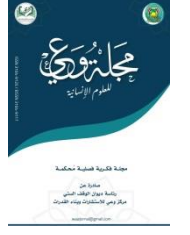




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# مجلة وعي للعلوم الإنسانية

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المغالطات غير الصورية كمناوره استراتيجيه: تحليل براغما-ديالكتيكي للمرافعة  
الإسرائيلية في قضية جنوب إفريقيا ضد إسرائيل

**Informal Fallacies as Strategic Maneuvering: A Pragma-Dialectical  
Analysis of the Israeli Defense in South Africa v. Israel Case**

م.م. إبراهيم عناد كاظم - جامعة الفرقدين / كلية الاداب / قسم اللغة الانجليزية

Asst. Lec. Ibrahim Enad Kadhim Hasoon

[Ibrahim.aldalmy96@gmail.com](mailto:Ibrahim.aldalmy96@gmail.com)

م.م. عمار لطيف عواد ناصر - جامعة المثنى / كلية التربية للعلوم الانسانية / قسم اللغة الانجليزية

Asst. Lec. Ammar Lateef Awad Nasir

[amar.lateef@mu.edu.iq](mailto:amar.lateef@mu.edu.iq)

الكلمات  
المفتاحية

الملخص

تبحث هذه الدراسة المغالطات غير الصورية في المرافعة الإسرائيلية أمام محكمة العدل الدولية في قضية جنوب إفريقيا ضد إسرائيل (بشأن تطبيق اتفاقية منع جريمة الإبادة الجماعية والمعاقبة عليها في قطاع غزة). يعتمد البحث إطار فان إيميرين البراغما-ديالكتيكي. تركز الدراسة على فئتين من المغالطات: مغالطات الملاءمة والاستقراء الضعيف، وذلك في المحضر الرسمي الحرفي لجلسات ١٢ كانون الثاني ٢٠٢٤. تم تصنيف المغالطات المحددة وفقاً لانتهاكات محددة للقواعد العشر للحوار النقدي عند فان إيميرين، ثم تحليلها من خلال الجوانب الثلاثة للمناورة الاستراتيجية: اختيار الموضوع، والتكيف مع الجمهور، والأدوات التقديمية. تشير النتائج إلى أن

المغالطات غير  
الصورية، البراغما-  
ديالكتيكي، المناورة  
الاستراتيجية، الخطاب  
القانوني، محكمة  
العدل الدولية .

المغالطات تُستخدم كأدوات استراتيجية منسقة وليست مجرد أخطاء منعزلة. يكشف التحليل أيضاً عن توترات جوهرية بين المثل الجدلية والواقع المؤسسي في الخطاب القانوني الدولي. تأمل هذه الدراسة أن تسهم في نظرية البراغما-ديالكتيك من خلال توضيح كيفية عمل المناورة الاستراتيجية في السياقات القانونية المؤسسية، وكيف تشكل هذه السياقات توليد الاستدلالات المغالطة.

## KEY WORD Abstract

informal  
fallacies,  
pragma-  
dialectics,  
strategic  
maneuvering,  
legal discourse,  
International  
Court of  
Justice,  
genocide

The present study explores informal fallacies in the oral proceedings of the raeli defense before the International Court of Justice (ICJ) in South Africa-real case. Traditionally fallacies were viewed as reasoning errors. However, is study views fallacies as strategic maneuvering derailments resulting from e imbalance between rhetorical effectiveness and dialectical obligation. Van emerren's pragma dialectical approach (PDA) is adopted by the researchers as e analytical tool. The scope of this study is limited to only two categories of formal fallacies, namely: fallacies of relevance (For) and fallacies of weak duction (FWI). Fallacies are deemed as violations of the rules of critical scussion rules and analysed through the three-aspect model of strategic aneuvering (topical choice, audience adaptation, and presentational devices). æ study findings reveal that fallacies employed as strategic tools rather than olated errors; fallacies of relevance served the purpose of distracting the tention away from genocide allegations while weak induction fallacies create oublet about the factual claims. Moreover, fallacies show a systematic variation :ross the stages of argumentation and the topics. The variation of fallacies flects a complex pattern of strategic maneuvering. This paper contributes to DA by demonstrating the way strategic maneuvering operates in institutional gal contexts and the effect of such contexts in shaping the production of llicious reasoning.

## Introduction

Legal discourse encompasses a range of concerns related to legal phenomena, including verbal and non-verbal interactions in legal contexts (Cheng & Dansi, 2019). This type of discourse is usually viewed as being rational and unbiased, especially within formal settings in which it is performed. In the context of the International Court of Justice (ICJ), which is the highest judicial body to deal with conflicts among nations according to international law, proceedings are expected to be highly dependent on logical reasoning, legislation, international treaties, and case law. However, this view overlooks the argumentative nature of legal interaction; despite its institutional nature,

persuasion remains an essential feature of legal discourse. Atkinson and Drew (1979) assert despite its claims to neutrality, legal discourse is strategically shaped.

The Palestinian case represents one of the most complex conflicts in the contemporary international system. The escalation in the Gaza Strip entitled a heated discursive debate over whether it constitutes genocide under the convention on the prevention and punishment of the Crime of genocide (1948). South Africa's case against Israel before the International Court of Justice on 29 December 2023 formally titled “Application of the Convention on the Prevention and Punishment of the Crime of Genocide and the Gaza strip (South Africa v. Israel)” represent a turning Point that shifts the issue from moral condemnation into formal International litigation.

