from that of deliberation: "In ... [persuasion] dialog, there is some claim at issue, and the object of the dialogue is to prove or disprove that claim. Deliberation has a different kind of goal. It is to solve a problem about what course of action to take" (2010a, p. 1). Similarly, Atkinson, Bench-Capon and Walton write:

Deliberation is characterized as a dialogue occurring when two or more parties attempt to agree on an action, or a course of action, in some situation. One common situation in which persuasion and deliberation occur is when a group of agents must collectively choose between several options, each of which has several features to which different agents will ascribe different degrees of importance. (2013, p. 105-106)

Finally, let's consider the participant goals. In a persuasion dialogue, the individual goals of discussants are said to be persuading the other. Taking this as the participant goal of persuasion dialogue pits arguers against one another in an oppositional and adversarial relationship. Given that we genuinely disagree (i.e., have a conflict of opinions) as specified by the initial situation of a persuasion dialogue, then at most one of us can succeed in our individual goal of persuading the other. If I succeed in persuading you, I win, and you have failed in your attempts to persuade me. My view remains unchanged, while you have adopted mine. Should you succeed in persuading me, the reverse is true. And, in the case of a non-mixed dispute, should I fail to persuade you, I have failed in my goal, you have retained your initial view, and I must retract mine. Because the individual goals of persuasion are presented as jointly unsatisfiable, persuasion has different winners and losers, and persuasion itself is adversarial in nature.

By contrast, the individual goals of a deliberation are conceived of as being jointly satisfiable. Thus, the dialogue itself is taken to be more cooperative and collaborative. The individual goals of a deliberation are vaguely stated as "coordinating goals and actions." Yet it seems to us that the participant goal of a deliberation might just as readily have been stated as coincident with the dialogue goal itself: Decide on the best course of action. After all, as Walton himself put it in his ArgMas keynote: "Unlike persuasion dialog, [in deliberation] there are no winners and losers. Everyone wins if the dialog is successful" (2010a, p. 1). And if the deliberation isn't successful, we all lose. No one, for example, gets dinner. At least, because the goals of individual participants in a deliberation dialogue are jointly satisfiable, deliberations are not adversarial in ways that persuasion dialogues are. On this point, Walton writes:

While persuasion dialogue is highly adversarial, deliberation is a collaborative type of dialogue in which parties collectively steer actions towards a common goal by agreeing on a proposal that can solve a problem affecting all of the parties concerned, taking all their interests into account. (2010b, p. 15; cf. 2019, p. 201)

Yet, another natural way of describing a persuasion dialogue, like the pragma-dialectical critical discussion, one that places equal emphasis on its cooperative elements is this: Persuasion is a cooperative dialogue in which parties collectively seek to determine the rational acceptability of a standpoint (which, since it is at issue, is a problem which affects all parties in the dialogue) by agreeing to accept or reject the standpoint on the basis of those reasons transacted in the dialogue. The shared participant goal that persuasion dialogues satisfy when successful is that participants accept all and only reasonable standpoints among their commitments. When this happens, everyone wins, even if the process is corrective to a commitment they previously held. And, when the dialogue concludes unresolved, everyone loses, because the rational acceptability of a standpoint is left undetermined. By cooperatively engaging in rational argumentation to collaboratively test the rational acceptability of a standpoint, participants act in their individual rational interests. And, while individual, these interests are common to each discussant.

Thus, there is a certain sense in which the adversariality of persuasion and cooperativeness of deliberation is more a product of their description than their actual features. Granting that there is a minimal adversariality (Govier 1999, Godden 2021) that attaches to proponents, the remaining ancillary adversariality or competitiveness versus cooperativeness in dialogues of the two kinds is a product of the attitudes of the discussants and the emphases made in theorists' characterizations of conversational exchanges of these sorts.

By our reckoning, the upshot of the preceding discussion is this: When it comes to the burden of proof, the only normatively salient feature distinguishing deliberation dialogues from persuasion dialogues is its initial situation—indeed, the other distinguishing features seem to be normatively equivocal. While no deliberator enters a deliberation having a standpoint (i.e., taking themselves to have an answer to the governing question of the deliberation), in a persuasion dialogue at least one discussant enters the discussion with a standpoint—specifically, the one about which there is the disagreement occasioning the dialogue. While the goals of the different dialogues (both collective and participant)

are taken to shape what might be called the “normative tenor” of the dialogue (specifically its adversarial or cooperative nature), this does not bear on whether some discussant has a burden of proof. Put differently, because of the initial situation of a persuasion dialogue, the participant goal of a proponent is to satisfy their burden of proof. While, in a deliberation, because of its initial situation, no discussant has this as their participant goal.

### **3. Burden of proof in deliberation dialogue—The Waltonian view**

So far, we have characterized the stark view, to which we here take objection, as the claim that there is no burden of proof in deliberation dialogue. More specifically, proposers do not bear burdens of proof in making proposals in the early stages of deliberation. In this section we undertake to elaborate on that stark view, setting it out in detail while attempting to pin down the reasoning informing the view.

#### *3.1. The no opening standpoint argument*

It is granted on all sides that specific parties in persuasion dialogues bear burdens of proof. Most obviously, proponents have an obligation to defend (Walton 2010b, p. 16f; cf. van Eemeren and Grootendorst, 1992, p. 208; Walton and Krabbe 1995, p. 136). Yet, it is claimed, since there are no proponents, properly speaking, in deliberation dialogues (at least, not at the propose phase), there are no equivalent burdens of proof. As Walton (2010b) writes:

There is no global burden of proof in a deliberation dialogue, because no thesis to be proved or disproved is set into place for each side at the opening stage [here Walton cites his own 2010a]. ... [At] the opening stage [of a deliberation] all options are left open concerning proposals that might be brought forward to answer the governing question. ... The goal of the dialogue is not to prove or disprove anything, but to arrive at a decision on which is the best course of action to



take. Hence the expression ‘burden of proof’ is not generally appropriate for this type of dialogue. (p. 20; cf. 2019, p. 210)

We find a similar argument in Atkinson, Bench-Capon and Walton (2013), who write:

At the outset of a persuasion, P is committed to a particular instantiation of a predicate, whereas in a deliberation, none of the participants has a commitment, but all seek to find an acceptable instantiation of the predicate. There is, therefore, no burden of proof in a deliberation dialogue, whereas in persuasion, the proponent is required to satisfy the criteria to which the opponents are committed. (p. 115)

Let’s take a moment to spell out the reasoning that seems to be at work here. A proponent enters a persuasion dialogue with a standpoint. Since they seek their interlocutor’s acceptance of that standpoint, proponents bear the burden of proof to assuage the opponent’s doubts and criticisms. When each party enters the dialogue with a standpoint of their own, as in the case of a mixed dialogue, each party takes on the interactional role of both proponent and opponent, thereby bearing an individual burden of proof with respect to their own standpoint. Yet, by definition deliberators do not enter deliberation dialogues with a standpoint. They are not committed to some course of action as the one to be adopted; they have not (yet) recommended a single course of action, and are free to propose any course of action. In this respect, deliberators are unlike proponents. Lacking an opening standpoint, they lack any burden of proof that would correspond to it. Given the formal definition of burden of proof as the triple  $\langle A, P, S \rangle$ , it follows directly that it cannot be satisfied in this situation, since some of the relata are missing. Specifically, the standpoint, P. And, in the absence of a standpoint, there is no proponent, so the agent relata, A, of the definition is also missing.

