

Rhetoric-The Art of Persuasion, Legal Profession and Lawyers

Dr. S. K. Bose

Abstract:

We are living in a contentious time in history. Scientific inventions, rapid progress in field of information technologies have impacted our life so much that it has given man an altogether a new social and political outlook. Hence fundamental disagreements on critical political issues make it essential to learn how to make an argument and analyze the arguments of others. As a lawyer or a juror you have to be forthright, articulate and convincing in your presentation whether it is oral or written. This paper attempts to address all relevant aspects of rhetoric-the art of persuasive speaking and writing. It is said that agreements or disagreements on legal, political and cultural issues always provide a writer or speaker not only quintessential learning impetus to prepare an argument but dissect other's arguments to his advantage. This ability will help you engage in civil and political discourse and make effective changes in society. Even outside the political sphere, conveying a convincing message can benefit you throughout your personal, public, and professional lives. This paper vividly discusses the theory and practice of rhetoric, rhetorical triangle, grammar, logical and ethical components of rhetoric. It also endeavours to explain the means of persuasion and analyses the critical aspects of oratory. This paper will help you learn to construct and defend compelling arguments, an essential skill in many settings. The author consciously tries to suggest the readers to go through some outstanding speeches of prominent International stalwarts like Winston Churchill¹, Martin Luther King Jr.², Edmund Burke³, and Booker T. Washington⁴ to explore and analyze rhetorical structure and style. This course will help you analyze and apply rhetorical structure and style, appreciate the relevance of persuasive communication in your own life, and understand how to persuade and recognize when someone is trying to persuade you.

Introduction

Rhetoric is an awfully important element in law. It is an awfully important element of academics. In all religious traditions, in presenting science to the public, in the discourse of religious scriptures, rhetoric holds an immense significance. In legal profession, especially those who seek to become lawyers or judges can become the ones by developing a fine grained ability of comparing of multiple texts, actions, and evidences over a period of time. Before we talk about rhetoric in extent measure let's ask ourselves what does the phrase "this is a mere rhetoric," or "that is cheap rhetoric" connote? This probably means duplicitousness and mere talk without anything behind it. It can be understood as emptiness, mere talk, spin, cynicism. It wouldn't be wrong to say rhetoric 'a hired

¹ PM of UK from 1940 to 1945

² American Christian Minister and activist, leader & spokes person in Civil Rights Movement in 1955 until his assassination in 1968.

³ Irish statesman and philosopher, MP 1766 & 1794 (House of Commons)

⁴ American educator, author, orator and adviser to multiple presidents of the USA

gun'. In our culture, rhetoric often has a word a bad connotation. Cheap rhetoric, mere rhetoric, empty rhetoric or oh, that's just a rhetoric.

Meaning & Definition

Generally speaking Rhetoric means the art of effective or persuasive speaking or writing, especially the exploitation of figures of speech and other compositional techniques. Merriam Webster dictionary defines rhetoric the art of speaking or writing effectively⁵ such as i) the study of principles and rules of composition formulated by critics of ancient times. ii) the study of writing and speaking as a means of communication or persuasion. The word itself comes from the Indi-European group which simply is associated with the word "word" or "speaking" I don't think there is any zone- in our society, education or religious traditions or politics or science, a rhetoric-free zone where no rhetoric is practiced.

Supposing someone makes a statement that in finance, rhetoric is not practiced or used, then one would assume it's truthful, accurate and transparent. I am not sure that all financial instruments have been transparent or may be truthful. I would reckon the same in scientific education. What I am suggesting is that you can not escape rhetoric. Therefore, it wouldn't be unfair to say that a rhetoric-free zone doesn't exist.

Aristotle defines the rhetorician as someone who is always able to see what is persuasive. Correspondingly, rhetoric is defined as the ability to see what is possibly persuasive in every given case. This is not to say that the rhetorician will be able to convince under all circumstances. Rather he is in a situation similar to that of the physician: the latter has a complete grasp of his art only if he neglects nothing that might heal his patient, then also he may not be able to heal *every* patient. Similarly, the rhetorician, in spite of having had a complete grasp of his method, if he discovers the available means of persuasion, even then also there is no guarantee that he will be able to convince *everybody*.