The Israeli defense discourse, in this case, raises questions concerning the boundaries between reasonable legal argumentation, on the one hand, and argumentative practices that violate reasonableness through informal fallacies, on the other hand. Fallacies are divided into two types: formal and informal (also called logical fallacies). Formal fallacies can easily be described using logical representations: A formal fallacy is identified through examination of structure of an argument, while for the informal fallacies, an analysis of the content is needed for their identification. Hansen and Pinto (1995) define informal fallacies as “arguments that are psychologically persuasive but logically incorrect, violating principles of sound reasoning in ways that are often difficult to detect because they mimic legitimate forms of argument” (p. 3).

Studies on informal fallacies usually deal with this phenomenon as unintentional mistakes of reasoning while paying little attention to the pragmatic and institutional nature of them within legal discourse (Walton, 1995). Therefore, this study attempts to shed light on informal fallacies, within legal discourse, not as isolated logical mistakes but as strategic maneuvering failure resulting from the imbalance between the requirements of legal reasonableness and effective persuasion.

This study adopts a pragma-dialectical approach (PDA) proposed by van Eemeren and Grootendorst with special reference to the concept of Strategic Maneuvering (SM). Building on van Eemeren and Houtlosser (2007) view of fallacies as derailments of SM resulting from the imbalance between dialectical and rhetorical objectives, this paper aims at examining informal fallacies in the proceedings of Israeli defense before ICJ regarding the case instituted by South Africa as being intentional strategic argumentative moves rather than mere erroneous reasoning on the part of the defense.

Due to the extensive taxonomies of informal fallacies and the inherent difficulties in addressing all categories comprehensively as noted by Hansen (2002), Walton (2010), and Copi, Cohen, and McMahon (2014), the current paper will be limited to analysing only two primary groups: Fallacies of Relevance (FoR) and Fallacies of Weak Induction (FWI). As Govier (2010) defined them “Fallacies of Relevance involve premises logically irrelevant to the conclusion, and fallacies of weak induction, where premises provide insufficient support for conclusions” (p. 167). The selection of For and FWI is justified by their frequent occurrence in legal discourse and their particular importance in contexts where advocates balance legal precision and persuasive impact (Tindale, 2007 ; Hurley, 2015).

## 2. Literature Review

Traditionally, fallacies were approached as unintentional errors in reasoning: mistakes to be avoided. This view remained largely unquestioned until scholars such as Hamblin (1970) challenged it. He pointed out that logic textbooks treatment of fallacies is “grossly inadequate and fundamentally misconceived, reducing complex argumentative phenomena to mere catalogues of errors” (p. 12). This critique paved the way for a new understanding of fallacies. According to Woods and Walton (1989), fallacies are used as persuasion strategy that exploit the gap between dialectical standard and rhetorical effectiveness. Therefore, the traditional view of them as reasoning errors fails to account for their strategic use in argumentation (Walton, 1995).

Van Eemeren and Grootendorst's PDA provide a new understanding of fallacies. In PDA, fallacies are viewed as violations of critical discussion rules; violations that hinder the efforts to resolve differences of opinion on merits. This view places fallacies within the normative model of argumentation governed by ten rules of critical discussion (van Eemeren & Grootendorst, 1992). Van Eemeren and Houtlosser (2007) viewed argumentative moves as forms of "strategic maneuvering" aimed at balancing a dialectical and a rhetorical aim. They analyse the fallacies as derailments of legitimate ways of strategic maneuvering in which, without any notification, aiming for rhetorical effectiveness has gained the upper hand over maintaining dialectical standards. Tindale (2007) emphasizes an important aspect fallacies. He points that "in rhetorical contexts, what counts as a fallacy cannot be determined by logic alone but must be judged in relation to the argumentative situation and the audience being addressed" (p. 28).

Due the complexity of fallacy classification, this study had to set clear boundaries. (Copi et al., 2014) observed the classification of fallacies remains a controversial issue in logic and argumentation theory, with scholars proposing numerous competing taxonomies that often overlap or contradict one another. Hassan (2002) similarly noted that there is no consensus on a universal classification of fallacies which causes the analysis to be increasingly problematic. This claim was the enforced when Walton (2010) knowledge that due to their wide variation in number and function in discourse, fallacies cannot be covered in a single study. He also asserted that fallacies are context-sensitive.

This is the study therefore focuses on two categories For and FWI. These categories were chosen for good reasons. Hurley (2015) argued that FoR and FWI are among the most frequently employed in persuasive discourse because they exploit the audience's emotional responses and reasoning shortcuts while maintaining a veneer of logical validity. Most importantly for this study, Inndale (2007) pointed out that FoR and FWI are very significant in legal

contexts since applies to emotion, authority, and insufficient evidence are strategically deployed to influence judicial outcomes.

Despite the theoretical tools that PDA provides for analyzing SM and legal argumentation, scholars' recognition of the strategic nature of advocacy, there remains a lack of systematic PDA analysis of fallacies in international legal proceedings. This study addresses this gap by applying van Eemeren's SM framework to the Israeli defense proceedings before the ICJ in *South Africa v. Israel*. The analysis examines how the institutional legal context shapes fallacy deployment through the three aspects of SM. This study extends the application of PDA to the international context in which the audience, institutional constrains, and rhetorical demands differ significantly.

### **3. Theoretical Framework**

This study adopts the PDA proposed by van Eemeren as the theoretical framework for analysing informal fallacies in legal discourse. The PDA provides both a normative model of reasonable argumentation through its rules for critical discussion and an analytical tool for understanding SM and its derailments.

