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Making it Public: Testimony and Socially Sanctioned Common Grounds

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ABSTRACT: Contrary to current individualistic epistemology, classical rhetoric provides us with a pragmatical conception of ‘testimony’ as a source provided to the orator by the particular community in which he acts. In order to count as usable ‘testimony’, any linguistic instance must comply with specific rules of social sanction. A deliberate attention to the social practices in which ‘testimony’ is given and assessed may provide us with a more accurate view of its epistemological role.

KEYWORDS: argumentation, argument from authority, classical rhetoric, contextualism, epistemology, pragmatics, plausible reasoning, social practices, testimony, topics.

1. GLOBALISM, CONTEXTUALISM AND PRAGMATISM IN THE STUDIES ON TESTIMONY.

“How can you tell truth from lies?” he queried in his new, immovable manner. ‘I don’t know how you do it in Russia,’ I began, rather nettled by his attitude. He interrupted me. ‘In Russia, and in general everywhere—in a newspaper, for instance. The colour of the ink and the shapes of the letters are the same.’ ‘Well, there are other trifles one can go by. The character of the publication, the general verisimilitude of the news, the consideration of the motive, and so on. I don’t trust blindly the accuracy of special correspondents—but why should this one have gone to the trouble of concocting a circumstantial falsehood on a matter of no importance to the world?’. Joseph Conrad. *Under Western Eyes*

As it is well known, *testimony from others*, as a particularly interesting and traditionally neglected source of information and knowledge, is a key issue in current epistemological studies. Among the lines which divide the different standpoints about what testimony amounts to in epistemology the one that has been more widely discussed and exploited is that which distinguishes *reductionist* from *non-reductionist* approaches. It is a distinction, though, that specifically regards different standards for the justification of the knowledge acquired: either in need of further, independent and ideally non-testimonial support (Fricker, 1987, 1994) or bearing a right in itself to count as reasonably justified belief (Coady, 1992), respectively. The opposition has little to offer in terms of defining or demarcating what we should—or actually do—consider an instance of testimony and thus, we might, in

principle, expect a wide variety of alternative descriptions as introductory remarks and assumptions in both reductionist and non-reductionist papers. But this happens not to be so. In fact, the most generalized view coincides with J. Lackey's introductory setting in a recent collective volume on testimony:

One of the main questions in the epistemology of testimony is how we successfully acquire justified belief or knowledge on the basis of what other people tell us. This, rather than what testimony *is*, is often taken to be the issue of central import from an epistemological point of view. Because of this, those who are interested in the epistemic status of testimonial beliefs often embrace a very broad notion of what is to testify. (Lackey-Sosa 2006, p. 2)

The problem with this view is that it precludes the possibility of looking, in a more detailed way, at the —possibly very wide-ranging— dominion to which the particular view on justification that is being defended would apply and, thus, embraces in advance, and without explicitly saying so, a *globalist* or *universalist* approach that is, in most cases, subject to rather immediate counter-examples. It seems that such a global approach should correspond to a relatively homogeneous and well defined dominion while a heterogeneous and complicated realm —as, in our view, the very concept of testimony, and much more the issue of epistemic interdependence (Kusch, 2002), recalls— should demand some kind of further differentiation, probably based on a certain *contextualism*. The reason why most current epistemologists do not so embrace that alternate route seems to rest on the fact that they are, also implicitly, accepting, as a basic frame, some version of the traditional division of the sources of knowledge —perception, reasoning, memory and testimony is the standard quartet (Kusch-Lipton, 2002) sometimes introspection and intuition are added (Audi, 2006), and sometimes inductive and deductive reasoning are separately considered (Graham, 2006)— so that their views on testimony as *the* social component of knowledge merely complete an already well construed epistemological system of justification. This is specially so with reductionists, but is equally visible in most current non-reductionist approaches (Graham, 2006). Although there is no necessary link, it usually takes some challenge to that neat departmental view —to the view that the only non-individual component of our knowledge is the reception within our individual epistemic machinery of what others tell us— to produce the kind of awe in front of the enormous diversity of the dominion of testimony that usually determines a choice in favor of contextualism. This is not the only possibility though. The awareness of this diversity has led some authors to shift the focus from the problems of justification to a search for some essential trait that would be present as a constitutive —or, at least, paradigmatic— condition in broadly all instances of testimony or communication of information. The alternatives are, again, varied. One route is trying some kind of genealogical method —modeled, for example, on Craig's (1990) approach— referred to an imaginary state of nature, or abstract pre-conditional state, in which humans would, as a matter of fact —being what and how they are— require 'good information' (Kusch, forthcoming) or feel the need of 'trusting others' (Faulkner, unpublished paper) and so give birth to a proto-institution of proto-testimony or proto-trust that would be the model under which to approach the wide variety of instances of it. Another possibility is to use the theoretical resources regarding general pragmatical conditions of language use, comprehension and exchange to describe certain features of the situation under which any testimony would be delivered, interpreted and evaluated. Thus, in a paper recently presented in Madrid, Gloria Origgi (unpublished paper) did, for example,

TESTIMONY AND SOCIALLY SANCTIONED COMMON GROUNDS

offer an account of testimony in which the key concept was a ‘presumption of relevance’ informing the articulation between ‘trust’ and ‘interpretation’ in the evaluation of other’s utterances and communications.