Call this the *no opening standpoint argument* against deliberators having burdens of proof in deliberation.

### 3.2. *The proposing is non-committal argument*

Following closely on the *no opening standpoint argument* is the *proposing is non-committal argument*. Here it is noted that proposing is a different kind of speech act from recommending. Specifically, it is claimed, proposing is commitment free, and as such there is no burden of proof attached to making a proposal. Referencing the *restaurant case*, Atkinson, Bench-Capon and Walton (2013) argue:

Whereas in the persuasion scenario, Harry is committed to making a case to the Thai Palace [by committing himself to the standpoint that the group should go there for dinner], in the deliberation scenario, no one is committed to any of the proposals, although they may have their preferences. In this dialogue, first several options emerge, neutrally, without any commitment on the part of the person introducing them, and then a number of criteria emerge together with how the options stand in relation to these criteria. (pp. 109-110)

Although we will contend that this is a problematic argument, it is important to recognize the kind of discourse that is envisioned to occur during what, on the MHP model, is the propose, consider, revise cycle of deliberation. Just as proposals may be suggested by any discussant, considerations bearing upon the overall acceptability of a proposal (whether for or against) may likewise be raised by any discussant. As such, making a proposal is not to be its proponent. Rather, it is claimed, there is no agent responsible for meeting any burden of proof that might establish the acceptability of any given proposal. While discussants must take “discursive ownership” of (i.e., dialectical responsibility for) their standpoints, no discursive ownership attaches to proposals. In the context of the cooperative, collaborative deliberation, proposals are treated as though they might as well have been made by anyone.

Again here, it follows directly from this view that there is no burden of proof, formally defined as the 3-tuple  $\langle A, P, S \rangle$ , and for the same reason as before: one of the relata is absent. In this instance, the missing relata is the agent, *A*, since proposals lack proponents.

### 3.3. *The no obligation to retract corollary*

An important consequence of this position is something that might be called the *no obligation to retract corollary*. Walton, Toniolo, and Norman (2016b) put the point this way:

In persuasion dialogue, the participant that holds the burden of proof must answer to critiques to the claim because of the need to satisfy this burden. In contrast, ... there is no burden of proof attached to the speech act of making a proposal in a deliberation dialogue. ... If the proposing agent fails to defend a proposal immediately by presenting an argument in support of the proposal, it should not have to retract the proposal. (p. 2)

Earlier, we characterized this move as Walton's "doubling down" on his view that there is no burden of proof attached to proposing. Criticizable proposals, even ones for which the criticisms go unanswered, and are perhaps even unanswerable, needn't be retracted. Rather, they should "remain on the table." Walton, Toniolo, and Norman continue:

The protocol should be that if an agent fails to defend a proposal it has brought forward, the dialogue should move on to other considerations. ... Even an undefended proposal may in the end be adopted if no other alternatives exist, or if new information has come to light during the dialogue that strongly supports the undefended proposal or shows that it is not really open to an objection that was earlier posed. (p. 11)

One might think, as one reviewer suggested, that the protocol allowing indefensible proposals to remain on the table is intended to leave a chance for the proposal to be reevaluated if and when more information comes to light.

Curiously though, similar considerations apply to standpoints in persuasive dialogues. For example, undefended standpoints may be adopted if everyone agrees. And, the characteristic feature of presumptive reasoning of the kind typical of much ordinary argumentation is that it is inconclusive and defeasible. New information can change the balance of reasons and the tenability of a standpoint. Yet, in a persuasion dialogue, the protocol would be

that untenable, indefensible standpoints are retracted until such time as they can properly be defended against any remaining criticism. The problem with leaving an indefensible standpoint on the table is that it becomes a commitment of the discussants (not merely the proponent, though that is problem enough on its own), and thereby grants corresponding entitlements to (other) discussants (such as the permissibility of relying on it in their own reasoning).

The question then arises: Given the similarity of both types of dialogue as to the kinds of changes that can be occasioned by new information, why treat proposals differently? Why is it that the problem of leaving an indefensible standpoint on the table doesn't seem to apply to indefensible proposals?

The answer, we suggest, is to be found in the view resulting from the *proposing is non-committal argument*. Since proposals are not committing, to either proposers or other discussants, there is no burden of proof attaching to them. Hence, since no burden of proof need be met in order that a proposal either be put on the table or remain there, there is no need to retract a proposal should it be found to be untenable.

Yet, were proposals to have a burden of proof attached to them, then it would be proper that they should be retracted if that burden of proof cannot be satisfied. Of course, should new information come to light that shows that the burden of proposing can be satisfied, then the proposal could then be reintroduced. Alternatively, the proposal might be modified such that it accommodates (answers or avoids) the putative objections or doubts raised against it that it is not a possible answer to the governing question.

### 3.4. *The burden of justifying or defending a proposal*

As we noted earlier, Walton's usage of "propose" and "recommend" is not consistent and often fails to mark a clear distinction between these different speech acts. So far, we have seen several respects in which Walton denies that there is a burden of proposing. Yet, in other places he seems to grant that there is a burden attached to proposing. In those moments, Walton treats proposals as what we call recommendations, writing "a party who offers a

proposal is generally advocating it as the best course of action to take” (2019, p. 211).

In those contexts, Walton’s view seems to be that burdens of proof properly apply. Here is the way he puts things in his ArgMAS keynote.

This [deliberative] process often involves a brainstorming phase in which ideas are put forward that are not yet formulated as proposals that the person who put the idea forward has a commitment to defend. Arguments for and against these ideas can be gathered, with every party providing pro and con arguments for all the alternatives on the table. During this brainstorming phase, parties will put forward con as well as pro arguments for the ideas of the other parties. Only later in the deliberation, after the brainstorming phase do parties propose and defend specific solutions. It is during this phase ... that the deliberation dialog shifts to a persuasion dialog. (2010a, p. 4)

This later phase of the deliberation seems to correspond with the recommend stage in a MHP deliberation. Yet, Walton contends that it is here where parties propose and defend specific solutions. That is, on Waltonian models of deliberation, the recommendation a course of action does not involve simply “calling the question,” and putting it to a vote for approval. Rather, it is here where deliberators may be taken to argumentatively answer for their proposals, by taking “discursive ownership” of them.