Persuading a number of people to do something that the persuader wants them to requires extraordinary talent and skill. It is enormous power to get people to follow you, hug your ideology, accept you, and listen to you. And you have seen people persuade vast number of individuals to vote one way or to follow a certain religion. When an individual constructs an argument, does he/she assume that the argument must be right one because he/she thought of it or does he/she test it? In that case does one use ethics as a test?

One of the most important parts of a rhetorical composition or a speech very often included is called a counter argument and rebuttal. People who do debate know what that means. If a speaker can not produce a strong counter argument to his own argument and rebut it, it leaves him open to that the speaker hasn't thought about it all that which someone else has thought and going to put more powerful and stronger argument. If one in his speech doesn't prepare arguments and counter arguments well, then he will become nothing more than a hired consultant willing to say just about anything for anybody., or willing to just follow his own bias without

⁵ Merriam Webster Dictionary

examining it. Rhetoric with moral philosophy that is what is required. If you have power of language to persuade and to interpret, the idea is that you should use it with an ethical barometer in mind otherwise you become nothing but a hired consultant. One of the things I hope that will happen in studying the nuances of rhetoric is not just that you will find a voice of your own convictions and arguments that is paramount but that you will also use that voice to turn back upon yourself and say, have I really thought all sides of this question? Have I really presented myself with strong counter argument? Have I really thought what my opponent is arguing for and why? This is why rhetoric is often associated with a certain form of dialectical logic.

Logic-Is it Part of Rhetoric?

Since rhetoric talks about how to speak and write better, it is imperative for the speaker to speak logically or for that matter the writer to write his point of view convincingly. The argument should ideally be able to convince the audience. And the audience gets convinced when they find the argument logical and creates an instant impact on them.

Aristotle's *Rhetoric* was surrounded by rhetorical works and even written speeches of other Greek and Latin authors, and was seldom interpreted in the context of the whole Corpus Aristotelicum. It was not until the last few decades that the philosophical salient features of the Aristotelian rhetoric were rediscovered in construing a general theory of the persuasion; Aristotle applies numerous concepts and arguments that are also treated in his logical, ethical, and psychological writings. His theory of rhetorical arguments, for example, is only one further application of his general doctrine of the *sullogismos*, which also forms the basis of dialectic, logic, and his theory of demonstration. Another example is the concept of emotions, though emotions are one of the most important topics in the Aristotelian ethics, he nowhere offers such an illuminating account of single emotions as in the *Rhetoric*.

Yes verbal logic is an integral part of rhetoric. We have studied Syllogism as a form of verbal logic. Generally speaking, in verbal logic you are given a statement, then another statement you can draw a conclusion from. Verbal logic is something that is inherent in rhetoric. The liberal arts used to be divided into three basic courses and then four additional courses. These three basic courses are called trivium. They are grammar, logic and rhetoric. The grammar- object, subject, compound sentence, complex sentence, parts of speech etc. This subject is often met with distaste. We don't generally spend time on understanding grammar but if you don't know essential parts of speech in a language-how it forms, its verb tenses, what its subject is, what its objects are-then you can not manipulate them as well as someone who does who can identify them.

Ethical Component

Though the rhetoric is not strictly under ethical reasoning, it has a powerful ethical component. The more power you have to persuade people or put out an interpretation, the better speaker and writer you become. The power of

persuasion is a gifted armor against piercing swords of stubborn mercenary. The art can be a magical weapon to persuade relentless enemy from outside boundaries to surrender, give way and concede.

Need of Rhetoric

Communication is the heart of every organization. Everything one does in the work place results from communication. One's professional success depends on how well he connects with other people from different organizations. It is not just communication but effective communication so as to get things done. The art of persuasion can be learnt to perfection by applying appropriate technics and methods. It can still be objected that rhetoric is only useful for those who want to outwit their audience and conceal their real aims, since someone who just wants to communicate the truth could be straightforward and would not need rhetorical tools. This, however, is not Aristotle's point of view: Even those who just try to establish what is just and true need the help of rhetoric when they are faced with a public audience. Aristotle tells us that it is impossible to teach such an audience, even if the speaker had the most exact knowledge of the subject. Obviously he thinks that the audience of a public speech consists of ordinary people who are not able to follow an exact proof based on the principles of a science. Further, such an audience can easily be distracted by factors that do not pertain to the subject at all; sometimes they are receptive to flattery or just try to increase their own advantage. And this situation becomes even worse if the constitution, the laws, and the rhetorical habits in a country are bad. Finally, most of the topics that are usually discussed in public speeches do not allow of exact knowledge, but leave room for doubt; especially in such cases it is important that the speaker seems to be a credible person and that the audience is in a sympathetic mood. For all those reasons, affecting the decisions of juries and assemblies is a matter of persuasiveness, not of knowledge. It is true that some people manage to be persuasive either at random or by habit, but it is rhetoric that gives us a method to discover all means of persuasion on any topic whatsoever.

