ISSA Proceedings 2010 – Definitions And Facts. Arguing About The Definition Of Health.

1. Introduction

The aim of this contribution is to explore the role and use of so called persuasive definitions in the field of health and, more specifically, within the longstanding dispute about the definition of health. By persuasive definitions we mean those definitions that, while describing the meaning of a concept, attempt to support some views about that concept (Stevenson 1938; Schiappa 1993; Schiappa 1993; Macagno & Walton 2008a and 2008b; Kublikowsi 2009).

In our analysis, we will address some limitations in Edward Schiappa's views on this issue. Schiappa defends a rhetorical practice of definition by claiming that persuasive definitions that attempt to grasp the essence of facts are dysfunctional and should be avoided (Schiappa 1993, p. 412). By exploring the argumentative exchange around the definitions of health, we will show that if, indeed, these definitions have been constructed to promote a certain way of thinking about health more than to look at the essence of health, they don't lose sight of facts. Moreover, precisely their link to facts and their evaluation in light of facts by the scientific community are argumentative moves that promoted the development of important instruments to better understand, describe and measure health, e.g. WHO Classification of Functioning, Disability and Health (ICF) that we will describe below.

2. The use of definition in argumentation

According to Perelman and Olbrechts-Tyteca (1969, p. 213), definitions in argumentation can be involved in two phases of the reasoning process: they can be supported or validated as conclusions of arguments; they themselves can be the premises of arguments. The distinction between argumentation 'about definition' and argumentation 'from definition' was already clear in the classical theory of argumentation (Rubinelli 2009, pp. 3-29). An argumentation about a definition is designed to arrive at a definition. Reaching a definition of a concept

is the end point of a discussion, as in the Platonic dialogues. Definitions are the standpoint to be established or refuted through argumentation. Thus, for example, one of Aristotle's *topoi* instructs on how to refute a definition by showing that a species has been assigned as a differentia:

Again, you must see whether he has assigned the species as a differentia, as do those who define 'contumely' as 'insolence combined with scoffing'; for scoffing is a kind of insolence, and so scoffing is not a differentia but a species. (Aristotle, *Topics* H, 144a 5-9. Transl. by Forster (1960))

But a definition can also be the starting point of a discussion, and functions as a premise to support or refute a standpoint. So, for example, we use the definition of a subject or a predicate to show the incompatibility of the predication. To quote another Aristotelian example, to see if it is possible to wrong a god, you must ask, what does 'wrong' mean? For if it means 'to harm wittingly', it is obvious that it is impossible for a god to be wronged, for it is impossible for god to be harmed (*Topics* B, 109b 30-110a 1).

This paper mainly focuses on the use of definitions as standpoints of argumentations.

Perelman and Olbrecht-Tyteca (1969, p. 448) argued that these definitions function as claims about how part of the world should be conceptualized; how part of the world is. According to them, the speaker who constructs these definitions «will generally claim to have isolated the single, true meaning of the concept, or at least the only reasonable meaning corresponding to current usage». Schiappa refuted precisely this idea of a 'true meaning of the concept'.

In 1993, he discussed the nature of those persuasive definitions that are used rhetorically to the detriment of what, since Plato's time, are presented as 'real definition'. In particular, real definitions refer to the efforts to define things rather than words. They are concerned with what the defining qualities of the referent 'really' and 'objectively' are (what corresponds to Socrates' question: what is X?). The idea that a real definition of a word depicts what is 'essential' about the word's referent is at the basis of what Perelman and Olbrechts-Tyteca (1969, 00. 411-459) describe as dissociation: an arguer's strategy to dissect a unified idea into two concepts; one of which is seen as more valuable than the other. An arguer uses this pair by claiming that one definition is "better" or "more realistic", the other is "worse" or "mere appearance". According to Schiappa (1993, p. 404), there are two problems with this type of 'essentialism': firstly, the

language of essentialism prevents understanding of important social needs involved with defining; secondly, dissociations are based on an untenable theory of language and meaning.

In line with the remarks by Robinson (1954), Schiappa concluded that real definitions do not and cannot describe things-in-themselves, and should be abandoned.

