

TRENTO TRAINING SCHOOL: THE RHETORICAL ROOTS OF ARGUMENTATION. A LEGAL EXPERIENCE

FACULTY OF LAW, UNIVERSITY OF TRENTO, ITALY

30 August – 4 September 2021

TRAINERS:



Francesca Piazza:

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Abstract:

Aristotle's Rhetoric: a Theory of Persuasion

Francesca Piazza (University of Palermo)

The topic of my lectures will be Aristotle's Rhetoric. Against a still persistent tendency to underestimate the philosophical value of this work (see Barnes, 1995, p. 263), I will argue that it is a stimulating place of theoretical reflection on the role of persuasion in human life. However, in order to fully exploit this theoretical value it is necessary to consider Aristotle's Rhetoric as a unitary work inserted in the general framework of Aristotelian thought (see Grimaldi, 1972; Garver, 1986, Piazza 2008).

Starting from the definition of rhetoric as the "ability to see, in any given case, the possible means of persuasion" (Arist. Rhet. 1355b26–7), I will focus on the idea of rhetoric as a techne and on the role it plays in the public sphere. In this way, I will highlight the originality of the Aristotelian perspective with respect to both the Sophists and Plato.

Particular attention will be devoted to the concept of *eikos* (likelihood or probable) that can be considered one of the key notions of Aristotle's Rhetoric. I will show that, according to Aristotle, the *eikos* is not an imitation (least of all a manipulation) of the truth but the kind of truth appropriate to rhetorical issues (see Piazza 2012). On this basis, I will argue that the practical aim of rhetoric (persuasion) does not necessarily imply indifference or disregard for truth. Of course, the rhetorical point of view on truth is different from that of a logician or a scientist. Indeed, the truth rhetoric deals with is never a universal and necessary truth but it is always exposed to failure and therefore to conflict. This feature is strictly dependent on the nature of the rhetorical issues that are, by definition, issues on which there is no agreement. Using the Aristotelian terminology, they are issues that can be otherwise and have a for the most part regularity. These are those things that precisely because of their nature (and not only because of our cognitive limits) cannot be a subject of a stable and ultimate knowledge (see Di Piazza, Piazza, Serra 2018).

Within this framework, I will focus on the rhetorical method developed by Aristotle. In particular, I will examine in detail the three *entechnoi pisteis* (artificial proofs), i.e. *ethos*, *pathos* and *logos*. They are the rhetorical means of persuasion (*pisteis*) provided "by our use of rhetorical method" and "through speech" (*dia tou logou*). They are opposed to the *atechnoi pisteis* (inartificial means of persuasion) that are not provided by us, but instead are pre-existing (see Rhet.1356b 26-35). I will argue that *ethos*, *pathos* and *logos* are closely connected to each other and that persuasion can be seen as the result of the interaction between these three *entechnoi pisteis*. Indeed, in the Aristotelian perspective, cognitive and emotive aspects are both essential components of the process leading to persuasion. Actually, one of the guiding principles of Aristotle's Rhetoric is the belief that the more a discourse is able to produce in the hearer a quick and pleasant learning, the more it will be persuasive (Rhet.1410b 10-13, see Piazza, 2018). This reading of the three 'artificial proofs' will finally lead us to focus on the rhetorical syllogism, i.e. the enthymeme that, using Aristotle's own words, is the "body of proof" (Rhet. 1354a15). In conclusion, then, we shall focus on the main features of this peculiar syllogism by comparing it with the other form of rhetorical argumentation, i.e. the example (*paradeigma*).

References

Aristotle, *The Art of Rhetoric*, Trans. by R. Waterfield with an Introduction and Notes by H. Yunis, (Oxford, Oxford University Press, 2018).

J. Barnes (1995), *Rhetoric and Poetics*, in J. Barnes (ed.) *The Cambridge Companion to Aristotle*, Cambridge University Press, Cambridge, 1995 pp. 259-85.