#### **Informal Fallacies as Violations of the Rules of Critical Discussion**

Within the PDA framework, argumentation is conceptualized as a critical discussion aimed at resolving a difference of opinion on the merits through the observance of a set of procedural and normative rules. Van Eemeren and Grootendorst (2004) propose ten rules for critical discussion that regulate the conduct of arguers across its four stages. These rules were formulated to ensure that discussants can free advance, defend, and evaluate standpoints in a way that offer them a fair and rational resolution of difference. Thus, the term fallacy, in PDA, is directly connected to violations of these rules of critical discussion in which fallacies represent a hindrance of difference resolution and SM derailment (van Eemeren, 2010). Van Eemeren et al. (2014) outline ten rules for critical discussion as follows:

“Rule 1 (Freedom Rule): Parties must not prevent each other from advancing standpoints or casting doubt on standpoints.”

“Rule 2 (Burden of Proof Rule): A party who advances a standpoint is obliged to defend it if asked to do so.”

“Rule 3 (Standpoint Rule): An attack on a standpoint must relate to the standpoint that has actually been advanced by the other party.”

“Rule 4 (Relevance Rule): A standpoint may only be defended by advancing argumentation relating to that standpoint.”

“Rule 5 (Unexpressed Premise Rule): A party may not falsely present something as an unexpressed premise of the other party, nor deny a premise that has been left unexpressed by oneself.”

“Rule 6 (Starting Point Rule): No party may falsely present a premise as an accepted starting point, or deny a premise representing an accepted starting point.”

“Rule 7 (Argument Scheme Rule): A standpoint may not be regarded as conclusively defended if the defense does not take place by means of an appropriate argumentation scheme that is correctly applied.”

“Rule 8 (Validity Rule): The reasoning in the argumentation must be logically valid or must be capable of being made valid by making explicit one or more unexpressed premises.”

“Rule 9 (Closure Rule): A failed defense must result in the protagonist retracting the standpoint and a successful defense must result in the antagonist retracting doubt about the standpoint.”

“Rule 10 (Usage Rule): Formulations must be neither puzzlingly vague nor confusingly ambiguous and must be interpreted as accurately as possible.”  
(van Eemeren et al. 2014, pp. 56-58)

From this perspective, informal fallacies are not merely logical defects or accidental reasoning errors but are best understood as violations of one or more rules governing critical discussion. When an arguer violates the abovementioned rules, for instance by preventing the other party from advancing a standpoint or shifting the burden of proof, this argumentative move causes the exchange to be distorted and the resolution of difference is undermined (van Eemeren & Grootendorst, 2004). Here it should be noticed that violations (or fallacies) do not necessarily stem from ignorance or lack of logical competence but as response to reconcile the pursuit of persuasive effectiveness with the obligation to remain reasonable which is the core idea of SM (van Eemeren & Houtlosser, 2002).

### **Strategic Maneuvering (SM)**

In the late 20th and early 21st centuries, the emergence of PDA led to a more systematic approach to analysing argumentative discourse. Frans van Eemeren and Rob Grootendorst developed PDA as a response to the need for a more comprehensive theory that could account for the real-life dynamics, which often involves both cooperative and conflictual elements. In the early 2000s, the concept of SM became a key component of PDA, recognizing that arguers are not only interested in the achievement of agreement but they also seek winning the argument in a way that their audience deem as a reasonable (Zarefsky, 2008).

Van Eemeren and Houtlosser conclude that SM is a matter of balance between the dual aims of being persuasive (rhetorical goal) and reasonable (dialectical goal) within argumentative discourse (van Eemeren & Houtlosser, 2002). Their theory stressed the dual function; that all argumentative moves tend to have: winning the argument (persuasion) and staying within the bounds of what is considered reasonable dialogue. Thus, SM is an intentional effort to find the optimal balance between these goals. SM is composed of interconnected aspects. In brief:

- a. Topical Potential: selecting persuasive arguments while maintaining relevance.
- b. Audience Adaptation: tailoring arguments to appeal to the values, beliefs, and expectations of the audience.
- c. Presentational Devices: presenting arguments effectively using the rhetorical techniques, such as metaphors, analogies, or emotional appeals (van Eemeren & Houtlosser, 2002).

#### **4. Method**

This study is a qualitative study that applies van Eemeren's PDA to analyse informal fallacies in the Israeli defense proceedings before ICJ. The data, the official verbatim record, were retrieved from the official website of the ICJ ([www.icj-cij.org](http://www.icj-cij.org)). The analysis was done following these steps: firstly, the retrieved transcript was examined carefully to identify fallacies of FoR and FWI in accordance with PDA standard definition of each fallacy. Secondly, each fallacy was linked to specific violation/s of van Eemeren's ten rules of critical discussion. Thirdly, each fallacy was analysed as strategic move via the three aspects of SM. Finally, all the identified fallacies were put together to identify the patterns in which they were used across the argumentative stages, the relationship among them, and the overall strategic coherence in the defense presentation.

#### **5. The Analysis**

##### **5.1 The Analysis of Relevance Fallacies**

###### **Ad Hominem Fallacy**

The ad hominem fallacy involves attacking the arguer rather than the argument.