Our main claim is that in the field of health avoiding real definition is dangerous from a healthcare point of view. An analysis of the definitions of health and their development shows that their link to facts is a prerogative for the achievement of concrete outcomes, e.g. the improvement of health. For sociopolitical, economical and ethical reasons, the restoring of health is a main concern of society. But restoring health involves several aspects that a definition of health must accommodate (Callahan 1973) if we want these aspects to be addressed through concrete treatment actions. Conceptual clarity in thinking about what health 'in reality' is is essential so that the notion can be operationalized in the best manner (Salomon et al. 2003). Failures in grasping the essence of health lead to poor description and measurement instruments. These failures can affect the actual treatment of the patient, when assumptions about health are made from a conceptual model that does not take into consideration what matters about health, and what has to be done to improve it. Definitions of health, as pointed out by Steinfels (1973), influence the way of dealing with the situation: notions of health and illness imply answers to three key questions about a given condition: what should we do? who is to do it? how should it be done?

3. Testing definitions. An Aristotelian perspective
For the reasons given above, definitions of health unavoidably face and are faced with factual issues. Indeed, if we analyze the development of the ongoing discussion about the definition of health, we see there an instance of the dialectical debate that Aristotle codified in the *Topics* when discussing the potential of the method of *topoi* for testing *endoxa*. In *Topics* A 2, 101a 37- 101b 4 we read that the method of *topoi*:
is useful in connection with the ultimate bases of each science; for it is impossible to discuss them at all on the basis of the principles peculiar to the science in question, since the principles are primary in relation to everything else, and it is necessary to deal with them through the generally accepted opinions (*endoxa*) on each point. This process belongs peculiarly, and most appropriately, to dialectic;

for, being of the nature of an investigation, it lies along the path to the principles of all methods of inquiry.

As discussed elsewhere (Rubinelli 2009, p. 43-47), the primary principles of science must be addressed on the basis of *endoxa*, those propositions that are plausible and reputable because they are granted by all of the majority, or by the wise or by scientists (Aristotle's *Topics* A 1, 100b 21-23). *Topoi* are a method for testing *endoxa*, and the test is performed by looking at the world and searching for essential characteristics of things that can either confirm or refute the *endoxa* under analysis. *Topoi* help confirming or finding out contradictions in people's claims and, in the case of the definition of health (a primary principle for health sciences), by looking at whether *endoxa* describing what health is about contrast with evidence found in the reality.

Definitions of health are constantly tested dialectically and we can witness several attempts to refine definitions that, even if they have a persuasive power, do not exhaustively account for facts. Below, we shall focus on the two definitions of health that have captured most of institutional and academic attention.

The first definition refers to the so-called biomedical model of medicine. The core idea behind this model probably goes back to the mind-body dualism firmly established under the imprimatur of the Church. Classical science readily fostered the notion of the body as a machine, of disease as the consequence of breakdown of the machine, and of the doctor's task as repair of the machine. Thus, the scientific approach to disease began by focusing in a fractional-analytic way on biological (somatic) processes. The biomedical model has molecular biology as its basic scientific discipline. It assumes disease to be fully accounted for by deviations from the norm of measurable biological (somatic) variables (Engel 1977). The medical model descriptively suggests an idea of health as the absence of disease.

The persuasive connotation of this definition is clear. The biomedical model codified in the society a specific way of thinking about health with a main focus on its anatomical and structural characteristics. And again, as is typical of a persuasive concept, it offered a pragmatic understanding of health that focuses on the most measurable and manageable aspects of health.
Yet, it is a persuasive definition that was not developed without a look at health as a fact. Its core idea rests on the empirically verifiable assumption that restoring

health implies first and foremost treating the health condition and limiting its negative impact at the mental or physical level.

What the biomedical model does not fully acknowledge is a consideration for other essential aspects around health that do matter in terms of improving functioning. And this lack of consideration was made explicit by those scientists who attempted to refine the idea of health (Engel 1977).