Persuasion

In *The Dynamics of Persuasion*, Perloff defines persuasion "as a symbolic process in which communicators try to convince other people to change their attitudes or behaviors regarding an issue through the transmission of a message in an atmosphere of free choice."

He says that the key elements of this definition of persuasion are -Persuasion is symbolic, utilizing words, images, sounds, etc. It involves a deliberate attempt to influence others. Self-persuasion is also considered a key element. In persuasion, people are not coerced; they are instead free to choose. While the art and science of persuasion have been of interest since the time of the Ancient Greeks, there are significant differences between how persuasion occurs today and how it has occurred in the past. Perloff offers five major ways in which modern persuasion differs from the past:

1. **The number of persuasive messages has grown tremendously.** Think for a moment

2. about how many advertisements you encounter on a daily basis. According to various sources, the number of advertisements the average U.S. adult is exposed to each day ranges from around 300 to over 3,000.
3. **Persuasive communication travels far more rapidly.** Television, Radio and the Internet all help spread persuasive messages very quickly.
4. **Persuasion is big business.** In addition to the companies that are in business purely for persuasive purposes (such as advertising agencies, marketing firms, public relations companies) and many other businesses are reliant on persuasion to sell goods and services.
5. **Contemporary persuasion is much more subtle.** Of course, there are plenty of ads that use very obvious persuasive strategies, but many messages are far more subtle. For example, businesses sometimes carefully craft very specific image designed to urge viewers to buy products or services in order to attain that projected lifestyle.
6. **Persuasion is more complex.** Consumers are more diverse and have more choices, so marketers have to be savvier when it comes to selecting their persuasive medium and message.

Means of Persuasion

There are three means of persuasion. Aristotle suggested how well a speaker can persuade his audience depends on his ability to connect himself with his audience. He has to move in a systemic manner to appeal the audience. While doing so, the speaker should keep three important things in mind. *Logos*, *ethos* and *pathos* are the tripartite division, which later rhetoricians call

Rhetorical Triangle.

Logos chiefly appeals to reason or text of the argument. It not only deals with the content of the argument that includes textual components but intensively deals the manner and the way the writer argues his point of view. Thesis is expected to be clear and specific and should be supported by strong reasons and credible evidence. *Logos* also appeals to the well reasoned and logical arrangement of the order.

Ethos is another area which appeals to the writer's character. It can be thought of as the role played by the writer in the composition and construction of an argument. The writer has to bring in his virtuous traits to look credible while delivering his speech using different techniques like voice merging and dynamic spectacles etc. Not only the content of his arguments are immensely important but also it is equally important how well he argues in his speech. When we talk about writer's credibility we look to the writer's qualifications and the way he connects with his audience. It also involves whether or not his audience accept him wholeheartedly. It depends on the speaker's character how he demonstrates respect for multiple viewpoints by using sources in the text. Credible sources, whether those sources are documented, if documented whether they are presented in a polished and professional manner, the writer's tone and tanner and a whole lot of things too are included in *ethos*.

Pathos appeals to the emotions and the sympathetic imagination, as well as to beliefs and values. Pathos can also be thought of as the role of the audience in the argument. The audience should be engaged in the listening to the speaker emotionally. There are various techniques and images which need to be applied by the persuasive speaker to appeal to the audience's emotions and imagination. If the speaker provides the instant solution to the problems most audience are seeking, then the listeners are most likely moved by the speech. It's precisely up to the writer to appeal to the values and beliefs of the listeners.

Three Species of Public Speech

The second tripartite division concerns the three species of public speech. The speech that takes place in the assembly is defined as the *deliberative species*. In this rhetorical species, the speaker either advises the audience to do something or warns against doing something. Accordingly, the audience has to judge things that are going to happen in the future, and they have to decide whether these future events are good or bad for the polis, whether they will cause advantage or harm.