In paragraph 31, Becker states

It is a matter of public record that South Africa enjoys close relations with Hamas, despite its formal recognition as a terrorist organization by numerous States across the world. These relations have continued unabated even after the 7 October atrocities (Becker, 2024, para. 31)

## **Dialectical analysis**

In this argument, Relevance Rule (Rule 4) was violated by the defense. The premises do not directly support the standpoint at hand. The speaker redirects the attention toward the opposing party's political standing instead of engaging with the allegation of genocide. The Standpoint Rule (Rule 3) was also violated by shifting the subject of the discussion from the main standpoint, genocide allegation, to the applicant's character and relations. Dialectally, the references to South Africa-Hamas relations are not relevant to the main argument which is whether Isreal committed a genocide given that even if such relations were existed, they would not justify or refute the standpoint under discussion. The shifts serve as redirection strategy that weakens the engagement required in critical discussion.

## **Strategic Maneuvering Analysis**

### ***Topical Choice***

In this argument, the speaker put forward South Africa-Hamas relationship as the topic of the discussion. This strategy foregrounds Hamas instead of Israel conduct as to redefine the ground of argumentation. The topical selection in this argument transforms the speaker's position from a defensive position into an offensive one which enable him repositioning the debate around moral credibility rather than legal accountability.

### ***Audience Adaptation***

Concerning audience adaptation, the defense exploits audience's sensitivity to issues of terrorism and security by invoking widely recognized characterizations of Hamas. The speaker implicitly activates shared evaluative frameworks that may prompt the audience toward moral condemnation. This adaptation strengthens rhetorical persuasiveness while avoiding direct dialectical confrontation

### ***Presentational Devices***

Linguistically the speaker uses strong expressions such as terrorist organization and references to the 7 October violence to intensify moral salience. The use of evaluative markers and appeals to the public record creates an impression of factual solidity and ethical clarity. These Presentational choices enhance rhetorical impact though they do not compensate for the underlying relevance deficiency.

### **Tu Quoque Fallacy**

Tu Quoque Fallacy involves deflecting criticism by pointing out that the accuser is guilty of the same or similar conduct. In paragraph 3, Shaw states: "It was these events that truly constitute the real context for South Africa's allegations. Indeed, such acts may be seen as the real genocide in this situation." (Shaw, 2014, para.3)

### **Dialectical analysis**

This argument primarily violates the Relevance Rule (Rule 4), as it redirects attention from the allegations against Israel toward the acts of Hamas. Secondly, it violates the Standpoint Rule (Rule 3) by substituting one standpoint for another; the issue concerns Israel's conduct, yet the statement reorients the debate toward Hamas as the alleged perpetrator of the "real genocide".

Even if Hamas committed genocide, this does not address whether Israel committed genocide, this does not determine whether Israel committed genocide. Both parties could theoretically commit genocide under the

international law. By describing October 7 as “Real genocide” implies Israel's alleged genocide is not real. This argument shifts attention from the main standpoint as to avoid any direct engagement with the original claim.

## **Strategic Maneuvering Analysis**

### ***Topical Choice***

In this argument, as illustrated earlier, the defense, purposefully, chooses October 7 to be a defining example of “real genocide” in an attempt to frame Israel’s actions as response to Hamas’ conduct rather than independent conduct. This establishes moral framework line up Hamas’ acts over the allegation against Israel.

### ***Audience Adaptation***

In this argument, judges' sense of justice and moral clarity were appealed to by presenting October 7 violence as undeniable genocide, creating an implicit comparison: obvious genocide versus alleged genocide.

### ***Presentational Devices***

The language used in this argument is emphatic, employing words such as “truly”, “real genocide”. The phrase “such acts may be seen as” suggests definitional authority, while the move itself operates as reversal technique, shifting who is presented as the genocidal actor.

### **Appeal to Emotion Fallacy (Ad Misericordiam/Ad Populum)**

The Appeal to Emotion fallacy involves substituting emotional appeal for logical argument to evoke sympathy, fear, or other emotions instead of providing relevant evidence. In the paragraphs (17-20), Becker states

They tortured children in front of their parents and parents in front of their children, burned babies alive and systematically raped women, men, and children. 1,200 were murdered, 240 were taken hostage, including infants, elderly, Holocaust

survivors, and people with disabilities. (Becker, 2024, paras.17-20)

### **Dialectical analysis**

This argument primarily violates the Relevance Rule (Rule 4). It also violates the Standpoint Rule (Rule 3), as it exploits emotional appeal rather than logically relevant argumentative scheme. While October 7 provides context, the extensive graphic detail exceeds what's dialectically necessary. The primary function of these descriptions is emotional effect not logical relevance to genocide allegations. The horror of October 7 does not logically determine whether Israel committed genocide.

### **Strategic Maneuvering Analysis**

#### ***Topical Choice***

In this argument, the speaker selects graphic and emotionally overwhelming examples. The focus is on individual victims with names and stories emphasizing children and families. This selection manipulates the emotions of the audience by replacing logical arguments with emotional appeals.

#### ***Audience Adaptation***

The arguer targets judges' human empathy and moral sensibilities. It creates strong emotional understanding of Israeli suffering and builds an emotional foundation for the "right to defend" argument

#### ***Presentational Devices***

The defense use narrative techniques to tell individual stories. They use sensory details such as "burned alive", "screaming" to create immediacy. Additionally, direct quotes and visual presentations (Screen clip) were used to intensify the emotional effect.