By looking from an argumentative perspective, the refinement of this definition was conducted by demolishing the following fallacy of denying the antecedent:

If disease, then no health

No disease

Health

If 'health' is 'absence of disease', by *modus tollens* it follows that the 'presence of disease' indicates 'no health'. The inference from this assumption is that successfully treating a disease by ameliorating an abnormal condition of the body organism restores health. This inference can be more or less granted in dealing with cases where the health conditions can be completely eliminated by a specific treatment. But in cases where the health condition becomes chronic the situation is different. In those cases, the physical or mental impairments cannot be cured completely. These impairments limit the activities that individuals can perform. In order to improve the health conditions of those people, these limitations need to be considered. Thus, for instance, there will be cases where the restoring of individual levels of functioning at the physical level will need to be complemented with interventions in the environment (see, for instance, the restructuring of a house to accommodate the needs of a patient on a wheelchair). But this environmental component must be acknowledged as a possible factor that can impact on functioning in order for the health system to address it.

In addition to this, epidemiological data show that treatment directed only at the biochemical abnormality does not necessarily restore the patient to health even if there is evidence of corrections or major alleviations of the abnormality. Other factors play a role in restoring health, even in the face of biochemical recovery. Thus, for instance, it has been proven by several studies in doctor-patient communication that the behavior of the physician and the relationship between patient and physician powerfully influence therapeutic outcome for better or for worse. Thus, for instance, involving patients in treatment and management decisions has been proven to improve the appropriateness, safety and outcome of

care (Stewart 1995; Collins et al. 2007 pp. 4-6). Again, as Engel explained (1977, pp. 131-132), insulin requirements of a diabetic patient may directly affect underlying biochemical processes, the latter by virtue of interactions between psycho-physiological reactions and biochemical processes implicated in the disease: insulin requirements may fluctuate significantly depending on how the patient perceives his relationship with his doctor. Doctor-patient communication is not, strictly speaking, a component of health, but it is a health-related domain in the sense that it can impact on health.

A definition of health must, thus, be broad enough to allow consideration for aspects other than the health conditions that might affect health at the mind and body level.

The limitations of thinking about health in terms of the health conditions alone were explicitly addressed by the members of the United Nations that in 1948 – when they ratified the creation of the World Health Organization – presented a new definition of health as:
«a state of complete physical, mental and social well-being and not merely the absence of disease.» (WHO 2006)

This was, clearly, another persuasive definition that aimed at spreading in the society a certain way of thinking about health. It did not capture the essence of health. That health does not equal well-being is intuitively obvious. Also, setting the state of 'complete' well-being as the standard of health would make all of us chronically ill. How often can we claim to be in a state of complete well-being? And, if we are in such a state, how long does it last? (Callahan 1973; Jadad and O'Grady 2008) Yet, WHO definition was created by thinking empirically, in terms of the objective limitations of the biomedical perspective. Thus, we shall see below, even if this definition was and is still highly criticized, it prepared the ground for the development of more refined instruments for the description of health.

4. The International Classification of Functioning, Disability and Health (ICF)
The main criticism of the WHO definition of health presented above was inspired by the evidence that it conflicts with some facts. As Smith (2008) ironically comments, it is a definition that would leave most of us unhealthy all the time. From an operational point of view the idea that health implies 'completeness' is clearly impracticable, unattainable and not measurable.

Moreover, the claim of this definition instantiated a dialectical debate based on the application of a specific *topos*, namely that for dealing with things which are said to be the same. We read in Aristotle's *Topics*:

[to refute similarity among two things] you must examine them from the point of view of their 'accidents' (...) for any accident of the one must also be an accident of the other (...) For, if there is any discrepancy on these points, obviously they are not the same. (*Topics* H 1, 152a 33-37)

The WHO definition equals health with well-being. But if we look at the contrary of health, namely, 'disease' (a term that includes injuries, disorders, aging, stress etc.), we see that while disease is incompatible with physical health (even if a person does not feel unhealthy, diseases affect body structures or functions at some level), a certain degree of disease is absolutely compatible with well-being. A clear example of the distinction between health and well-being is explained by the disability paradox: many people who have serious and persisting disabilities report good or high level of well-being (Albrecht and Devlieger 1999). The health of those people is affected by the disease, but not so much their well-being. Thus, according to Aristotle's *topos*, the two things are not the same.