Walton presents a more elaborate description of this phase in his (2019), where he identifies what he takes to be the operative standards of proof. To get as clear as we can on his view, it is worth quoting him at length.

During a later stage [i.e., after the opening stage], proposals for action are put forward, and what takes place during the argumentation stage is a discussion that examines the arguments both for and against each proposal, in order to arrive at a decision on which proposal is best. Something like the standard of proof called the preponderance of evidence in law is operative during this stage. The outcome in a deliberation dialogue should be to select the best proposal, even if that proposal is only marginally better than others that have been offered. A party who offers a pro-

posals is generally advocating it as the best course of action to take, even though in some instances a proposal may merely be put forward hypothetically as something to consider but not necessarily something to adopt as the best course of action. In such instances it is reasonable to allow one party in a deliberation dialogue to ask another party to justify the proposal that the second party has put forward, so that the reasons behind it can be examined and possibly criticized. Hence there is a place in deliberation dialogue for something comparable to burden of proof. It could be called a burden of defending or justifying a proposal. *What needs to be observed is that this burden only comes into play during the argumentation stage where proposals are being put forward, questioned and defended.* (2019, p. 211, emphasis added)

Here Walton grants that all of the constitutive elements of the burden of proof are present: We have an agent (the proposer or recommender), we have a proposition of which they have “dialectical ownership” (their proposal of what they take to be the best course of action), and we have a proof standard (something akin to the preponderance of the evidence). Thus, the Waltonian view seems to be that, after the “brainstorming” phase of deliberations, where what we have called proposals are ventured, specific discussants have an opportunity to recommend one or other of them, and burdens of proof straightforwardly apply to those recommendations.

Additionally, in this passage, Walton seems to grant that “something comparable to a burden of proof” has a place in deliberation dialogue when what we call a proposal is made—namely a “hypothetical” recommendation, proposed as “something to consider but not necessarily something to adopt as the best course of action.” The applicable burden here Walton calls “the burden of defending or justifying a proposal.” Regrettably, Walton tells us little else about what proof standards properly apply to this burden of defending or justifying a proposal. This is as close we have found Walton to come to voicing the view we take to be correct.

Yet, the claims Walton makes here seem inconsistent with those views informing both the *no opening standpoint argument* and the *proposing is non-committal argument*. Even Walton’s final move of insisting that as soon as a burden of proof “comes into

play” a dialogue shift occurs and a persuasion dialogue becomes nested with the deliberation, seems to return him to the stark thesis. With this move, the deliberations themselves may still be said to be “burden free” discursive zones.

#### 4. Burdens of proposing

Having set out Walton’s views in all their nuance, we turn now to make our case against the stark view. While the *no initial stand-point argument* should be conceded (if not true by definition, it is often true in point of fact), we object to the *proposing is non-committal argument*. We have already shown in Section 3.3 that the acceptability of the *no obligation to retract* corollary depends on the acceptability of the view that proposing is non-committal.

In general, we argue that, while the commitments incurred in making a proposal are different from those corresponding to recommendations, proposing is not commitment free. We have certain expectations of proposers, and those expectations supply us with grounds for criticism of, and corresponding norms of evaluation for, proposals qua proposals. Moreover, once those expectations are clarified, we can identify fairly precise proof standards that should be operative in the burden of proposing.

While we agree with McBurney, Hitchcock, and Parsons (2007) on the point that proposals may rightly be criticized and, because of this, proposers bear a burden of proof, we take a different view than theirs on the probative burdens of proposing and recommending. When it comes to recommending, our view is in agreement with the Waltonian view. When it comes to proposing, we disagree with each view. To our thinking, while the Waltonian view sets the standard of proof to be met for proposing too low (on his most prevalent view, there is none), McBurney, Hitchcock and Parsons set the bar too high, attaching a standard of proof befitting of a recommendation to the act of proposing. This seems to be an artifact of their model since, as we noted earlier, recommendations are not subject to challenge, only acceptance or rejection. Instead of either of these, we find there to be a precisely specifiable commitment, and corresponding proof standard, applicable to proposals made in deliberations.

#### 4.1. *The restaurant case, revisited*

To appreciate our point, let us return to the *restaurant case*. This time, though, let's supply it with a bit more detail to better represent the actual informational contexts in which our ordinary deliberative conversations take place.

Suppose we're all attending an argumentation conference at Michigan State University (MSU) in the small, mid-Michigan, university town of East Lansing. It's the third day of the conference, and we're looking to get some dinner following the last afternoon session, but we all plan to be back in time for the scheduled evening reception to be followed by libations and festivities. There are several of us in the group, and we'd like to dine all together this time, as some of us have in the past. In general, we'd prefer to try something new and known for its distinctive, local cuisine. A couple of us are locals, but most of us are visitors, and not well familiar with the area. But, we've been provided with a guide to some of the nearby restaurants and other eatery options. Several of us have already been to Woody's Oasis, the local Mediterranean restaurant, which was well-liked by all. (Some of us, twice already.) We all know that Chris is a vegan, and Hans can't stomach spicy foods. There was this great farm-to-table restaurant, Red Haven, that we've been meaning to try, but so far it's been booked solid. Another restaurant, Meat, in Old Town, is known to have really great brisket, but (infamously) it advertises its soda list as its "Vegetarian Menu." It is also renowned for playing hard rock music and its walls are decorated with classic rock album covers and other memorabilia. The Faculty Club was always a convenient option, with good food and a dignified atmosphere, but you need to be a member as meals are charged to a chit and we're pretty sure students aren't allowed anyway. Tannen is an upscale Italian place. While it's a bit out of the way, it's known for its fine-dining atmosphere, delectable fish, authentic pasta, and a destination wine list. There's an Ethiopian place, Altu's, that's kind of close by, but none of us were very sure that the food would be any good, as authentic Ethiopian cuisine is tough to do well. Besides, we'd need a car to get there and back in time. And, while it's convenient and offers a wide selection in a buffet-style that promises to satisfy all tastes and appetites, the residence hall cafe-



terias are always swarming with students, and nobody really wanted cafeteria food before. And besides, they don't serve alcohol. This basically specifies the relevant shared background informational context in which our deliberations begin.

Now, we find ourselves standing on the street corner, in the cool fall breeze, under a decidedly overcast sky which looks as though the clouds might open up with rain at any moment. "Well then, where shall we eat?" one of us asks. The conversation then proceeds roughly as follows, with the exchanges labeled for ease of future reference.