## **Red Herring / Irrelevant Conclusion Fallacy**

Red Herring occurs when the speaker introduces irrelevant information to divert attention from the issue actually being discussed. In paragraphs (6-37), Ragan states (extensive section)

Listening to the presentation by the Applicant, it was as if Israel is operating in Gaza against no armed adversary... What is actually 'unparalleled and unprecedented' is the degree to which Hamas has entrenched itself within the civilian population. (Ragan, 2024, paras. 6-37)

### **Dialectical analysis**

This argument violates the Relevance Rule (Rule 4) and Standpoint Rule (Rule 3) by shifting focus from Israeli conduct to Hamas' conduct. Although Hamas' tactics are relevant to International Humanitarian Law compliance, the extensive detail diverts from genocide allegations. The central question is not whether Hamas uses human shields, but whether Israel intends to destroy Palestinians as a group. The discussant changes the subject from intent to operational context.

### **Strategic Maneuvering Analysis**

#### ***Topical Choice***

The speaker highlights Hamas' tactics, including visual evidence of tunnels, weapons in civilian sites in order to focus on Hamas' illegitimate conduct rather than Israel's intent making it the main topic.

#### ***Audience Adaptation***

The argument appeals to judges' understanding of International Humanitarian Law complexities. It creates sympathy for Israel's difficult operational environment and establishes Hamas as the sole responsible for all harm.

## ***Presentational Devices***

The presentation uses visual slides, accumulation of examples, detailed descriptions: “hundreds of kilometers of tunnels” and references to authority, including “United States intelligence” confirmation, all together solidify the claims of the defense

## **5.2 The Analysis of Weak Induction Fallacies**

### **Hasty Generalization Fallacy**

Hasty Generalization involves drawing a broad conclusion from insufficient or unrepresentative evidence. In paragraph (50), Shaw quotes “The IDF is the most moral army in the world, the IDF does everything to avoid harming the uninvolved.” (Shaw, 2024, para.50)

### **Dialectical analysis**

This argument primarily violates the Argument Scheme Rule (Rule 7), as it advances a far-reaching generalization without sufficient evidence. It also violates the Starting Point Rule (Rule 6) by presenting a highly contestable moral claim as if it were an accepted starting point in the discussion. The use of superlative claim (“most moral”) implies a global comparison that would require comprehensive and objective evidence. Similarly, using the word “Everything” implies absolute language without any evidence. The speaker’s self-assessment of morality lacks objective grounding

### **Strategic Maneuvering Analysis**

#### ***Topical Choice***

The argument selects morality as framework and positions IDF in comparative global context. It shifts focus from specific acts to institutional character.

#### ***Audience Adaptation***

The claim appeals to judges' respect for military professionalism which creates moral authority through a superlative claim. It prevents criticism through defensive positioning (i.e. by framing the institution as exceptionally ethical)

### ***Presentational Devices***

The use of superlative language (“most moral”), absolute terms (“everything”), and the universal scope (“in the world”) strengthens rhetorical impact. The use of present tense (“is”, “does”) reinforces certainty.

### **False Cause Fallacy (Post Hoc Ergo Propter Hoc)**

False Cause fallacies occur when incorrectly assuming that because one event preceded another, the first event caused the second. In the paragraphs (9-10), Ragan states

In the current conflict, many civilian deaths are directly caused by Hamas. Booby-trapped homes detonate and kill indiscriminately. Mines in alleyways collapse structures around them. And over 2,000 rockets misfired by Hamas have landed inside Gaza, causing untold levels of harm. (Ragan, 2024, paras. 9-10)

### **Dialectical analysis**

This argument primarily violates the Argument Scheme Rule (Rule 7) through misapplication of a causal scheme. It also secondarily violates the Validity Rule (Rule 8) as the conclusions appear to exceed evidence provided. The term “many” is vague and unquantified. Even if Hamas causes some civilian deaths, this doesn't address Israeli-caused deaths. The argument attributes harm without evidence of proportion. While misfired rockets may cause harm, but Israeli strikes cause more.

## Strategic Maneuvering Analysis

### *Topical Choice*

The arguer selects Hamas-caused casualties as topic by focusing on indirect causes (booby traps, misfires) while neglecting discussion of direct Israeli strikes.

### *Audience Adaptation*

The argument confuses causal picture for judges and introduces reasonable doubt about casualty attribution. It suggests South Africa presentation oversimplifies the situation.

### *Presentational Devices*

Using quantification (“2,000 rockets”), dramatic language (“kill indiscriminately”, “untold levels”), and active verbs (“detonate”, “collapse”) create a strong impression of causation. The parallel structure listing multiple causes reinforces this effect.

### **Appeal to Ignorance Fallacy (Ad Ignorantiam)**

The Appeal to Ignorance Fallacy involves arguing that something must be true because it hasn't been proven false, or false because it hasn't been proven true. In paragraph (41), Becker states that

The Court is told of over 23,000 casualties, as the Applicant repeats; as many have, unverified statistics provided by Hamas itself — hardly a reliable source. Every civilian casualty in this conflict is a human tragedy... But the Court is not told how many thousands of casualties are in fact militants, how many were killed by Hamas fire, how many were civilians taking direct part in hostilities... (Becker, 2024, para.41)

## **Dialectical Analysis**

In this argument, the Argument Scheme Rule (Rule 7) is primarily violated as uncertainty is used to cast doubts without counter evidence. There is also a violation of the Burden of Proof Rule (Rule 2) since the responsibility is shifted from demonstrating lawfulness to demanding exact figure from the opposing party. The lack of certainty about exact figures does not prove low casualties.