Another *topos* applied in the dialectical testing of the WHO definition is found in the passage of the *Topics* where Aristotle suggests to demolish claims by looking at their consequences (the so called *argumentum ad consequentiam*, Walton 1999):

You must examine as regards the subject in hand what it is on the existence of which the existence of the subject depends (...) for destructive purposes, we must examine what exists if the subject exists; for if we show that what is consequent upon the subject does not exist, then we shall have demolished the subject. (*Topics* B 4, 111b 17-13)

This *topos* has been applied by looking at the unacceptable consequences for society of equating health and well-being. More specifically, Callahan (1973, p. 80) noted that this equation «would turn the problem of human happiness into a medical problem, to be dealt with by scientific means». The medical profession would be the gate-keeper for happiness and well-being. These consequences are unacceptable, insofar as there is no evidence that medicine can ultimately restore happiness or can advice on how to deal with happiness.

But despite these lines of criticism, the appeal of the WHO definition to the 'not merely absence of disease' promoted a different view on health that, without

diminishing the value of the biomedical perspective, complemented it. Indeed, thanks to this definition and its testing, a crucial assumption about health was made, namely that there must be consideration for both the actual health states in which people live and factors other than the health conditions that can influence those conditions (Salomon et al. 2003). These factors must be conceptualized and taken into consideration for healthcare purposes.

This assumption was translated in the creation of an instrument to describe health that could contextualize health in a broader context, namely the International Classification of Functioning, Disability and Health (ICF, WHO 2001).

The ICF allows us to classify a person's lived experience of the health condition in terms of levels of functioning that are directly linked to health condition as well as levels of functioning associated with health conditions that result from interactions between the health condition and personal and environmental contextual factors.

Endorsed by the World Health Assembly in 2001, it focuses on the concept of 'functioning' and operationalizes health in terms of etiology – neutral dimensions of individual experience. The ICF provides categories to describe individual levels of functioning at the body, person and societal levels, and what can influence functioning. It has two parts, each with two components. Part one (Functioning and Disability) covers: 1) *body functions*, i.e. the physiological functions of body systems, and *body structures*; i.e. the anatomical parts of the body; 2) *activities*, i.e. the execution of tasks or actions by an individual, and *participation*, i.e. individuals' involvement in a life situation. Part two (Contextual Factors) covers: 1) *environmental factors* that make up the physical, social and attitudinal environment in which people live and conduct their lives; 2) *personal factors* or the particular personal background of an individual's life and living, e.g. gender, race, age and habit. Functioning in a specific domain is an interaction or complex relationship between the health condition and contextual factors, according to the following scheme (ICF, WHO 2001, p. 18) (Figure 1):
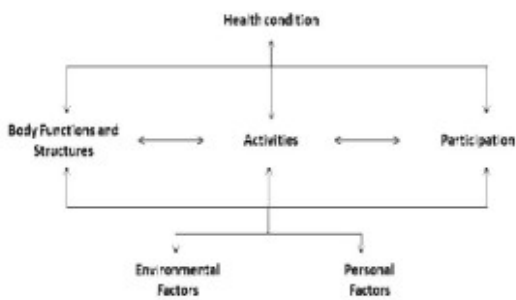
Figure 1

Functioning mirrors the 'lived experience' of the individual whose life and activities are affected by a health condition. The ICF model of functioning and disability makes it possible to describe the difficulties that individuals may face in all aspects of their life (Leonardi and Martinuzzi 2009). As we have recently claimed (Rubinelli et al. 2010), the ICF model of functioning offers an optimal operationalization of health.

The implementation of the ICF as an instrument to describe health has been proven to advance health practice for the improvement of individual health. To quote an important instance of this improvement, we can think about the use of the ICF in rehabilitation. Rehabilitation is the core strategy for the medical specialty known as Physican and Rehabilitation Medicine (PRM), a major strategy for the rehabilitation professions and a relevant strategy for other medical specialties and health professions, service providers and payers in the health section. When based on the biomedical model, rehabilitation is seen as a process of active change by which a person with disability is enabled to achieve the knowledge and skills needed to achieve optimal physical, psychological and social functioning. According to this view, it is the individual and not the environment who has to change or who has 'to do the work'. The biomedical perspective is of utmost importance to enable people to achieve optimal capacity. Yet, it is equally important to enable relevant persons in the immediate environment encompassing family, peers and employers, to remove environmental barriers and to create a facilitating larger physical and social environment, to build on and to strengthen personal resources and to develop performance in the interaction with the environment (Stucki et al. 2007). The targets for interventions outside the health sector are mainly within the environmental component of the ICF. While these interventions may be provided by, or in co-ordination with, sectors outside health, their common goal is to improve functioning of people with health conditions.