S. Di Piazza, F. Piazza, M. Serra (2018), *Rhetorical Deliberation. A Sustainable Normativism from a Gorgianic-Aristotelian perspective*, «Paradigmi. Rivista di Critica Filosofica», 3/2018, XXXVI, pp- 427-442.

E. Garver (1986), “Aristotle’s Rhetoric as a Work of Philosophy”, *Philosophy & Rhetoric*, 1986, 19, pp. 1-22.

W. Grimaldi (1972) *Studies in the Philosophy of Aristotle’s Rhetoric*, Hermes Einzelschriften, Wiesbaden, Steiner, 1972.

F. Piazza (2008), *La Retorica di Aristotele. Introduzione alla lettura*, Roma, Carocci, 2008.

F. Piazza (2012) *L’eikos in teoria. Aristotele e la Rhetorica ad Alexandrum*, in F. Piazza, S. Di Piazza (eds.), *Verità verosimili. L’eikos nel pensiero greco*, Milano, Mimesis, 2012 pp. 103-137-

F. Piazza (2018), “Pleasure and Knowledge in Aristotle’s Rhetoric”, *Revue Internationale de Philosophie*, 2018/4 n. 286 pp. 405-424.



Federico Puppo:

Full Professor of Philosophy of Law in the Faculty of Law at the University of Trento (Italy) and member of the CERMEG-Research Center on Legal Methodology (Italy). His researches deal with philosophy of law and legal methodology (with a special focus on the vagueness of language and pluralism in law), and legal logic, argumentation and rhetoric (with attention to informal logic and truth). He is the promoter of the TTS.

Abstract:

The Anthropological and Legal-Philosophical Sides of Rhetoric

Federico Puppo (University of Trento)

The state is a creation of nature, and [...] man is by nature a political animal (zoon politikon) [...]. And whereas mere voice is but an indication of pleasure or pain, and is therefore found in other animals [...], the power of speech is intended to set forth the expedient and inexpedient, and therefore likewise the just and the unjust. And it is a characteristic of man that he alone has any sense of good and evil, of just and unjust, and the like, and the association of living beings who have this sense makes a family and a state

– Arist., Politics, II –

By taking advantage of Andrea Rocci's lectures on the necessary redemption of rhetoric with respect to the 'weak' readings offered since Perelman, I will propose a discussion of rhetoric from an anthropological and legal-philosophical point of view, in the wake of the Aristotelian lesson offered by Francesca Piazza's lectures. In short, my aim will be to support the idea that rhetoric could have anything other than a pejorative sense (Tindale 2004, 2019) and that rhetoric, despite his coming from the past, could still play a decisive role for the foundation of a highly valid account of law.

The starting point will be the fact that rhetoric, as law and justice, is always ad alterum. From this point of view, rhetoric, as law and justice, is given within a

social practice and it is more than a repertoire of means of persuasion or a theory of speaking. In the Aristotelian account, rhetoric is a way of thinking and a way of being. To be more precise, it is the *zoon politikon*'s way of being, i.e. the way of being of man as living in the co-original linguistic and political dimension (Heidegger 2009). According to this account, this is the dimension in which legal and political deliberations take place, since «we deliberate about things that are in our power and can be done» (Arist. Nic. Eth., 3, 1112), such as what is good or evil, or just or unjust.

But what does it mean that these things are in our power?

I will show that to answer this question means to understand the difference between two of the main ways to conceive the nature of law, i.e. the legal philosophical account by Aristotle and sophists, which are also related to their different accounts about rhetoric. From one hand, we find a conception which is based on the existence of *kosmos*, metaphysical and divine order to which men are related and on which they depend; from another hand, this *kosmos* does not exist or we are not able to know it: and so, man is the measure of everything (Jager 1947).

Within this framework, I will propose to read *Antigone* by Sophocles. In particular, I will examine the dilemmatic structure of tragedy and who, between Antigone and Creon, is wrong and who is right, by trying to overcome some rough interpretations which still read the classical tragedy by having in mind the legal hierarchical order of norms – something that did not exist at that time. To understand this point will mean to understand their reasons to act and the role played by *hubris* in relation with *phronesis*. In this way, it will be possible to appreciate Sophocles' purposes and his solution of the dilemmas, which will bring us to *Eumenides* by Aeschylus and the classical account of law, founded on fair trial and «*audi alteram partem*» principle.