These are, no doubt, interesting and fruitful approaches that define a very general, and allegedly constitutive, frame in which to place our comprehension of testimony. Nevertheless, a contextualism that would address real current and historical practices of giving, receiving and evaluating testimony (or information) from others would have to go beyond —and probably contradict some of— these general features. It does not seem even possible to define in advance which parameters are going to determine the relevant ‘context’ for a particular institution of testimony¹. Moreover, neither ‘context’ nor ‘relevance’ should, to our view, be seen as notions that can ‘solve’ the justificatory controversy between reductionists and non-reductionist. In this sense, the view and defense of contextualism that N. Vassallo (2006) offers, for example, seems to be basically restricted to the consideration of a device to decide, on the basis of the issue’s ‘context’ —in this case reduced, at least in the examples given, to the ‘import’ and ‘consequence’ of the subject-matter— in which cases to apply one or the other strategy for justification. On its part, the already mentioned paper by G. Origgi’s also presented itself, in first instance, as the vindication of a ‘third way’ between reductionism and non-reductionism, even though, to our view, her notion of a ‘presumption of relevance’ has much more far-reaching consequences to the way testimony should be approached, because it really addresses the establishment of a particular frame from which to ‘interpret’ the testimonial exchange that excludes both globalist standpoints.

Now, talking about real practices of testimony, the fact is that, beyond what imaginary genealogies tell us about proto-testimony and its values for an abstract community of human beings, what we really find are historically and culturally situated, specifically field-dependent and role-dependent, and partially or totally ritualized social practices in which there is an exchange of information that is generally interpreted and evaluated according to the setting in which it has been given. In spite of all this, the practical examples we typically find in epistemology papers on testimony are usually described in such a way as to avoid these conditions. Probably one of the situations most usually mentioned and discussed is that of the stranger in a city who asks for directions to go somewhere. There is usually no allusion to possible language problems —interpretation is deemed transparent—, nor to the fact that a stranger must, indeed, know a lot of things about the city, the context and the local discursive practices before asking for specific directions, nor to any of the common grounds —views on politeness, proper address or appearance but also on time and space conditions for going from one place to another etc.— that both participants must share in order that the exchange of information be more or less successful. It seems as though ‘asking for directions in a strange city’ would be the kind of situation to which urban, traveling, polyglot and cosmopolitan academics are so accustomed as to consider it an everyday, non problematic instance that is good for a decontextualized analysis. But not even this should be seen as such a universal situation or generalized practice. The first traveler arriving at an unknown (to her) land would never act in such a way, nor would people belonging to smaller or more closed societies —think of your closest rural ancestors, if you have them—, people who do not usually travel, who are not used to

¹ This is what Faulkner (2002) tries to do listing four factors to which we could refer our ‘doxastic responses to intelligible testimony’: 1) our general beliefs about testimonial types; 2) our judgment of the testimonial situation; 3) our assessment of the speaker’s character and 4) our other relevant beliefs.

guides or maps and who would hardly arrive to that situation in which ‘just a piece of information’ —what is asked in concrete— would complete their epistemic needs to find their way. It seems reasonable to think that in somehow ‘similar’ circumstances, some of them would turn to highly institutionalized informers in an interaction we can no longer analyze neglecting specific configurations of authority or expertise.

All these considerations indicate for us the importance of examining the different specific practices of testimony institutionalized in specific cultures for specific fields and actors instead of engaging in a global and abstract account of their features. In some of them the significance of the institutional setting and procedures will be very evident —testimony in courts, declaring in a public assembly, lecturing—, in others, less so —private and familiar exchanges or (for some) asking for directions to a non-descript stranger—, but social, multiple, generally implicit norms inform, in any case, our taking part in all these exchanges, so that any analysis that tries to avoid such pragmatic normativity and base its results in a logical confrontation of pure claims with a view to their epistemological justification will be certainly losing a lot of reasonable responses to its own problems.

It is refreshing, thus, to look at how the tradition of Classical rhetoric, from its Greek sources on, has addressed issues of testimony from a much more pragmatically conscious point of view. First of all, by taking an ‘*in medias res*’ look at the complicated pool of social testimonial exchanges, that is, by accepting that theories about testimonial utterances and their subsequent use take place in an already working discursive society in which previous testimonies have already become —to a higher or lesser degree— part of what is shared and has been sanctioned by the community, in such a way that new utterances enter the field of communication with certain aspirations —to attain particular positions— and, so to say, against an immense contrast background. Classical rhetoric was particularly interested in what a trained *orator* would do with received testimony —we will see that this notion includes more than we suspect— and thus, although it seems to have paid less attention to the conditions in which testimony is *given*, in fact, what this kind of approach does is centering on the dynamic aspects of a complex social interaction in which particular pieces of information, from the most varied sources, are listened to, accepted, sanctioned, put to use, enhanced or remembered —and these actions or practices point to the different perspectives of the testimonial issue.