As illustrated by Rauch et al. (2008), the ICF facilitates the description of a patient's functioning. Since the description of a functioning state can be very complex in many health conditions and clinical situations taking into account a multitude of limitations in all aspects of functioning and the interacting contextual factors, multidisciplinary team work with comprehensive expertise in varying areas of functioning is required. The ICF provide a common language and a structured documentation form which can be used commonly across disciplines. Moreover, the ICF supports the detection of the important patient's perspective. Healthcare providers are often faced with the patient's subjective perspective of functioning and the corresponding negative and positive feelings. The use of the ICF can contribute to the active involvement of the patient by suggesting topics of discussion which are relevant in his life with a health condition.

5. Conclusion

Definitions can come out of ideologies. They are often presented to promote a certain way of looking at facts according to the point of view of the person or group of person behind them. But the analysis of the definitions of health shows that their use for healthcare progresses requires attention for the essential characteristics of health. Poor descriptions of health have negative ethical, socio-political and economical implications. Attempts to be persuasive, in this sense, never ignore facts and cannot escape the test in light of facts. As Charles Peirce would probably conclude at this point: "Facts are hard things which do not consist in my thinking and so and so, but stand unmoved by whatever you or I any men or generations of men may opine about them". We can decide that health is whatever we like it to be. But to make patients feel better, we cannot invent a definition of health.

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ISSA Proceedings 2010 – Contemporary Trends: Between Public Art And Guerrilla Advertising

One of the most discussed areas in Contemporary Art is *Public Art*. It has existed as a distinctive trend since the early Seventies. Born as a form of guerrilla art that tried to invade non-institutional spaces through performing actions, the term refers today to works of art in any media that have been planned and executed with the specific intention of being sited or staged in the public domain, usually outside and accessible to all. Advertising shows something similar in so-called guerrilla advertising, which avoids the institutional displays in favour of unexpected happenings and perturbant installations, which are not immediately recognizable as commercials. The aim of this paper is to articulate and compare the two terms in order to define them in a dialectical, non-dogmatic way, underlining their argumentative development. This shows on one hand the passage from the work of art as an aesthetical object to contemplate inside a museum to a dialectical event

developed as performances, installations and happenings that transform the public space, creating a gap into normal life, that gives space to a new unexpected point of view on our everyday reality. On the other hand advertising using similar strategies starts using new unexpected spaces like zebra crossing, public toilets, underground floor, just to recall some examples. not only to persuade the consumers, but also to entertain them through a more and more interactive setting. Moreover, we'll try to answer following question: *Does guerrilla advertising put into question contemporary art's creative power?*

1. An articulated definition of Public Art
The name Public Art itself seems to be more a general feature of any art form, rather than a relatively new trend; any artistic expression needs, in fact, to be public in order to exist, so even a museum is a public space, not only the so-called non-institutional spaces. Nevertheless, Vito Acconci stated that a Museum is a "simulated" public space where people go in order to find art, so this could be defined a museum's audience and therefore a specific audience. *"A museum is a "public space" but only for those who choose to be a museum public. A museum is a "simulated" public space; it's auto-directional and uni-functional. When you go to a railroad station, you go to catch a train, but in the meantime you might browse through a shop. When you go to the museum, you have to be a museum-goer*"**[i]** (Matzner et. al., 2001, p.45). So we define Public Art as the art forms performed or realized in the public domain meeting a generic public audience. But does this audience share some common information? In other words, does a generic public exist? Gerard A. Hauser pointed out that, according to Dewey, "the public is in eclipse" (Hauser 2005, p.268). *Last but not least we could also add a quotation of the geographer Yi-Fu Tuan, who pointed out in 1976 that: "When the space seems familiar to us, it means that it has become a place*" (Dean-Millar 2006, p. 14). This could become another interesting criteria by which to examine good and bad examples of Public Art and we could attempt to add another definition: "Public Art transforms landscapes and spaces into familiar art-places." If we accept these assumptions, we could also affirm that an effective artistic intervention creates dialectical objects that revitalise the surroundings and those who live and stop there while creating or recreating a sense of belonging and reflection. The place is something known to us, something that belongs to us in a spiritual and non-material way and to which we belong. After this last reflection on the concepts of space and place, it is important to see in which ways they are transformed by public art works. Following my research

journey and that of some artists close to me I have tried to articulate public art works typologies according to the following groupings:

– *Permanent site-specific* interventions: long lasting installations which always imply an official project.