The speech that takes place before a court is defined as the *judicial species*. The speaker either accuses somebody or defends herself or someone else. Naturally, this kind of speech treats things that happened in the past. The audience or rather jury has to judge whether a past event was just or unjust, i.e., whether it was according to the law or contrary to the law. While the deliberative and judicial species have their context in a controversial situation in which the listener has to decide in favor of one of two opposing parties, the third species does not aim at such a decision: the epideictic speech praises or blames some body, it tries to describe things or deeds of the respective person as honorable or shameful.

The first book of the *Rhetoric* treats the three species and the chapters are understood as contributing to the argumentative mode of persuasion or—more precisely—to that part of argumentative persuasion that is specific to the respective species of persuasion. The second part of the argumentative persuasion that is common to all three species of rhetorical speech is treated in the chapters. The second means of persuasion, which works by evoking the emotions of the audience, is described. The third means of persuasion, which depends on the character of the speaker.

Rhetoric as a Counterpart to Dialectic

Aristotle stresses that rhetoric is closely related to dialectic. He offers several formulas to describe this affinity between the two disciplines: first of all, rhetoric is said to be a “counterpart” (*antistrophos*) to dialectic (ii) it is also called an “outgrowth” (*paraphues ti*) of dialectic and the study of character ; finally, Aristotle says that rhetoric is part of dialectic and resembles it . Aristotle wants to express a kind of analogy, what dialectic is for the (private or academic) practice of attacking and maintaining an argument, rhetoric is for the (public) practice of defending oneself or accusing an opponent. However, though dialectic has no definite subject, it is easy to see that it nevertheless rests on a method, because dialectic has to grasp the reason why some arguments are valid

and others are not. If rhetoric is nothing but the counterpart to dialectic in the domain of public speech, it must be grounded in an investigation of what is persuasive and what is not, and this, in turn, qualifies rhetoric as an art.

Further, it is central to both disciplines that they deal with arguments from accepted premises. Hence the rhetorician who wants to persuade by arguments or (rhetorical) proofs can adapt most of the dialectical equipment. Nevertheless, persuasion that takes place before a public audience is *not only* a matter of arguments and proofs, but also of credibility and emotional attitudes. This is why there are also remarkable differences between the two disciplines.

The Three Means of Persuasion

The systematical core of Aristotle's *Rhetoric* is the doctrine that there are three technical means of persuasion. The attribute 'technical' implies two characteristics: 1. Technical persuasion must rest on a method, and this, in turn, is to say that we must know the reason why some things are persuasive and some are not. Further, methodical persuasion must rest on a complete analysis of what it means to be persuasive. 2. Technical means of persuasion must be provided by the speaker himself, whereas preexisting facts, such as oaths, witnesses, testimonies, etc. are non-technical, since they cannot be prepared by the speaker.

A speech consists of three things: the speaker, the subject that is treated in the speech, and the listener to whom the speech is addressed. It seems that this is why only three technical means of persuasion are possible: Technical means of persuasion are either (a) in the character of the speaker, or (b) in the emotional state of the hearer or (c) in the argument (*logos*) itself.

(a) The persuasion is accomplished by character whenever the speech is held in such a way as to render the speaker worthy of credence. If the speaker appears to be credible, the audience will form the second-order judgment that propositions put forward by the credible speaker are true or acceptable. This is especially important in cases where there is no exact knowledge but room for doubt. But how does the speaker manage to appear a credible person? He must display (i) practical intelligence (*phronêsis*), (ii) a virtuous character, and (iii) good will for, if he displayed none of them, the audience would doubt that he is able to give good advice at all. Again, if he displayed (i) without (ii) and (iii), the audience could doubt whether the aims of the speaker are good. Finally, if he displayed (i) and (ii) without (iii), the audience could still doubt whether the speaker gives the best suggestion, though he knows what it is. But if he displays all of them, Aristotle concludes, it cannot rationally be doubted that his suggestions are credible. It must be stressed that the speaker must accomplish these effects by *what* he says; it is not necessary that he is actually virtuous: on the contrary, a preexisting good character cannot be part of the technical means of persuasion.