On the other hand, if anything, rhetoric has always been conscious of the pragmatical context of utterances and so the rhetorical approach to testimony provides us with an interesting departing point for a *pragmatic contextualism*. The fact that, from its first theoretical expressions, rhetoric addressed very specific and momentous public practices which determined many of its Classical features, allows us to examine up to what point such an specific domain makes its claims more or less generalizable or, on the contrary, too much related to subsequently lost procedures.

From the point of view of a rhetorically inspired pragmatic contextualism, a particular, situated practice of testimony would, accordingly, be a normative *institutional fact* (Searle, 1969), and therefore subject to an analysis that would take into account the constitutive norms that socially rule that fact or particular practice, however sophisticated. But there is another level at which normativity affects testimony so that its contents cannot be taken as just *brute* but should also be seen as somehow *institutional*. Because *testimonies* as *assertions* delivered in ‘the game of giving and asking for reasons’ (Brandom 1994, p. 158) involve, not just the expression of some thought or the

TESTIMONY AND SOCIALLY SANCTIONED COMMON GROUNDS

representation of some reference, but an specific practice of sharing information, of openly placing the contents of our claims within the public, or at least social, pool of reasons and beliefs. Therefore, at least from this point of view, it is better to think of testimonial practices as *normative (institutional)* practices in which the contents of the exchange are also, in some sense (or will become, once uttered, shared and inherited), *institutional (normative)*, because subject to the restrictions of a complex net of expectations, previously assumed, and usually implicit, background, more-or-less-shared beliefs —that, among other things, make possible our generally *enthymematic* way of putting things (Vega-Olmos, ISSA Conf., 2006)— and ‘presumptions of relevance’; because subject to “the *inferential* articulation of the social practice of giving and asking for reasons” (Brandom 1994, p. 79). In the next sections, we will try to explore these two aspects of testimony’s institutional setting mainly using suggestions from both Classical rhetoric and dialectic and R. Brandom’s pragmatic approach that has inspired our title.

2. PUBLIC AND PRIVATE PRACTICES OF TESTIMONY

“It is but becoming that weighty negotiations should be spread over many days, that the same requests and arguments should be repeated in the same words, at many successive interviews, and receive the same evasive answers. Matters of state demand the dignity of such a procedure as if time itself had to wait on the power and wisdom of rulers. Such are the proceedings of embassies and the dignified patience of envoys”. Joseph Conrad. *The Rescue. A Romance of the Shallows*

If we are going to take a seriously contextualist approach to testimony, one of the first things to do is to distinguish between types of testimony or, as we prefer, types of testimonial practices. It seems possible to describe these in terms of the agents involved, the norms that rule possible procedures, the physical and institutional space in which these take place (Fredal, 2006), the field or dominion that is usually associated with these practices, the net of authorities (individuals, established beliefs or facts) with which testimony will be contrasted, etc. and build a sociological description and analysis of some particular case or bunch of cases (Shapin, 1994; Shapiro, 2002). On the other hand, our own hypothesis is that it would be impossible to make an exhaustive inventory of these practices or even decide a general classification system, because these appear in history as related to the most diverse dominions². However, we can have some guidelines or heuristic hypothesis to approach them from a more general perspective.

In the influential book (Coady, 1992) that somehow inaugurated the current discussion about this issue in epistemological circles, C.A.J. Coady distinguished between *formal* and *natural* testimony, the paradigms of which would, respectively, be the statement of witnesses in a courtroom as opposed to exchanges “to be encountered in such everyday circumstances as exhibit the ‘social operations of the mind’: giving someone directions to the post office, reporting what happened in an accident” (p. 38). By focusing on the latter, as

² The same happens with ‘fallacies’ for example, in argumentation studies. Although some authors maintain that, from a formalist point of view, there is a closed number of fallacies, the fact is that the ways to deceive just develop, appear, disappear and change according to the changing contexts. Only a theory that, from a restricted logical perspective, focuses on the argument as a ‘product’ (Vega, 2003: 190s.) can determine in an exhaustive way all possible fallacies.

most epistemologists do, Coady seems to have tried to avoid the strictures of certain highly institutionalized settings in order to attain a more fundamental view of the act of testifying. But it is this kind of move that diverts our attention from the very conditions that explain the way we take part in, interpret and evaluate particular testimonial practices. Our own heuristic hypothesis would, more or less, be the opposite. That is, instead of contemplating *formal* (institutional, public) practices of testimony as extremely ritualized, sophisticated and more complicated forms of what we expediently solve with less conditions in private, *natural*, life, and therefore build a basic account of testimony centered on everyday—allegedly universal—cases to which ‘further conditions’ (Lackey 2006, note 2) should be added in order to subsume the *formal* ones, we propose, as rhetorical tradition has always done, to focus on paradigmatically procedural instances—courtroom witnessing, religious rituals, speeches in the public assembly, public controversies, *embassies and envoys*, etc.—in which the rich variety of social conditions and normative constraints explain many features that tend to become ‘transparent’ in apparently less ruled instances. These would, rather, be contemplated as cases in which, under certain social conditions—just in certain cultures and, in many cases, tentatively—it is possible to engage in a more relaxed ‘everyday’ exchange in which some of the formal conditions can be *dropped* or *disregarded*. It is the social setting that tells us—acculturated individuals—whether and when that is possible and we all have experiences of being rebuked (or not even understood) when our assumptions about the possibilities of a relaxed approach fail.