– *Temporary site-specific* interventions: which could be official or unauthorised installations.

– *Audience-specific* interventions: performances and happenings planned according to the inhabitants of a specific area.

– *People-specific* interventions: projects shared with one or more people with whom we have already a relationship.

1.1. The origin of Public Art as a politically and socially engaged art form

Before analysing these actual typologies it is important to dedicate some words to the development of Public Art from its first appearance. As we said previously, even if its origins were quite different, we often tend to identify Public Art with the so-called *permanent site-specific* works, carried out in collaboration with the institutions, which generally tend to lose their dialectical power after a while, as monuments do. The economist Pierluigi Sacco points out that "*If a general interlocutor is asked what Public Art is, the answer will probably be: an equestrian statue or another type of monument. For a long time, Public Art was primarily this: an exercise in commemorative rhetoric to which – in the best case scenario – citizens get used to and in the worst they regard it as a permanent affront*" (Sacco 2007, p. 11). Nevertheless, the concept developed in a more complex way starting with extemporary art actions at the end of the Seventies. The first public art works were performances and happenings which created statements against the official art world or politically engaged ones. Public Art developed art actions that we could call *visual* and *verbal argumentative speech acts* that can be interpreted following the three principles of visual communication pointed out by Leo Groarke: -The first is the principle that images that are designed for argument, are communicative acts that are in principle understandable. Among other things, this principle implies that images that are, taken literally, absurd or contradictory should be interpreted in a non-literal way, for it is only in this way that they can make a comprehensible contribution to discussion. -A second principle of visual communication is the principle that argumentative images should be interpreted in a way that makes sense of the major (visual and verbal) element they contain. This implies an interpretation that interprets each of these components plausibly, and plausibly explains their

connection to each other. -The third principle of visual communication is the principle that we must interpret argumentative images in a way that makes sense from an "external" point of view-in the sense that it fits the social, critical, political and aesthetic discourse in which the image is located. (Groarke in Van Eemeren, 2002, p. 145).

Then, in order to determine the most evident key of interpretation, in order to fulfil the previous second principle: making sense of the major, it can be useful to use Sorin Stati's scheme, divided into pragmatic functions and argumentative roles. The pragmatic function and the argumentative roles are similar semantic factors because they concern the goal of the speaker, but only the argumentative roles reveal his real purposes. The pragmatic functions and the argumentative roles could also be explained as the text meaning and the speaker's meaning, pointing out the discrepancy which often characterises the discourse. The expected or the unexpected relationships between pragmatic functions and argumentative roles are often the result of a strategy to differentiate or to emphasise various types of communication; they often create a surprise effect that is welcomed in art works.**[ii]**

1.1.1. Group Material: participation through interpretation
Group Material, a New York-based collaborative group founded in 1979 was one of the first examples of Public Art. They questioned issues related to democracy, discrimination and the art establishment, creating audience-specific projects, created in order to exercise a critique or to recall forgotten events or situations. *"Our working method might best be described as painfully democratic, because so much of our process depends on the review, selection, and critical juxtaposition of innumerable cultural objects, adhering to a collective process is extremely time-consuming and difficult. However, the shared learning and ideas produce results that are often inaccessible to those who work alone. Our exhibitions and projects are intended to be forums in which multiple points of view are represented in a variety of styles and methods. We believe, as the feminist writer Bell Hooks has said, that "we must focus on a policy of inclusion so as not to mirror oppressive structures. As a result, each exhibition is a veritable model of democracy. Mirroring the various forms of representation that structure our understanding of culture, our exhibitions bring together so-called fine art with products from supermarkets, mass-cultural artifacts with historical objects, factual documentation with homemade projects. We are not interested in making*