Hard Rock: "I propose we go to the Hard Rock Cafe," says John with a wry smile. "You must be joking," Scott replies, "you know as well as I do that the nearest one is in Chicago." "They have one in Vegas," Ian helpfully adds with a smirk both mirthful and mischievous. "Maybe we should have had the conference there," someone concludes.

Meat: "Well, if you want the hard rock atmosphere, we could try Meat," Frank suggests. "I hear they're serving pasties made with local wild venison." "But what will I have?" Chris protests. "Ah, well," Frank replies, "my Eat Local app says that Veg-n has partnered with Meat to host a pop-up food truck just outside their patio tonight. The app says that Veg-n is "World Famous in Lansing" for its vegan cuisine."

Red Cedar: "How about we go to that farm-to-table place, Red Cedar, we've been meaning to try?" Sheldon suggests. "But Sheldon," Katie retorts, "we've learned that place is always booked solid." "Quite so," responds Sheldon, "that's why I made a reservation last night after we couldn't get a table. It's for their party room, so we could all go if we wanted. Or, I can cancel."

Faculty Club: "We could go to the Faculty Club," David offers. "Ah, but you have to be a member to dine there, and besides we have students that won't be admitted anyway" replies Peter. "Well, I'm a member, actually," Matt pipes up, "and I happen to know that members can sign in students as guests. That's where we celebrated Pat's graduation." "Hmm," answers Peter, "might be okay after all, then."

Tannen: “If it weren’t so far away,” Jean says, “we could go to Tannen. It sounds like it would be worth the trip. It has fine dining, vegan options, and the best wine list in town.” “Not to worry,” Peter helpfully adds, “I drove the minivan from the hotel to campus. It’s parked right over there. So, we can go there if that’s what we all want.”

Cafeteria: “I know we’ve been worried about the students, the cafeteria food, and the lack of alcohol, but hear me out,” Beth says, “we could just go to the cafeteria across the way.” Beth continues: “This flyer I found says that the MSU Agricultural and Hospitality programs are holding a rehearsal dinner for their annual fundraising banquet in the Snyder Phillips residence dining hall just next door. So, that cafeteria is closed to students tonight. I’ve seen the menu, and everything sounds delectable, even the vegan options. It’s all sourced from MSU organic farms and prepared by celebrity chefs who are donating their time to the cause. And, they’re serving wine to complement the meal.”

Altu’s: “What about that Ethiopian place, Altu’s?” Peter remarks. “We haven’t been there yet.” “Okay,” says Tim, “but we know it’s a ways away. We can’t get there and back in time.” “Yeah,” replies Peter, “I thought of that. That’s why I brought the minivan tonight.” “But you know,” says Hans, “I don’t like spicy food, and we still don’t know if they use authentic recipes”

Woody’s: “How about Woody’s?” Hans suggests. “Oh no! Not again!” comes a chorus of replies.

#### 4.2. *Proposals and grounds for their criticism*

Our *restaurant case revisited* scenario is offered to show that we are willing to criticize proposals in a variety of ways, and reject them when those criticisms cannot be answered. Here are some of the ways that this occurred in the scenario.

First, in Hard Rock, John was taken to have suggested an option that was manifestly impossible. Indeed, comically so—to the point where not only was his proposal not taken seriously, but it was not taken to have been offered seriously. Indeed, it was taken as a wry criticism of the overall culinary options Lansing has to offer. The ridiculousness of John’s suggestion is obvious from its

glaring impossibility when viewed in the context of the shared background knowledge of the discussants.

In Meat, Frank nevertheless takes John's suggestion to express a preference for a certain kind of food and atmosphere. Thus, he proposes an option in line with those expressed preferences. So far, so good. Yet, Frank's proposal is apparently inconsistent with the known preferences of another discussant, Chris. And, Frank is rightly taken to task on that point. Yet, in his reply, Frank acquits himself of the charge of failing to account for a commonly known preference. That is, Frank demonstrates that his proposal was responsibly made.

The situation is similar with Red Haven. Here, though, Sheldon's suggestion that the group might dine at Red Haven is specifically ventured as satisfying a group preference. Yet, it remains apparently problematic in that, based on what the group knows, it is unfeasible. That is, it seems to be a non-starter as a means to achieve the collective goal. And, Katie objects to the proposal on exactly these grounds. Yet, Sheldon acquits himself of that critical charge by showing that he has made arrangements that mitigate the circumstances making his suggestion unfeasible. That is, he hasn't learned something that defeats the criticism, rather he has taken action, changing the world such that the criticism is undermined.

A different kind of criticism is made of David's suggestion that they might dine at the Faculty Club. Here, the apparent problem is that the option is impermissible. The group thinks that there are two reasons they will not be permitted to dine at the Faculty Club. Importantly, in this case, David does not acquit himself of the charge of proposing an impermissible non-starter. Instead, Matt is in a position to inform the group that they are mistaken—a move that establishes the Faculty Club as a live option for dinner. In this case, while the proposal stands, David's suggestion of it remains problematic. He was irresponsible in making it. Given that he was not in a position to answer a criticism that could readily be expected given the group's information state, he oughtn't to have made the proposal. And he may rightly be criticized for having

done so, even though the proposal was, in the end, unproblematic.<sup>8</sup> Equally importantly, David could have mitigated this ground for criticism were he to have made the proposal hypothetically or in a qualified way. Had David instead suggested “Were it not for the fact that we have no members of the Faculty Club amongst us, and students are forbidden, then we might go there,” his proposal would have been made responsibly.

This is precisely what happens in Tannen. Jean qualifies her proposal, by explicitly recognizing a known problem it has that would seem to make it unfeasible. In effect, Jean’s proposal is conditional: “If we had a way of getting there, we could go to Tannen.” Yet, Jean suggests it with this qualification anyway, because it promised to satisfy the other preferences of the group. Luckily, Peter is able to speak to the qualification, and he cooperatively does so. By having a way of practically getting everyone to and from the restaurant, the proposal needn’t be seen as conditional or qualified any longer. It has been shown to be a live option. By qualifying her proposal, Jean’s suggestion was responsibly made in a way that David’s wasn’t. Moreover, the responsibility of how the proposal was made is independent of whether or not the proposal is itself viable. That is, David’s having made the proposal was not redeemed by Matt’s having the solution to the problem it obviously had. Likewise, even if Peter had not brought his minivan, Jean’s proposal would have been responsibly made, because she acknowledged its apparent unfeasibility in making the proposal. But were Jean’s proposal to be objectionable for other reasons (suppose Tannen was thought by all to have no vegan options), she might rightly be criticized for making even this qualified proposal.