There is, apparently, a certain genealogical idea behind this heuristic scheme. The idea that somehow our sophisticated—or extremely tribal—, field-dependent, role-dependent, ritualized practices are previous to and the original source of our apparently all-pervading democratic, cosmopolitan, egalitarian testimonial exchanges with strangers. It could be a kind of historical hypothesis too—and, by the way, to our view, probably more fruitful than imaginary genealogies about ‘states of nature’. But we would like to make clear that it is no realistic hypothesis about a certain historical or cultural development—and least of all about any definite origins. Rhetorical theory and any theory about public, institutional practices of talking to each other and exchanging information start to work *in medias res*, with an already working society, with its public and private, *formal* and socially-regarded-as *natural* realms. There are private practices of testimony that can become formal and institutional at a certain point, in certain cultures—we can think, for example, of some historical institution of education in which teaching becomes public in a particular moment—and, on the other extreme, we just have to think of all those fields and cases in which the tendency among us has been, for a long time, to keep dropping *formalities*.

On the other hand, the kind of conditions and *formalities* that apply in the evaluation of testimonies in a certain case might change more than we think in apparently rather similar settings. Recent empirical research about persuasiveness, for example—just to give an illustration within argumentation studies—reveal even national differences within contemporary Europe in the evaluation of the authority of testimonies that support research project raising funds applications. While in some countries the authority of academic titles is still decisive, in others it is personal experience that makes an ‘expert’ (Hoeken-Smeulders, ISSA Conf., 2006).

All these considerations seem to invite us to a more holistic and interdisciplinary approach to the issue of testimony that is explicitly rejected by epistemologists like Fumerton (2006) in a rather peculiar way. Paradoxically enough, Fumerton points out many

TESTIMONY AND SOCIALLY SANCTIONED COMMON GROUNDS

of the difficulties faced by those trying to account for a *sui generis justification* of testimony and declares: “I suspect that there are all sorts of background beliefs playing a critical causal role in the resulting ‘output’ beliefs” —that controversial ‘causal’ will not be discussed here—, just to add: “But I’m a philosopher not a psychologist/sociologist/cognitive scientist” (pp 88-89). A view which we find surprising enough while both from the sociology of knowledge and from the rich and conspicuously interdisciplinary field of argumentation studies we can achieve a much more compelling analysis of an ample variety of testimonial practices together with their particular means of interpretation, evaluation and assimilation.

Again, we would not try to imply any absolute priority —or any kind of priority— of what we have called public (*formal*) practices of testimony in opposition to private (*natural*) ones. But it seems that following rhetorical tradition and paying more attention to public and formal testimonial practices could be a good alternative to the current decontextualized setting based on an evasive model of *natural* testimony.

3. A SOCIAL NET OF COMMON KNOWLEDGE AND EXPERIENCE

“For bring me a man as accomplished, as clear and acute in thinking, and as ready in delivery as you please; if, for all that, he is a stranger to social intercourse, precedent, tradition and the manners and disposition of his fellow-countrymen, those commonplaces from which proofs are derived will avail him but little”. Cicero, *De Oratore*, II, §131.

Speaking, in that case, about the conditions for the possibility of *enthymematic argumentation*, Vega-Olmos (ISSA Conf., 2006) made use of:

“the concepts of ‘cognitive environment’ and ‘script’ to depict a kind of undeclared guide resulting from the common background of knowledge and expectations shared by the agents that becomes the basis of the enthymeme’s soundness and persuasiveness”.

Here we want to point out that it is this same net of socially sanctioned common grounds that make possible: (1) the interpretation of testimonies according to a ‘presumption of relevance’ (Origi, unpublished paper); (2) their inferential integration and contrast within a pragmatic frame of ‘giving and asking for reasons’ (Brandom 1994, p. 79, 89) and (3) their possible incorporation to the net of socially authorized ‘usable testimony’.

By focusing on the epistemic evaluation of some particular piece of information delivered within a testimonial exchange, studies on testimony forget about the discursive texture and context of the practices involved. It is not, for example, only the answer to an inquiry that counts —as specific testimony—, but also the question itself, the amount of implicit presumptions that it carries in order to frame possible responses, the realm of relevance that it (more or less successfully) delimits. Within “a civilization advanced enough to exploit testimony as extensively as we do” (Sosa, 2006), testimonies cannot be evaluated as isolated items.