definitive evaluations or declarative statements, but in creating situations that offer our chosen subject as a complex and open-ended issue. We encourage greater audience participation through interpretation."**[iii]** They were not interested in making definitive evaluations or declarative statements, but in creating situations that offer a complex and open-ended issue. They encouraged greater audience participation through interpretation. The *"AIDS Timeline"*, a mixed-media installation, (wall paper in a gallery, a poster on a bus and pamphlets distributed in several places) reconstructs, for instance, the history of AIDS as embedded within a web of cultural and political relations.*"They tried to recreate a chronology of the syndrome. The timeline suggests that AIDS has been constructed through both a bio-medical discourse of infection, incubation, and transmission as well as a cultural vocabulary of innocence and guilt, dominance and deviance"* **[iv]**.The bus poster showed an image of President Bush with a quote referring to insurance coverage of people with AIDS and conveyed positive norms of behaviour: *"Like many of you Barbara and I have had friend who have died of AIDS. Once disease strikes, we don't blame those who are suffering...we try to love them, to care for them and confort them. We don't fire them, we don't evict them, we don't cancel their insurance"* (Ex.1).
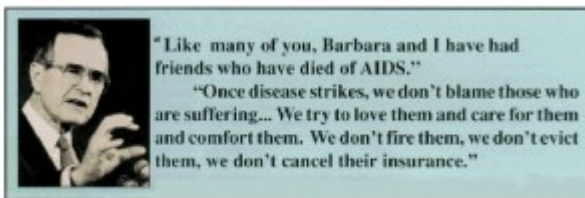
Ex. 1

In the meantime, a pamphlet about the insurance industry and AIDS written by Mary Anne Staniszewski was distributed to tie in with the poster publicity in order to transform its message into an argumentative role of *critic* against hypocrisy.

1.1.2. Guerrilla Girls and the Girl Power

Among the best examples of Public Art, we also remember the collective feminist group of the *"Guerrilla Girls"* founded in 1985. They assumed the names of dead women artists and wore gorilla masks in public, concealing their identities and focusing on the issues rather than on their personalities.. They define themselves as it follows: *"We're feminist masked avengers in the tradition of anonymous do-gooders like Robin Hood, Wonder Woman and Batman. How do we expose sexism, racism and corruption in politics, art, film and pop culture? With facts, humour*

and outrageous visuals. We reveal the understory, the subtext, the overlooked, the unfair. We've appeared at over 90 universities and museums, as well as in The New York Times, The Washington Post, The New Yorker, Bitch, *and* Artforum; *on NPR, the BBC and CBC; and in many art and feminist texts. We are authors of stickers, billboards, many, many posters and other projects, and several books including* The Guerrilla Girls' Bedside Companion to the History of Western Art *and* Bitches, Bimbos and Ballbreakers: The Guerrilla Girls' Guide to Female Stereotypes. *We're part of Amnesty International's Stop Violence Against Women Campaign in the UK; we're brainstorming with Greenpeace. In the last few years, we've unveiled anti-film industry billboards in Hollywood just in time for the Oscars, and created large scale projects for the Venice Biennale, Istanbul and Mexico City. We discussed the Museum of Modern Art at its own Feminist Futures Symposium, examined the museums of Washington DC in a full page in the Washington Post, and exhibited large-scale posters and banners in Athens, Bilbao, Montreal, Rotterdam, Sarajevo and Shanghai. What's next? More creative complaining! More facts, humour and fake fur! More appearances, actions and artworks. We could be anyone; we are everywhere*".**[v]**

They create billboards containing visual and texts, often using the pragmatic function of the *rhetorical question*, in order to express the argumentative role of *critique* and *recall* about the fact that sexism and racism are pervasive throughout the world of art and popular culture. Women artists and artists of colour are greatly underrepresented in art museums. Women and people of colour are also under acknowledged and underappreciated in the film industry. Let's analyse two of these posters.