Suggested readings (compulsory)

Aeschylus, Eumenides

Sophocles, Antigone

Selected bibliography

Aristotle, Nicomachean Ethics (especially Book V).

Ciaramelli, Fabio (2017). Il dilemma di Antigone. Torino: Giappichelli.

Heidegger, Martin (2009). Basic Concepts of Aristotelian Philosophy. Bloomington: Indiana University Press.

Jaeger, Werner W. (1947). Praise of Law: the Origin of Legal Philosophy and the Greeks. New York, NY : Oxford University Press.

Moro, Andrea (2016). Impossibile Languages. MIT Press.

Piazza, Francesca (2017), "Rhetoric as Philosophy of Language. An Aristotelian Perspective", *Res Rhetorica* 4 (https://www.researchgate.net/publication/322941944_Rhetoric_as_Philosophy_of_Language_An_Aristotelian_Perspective)

Puppo, Federico (2019). "Retorica. Il diritto al servizio della verità". In: Dimensioni del diritto, 239-318. Torino: Giappichelli.

Rocci, A. (2016). Ragionevolezza dell'impegno persuasivo. In: Argomentare: per un rapporto ragionevole con la realtà, 88-120. Milano: Fondazione per la Sussidiarietà.

Tindale, Christopher W. (2019). "Informal Logic and the Nature of Argument". In: Informal Logic: A 'Canadian' Approach to Argument, 375-401, Windsor: Windsor Studies in Argumentation.

Tindale, Christopher W. (2004). Rhetorical Argumentation: Principles of Theory and Practice. Thousand Oaks (CA): Sage.

Tomasi, Serena (2021). L'argomentazione giuridica dopo Perelman. Roma: Carocci.



Andrea Rocci:

Full Professor and Director of the Institute of Argumentation, Linguistics and Semiotics at the Università della Svizzera Italiana (Lugano). He is also Director of the Master programme in European Studies in Investor Relations and Financial Communication (ESIR) offered jointly with Università Cattolica (Milan). His main areas of research are the juncture between argumentation and the semantics and pragmatic aspects of language (with a special focus on modality) and the analysis of argumentative interactions in context (with a special attention to the financial domain).

Abstract:

Reasonableness of persuasive commitment in argumentation.

Andrea Rocci (Università della Svizzera Italiana)

Rhetoric is useful because things that are true and things that are just have a natural tendency to prevail over their opposites, so that if the decisions of judges are not what they ought to be, the defeat must be due to the speakers themselves, and they must be blamed accordingly. (Aristotle, Rhetoric, I, 1355a)

The two lectures are devoted to defending a positive view of persuasion. By a positive view of persuasion I mean a view according to which, not only there are instances where it is good to persuade, but also instances where it is good to be persuaded. There might be several kinds of good persuasion, I will discuss one historically, theoretically and practically important kind: reasonable persuasion by argument. Argumentative persuasion and its social desirability as an endeavor and as a field of study lies at the core of the enterprise of classical rhetoric as systematized by Aristotle as antistrophos to dialectic and of its revival as Perelman's New Rhetoric. Reasonable persuasion, at least as a practical concern, is also a key motivation for the development of neo-dialectical theories of argumentation, such as van Eemeren's Pragma-Dialectic, even if its embedding in the theory takes the form of an extra-layer superposed to the dialectical core.