This was clear from the beginnings of the theoretical consideration of our practices —specially public practices— of exchanging reasons. Thus, Aristotle’s *Topics*, beyond offering a series of devices to confirm, support, contradict or undercut statements, based its general approach to dialectic or public discussion on the notion of *ta éndoxa* (Vega, 1998):

those claims that are *plausible* because *socially reputed*, that is, propositions “which seem so to everyone, or to the majority, or to the wise —and either to all of them, or to the majority, or to the most notable and reputable [*endoxois*] among them” (*Top.* 100b21-23), that is, express the point of view of everyone, of most people or of a few but accredited experts in a certain field. This can be just seen as a kind of well-meaning ‘advice’ to someone who wants to win such encounters —‘do not say foolish things’, ‘stick to commonsense’—, but it is in fact presented as an almost constitutive norm of what it is to take part in understandable and reasonable social discussions:

for no man of sense would put into a proposition that which is no one’s opinion, nor into a problem that which is manifest to everyone or to most people; for the latter raises no question, while the former no one would accept. (*Top.* 104a 5-8)

Thus, although Aristotle’s conception of a *socially sanctioned plausibility* (or *reputability*) relates to the real pragmatic conditions of political, ethical and theoretical discussions in Ancient Greece, it is still a paradigm of a contextually and pragmatically conscious approach to discursive interchange. According to Vega (1998), Aristotle’s conception and use of *ta éndoxa* might still provide us with interesting ‘hints’ and ‘guidelines’ which could help orientate our contemporary studies about argumentation and which are, precisely: 1) the pragmatic approach to plausibility; 2) its consideration in terms of doxastic attitudes (views, states of opinion); 3) the gradual character of plausibility; 4) the continuity of an extended argumentation domain, with demonstration and fallacy as external limits; 5) the treatment of argument as a process of discursive interaction and conflict and 6) the controversial character of plausibility (the implausibility of the counter-proposition and counter-argument). It is this kind of “*endoxastic* (socially reputed) plausibility” (Vega-Olmos, ISSA Conf., 2006), moreover, that makes possible our usually enthymematic practices of discursive interchange in which the agents share a common background of knowledge and expectations (a *cognitive environment* and a *script* of common and ordinary experience).

The social linguistic ‘space of giving and asking for reasons’ presupposes, thus, an already rich and more or less organized set of shared assumptions that places particular testimonies in a context of contrasting assertions which takes care of their normative classification within a pool of beliefs and inferential connections. Because, as Brandom puts it, although,

There are particular instances of believing or being committed that are non-inferential in the sense that their acquisition was not the conclusion of an inferential process. There are no beliefs or discursive commitments that are non-inferential in that what is expressed by a sentence can be *understood* without mastering inferential relations that content stands in to others. (Brandom 1994, p. 216)

Thus, by means of the ‘presumption of relevance’, testimonies are assigned to (interpreted as belonging to) a particular field and practice and, at least tentatively, attributed a certain value or character (a degree of authority) that, together with the institutional setting of their utterance, delimits which elements of the previous cognitive background should be affected by it. Once delivered and interpreted within a pragmatic frame of giving and asking for reasons, testimonies become part of a *heritage* belonging to a, more or less extended, group —a field, a community— that can make use of them in subsequent exchanges:

TESTIMONY AND SOCIALLY SANCTIONED COMMON GROUNDS

Putting a sentence forward in the public arena *as* true is something *one* interlocutor can do to make that sentence available for *others* to use in making further assertions. (Brandom 1994, p. 170)

In order to count as usable testimony, any linguistic instance should, thus, have complied with the specific norms the group or community has established in order to authorize it: from the most basic conditions of its comprehensibility or interpretability to the most sophisticated procedures for its acquiring a relatively high cognitive rank

4. RHETORICAL CONSIDERATION OF THE USE OF SOCIALLY SANCTIONED GROUNDS

“For purposes of proof, however, the material at the orator’s disposal is twofold, one kind made up of the things which are not thought out by himself, but depend upon the circumstances and are dealt with by rule, for example documents, oral evidence, informal agreements, examinations, statutes, decrees of the Senate, judicial precedents, magisterial orders, opinions of counsel, and whatever else is not produced by the orator, but is supplied to him by the case itself or by the parties: the other kind is founded entirely on the orator’s reasoned argument. And so, with the former sort, he need only consider the handling of his proofs, but with the latter, the discovery of them as well”. Cicero, *De Oratore*, II, §116-117.

Classical rhetorical theory (from Aristotle on) took care of this contextual frame in a way that can be revealing for contemporary studies of testimony and which presents interesting points of contact with certain modern pragmatic approaches. Thus, Brandom (1994, p. 175), talks about two ways of supporting the legitimacy of an assertion: a “*content-based* authority (invoked by *justifying* the claim through assertion of other sentences from which the claim to be vindicated can appropriately be inferred)” and a “*person-based* authority (invoked by *deferring* to the claim of another)”, declaring, moreover, that this combination ‘is characteristic of asserting as a doing’. This view coincides, in some way, with the traditional division contained in Aristotle’s *Rhetoric* (1355b35 ff.)—and repeated for ages— between artificial (*éntechnoi*, belonging to the art or technique) and non-artificial (*átechnoi*) proofs or means of supporting a cause. If the first were based on *topics*, that is, either accepted universal conditionals (*maxims*) or inferential schemes exploiting more or less formal or material links (*differentiae*)—on ‘*intrapersonal, intercontent inheritance*’, in Brandom’s terminology—, the latter made use of socially inherited, already authorized, public material—that is, of ‘*interpersonal, intracontent inheritance*’. These non-artificial (*átechnoi*) proofs—subsequently denominated *testimonies* altogether— comprise, according to Aristotle, five sorts of things: laws, witnesses, contracts, torture (that is, confessions or claims made under) and oaths (*Ret.* I 15, 1375a23-1377b15).