## **Strategic Maneuvering Analysis**

### ***Topical Choice***

The argument focuses on uncertainty and verification issues. It selects Hamas as source to discredit statistics and emphasizes what is “not told” rather than what is known.

### ***Audience Adaptation***

This strategy appeals to judges' evidentiary standards and creates skepticism about South Africa's factual claims. It also leverages Hamas' credibility problems.

### ***Presentational Devices***

The phrase “hardly a reliable source” directly attacks the source. A series of rhetorical questions (“how many...how many...how many”) amplifies doubts. The clause (“Every civilian casualty is a human tragedy”) creates balance while maintaining skepticism.

## **False Analogy Fallacy**

The False Analogy fallacy involves drawing a comparison between two things that aren't sufficiently similar in relevant respects to support the conclusion. In paragraph (35), Becker states

Remarkably, counsel for the Applicant described the suffering in Gaza as 'unparalleled and unprecedented', as if they are unaware of the utter devastation wrought in wars that have raged just in recent years around the world. Sadly, the civilian suffering in warfare is not unique to Gaza. (Becker, 2024, para.35)

### **Dialectical Analysis**

The primary violation, in this argument, is of the Argument Scheme Rule (Rule 7) analogical reasoning wrongly applied. Secondly, the Relevance Rule (Rule 4) is also violated through a comparison that may not be legally relevant as other conflicts may have different legal characteristics. Similarity in scale doesn't determine similarity in legal nature. Other conflicts having civilian suffering doesn't prove Gaza situation lawful. Comparison doesn't address specific allegations of genocidal intent.

### **Strategic Maneuvering Analysis**

#### ***Topical Choice***

The arguer selects recent conflicts as comparison class by focusing on a shared characteristic (civilian suffering) thereby normalizing the Gaza situation through comparison.

#### ***Audience Adaptation***

The argument appeals to judges' knowledge of recent conflicts in an attempt to counter the uniqueness claim advanced by South Africa which creates perspective: Gaza is not exceptional.

#### ***Presentational Devices***

The arguer uses many rhetorical strategies such as Ironic framing ("Remarkably", "as if they are unaware", intensifier: ("utter devastation"), Resigned acceptance("Sadly), and universalizing ("not unique to Gaza) to normalize the situation.

### 5.3 Summary of Fallacies and Rules Violations

Table 1 provides an overview of the eight fallacy types analysed in this study, their categorical classification (FoR or FWI), operational definitions, and the primary pragma-dialectical rules they violate.

**Table 1**

#### **Fallacy Definitions, Categories, and Corresponding Pragma-Dialectical Rule Violations**

Fallacy	Category	Definition	Primary Rule(s) Violated
<b>Ad Hominem</b>	FoR	Attacking the arguer's character or associations rather than the argument itself.	Rule 3 (Standpoint); Rule 4 (Relevance)
<b>Tu Quoque</b>	FoR	Deflecting criticism by claiming the accuser engages in the same conduct.	Rule 3 (Standpoint); Rule 4 (Relevance)
<b>Appeal to Emotion</b>	FoR	Substituting emotional appeals for logically relevant argumentation.	Rule 4 (Relevance); Rule 7 (Argument Scheme)
<b>Red Herring</b>	FoR	Introducing irrelevant information to divert attention from the issue at hand.	Rule 4 (Relevance); Rule 3 (Standpoint)
<b>Hasty Generalization</b>	FWI	Drawing a broad conclusion from insufficient or unrepresentative evidence.	Rule 7 (Argument Scheme); Rule 6 (Starting Point)
<b>False Cause</b>	FWI	Incorrectly assuming a causal relationship based on sequence or correlation.	Rule 7 (Argument Scheme); Rule 8 (Validity)
<b>Appeal to Ignorance</b>	FWI	Arguing a claim is true because it has not been proven false, or vice versa.	Rule 7 (Argument Scheme); Rule 2 (Burden of Proof)
<b>False Analogy</b>	FWI	Drawing a comparison between two situations that are not sufficiently similar.	Rule 7 (Argument Scheme); Rule 4 (Relevance)

## 6. Results and Discussion

The analysis of the oral proceedings of the Israeli defense has revealed a systematic employment of informal fallacies rather than mere unintentional errors of reasoning. A total of 42 instances of fallacies were identified across the four defense speakers, distributed as follows: fallacies of relevance ( $n = 27$ , 64.3%) and fallacies of weak induction ( $n = 15$ , 35.7%). The former were used more frequently throughout the proceedings and by all speakers. Ad hominem ( $n = 8$ ) and red herring ( $n = 11$ ) were the most dominant.

Ad hominem and red herring were the dominant ones. Ad hominem was used multiple times and took multiple forms, all of which were circumstantial; attacking the motives or the moral standing of South Africa (Becker, para. 9), questioning South Africa-Hamas' relationship (Becker, paras. 31-32), and went so far as to accuse South Africa of involvement in genocide (Shaw, para. 64). Tu quoque fallacies were also used to characterize October the 7th as the "real genocide" (Shaw, para. 7) and when asserting that "if there have been acts that may be characterized as genocidal, then they have been perpetrated against Israel" in an attempt to maintain the moral positioning. Emotional appeals took a place too by displaying photographic description of October the 7th violence (Becker, para. 17-20), in addition to the presence of hostage's families in courtroom and calling upon the memory of the Holocaust and "Never Again" (Becker, paras. 1-3). Red herring was also used frequently by the defense; almost 30% of Ragan's speech was dedicated to the tactics of Hamas' military rather than responding to genocide intent of Israel. The Israeli's defense overfocusing on Hamas' tunnels, weapons and use of civilian infrastructure served mainly as a distraction as to the spotlight away from the main argument advanced (i.e. genocide allegations themselves).