Beth’s proposal of the Cafeteria seems also to face problems that are apparent to all deliberators. Yet, her suggestion is not only in order and responsibly made—it is manifestly so. Just as Jean qualified her proposal by citing an objection that made it *prima facie* impractical, Beth prefaced, or framed, her proposal by acknowledging several apparent problems with it—problems that could form the basis of objections to it. Then, in making the pro-

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<sup>8</sup> For an extended, general discussion of this point, see Section 4.3.

posal, she explicitly committed to (preemptively) answering them. That is, by explicitly recognizing and anticipating the objections one might reasonably expect, given what the group believed, Beth made manifest that she was making her proposal responsibly.

Peter's suggestion that they might go to Altu's faces a similar objection to Sheldon's. And, like Sheldon, in anticipation of the criticism, Peter has taken action to stave off the criticism. Indeed, in this case, Tim's objection about its proximity is out of line, since Peter had already informed the group that he had anticipated this problem by bringing his minivan to campus. Yet, Peter's action has only partially vindicated his proposal. Hans's criticisms still apply, though they too could be answered if further information was sought out. (Incidentally, in point of fact, Altu's is the place to go. Trust me.)

Finally, Hans's suggestion that they return, again, to Woody's is perhaps best understood as an expression of a preference, albeit one that is not consistent with the general preferences of the group. Hans can readily expect that his proposal will be met with disapproval, since he knows that his proposal goes against several of the group's collective preferences.

Our discussion of the *revisited restaurant case* has sought to show that proposals are "naturally" subject to criticism on a variety of grounds. That is to say, in our ordinary discursive practices, we have certain expectations of proposals and, thereby, of proposers. Proposals cannot, for instance, be "non-starters;" rather, they must consist of apparently live options. Proposals that don't live up to our expectations don't merit our further or serious consideration. We would take ourselves to be right in subjecting proposals that don't manifestly "pass muster" to certain kinds of criticism. Moreover, should those criticisms go unanswered, we would be willing either to reject the proposal *as a proposal* (i.e., as a live option), or to reprimand or sanction the proposer, or, perhaps, both. And, we would take ourselves to be right in doing so. Moreover, the basic criteria being applied in these criticisms is clear. In order to receive serious consideration, proposals must at least not be apparently inviable. They cannot, for instance, be "non-starters." Rather, they must consist of apparently live options.

At one point, Walton claims that proposals are assumed to be live. “When a proposal is put forward by an agent, it is assumed that this proposal is part of a feasible plan of action that this agent has thought about” (Walton, Toniolo, and Norman 2016b, p. 10). The problem here is not that, although our assumptions are sometimes mistaken, we do, in fact, proceed this way. Rather, the problem is that we don’t actually proceed this way—it doesn’t accord with our ordinary discursive practices. That a proposal is a viable, live option that has been responsibly made is not an assumption we make—it is a judgement. And those judgements are made against the background of the rest of our beliefs, and the extent to which the proposal, and its making, jives (agrees or fits) with the rest of what we take ourselves to know. What might better have been said here is that it is expected that the proposal is part of an action plan that the agent has thought through. Our expectations, though, can be disappointed. Even so, when we are right to hold those expectations, that they are disappointed is a reason to criticize the object of our disappointment, not to revise the expectation. Notice, assumptions are importantly different in this regard! When a proposal doesn’t seem to us to be “part of a feasible plan of action,” we do not assume that it is, or that the proposer has fully thought it through. Instead, we call upon proposers to show that their proposals are in line with our expectations.

Moreover, proposers—responsible ones, anyway—are typically aware of, oriented to, and responsive to the expectations they anticipate will reasonably be had of them in making a proposal. As seen in the discussion of Tannen and Cafeteria, in making proposals in deliberative discourse, proposers can, and routinely do, design their conversational contributions so as to exhibit the acceptability of what is proposed or the propriety of its having been proposed. Just as we can mitigate the commitments we take on in making proposals by qualifying them, we can anticipate, and preemptively address, the objections we might reasonably expect in making them. More generally, conversants have at their disposal a vast repertoire of conversational moves—including qualifications, modifications, prefacing or framing remarks, preemptive objection-answering, etc.—which can be enlisted so as to acknowledge, mitigate, or speak to the expectations other discussants rightly

have of them in making the conversational contributions they do. In the contexts of proposals made in deliberation, these moves provide discursive ways that proposers can undertake to manifestly exhibit either the viability of their proposals, or their responsibility in having made them, or both.

In this way, our view accommodates the insight of McBurney, Hitchcock, and Parsons that “real-life deliberations often benefit from whimsical or apparently random proposals, which lead participants to discuss creative (“off-the-wall”) alternatives” (2007, p. 98). By qualifying a proposal as impractical, unfeasible, impermissible, or even fantastical, we can mitigate the commitments we take on in making it, and temper the expectations other deliberators may rightly have of it. In this way, patently ludicrous proposals might serve to inspire creative thinking and the generation of innovative live options in ways envisioned by McBurney, Hitchcock, and Parsons. Yet, those same proposals, when made seriously in an unqualified guise, are rightly dismissible as non-starters. Indeed, as can be seen from the Hard Rock example, conversants routinely exploit this conversational norm for the purposes of humor or sarcasm.

#### *4.3. Burden of proof revisited: Commitment, entitlement, and individual responsibility*

The *revisited restaurant case* also yields an important point about the operation of burden of proof generally—one that bears directly on the *proposing is non-committal argument*.

When a burden of proof has been satisfied, the conversational scorecard is changed in two ways: one permissive, the other obligatory. First, entitlement to the claim has been established on the basis of the reasons given in satisfying the burden of proof. Importantly, every party to the dialogue enjoys the benefit of that entitlement having been established. They may now undertake commitment to the claim. And, to the extent that they understand the reasons given and can competently produce or wield those reasons themselves, discussants have been given the means to vindicate their own commitment to the view when faced with challenges similar to those just answered. They need only rehearse the arguments just made. Second (and relatedly), when a burden of

proof is satisfied, commitment to that claim is obliged on the part of all discussants. In the absence of additional, different objections, doubts, or criticisms, discussants may not decline or abandon commitment to the claim. It is important that the conversational scorecard changes for all discussants in the ways just described regardless of who satisfies the burden of proof.

Burdens of proof are often taken to be borne by specific, individual discussants. Indeed, burdens of proof are standardly, and rightly, taken to derive from discursive moves made by individual discussants—particularly those that express, undertake, or incur commitments.<sup>9</sup> Satisfying a burden of proof is thus taken to be the individual responsibility of the discussant who incurred it. And, there is a sense in which this individual allocation of probative burdens is quite right. Having made a move in a dialogue, a discussant must be in a position to show, if called upon to do so, that theirs was a permissible move.