Aristotle—and all the tradition after him— offers particular suggestions and rules for the oratorical treatment of such *extrinsic* (in Ciceronian terminology) material whose legitimacy (or its relevance) is not provided by the orator but by a previous public sanction of which the orator himself takes advantage. This kind of *interpersonal* socialized material is, in principle, more varied and directly subject to contextual and particularized conditions than the more abstract ‘proofs’ or argumentation devices based

on logical or conceptual links —which comprise the ‘artificial’ means of support— and, therefore, presents a less classifiable casuistry that leaves it out-of reach of a technique. From another point of view, these oratorical devices are also considered *átechnoi* (non technical or artificial) because, as Cicero says in the paragraph quoted at the beginning of this section, they must be handled directly, not being the result of rhetorical *invention*.

In any case, the category of *testimonies* as inherited by rhetoricians up to early modern times was not a completely fixed one. If it began as a category closely related to the forensic practice —as the classificatory lists of Aristotle or Cicero suggest— it was soon, on one hand, increasingly related more to the recourse to reputed authorities than to circumstantial witnessing, and thus confounded and identified —from a dialectical more than a rhetorical perspective— with a ‘*topic from authority*’. On the other hand, by means of this kind of theoretical treatment, the category was expanded, as a model, to a widely generalized field of argumentation. This type of approach is already present in Boethius’s *De differentiis topicis* (whose list of topics is allegedly taken from Themistius), where the main division between artificial and non-artificial proofs is dropped and a topic ‘*a rei iudicio*’ appears which will subsequently become ‘*ab auctoritate*’ in the Petrus Hispanus’ 13th century version of the topical system as presented in the *Summulae Logicales*, a most standard source for at least three centuries (Green-Pedersen 1984, p. 50).

Moreover, Boethius definition of the ‘*topic a rei iudicio*’ does not relate to the Aristotelian *Rhetoric*, but to his dialectic as exposed in the *Topics* with the following wording: ‘*quod omnibus vel pluribus vel sapientibus hominibus videtur*’ (what seems true to everyone or the many or the wise), that is, a paraphrase of Aristotle’s notion of *ta éndoxa* again, this time not as a general basis for the practice of public discussion but as one of the means —among other rational, conceptual and logical devices, the rest of the topics— to be used in argumentation. Although we cannot not develop here this long story, it seems clear that the Medieval move towards a restriction of this category of proofs to just that of the *ab auctoritate* —‘*unicuique experto in sua scientia credendum est*’ (any expert ought to be believed within his science), in Petrus Hispanus wording— talks about the real social restriction of instances of sanction and the complete transformation of the available social spaces and practices of ‘giving and asking for reasons’.

In any case, this possible expansion of the forensic model of the use of testimonies in any kind of argumentation was always present in the suggestion traditionally made to orators —and, later on, writers and preachers—, to keep a collection of sayings, sentences of sages, and commonplaces to be used in public speeches, as propositions or claims of which one can take advantage. These would function as Brandom’s ‘free moves’:

There are sentence types that would require a great deal of work for one to get into a position to challenge, such as ‘Red is a color’, ‘There have been black dogs’, ‘Lightning frequently precedes thunder’, and similar commonplaces. These are treated as ‘free moves’ by the members of our speech community —they are available to just about anyone any time to use as premises, to assert unchallenged. (Brandom 1994, p. 222)

From this historical review we might conclude that from the standpoint of the rhetorical, public and interpersonal space of giving and asking for reasons, the category of testimony is always understood as that of *usable* testimony based on different ways of

TESTIMONY AND SOCIALLY SANCTIONED COMMON GROUNDS

institutionalized sanction whose legitimacy is allegedly acknowledged by the members of the community in question. The classification of such a realm, difficult and ever-changing as it was, tended to be based on a typification of sources that was also a typification of sanctions. Thus, the main distinction was traditionally that between *divine* and *human* testimony³, while the latter was usually divided into *public* (or *common*) and *private* (or *proper*). This last division cannot be identified with Coady's (1992) mentioned one of *formal* vs. *natural* testimony, because in the rhetorical framing of the question, the setting is always a public normative one in which the opposition takes place between highly institutionalized and general sanctions, valid at any time for common testimony —as those of “written and unwritten laws, plebiscites, deliberations of the senate, verdicts of the sovereigns, edicts of the magistrates, replies of the prudent, the common opinion of doctors, proverbs and adages”⁴— and the authority granted, at a particular time, to particular pieces of information related to the case in question, to private (proper) testimony —one of the possible divisions of this latter category includes “spoken testimonies, either made of free will or forced *by religion* or *by rigor*, and written documents”⁵.