The viability and even the desirability of reasonable persuasion by argument in our societies is subject today to a double challenge. After a decade or so of dominance of a moderately optimistic narrative paradigm for understanding persuasion (let's call it the Obama paradigm), the attention of many scholars shifted to a more pessimistic behavioral view of persuasion, with a renewed attention to covert intentions, non-intentional perlocutionary effects, and the pre-propositional phatic or communitarian nature of language use (let's call it the Trump paradigm). If the key determinants of persuasion are extra-argumentative, even extra-propositional, focusing on the argumentative properties of persuasive discourse is misplaced attention and unhelpful to solve real problem. At the same time, the possibility and even the desirability of good argumentative practice is often questioned or, at least, subjected to caveats. The dynamics of social media, intertwined with the broader dynamics of electronically mediated public communication, have started to highlight how certain forms of argument as veiled aggression – or, at least, disruption leading on the one side to the sanctioning of certain dialectical adversarial behaviors (e.g. the sanctioning of sea lioning online), and on the other side to anti-establishment groups appropriating the banner of critical thinking and open argument. At the same time, some theorists raise doubts about argumentation's (exclusive?) focus on dialectical procedural rules as a factor in the reproduction of discursive injustice towards marginalized groups.

Before tackling these complex challenges, it is healthy if argumentation scholars pause and reconsider the relationship between persuasion and reasonable argument. In my lectures I will examine two positions regarding the compatibility of persuasion and reasonable argument: (1) a weak-compatibilist view, according to which the pursuit of rhetorical effectiveness, which includes persuasive effectiveness, can be compatible with the dialectical soundness of arguments but does not add to it, (2) a strong-compatibilist view, eloquently advocated by Scott Jacobs, whereby a certain kind of persuasive effectiveness is necessary to the pursuit of reasonable argument. Building on Jacob's notion of a reasonable (non-fallacious) rhetorical strategy, and focusing on the inferential aspects of argumentation (enshrined by the construct of the enthymeme), I develop a view of argument where a certain kind of persuasive effectiveness is a necessary condition both of (a) the pragmatic reasonableness of argumentation as an act of communication, (b) the inferential nature itself of the argument.

In the second lecture the view is further developed by distinguishing three layers of the argumentative interaction (a) joint commitments, i.e. obligations that the arguers jointly take up or incur into, (b) individual incentives for taking up the obligations, (c) strategies deployed to ensure that (a) are met and (b) are furthered. In this framework, argumentative situations exhibit different configurations of dialectical, persuasive and eristic incentives. Not only effective pursuit of these incentives is compatible with a commitment to reasonable resolution, but dialectical and persuasive effectiveness are to some degree interdependent and necessary to meet joint commitment to reasonable resolution. Two positive gains are achieved in the pursuit of theoretical clarity: the notion of effectiveness is no longer associated exclusively to persuasion, but to the pursuit of any of the argumentative incentives; second the pursuit of persuasion is seen not only as the furthering of an individual incentive, but also as a contribution to joint commitments to reasonableness.

In the last part of the second lecture I hint at the further challenges that need to be met to deploy such a view of reasonable persuasion in context by considering argumentative situations in view of the commitments and incentives of their different stakeholders, and I launch the slogan sustainable persuasion as a banner for the normative and practical research conducted in this vein on institutional and organizational argumentation.

Selected Bibliography

Aristotle, Rhetoric.(especially Book I)

Beaver, D., & Stanley, J. (2019). Toward a Non-Ideal Philosophy of Language. *Graduate Faculty Philosophy Journal*, 39(2), 503–547. <https://doi.org/10.5840/gfpj201839224>

Bitzer, L. F. (1959). Aristotle's enthymeme revisited. *Quarterly Journal of Speech*, 45(4), 399–408. <https://doi.org/10.1080/00335635909382374>

Fairclough, N., & Fairclough, I. (2018). A procedural approach to ethical critique in CDA. *Critical Discourse Studies*, 15(2), 169–185. <https://doi.org/10.1080/17405904.2018.1427121>

Jacobs, S. (2000). Rhetoric and Dialectic from the Standpoint of Normative Pragmatics. *Argumentation*, 14(3), 261–286. Retrieved from <http://dx.doi.org/10.1023/A:1007853013191>

Jacobs, S. (2006). Nonfallacious Rhetorical Strategies: Lyndon Johnson's Daisy Ad. *Argumentation*, 20(4), 421–442. <https://doi.org/10.1007/s10503-007-9028-0>