Yet, that one discussant is obliged to produce an entitlement does not prevent another from doing so—from performing that discursive labor. Nor does it does not follow from a discussant's failure or inability to acquit themselves of whatever discursive responsibilities attend to some conversational move they made, that the that the conversational place they now occupy having made that move—the score on their card, if you will—is in error or in need of correction. The problem might instead lie in their having made the move, not in the place they now occupy having made it.

This discussion is offered to show that there are two distinct kinds of criticism that can be made of discussants when it comes to matters about which they have a burden of proof. One is that what they have claimed is in error (i.e., is somehow mistaken) and, thus, should be retracted. Second is that their having claimed it was irresponsible or impermissible, and they oughtn't to have claimed it. Importantly for our discussion, attaching burdens of proof to individual discussants in an argumentative dialogue is

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<sup>9</sup> To have a commitment, after all, is just: (i) to claim entitlements of a specific sort for oneself, (ii) to grant a set of entitlements to other discussants, and (iii) to have certain set of responsibilities—namely to vindicate one's claim to entitlement if called upon to do so.



meant to answer both criticisms—i.e., to establish both entitlements, by way of satisfying a single set of discursive responsibilities.

This explains the impetus to define burden of proof as the triple  $\langle A, P, S \rangle$ , rather than the dual  $\langle P, S \rangle$ . Yet, as we have just observed, those two criticisms (i.e., evaluative criteria) can come apart depending not on whether a burden of proof is satisfied, but by whom it is satisfied. When a discussant satisfies a burden of proof that they, themselves, have incurred, the two evaluative criteria are simultaneously satisfied. And, when any discussant meets a burden of proof incurred by any other, no discussant having that commitment is susceptible to criticisms of the first sort—at least, not until new doubts, objections, or criticisms are given voice. This includes the discussant who initially made the claim, regardless of whether they themselves were in a position to meet that burden of proof themselves when they made the claim. Yet, claimants who let others take on the discursive labor of satisfying burdens of proof they themselves have incurred remain susceptible to criticisms of the second sort, even after they come to be in a position of satisfying that burden by replying on the discursive labor of another by “re-using” their argumentation. It may still rightly be said of discussants who were unable to meet a burden of proof that they, themselves, incurred, that their conversational move was irresponsibly made, even if the (subsequent) discursive labor of other discussants results in discharging the burden of proof associated with the move in question.

Why is this important for our discussion of burden of proof in deliberation dialogue? It is often said, in the existing scholarship on deliberation dialogue, that in the consider phase of a deliberation, any deliberator may raise reasons, pro or con, for any proposal on the table. Similarly, any deliberator may raise objections or rebuttals to those reasons, for any proposal on the table. The dialogical tasks of making and of considering (i.e., evaluating) a proposal, by coming up with reasons, objections, answers to objections, modifications to the proposal, etc. are not role-specific—they are not assigned to individual deliberators. Rather all the discursive labor is shared among all deliberators. And, this is quite right in so far as it goes.

But, it does not follow from this that there is no burden of proof for proposers. Rather, even if another deliberator is able to acquit some proposal of the charge that it is a “non-starter”—while this move saves the proposal, it does not exonerate the proposer. The proposer may still be rightly criticized—not for the proposal they made, but for their having made the proposal. Since, for all they knew in making the proposal, it was a non-starter. The proposal was, from their point of view, indefensible. Again here, the normative contours of the situation deliberators place themselves in by making proposals parallel those bearing upon proponents voicing standpoints in a critical discussion, not respondents asking why questions where no criticisms of the permissibility of posing the why question are permitted.

This is illustrated in the Faculty Club scenario. David’s proposal that we might dine at the faculty club came with a burden that it not be apparently impermissible. And, that burden was satisfied by Matt in the dialogue. With that burden satisfied, all discussants may “presumptively” proceed on the basis that the faculty club is a live option for dinner, so long as no other problems with it come to light. In that sense, as far as the outcome of the deliberations go, it doesn’t matter who satisfies the burden of proof, since the viability of the proposal as a live option is established no matter who does the discursive labor of showing that it is unobjectionable in this respect. Importantly, as we hope has been adequately shown in the preceding general discussion in this section, this point does not distinguish deliberative dialogues from dialogues of other sorts, such as persuasion or inquiry. The acceptability of a standpoint has been established when the doubts pertaining to it have been satisfactorily answered—regardless of who supplies those answers. Burdens of proof can be satisfied by anyone. But, conversants only behave responsibly when they are in a position to satisfy the burdens of proof that they themselves incur. As such, David’s having made the proposal remains criticizable, and rightly so, precisely because it was irresponsibly made. He was not in a position to satisfy the burden of proof that he incurred in making the proposal. For all David knew, his proposal was a non-starter. And, as we mentioned earlier, David might have avoided this criticism by mitigating his commitment undertaken in

making the proposal by acknowledging its apparent impermissibility.

At this point, we take ourselves to have shown that the *proposing is non-committal argument* is fallacious. In our ordinary discursive practices we have expectations of proposals and their proposers. Which is to say, proposers to undertake certain specific commitments in virtue of having made a proposal. Roughly stated, those commitments are twofold: that the action-option proposed is not manifestly inviable (or, colloquially put, “undoable”), and that the proposer is in a position to recognize, and speak to, its viability (or “doability”).

#### 4.4. *Burdens of proposing*

We are now in a position to present the main, constructive thesis of the paper, by specifying those specific burdens we take to attend to proposing. Having done this, we will be able to demonstrate how those burdens can be articulated in such a way as to satisfy the standard, formal definition of burden of proof.

Suppose, in the “brainstorming” phase of a deliberation where action or policy options are proposed for consideration, discussion, and possible adoption, an agent, A, proposes the option  $\Phi$ . This will come in the form of a locution which might be standardized as “ $\Phi$ i”, and, roughly, has the content: “We could  $\Phi$ ,” or “ $\Phi$ -ing is an option.” In contrast to the proposal “ $\Phi$ i”, the recommendation that we  $\Phi$  might be standardized as “ $\Phi$ !”, which is to be read as having some content along these lines: “Let’s  $\Phi$ ,” or “We ought to  $\Phi$ .” The proposal could, indeed, be made in a variety of different ways (i.e., as different locutions): “Why don’t we  $\Phi$ ?”, “What about  $\Phi$ -ing?”, “Have we considered  $\Phi$ ?”, “I suggest  $\Phi$ .”