Taking in account the very long run of the tradition of Classical rhetoric and dialectic, depending on things like the author's period or the particular field for which a certain text on rhetoric or argumentation was written, the appreciation of testimony as a whole and of its different classes changed. Thus, near the end of the 16th century, an Spanish author could made an admonitory remark presenting a field-related restriction of the use of testimonies. These would be tolerable in private affairs and judicial causes, and, within the sciences, in theology (based on revelation, or *divine* testimony), law studies (based on prevailing laws) and grammar (based on the writers' authority):

but in all other sciences, although it is valuable that our opinions and standpoints should coincide with those of the leading writers, still, because the force of reason has more weigh than the dignity of its source, a proof by testimony is not much worth.⁶

This kind of attitude is an indication of the subsequent historical loss of place of *authority* as a valuable scientific source and sanctioned scheme of argumentation, up to the point where, from a logical point of view, *any* appeal to authority began to be seen as an *ad verecundiam* fallacy (Woods-Walton, 1982)⁷. It is just recently that argumentation studies have began to contextualize and adjust such a radical claim. On the other hand, it is not surprising that traditional foundationalist epistemology, whose roots go back to the times where authority-based science was at its lowest point, should have been at such

³ I just know the case of Ralph Lever's *The Art of Reason, rightly termed Witcraft* (1573) that added a category of *Infernal* testimony.

⁴ According to the list presented by Cypriano Regneri in his *Demonstratio logicae verae iuridica* (1638): ‘leges scriptae et non scriptae, plebiscita, senatus consulta, principum placita, magistrarum edicta, responsa prudentium, communis doctorum oppinio, proverbia et adagia’.

⁵ According to Pedro Simón Abril, *Primera parte de la filosofía llamada la Lógica*, 1587 (2nd ed. 1886: 177).

⁶ P. Simón Abril, 1587. (2nd ed., 1886: 178)

⁷ Woods and Walton also point out: “Perhaps there is some truth in the observation that, ever since the erosion of Aristotle's authority, Western society has tended to be highly suspicious of authorities” (1982: 87)

pains to integrate testimony and testimonial practices, including justifying practices and norms peculiar to testimony. Again Brandom helps us put it:

Classical foundationalism considers only justifying in the narrow sense of an inferential activity, not in the broader sense of vindication that includes the communicational dimension appealed to by deferential entitling (the authority of testimony). (1994, pp. 204-205)

5. CONCLUSION

Current studies on testimony include many different perspectives that are sometimes remarkably mixed up. When the idea is to center on the activities and occurrences that happen to an individual *knower* and the amount of what she gets from outside as already worked out—from others, from instruments etc.— the problem addressed is usually trust and/or justification in that trust, but this starting point usually treats that individual herself as an isolated and transparent element who appears just in time to receive and subsequently evaluate information, as if she should not be sharing a lot presuppositions and taking part in certain practices before receiving it. Thus, any instance of testimony is analyzed as if it was the first of its kind, either in that person's life or in the community history—as in genealogical accounts. The advantages of assuming an *in medias res* perspective come from the awareness of the real setting of testimonial *practices* and *procedures* and this is important if we want to transcend an abstract analysis just in terms of the testimonial *product*—knowledge or information.

Linguistic pragmatics comes to help in this situation and, thus, both from the point of view of the 'presumption of relevance' (Origgi) implicated in any exchange and from the analysis of the inferential—or other— commitments involved in assertions (Brandom), we obtain new insights into the assumptions put to work in testimonial settings. But when we call an *assertion* a testimony, or take it, interpret it, use it, or remember it, as testimony—and let us leave aside other types of testimonial sources, as instruments etc.— we want to say something more about it. We want to place it within a social—even collective— frame for which the import of such pieces of information involves, more than their specific accuracy or truth, the institution and configuration of a shared net of authority and common grounds. Even if we extend our analysis to cover cases of private, casual and inconsequential utterances, the point of view that sees them as *testimonial*—a derivative sense of testimonial to our view— would refer them to a more comprehensive frame. Testimony is not just what we say or listen to, but what we share and make public, what might be socially sanctioned as proper and valid or rejected, what once delivered comes to make part of a collective *treasure* or equipment and this happens in different institutional settings and comes in different practices—some of them derived from others but finally distinct—that we should take into account in all their complexity.

Here we claim that Classical rhetoric, with all its limitations and peculiarities, was in a better track to give a proper account—even a proper general account— of testimony than many contemporary decontextualized approaches. It addressed issues of understanding, interpreting and using testimony in public settings and civil and professional practices and not just from a merely descriptive point of view but also with an educational and training concern in mind. Moreover, it dealt with the particular structure of the social systems of sanction and authority by placing the dominion of spoken testimony as contiguous to that of

TESTIMONY AND SOCIALLY SANCTIONED COMMON GROUNDS

agreed principles, written laws and common notions. There is a lesson to be learned from Classical rhetoric in this sense, a contextualist and pragmatic lesson that comes from its realistic consideration of the social practices of testimony.