The latter (fallacies of weak induction) were used less frequently in comparison to relevance fallacies yet in a very crucial moment when the defense was in need to counter factual claims. Hasty generalization was used by referring to selected cabinet statement in order to establish the absence of

genocidal intent on the Israeli part (Shaw, paras. 39-47). false cause fallacies were employed when addressing Palestinian civilian casualties to attribute Hamas all the harm rather than the Israeli military force's decision. Moreover, false analogy served as a normalizing technique by setting a comparison between the situation in Gaza and wars around the world "wars that have raged just in recent years around the world" and comparing Israel to Allied Powers and Hamas to Axis Powers (Staker, paras. 23-24).

The two groups of fallacies mentioned earlier were proven to operate in harmony to form an integrated argumentative strategy. FoR served as a platform upon which FWI performed more effectively. For example, the circumstantial ad hominem fallacies that discredited South Africa rendered appeals to ignorance regarding casualty statistics more persuasive as the primary source of these statistics (South Africa) had been undermined. In the same way, using red herring extensively to mislead the audience by focusing on Hamas' use of civilian infrastructure set the scene for false cause fallacies that attributed all suffering to Hamas rather than Israeli military actions. Furthermore, the emotional appeals served as a context that made hasty generalization about the humanitarian intentions of Israel appear more credible. Even the WWII false analogy served to solidify Tu quoque framing by associating Israel with morally Allied cause.

Given that fallacies are considered as violation of the rules of critical discussion (from a PDA perspective). Ad hominem and Tu quoque represented violations of the Relevance Rule (Rule 4) because they, instead of defending the advanced standpoint—genocide allegations against Israel—, attacked South Africa's character or shifted to Hamas' conduct. Additionally, red herrings violated the Relevance Rule by including irrelevant topics (Hamas tactics, Israeli legal system, humanitarian aids) that did not address genocidal intent. The Israeli defense violated the Standpoint Rule (Rule 3) by advancing an entirely new standpoint represented by Shaw's accusation that South Africa involved in the genocide (para. 64) leaving the original standpoint undefended. As for the emotional appeals, they represented a double-violation by violating

both the Relevance Rule (Rule 4) and Argument Scheme Rule (Rule 7). They were neither relevant nor constituted an appropriate argumentation for prove or refute genocidal intent.

Weak induction fallacies violated the rules (2,7, and 8). They all violated the Argument Scheme Rule (Rule 7) by employing inappropriate inductive reasoning scheme; hasty generalization drew conclusions from insufficient samples, false cause arguments attributed causal relationships invalidly, false analogies, as its name implies, conducted comparisons of completely different situations. These aforementioned fallacies also violated the Validity Rule (Rule 8) by drawing conclusions that did not logically follow from the premises. Appeals to ignorance additionally violated the Burden of Proof Rule (Rule 2) by attempting to shift the burden from Israel (to prove lawfulness of conduct) to South Africa (to prove exact casualty breakdowns and direct evidence of intent). Furthermore, the three aspects of SM were evident across the defense's narrative. This complex pattern was clear in selecting legally relevant but dialectically distracting topics. Discussions of international humanitarian law compliance functioned as red herrings by shifting focus from Genocide Convention to other legal frameworks.

Regarding audience adaptation, almost all the fallacious arguments used were tailored carefully to ICJ judges concerns. To avoid appearing as appeals to ignorance, the defense appealed to evidentiary standards made casualty figures appear as reasonable doubts. Focusing on official documentation appealed to judge's respect of legal formality while offered a ground for hasty generalization from the set of the selected statements. The attendance of hostages' families, the photographs and videos of violence, and bringing forward irrelevant historical contexts like the memory of the Holocaust all together appealed to audiences' emotions while maintained judicial decorum. The defense even got ahead of any possible dialectical challenges by admitting that violence "do not absolve Israel of its obligations under the law" (Becker p 21) before getting in Tu quoque and False cause arguments as to create a sense of reasonableness while neglecting whether obligations had been violated.

Lastly, presentational devices provided a cover for fallacious arguments making a sophisticated legal package. Visual evidence of Hamas facilities and weapons was used to reinforce red herring arguments about their responsibility of violence. Visual transcriptions created indirect appeals to audience emotions without using language. While the extensive use of statistics further reinforced false cause and hasty generalization arguments by providing an empirical appearance; references to “over 2,000 indiscriminate terrorist rockets” (Becker para. 40) “70,000 individual phone calls” (Raguan, para. 45) and “180,000 liters a day of fuel” (Sender para. 12) created a sense of precision. Legal language and citations “tab 1A of the volume” (Shaw, para. 41) cabinet decisions and international law principles coated relevance fallacies with authoritative crust making their distractive nature less apparent.

## 7. Conclusions

The study examined informal fallacies in the proceedings of the Israeli defense before the ICJ, in South Africa v. Israel case, using the PDA framework developed by van Eemeren. In this study, fallacies were deemed to represent a failure of SM rather than mere errors of reasoning. Eight distinct types of fallacies were identified: ad hominem, tu quoque, appeal to emotion, and red herring (relevance fallacies); and hasty generalization, false cause, appeal to ignorance, and false analogy (weak induction fallacies). Each fallacy was identified as a violation of specific rule(s) of critical discussion and was analysed according to the three aspects of SM (i.e. topical choice, audience adaptation, and presentational devices).