We claim that utterances of the form  $\Phi$ i (i.e., proposals) have an attendant burden of proof, because, in making a proposal, the proposer undertakes certain commitments. These commitments correspond to our expectations of proposals and the kinds of criticisms we are prepared to make when it is not apparent to us a proposal meets those expectations.

It should be granted at the outset that utterances of the form  $\Phi$ i come with quite different conversational and probative obligations than those having the form  $\Phi$ !. Recommendations are different

from proposals, and different discursive expectations, and corresponding obligations, attend to each of them. Perhaps most importantly, recommendations are criticizable and subject to rejection for reasons that proposals are not. For example, “But  $\Psi$  is a better option,” is a criticism, and if correct a “refutation,” of a recommendation, where it is neither for a proposal. Recommenders must answer criticisms of the form “But  $\Psi$  is a better option” if they are to maintain their recommendation and not retract it. Similarly, recommenders that  $\Phi$  owe their audience a satisfactory answer to the question “Why  $\Phi$  rather than  $\Psi$ ?” Proposers that  $\Phi$  incur neither obligation.

Yet, this is not to say that conversational moves of the form  $\Phi$  are not susceptible to either criticism or retraction in the face of criticism that cannot be satisfactorily answered. For example, we take the *revisited restaurant case* to have shown that proposals are subject to criticism on grounds like the following.

- (A) their possibility: e.g., “But it’s not possible (for us) to  $\Phi$ .”
- (B) their permissibility: e.g., “But we may not  $\Phi$ .” “But we are prohibited from  $\Phi$ -ing.”
- (C) their utility or instrumentality: e.g., “But  $\Phi$ -ing is not a way to achieve G,” where G is the common goal. Objections of this sort might also be put as criticisms to the effect that  $\Phi$ -ing is not a solution to the problem, P, that has occasioned the deliberative undertaking in the first place. E.g., “But even if we  $\Phi$ , that won’t solve our problem, P.”
- (D) their feasibility or viability: e.g., “But we don’t have the resources to  $\Phi$ .” Proposals that are manifestly unfeasible or in-viable are indefensible. Generally, this expectation can be understood as the practical possibility of our  $\Phi$ -ing.

Of course, recommendations are subject to all these same criticisms. And, this point is explicitly built into our model. Roughly, in our view: A recommendation that  $\Phi$  entails (implicitly) a proposal that  $\Phi$ . Saying “We ought to  $\Phi$ , but we can’t / mayn’t” is not merely unhappy or infelicitous. It is incoherent. Put differently: Implicatures are cancelable while entailments are not. Now, consider the two claims: “We should  $\Phi$ ,” and “We may / can  $\Phi$ .” Having uttered the first, there is no way to retract, or cancel one’s

commitment to, the second without either equivocation or retracting the first. Thus, recommenders have all the same  $\Phi$ -related commitments as proposers. But the converse is not true. Having proposed that  $\Phi$ , it does not follow that one has thereby recommended it. Thus, recommenders can have commitments that proposers do not.

Yet, we can imagine an objector responding to our view by claiming that the conversational burdens we place on proposers properly belong at the recommend stage, rather than at the propose stage, of deliberative dialogues. That is, it might be objected: Whatever burdens we claim attach to proposals only become activated when a proposal is recommended. Burdens only attach to proposals in virtue of those proposals having been recommended. In this way, it might seem, one could grant that all the burdens we claim to attach to proposals can be admitted while still denying that proposers bear any burden of proof. Such a response, we contend, does not accord with the normative aspects of our conversational practices or the expectations we ordinarily place on our interlocutors. It is, we have claimed, false that we have no expectations of proposers—that we never countenance criticisms of proposals. We do, and quite rightly. Proposals that seem to us to be “non-starters” are criticizable on just those grounds. In order that a proposal be taken seriously as a proposal—as a candidate for recommendation, as a contender for answering our question or solving our problem—it must, at a minimum, not be apparent that what is proposed has some feature that makes it “undoable.”

Suppose we are right on these points. The next question is how can the commitments of proposers and recommenders be conceptualized and operationalized in a way that correctly captures the normative features, and logical relationships, we claim to constitute them. If we turn to modal logic, we find a convenient and elegant solution. The modal operators possibly,  $\Diamond$ , and necessarily,  $\Box$ , will serve nicely. These operators can be variously interpreted, which is to say they can be used to denote a variety of different kinds of modal relationships from logical and metaphysical possibility and necessity to the deontic statuses of permissible,  $\Diamond$ , and obligatory,  $\Box$ .

With this notation in hand, we may specify some of the commitments proposers undertake in proposing  $\Phi$  as an option in a deliberation dialogue.

- (A')  $\Diamond_w \Phi$  Where " $\Diamond_w$ " denotes worldly possibility, e.g., metaphysical, physical, and technological possibility.
- (B')  $\Diamond_D \Phi$  Where " $\Diamond_D$ " denotes deontic possibility, i.e., permissibility.
- (C')  $\Diamond_I \Phi$  Where " $\Diamond_I$ " denotes instrumental possibility, e.g.,  $\Phi$  is a means to G;  $\Phi$  is a solution to P
- (D')  $\Diamond_P \Phi$  Where " $\Diamond_P$ " denotes practical possibility, i.e., feasibility, viability, or, colloquially "do-ability," including considerations like the availability time and accessibility of other required resources.

These commitments provide standards against which the proposals themselves may rightly be evaluated merely in virtue of their having been proposed. (Just what is to be counted as a satisfactory demonstration proof, or demonstration that the standard is met, must be left to the deliberators themselves, and can vary from one deliberative context or situation to another. In general, what will count as a satisfactory proof is whatever the deliberators are, collectively, willing to recognize as such.)

Of course, one might respond that whenever the question of whether any of (A') through (D') comes up during the proposing phase of a deliberation dialogue, that the dialogue then shifts to a persuasion dialogue. While unobjectionable in a sense, this is a merely semantic (by which we mean here stipulative and arbitrary) way of retaining the view that proposers do not bear burdens of proof in deliberation dialogues. After all, following the shift to the persuasion dialogue, who shall be taken to be the proponent of  $\Phi_i$  and to have the responsibility of showing that  $\Phi_i$  meets the standards (A') through (D') after one of them has come under doubt, objection, or criticism? On our view, the proponent of  $\Phi_i$  is the party/ies committed to it. And, one party having committed themselves to  $\Phi_i$ , in our view, is the party that has proposed our  $\Phi$ -ing as an option in the course of our deliberations.

## 5. Conclusions and future work

In this paper we have argued that, contrary to views prevailing in the computational literature in argumentation theory, there are burdens of proof in deliberation dialogues. Particularly, there is a burden of proof attached to the speech act of proposing an action or policy option during the “brainstorming,” or propose-consider-revise stage(s) of deliberation dialogues.