(b) The success of the persuasive efforts depends on the emotional dispositions of the audience; for we do not judge in the same way when we grieve and rejoice or when we are friendly and hostile. Thus, the orator has to arouse emotions exactly because emotions have the power to modify our judgments: to a judge who is in a

friendly mood, the person about whom he is going to judge seems not to do wrong or only in a small way; but to the judge who is in an angry mood, the same person will seem to do the opposite. Many interpreters writing on the rhetorical emotions were misled by the role of the emotions in Aristotle's ethics: they suggested that the orator has to arouse the emotions in order (i) to motivate the audience or (ii) to make them better persons (since Aristotle requires that virtuous persons do the right things together with the right emotions). Thesis (i) is false for the simple reason that the aim of rhetorical persuasion is a certain judgment (*krisis*), not an action or practical decision (*prohairesis*). Thesis (ii) is false, because moral education is not the purpose of rhetoric, nor could it be affected by a public speech.

How is it possible for the orator to bring the audience to a certain emotion? Aristotle's technique essentially rests on the knowledge of the definition of every significant emotion. Let, for example, anger be defined as “desire, accompanied with pain, for conspicuous revenge for a conspicuous slight that was directed against oneself or those near to one, when such a slight is undeserved.” According to such a definition, someone who believes that he has suffered a slight from a person who is not entitled to do so, etc., will become angry. If we take such a definition for granted, it is possible to deduce circumstances in which a person will most probably be angry; for example, we can deduce (i) in what state of mind people are angry and (ii) against whom they are angry and (iii) for what sorts of reason. Aristotle deduces these three factors for several emotions in his book. With this equipment, the orator will be able, for example, to highlight such characteristics of a case as are likely to provoke anger in the audience. In comparison with the tricks of former rhetoricians, this method of arousing emotions has a striking advantage: The orator who wants to arouse emotions must not even speak outside the subject; it is sufficient to detect aspects of a given subject that are causally connected with the intended emotion.

(c) We persuade by the argument itself when we demonstrate or seem to demonstrate that something is the case. For Aristotle, there are two species of arguments: inductions and deductions. Induction (*epagôgê*) is defined as the proceeding from particulars up to a universal. A deduction (*sullogismos*) is an argument in which, certain things having been supposed, something different from the suppositions results of necessity through them or because of their being true. The inductive argument in rhetoric is the example (*paradeigma*); unlike other inductive arguments, it does not proceed from many particular cases to one universal case, but from one particular to a similar particular if both particulars fall under the same genus. The deductive argument in rhetoric is the enthymeme. but when, certain things being the case, something different results beside them because of their being true, *either universally or for the most part*, it is called deduction here (in dialectic) and enthymeme there (in rhetoric).

Oratory

Oratory is the art of eloquent speech. Among the Greeks oratory was highly valued. There were schools of rhetoric at which students were given regular lessons and training in elocution. In democracy it is necessary to put before the people various aspects of argument in a judicious way that will carry conviction. For this, one

must know the fluent and powerful use of language. The ancient Greeks excelled in this. In ancient India also, eloquence was prized. Most of the Greek epics contain powerful debates in which the leaders argued their cases with all the eloquence they possessed, similarly in Indian epic of Mahabharata, we have powerful debates among the leaders of men carried on with a great deal of skill and power. A prayer in the *Atharva Veda* runs, "Overcome thou, O Indra, the debate of him that is opposed to us. With Thy might do thou inspire our speech. Make me invincible in debate.

There is no doubt that eloquence is necessary. In Parliaments it may be said to supersede many qualities. Knowledge and mastery of facts are surely necessary for the parliamentarian. But without eloquence these will not carry him far. After all the object of debates is to convince and persuade. No one can expect to be heard with attention who can not express himself clearly, who fumbles for words, who stumbles and stammers in the midst of an argument. But a man who has a good supply of words, knows how to use them properly, and is always ready to make himself clearly understood, commands a respectful hearing. He has eloquence and he is able to impress his hearers.

Eloquence can be acquired if one is determined to succeed. The Greeks knew it and provided for it, as a part of education. Demosthenes demonstrated it. It is said that he was a stammerer, he had a bad voice; he suffered from an impressive appearance. But by careful and painstaking efforts he succeeded in his object, and even today he is recognized as perhaps the greatest orator the world has even seen.