The present study yielded the following findings. Firstly, fallacies were used as strategic tools; FoR were used to deflect and distract attention away from the main argument while FWI created suspicions about factual allegations. Secondly, fallacies varied in response to the argumentative stage and the topic which revealed a complex strategic pattern. Thirdly, the institutional legal context shaped the way in fallacies were formulated; by shaping them as “legalized fallacies” that maintained presumed legitimacy while violating

dialectical reasonableness. Fourthly, the systematic presence of fallacious reasoning reveals a structural feature of legal practice rather than individual competence which creates pressures toward SM derailment.

This study had some limitations that must be acknowledged. Firstly, it examined only the Israeli defense proceedings and left the counter arguments, as the goal was not to conduct a comparative study, but to understand the way informal policies operate in legal discourse. Secondly, only two categories of fallacies FoR and FWI were analysed. Therefore, this study constitutes a single case study. Moreover, the interpretive nature of fallacies allows for alternative interpretations. For future studies we recommend conducting comparative genocide case analysis and examination of judicial responses to fallacious advocacy to establish the generalization of these findings.

## 8. References

- Atkinson, J. M., & Drew, P. (1979). *Order in court: The organization of verbal interaction in judicial settings*. Macmillan.
- Cheng, Le & Danesi, Marcel. (2019). Exploring legal discourse: a sociosemiotic (re)construction. *Social Semiotics*. 29. 10.1080/10350330.2019.1587841.
- Convention on the Prevention and Punishment of the Crime of Genocide. (1948, December 9). *United Nations Treaty Series*, 78, 277.
- Copi, I. M., Cohen, C., & McMahon, K. (2014). *Introduction to logic* (14th ed.). Pearson.
- Feteris, E. T. (2017). *Fundamentals of legal argumentation: A survey of theories on the justification of judicial decisions* (2nd ed.). Springer.
- Govier, T. (2010). *A practical study of argument* (7th ed.). Wadsworth Cengage Learning.
- Hamblin, C. L. (1970). *Fallacies*. Methuen.
- Hansen, H. V. (2002). The straw thing of fallacy theory: The standard definition of 'fallacy'. *Argumentation*, 16(2), 133–155.
- Hansen, H. V., & Pinto, R. C. (Eds.). (1995). *Fallacies: Classical and contemporary readings*. Pennsylvania State University Press.
- Hurley, P. J. (2015). *A concise introduction to logic* (12th ed.). Cengage Learning.

- International Court of Justice. (2024, January 12). Verbatim record of oral proceedings: Application of the Convention on the Prevention and Punishment of the Crime of Genocide (South Africa v. Israel) [Bilingual transcript]. <https://icj-cij.org/sites/default/files/case-related/192/192-20240112-ora-01-00-bi.pdf>
- Tindale, C. W. (2007). *Fallacies and argument appraisal*. Cambridge University Press.
- van Eemeren, F. H. (2010). *Strategic maneuvering in argumentative discourse: Extending the pragma-dialectical approach*. John Benjamins.
- van Eemeren, F. H., & Grootendorst, R. (1992). *Argumentation, communication, and fallacies: A pragma-dialectical perspective*. Lawrence Erlbaum Associates.
- van Eemeren, F. H., & Grootendorst, R. (2004). *A systematic theory of argumentation: The pragma-dialectical approach*. Cambridge University Press.
- van Eemeren, F. H., & Houtlosser, P. (2002). Strategic maneuvering: Maintaining a delicate balance. In F. H. van Eemeren & P. Houtlosser (Eds.), *Dialectic and rhetoric: The warp and woof of argumentation analysis* (pp. 131–159). Kluwer Academic Publishers.
- van Eemeren, F. H., & Houtlosser, P. (2005). Theoretical construction and argumentative reality: An analytic model of critical discussion and conventionalised types of argumentative activity. In D. Hitchcock (Ed.), *The uses of argument: Proceedings of a conference at McMaster University* (pp. 75–84). Ontario Society for the Study of Argumentation.
- van Eemeren, Frans & Houtlosser, Peter (2007). Reconnecting Dialectic and Rhetoric: Fallacies as Derailments of Strategic Maneuvering in Argumentative Discourse. *Anthropology and Philosophy* 8 (1-2):49-68.
- van Eemeren, F. H., & Houtlosser, P. (2006). Strategic maneuvering: A synthetic recapitulation. *Argumentation*, 20(4), 381–392.
- van Eemeren, F. H., Garssen, B., Krabbe, E. C. W., Snoeck Henkemans, A. F., Verheij, B., & Wagemans, J. H. M. (2014). *Handbook of argumentation theory*. Springer.
- Walton, D. (1995). *A pragmatic theory of fallacy*. University of Alabama Press.
- Walton, D. N. (1987). *Informal fallacies: Towards a theory of argument criticism*. John Benjamins.

- Walton, D. N. (2010). Why fallacies appear to be better arguments than they are. *Informal Logic*, 30(2), 159–184.
- Woods, J., & Walton, D. (1989). *Fallacies: Selected papers 1972–1982*. Foris Publications.
- Zarefsky, D. (2008). Strategic maneuvering in political argumentation. *Argumentation*, 22(3), 317–330. <https://doi.org/10.1007/s10503-008-9096-9>