[link to commentary](#)

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REFERENCES

- Audi, R. (2006). Testimony, credulity, and veracity. In J. Lackey & E. Sosa (eds.), *The Epistemology of Testimony* (pp. 25-49). Oxford: Oxford University Press.
- Brandom, R. (1994). *Making it Explicit. Reasoning, Representing and Discursive Commitment*. Cambridge, MA: Harvard University Press.
- Coady, C.A.G. (1992). *Testimony: A Philosophical Study*. Oxford: Clarendon Press.
- Craig, E. (1990). *Knowledge and the State of Nature*. Oxford: Oxford University Press.
- Faulkner, P. (2002). On the rationality of our response to testimony. *Synthese*, 131, 353-370.
- Faulkner, P. (unpublished paper) A genealogy of trust. Read at Madrid's *Workshop on Just Knowledge*, Dec. 11th-12th, 2006.
- Fredal, J. (2006) *Rhetorical Action in Ancient Athens. Persuasive Artistry from Solon to Demosthenes*. Carbondale, IL: Southern Illinois University Press.
- Fricker, E. (1987). The epistemology of testimony. *Proceedings of the Aristotelian Society*, 61, 57-83.
- Fricker, E. (1994). Against gullibility. In B.K. Matilal & A. Chakrabarti (Eds.), *Knowing from Words: Western and Indian Philosophical Analysis of Understanding and Testimony* (pp. 125-61). Dordrecht: Kluwer.
- Fumerton, R. (2006). The epistemic role of testimony: Internalists and externalists. In J. Lackey. & E. Sosa (Eds.), *The Epistemology of Testimony* (pp. 77-92). Oxford: Oxford University Press.
- Graham, P. (2006). Liberal fundamentalism and its rivals. In J. Lackey. & E. Sosa (Eds.), *The Epistemology of Testimony* (pp. 93-115). Oxford: Oxford University Press.
- Green-Pedersen, N.J. (1984). *The Tradition of Topics in the Middle Ages*. Munich: Philosophia Verlag.
- Hoeken, H. & J. Smeulders (forthcoming). Cultural differences in the use of evidence in fund raising brochures: The case of Germany and the Netherlands. *Proceedings of the Sixth International Conference on Argumentation*.
- Kusch, M. (2002). *Knowledge by Agreement. The Programme of Communitarian Epistemology*. Oxford: Oxford University Press.
- Kusch, M. (2002b) Testimony in communitarian epistemology. *Studies in History and Philosophy of Science*, 33, 335-354.
- Kusch, M. (forthcoming). Testimony and the Value of Knowledge.
- Kusch, M. & Lipton, P. (2002). Testimony: a primer. *Studies in History and Philosophy of Science*, 33, 209-217.
- Lackey, J. (2006). The nature of testimony. *Pacific Philosophical Quarterly*, 87: 177-197.
- Lackey, J. & Sosa, E. (Eds.). (2006). *The Epistemology of Testimony*. Oxford: Oxford University Press.
- Lever, R. (1972) *The Art of Reason (1573)* (facsimile repr.), Menston; Scholar Press.
- Sosa, E. (2006). Knowledge: Instrumental and testimonial. In J. Lackey. & E. Sosa (Eds.), *The Epistemology of Testimony* (pp. 116-123). Oxford: Oxford University Press.
- Origi, G. (unpublished paper) A Stance of Trust. Read at Madrid's *Workshop on Just Knowledge*, Dec. 11th-12th, 2006.
- Regneri, C. (1638). *Demonstratio logicae verae iuridica*, Leiden: Justus Livius. (Modern edition by George Kalinowski, Bolonia: Editrice CLUEB (Instrumenta Rationis, Vol. III), 1986).
- Searle, J. (1969). *Speech Acts: An Essay in the Philosophy of Language*. Cambridge: Cambridge University Press
- Shapin, S. (1994). *A Social History of Truth*. Chicago: Chicago University Press.

PAULA OLMOS

- Shapiro, B. J. (2002). Testimony in the seventeenth-century English natural philosophy: legal origins and early development. *Studies in History and Philosophy of Science*, 33, 243-263.
- Simón Abril, P. (1587). *Primera parte de la filosofía llamada la lógica o parte racional*, Alcalá de Henares (2nd ed: Barcelona: La verdadera ciencia española, 1886).
- Vassallo, N. (2006). Testimonial Justification and Contexts. *Epistemologia*, 29, 127-144.
- Vega, L. (1998). Aristotle's *Endoxa* and Plausible Argumentation. *Argumentation*, 12, 95-113.
- (2003) *Si de argumentar se trata*. Barcelona: Montesinos.
- Vega, L & Olmos, P. (forthcoming). Enthymemes: the starting of a new life. *Proceedings of the Sixth International Conference on Argumentation*.
- Woods, J. & Walton, D. (1982). *Argument: The Logic of the Fallacies*. Toronto: McGraw-Hill Ryerson.