Burdens of proof can be formally modeled as a 3-tuple  $\langle A, P, S \rangle$ , where the relata are to be interpreted as follows:  $A$  is a set of agents;  $P$  is a standpoint or propositional attitude, and  $S$  is a standard of proof. So interpreted, the tuple reads as follows: The set of agents,  $A$ , are obliged to meet the standard of proof  $S$  in order that their standpoint  $P$  be acceptable (or responsibly held, or tenable, or whatever normative status  $A$  seeks to have recognitally conferred upon them by their intended audience). As we take ourselves to have shown, proposals made in deliberations have a burden of proof attached to them in exactly this sense. Using the notation we have introduced in the paper, it can be specified as follows:  $\langle P, \Phi_i, \Diamond\Phi \rangle$  where  $P$  is the proposer,  $\Phi_i$  is their proposal, and  $\Diamond\Phi$  is interpreted to include each of the types of possibility discussed earlier: worldly (that  $\Phi$  is metaphysically, physically, and technologically possible); deontic (that  $\Phi$  is permissible); instrumental (that  $\Phi$ -ing is a means to the collective goal,  $G$ , and / or that  $\Phi$  is a solution to the collective problem,  $P$ ); and practical (that  $\Phi$  is feasible or “doable” given situational constraints). By contrast, the burden of recommending can be specified in this way:  $\langle R, \Phi!, \Box\Phi \rangle$ , which reads, agents,  $R$ , recommending that  $\Phi!$  (i.e., that we should  $\Phi$ ), are committed to the show that their recommendation meets the standard  $\Box\Phi$  (i.e., that we ought to  $\Phi$ ).

The work of this paper has been to show that there is a burden of proposing that satisfies the standard definition of burden of proof. And this, we take ourselves to have done.

We began by showing that much of the “standard Waltonian picture” of the features distinguishing dialogue types from one another is, at best, equivocal and ambiguous when it comes to fixing their overall normative tenor and character. Certainly, we do not think that the gross features of initial situation, shared dialogue goal, and individual discussant goal are themselves determinative

of whether there is, or is not, a burden of proof attaching to individual moves (or types of moves) within a dialogue. In critically examining this standard picture, we sought to reveal the actual features and episodes of our argumentative discussions that mark the “entry points” of normativity, including burdens of proof, into our practices for transacting reasons with one another. This discussion revealed, for example, that the general dynamics of burden of proof do not differ across dialogue types. Burdens of proof are incurred in the making of speech acts of particular sorts, and the obligations to satisfy those burdens are activated when there is an absence of agreement of the appropriate sort among discussants. The burdens themselves—that is the probative responsibilities to be satisfied, the discursive labor to be performed—vary according to the type of speech act made as well as the conversational context in which the speech act is made. Ultimately, the extent of the burdens is rhetorically determined—which is to say: what will be counted as satisfying the burden will be determined by those who are in a position to grant the normative recognitional status sought by the speaker and burden-bearer. And, while those burdens are incurred by the speakers, they can be shared (i.e., borne also) by discussants having the same commitments, and they may be satisfied by any discussant. When a burden of proof has been satisfied, the conversational scorecard changes accordingly for all discussants, irrespectively of whose job (i.e., responsibility) it might have been to satisfy that burden. Yet, when a speaker (or any bearer, for that matter) cannot satisfy a burden of proof that they bear, they may rightly be sanctioned even if that burden has otherwise been discharged.

Additionally, we have shown that the specific reasons offered as justifying the stark thesis, that there is no burden of proof in deliberation dialogue, are mistaken. While granting the *no opening standpoint argument*, we have shown that it does not follow from this that there is no burden of proposing. We have shown that the *no obligation to retract corollary* stands or falls with the acceptability of the view that proposing is non-committal. And, we have shown that the *proposing is non-committal argument* does not accord with our ordinary discursive practices.



At least in our ordinary discursive practices, there is a burden of proposing. Proposals are commitments of a sort, which is to say that, in making a proposal, we incur a commitment. We are responsible for the proposals we make in deliberative dialogue because we, as deliberators, have expectations of proposers and of the proposals that they make, and we are prepared to praise or criticize each depending on whether those expectations are met. Those expectations form a normative framework within, and provide the standards against which, proposals and acts of proposing are evaluated. And, in turn, those standards form the basis for the probative burdens that properly attend to proposing. We have shown both that proposals can satisfy those expectations even when proposers, in their acts of proposing, do not, and that proposers can satisfy those expectations, by responsibly proposing, even when the proposals, when viewed unconditionally, are not up to standard. By way of this distinction, we have further shown that, while the burden of proposing may be satisfied by any discussant (e.g., any deliberator), discussants who propose irresponsibly, such that they cannot meet the burdens associated with their proposals, are rightly subject to criticism and discursive sanction. Relatedly, we have shown that proposers can design their acts of proposing so as to mitigate or manifestly satisfy those expectations, thereby changing the norms, or prefiguring the appraisals, properly applicable to their conversational contributions.

Finally, having examined those expectations in some detail by considering an extended illustrative example, the *restaurant case revisited*, we distilled them into a precise and convenient set of standards that both satisfy the formal definition of burden of proof and clearly distinguish the burden of proposing from that of recommending.

The initial impetus for this contribution began with a perceived flaw in existing computational models of deliberation dialogue. Having now established how some aspects of our deliberative practices (our normative deliberative behaviour) can be more accurately accounted for, our planned future work will return to the realm of computational models. The first project is to develop, informal or semi-formal models, how deliberation dialogues should proceed when the burden of proposing is properly incorpo-

rated into them. While this will involve building on existing models, the incorporation of a burden of proposing while re-envisioning the general, procedural “flow” of deliberation dialogues when they include a place for burden of proof at the proposal phase. Here we will have to develop a more robust picture of how the application of the new norms we propose in this paper will “play out,” in the conduct and evaluation of individual deliberation dialogues. Ultimately, this phase of the project will result in proposing a new, or revised protocol for the proper conduct of deliberative dialogue.

The next step will be to develop a new executable model of deliberation dialogue that operationalizes the burden of proposing we have set forth here. This will be achieved initially through a canonical description using the *dialogue game description language* (Wells and Reed 2012) and subsequently through extension of existing computational models of deliberative dialogue. The aim is to bring about better alignment between computational and natural models of dialogical behaviour on the one hand, whilst aiming to improve the mapping between real world dialogical behaviour and computational models thereof. There are two core potential benefits to this approach. Firstly, it will enable dialogue-capable agents to engage in more natural behaviour so that the resulting dialogues are more representative of actual human dialogue. Secondly, when exploited in automated deliberation systems, it will yield results that more closely map onto actual human practise.

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