In Goldsmith's view, eloquence is a talent and not art. It is gift of nature; it can not be acquired by practice. A man is naturally eloquent who has burning strength of convictions, for he who is convinced himself can easily convince others. Hence eloquence comes easily and naturally to those who are inspired with missionary zeal for a cause. Their language is fired with passion, and becomes winged indeed. But there are certain elements in elocution that have to be acquired. One is logic, the art of arranging facts and drawing conclusions. The orator must be able to distinguish between rational arguments and the sophistry that makes the worse seem the better reason. Hence logic is the basic subject for the student of elocution.

Conclusion:

In rhetoric the speaker must be able to adapt his art to the needs of situation-to the audience and its mood. Sometimes on solemn occasions, brevity becomes the soul of wit. To others, the persuasive speaker or the orator must expand and dilate. Formerly speakers affected the elaborate diction. Now they are content to be brief, factual and precise. Yet whether brief or elaborate, the speaker must have style and voice and manner. For the end is the same-to carry conviction. In India is now a republic. She has democratic councils. There the representatives of the people debate and discuss policies of the state. There should now be regular courses on rhetoric not only for law students but for the students of general courses also.

References:

1. Andresen, Volker. *Speak Well in Public – 10 Steps to Succeed*. ISBN 1-4563-1026-7.
2. Connors, Robert, Lisa S. Ede, and Andrea Lunsford, eds. *Essays on Classical Rhetoric and Modern Discourse. Festschrift in Honor of Edward P. J. Corbett*. Carbondale: Southern Illinois Univ. Press, 1984.
3. Duffy, Bernard K. and Richard Leeman. eds. *American Voices: An Encyclopedia of Contemporary Orators* (Westport, CT: Greenwood, 2005). ISBN 0-313-32790-4
4. Cox, Leonard. *The Art or Crafte of Rhetoryke at Project Gutenberg*.
5. Garver, Eugene. *Aristotle's Rhetoric: On Art of Character*. Chicago: University of Chicago Press, 1995. ISBN 978-0-226-28425-5
6. Gunderson, Erik. *The Cambridge Companion to Ancient Rhetoric*. Cambridge, UK: Cambridge Univ. Press, 2009.
7. Howell, Wilbur Samuel. *Eighteenth-Century British Logic and Rhetoric*. Princeton, NJ: Princeton Univ. Press, 1971.
8. Jansinski, James. *Sourcebook on Rhetoric*. Sage Publications, Inc. 2001.
9. Kennedy, George A. *Aristotle, On Rhetoric*. Oxford: Oxford University Press, 1991.
10. Kennedy, George A. *Classical Rhetoric and its Christian and Secular Tradition from Ancient to Modern Times*. Chapel Hill: Univ. of North Carolina Press, 1980.
11. Kuypers, Jim A. ed. *Purpose, Practice, and Pedagogy in Rhetorical Criticism* (Lanham, MD: Lexington Press, 2014). ISBN 978-0-7391-8018-1
12. Kuypers, Jim A. and Andrew King. *Twentieth-Century Roots of Rhetorical Studies* (Westport, CT: Praeger, 2001). ISBN 0-275-96420-5
13. MacDonald, Michael, ed. *The Oxford Handbook of Rhetorical Studies*. Oxford Handbooks. New York: Oxford Univ. Press, 2017.
14. Mateus, Samuel. *Introdução à Retórica no Séc. XXI*. Covilhã, Livros Labcom, 2018 ISBN 978-989-654-438-6
15. Pernot, Laurent. *Rhetoric in Antiquity*. Washington, DC: Catholic Univ. of America Press, 2005.
16. Rainolde (or Rainholde), Richard. *A booke called the Foundacion of Rhetorike at Project Gutenberg*.
17. Rorty, Amélie Oksenberg (ed.). *Essays on Aristotle's Rhetoric*. Berkeley (CA): University of California Press, 1996. ISBN 978-0-520-20228-3
18. Sloane, Thomas O. *Encyclopedia of Rhetoric*. Oxford: Oxford Univ. Press, 2001.
19. Steel, Catherine. *Roman Oratory. Greece & Rome New Surveys in the Classics 36*. Cambridge, UK: Cambridge Univ. Press, 2006.
20. Vickers, Brian. *In Defence of Rhetoric*. Oxford: Clarendon, 1998.