Palmieri, R., & Mazzali-Iurati, S. (2021). Strategic Communication with Multiple Audiences: Polyphony , Text Stakeholders and Argumentation Strategic Communication with Multiple Audiences: Polyphony , Text Stakeholders and Argumentation. *International Journal of Strategic Communication*, 00(00), 1–18. <https://doi.org/10.1080/1553118X.2021.1887873>

Perelman, C., & Olbrechts-Tyteca, L. (1969). *The New Rhetoric. A Treatise on Argumentation.* (J. Wilkinson & P. Weaver, Eds.). Notre Dame: University of Notre Dame Press. (especially, Part One: The framework of Argumentation).

Piazza, F. (2000). *Il corpo della persuasione. L'entimema nella retorica greca.* Palermo: Novecento.

Rocci, A. (2009). Manoeuvring with voices: The polyphonic framing of arguments in an institutional advertisement. In F. H. van Eemeren (Ed.), *Examining Argumentation in Context: Fifteen Studies on Strategic Maneuvering* (pp. 257–283). Amsterdam / Philadelphia: John Benjamins Publishing Co.

Rocci, A. (2016). Ragionevolezza dell'impegno persuasivo. In *Argomentare: per un rapporto ragionevole con la realtà* (pp. 88–120). Milano: Fondazione per la Sussidiarietà.

van Eemeren, F. H. (2010). *Strategic maneuvering in argumentative discourse.* Amsterdam / Philadelphia: Benjamins.

van Eemeren, F. H. (2018). *Argumentation Theory: A Pragma- Dialectical Perspective.* Cham: Springer.



Corina Andone:

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Abstract:

An argumentative perspective on EU legal acts

Corina Andone (University of Amsterdam)

The main goal of this course is to raise awareness concerning the fundamental role of argumentation and persuasion in EU legal acts, by comparing its usage in legally binding acts (such as directives) with its employment in legally non-binding acts (such as recommendations). The course will explain why and how argumentation is employed in the different types of EU legal acts to convince Member States to follow a course of action.

After a brief introduction into the legal framework against which EU legal acts are adopted by the European Commission, the course will explain by means of concrete examples how arguments are combined into specific reasoning patterns to argue for compliance by addressee. It will be demonstrated that in the case of legally binding acts, argumentation is rarely, if ever, an effective tool to foster compliance by Member States mainly due to arguments being weak and even fallacious. In the case of legally non-binding acts, it will be shown that in the absence of formal legally binding force, argumentation is perhaps the most persuasive tool to convince addressees to comply, particularly in situations of crisis in which fast action is urgently needed.

The participants will be required to take active part in the course by sharing their experiences with EU legal acts from practice (for those relevant), and by analyzing several concrete cases of EU legal acts, as well as some passages from official manuals concerning their drafting.



Chris Reed:

Professor of Computer Science and Philosophy at the University of Dundee in Scotland, where he heads the Centre for Argument Technology. Chris has been working at the overlap between argumentation theory and artificial intelligence for over twenty years, has won £6m in funding and has over 200 publications in the area. He collaborates with a wide range of partners such as IBM and the BBC, and is also active in public engagement and commercialisation of research, having served as executive director (CTO, CSO and CEO) of three start-up companies, and appearing in TV, radio and print media with a combined audience in excess of 29 million people.

Abstract:

The anatomy of argument and its role in artificial intelligence

Chris Reed (Center for Argument Technology - www.arg.tech)

Arguments situated in dialogical settings are demanding from both theoretical and practical perspectives. They can be challenging to identify and recognise, challenging to tease apart and unpack, and challenging to critique and cancel. Inference Anchoring Theory provides a suite of theoretical constructs and practical tools for tackling these challenges and provides the foundation for an entire ecosystem of interconnected technology solutions and AI algorithms. In these lessons, we will explore the foundations of Inference Anchoring Theory, examine its practical use across a range of different domains, and explore some of the technological ramifications and AI perspectives that are making argument technology a hot ticket in law and beyond.