Ex. 2

The visual of the first (Ex. 2) is based on Ingres' famous Odalisque apart from the head, that has been disguised with the typical gorilla mask. The headline goes: *"Do women have to be naked to get into the Met. Museum*?". From this rhetorical question we can infer an argumentative critical conclusion well explained through the words of the artists themselves, who comments on the development of the

situation after their work:

"On September 1, 2004, we did a recount. We were sure things had improved. Surprise! Only 3% of the artists in the Modern and Contemporary sections were women (5% in 1989), and 83% of the nudes were female (85% in 1989)." **[vi]**

In another billboard, they create an ironical list of the false advantages of being a woman artist, to state their lack of opportunities:

"Working without the pressure of success
Not having to be in shows with men
Having an escape from the art world in your 4 free-lance jobs
Knowing your career might pick up after you're eighty
Being reassured that whatever kind of art you make it will be labeled feminine
Not being stuck in a tenure teaching position
Seeing your ideas live on in the work of others
Having the opportunity to choose between career and motherhood
Not having to chose on those big cigars or paint in Italian suits
Having more time to work when your mate dumps you for someone younger
Being included in revised versions of Art History
Not having to undergo the embarassement of being called a genius
Getting your picture in the art magazines wearing a guerrilla suit"

Here the Girls attack not only the difficulties of being recognized as a female artist, but also the difficulties of balancing a professional life with a personal one in a society which undervalues women's contributions. Later, this artistic trend of moving out from the institutions became a simply formal trend of showing something outside the museum or the gallery and it was embraced by the official institutions as a land of possibility for big and long lasting "urban furniture".

So even if its origins were quite politically and socially engaged, this is why we often tend to identify Public Art with these so-called *permanent site specific* works, carried out in collaboration with the institutions; in the following paragraph, we will analyse some examples.

1.2. Permanent Site-Specific art works: Jeff Koons
Permanent site-specific projects refer to those interventions that place more or less articulated sculptures or installations in open spaces permanently. Broader processes correspond with these operations: Let's take for example "*Balloon Flower*" by Jeff Koons, displayed as a permanent installation in Potsdamer Platz in

Berlin (Ex. 3).

Ex. 3

He has realized a blue flower by the "bending" of a steel air-ballon. *Balloon Flower* is the perfect example of the ability of the American artist to transform a common image into popular mythology. *Balloon Flower* is a monument to nostalgia and reflects the way in which children see the world. *Balloon Flower* provides the viewer with a sensuous image with strange tensions between lightness and weight, between the ephemeral and the eternal.

*"For Koons, there are great links, and indeed parallels, between man and flower. While flowers have their annual cycle, so too do humans, but our year is made of strange markers, many of them associated with life and with sex: Valentine's Day, anniversaries, Spring... And all these events can involve flowers.***[vii]** So it also acts as a symbol of time and of human relationships, the perfect metaphor to be set in a public square. Nevertheless, we are far from the political engagement of the works we have previously analysed.

Moreover, despite the good intentions, the outcomes of this type of projects are often questionable because using public space can also involve the risk of creating a celebrative product, limited therefore to delimiting a landscape or changing a horizon, rather than a dialectical object. Vito Acconci is very critical in this regard: *"What's called public space in a city is produced by a government agency (...). What's produced is a product. (...) What's produced is a "production": a spectacle that glorifies the corporation or the state."***[viii]** In the last two decades, we have a countertrend which tries to recall the first ideals of this art form, moving from the *permanent site specific* to the *temporary site specific*, to the *audience specific* and finally to the *people specific projects*, according much

more importance to the human community of a given space, than to the space itself.

1.3.Temporary Site Specific art works: Christo and Jean Claude
"The process allows artists to work on the public environment and integrate their vision of space and of the social processes that take place in it. The artist is called upon to work not for himself but for the people who interact in that specific context" (Scotini in Sacco 2006, p.100). Temporary site-specific installations involve artistic actions or installations of brief duration that create events more or less incisive on the context. Being ephemeral, they maintain their dialectical power as they do not become part of the common landscape, in front of which the citizen tends to be more and more indifferent. Emblematic in this regard is Christo's *"Wrapping of the Reichstag"*, realized in 1995 (Ex. 4).

Ex. 4

The artist wrapped the past and future building of the German government in silver polypropylene, *covering* a building that was becoming ever more an anonymous element of the landscape and ever less a place of belonging and memory.This happening created an oxymoron that could be expressed as follows: "Cover to rediscover!" with many possible argumentative implications, implying, for instance, the necessity of taking into account all historical, political and even aesthetical connotations connected with this building in order to revisit the German identity. The Reichstag was constructed to house the "Reichstag", which was the name of the German Parliament, till 1933 when the building caught fire under circumstances still not clear. This gave to the Nazis the excuse to suspend most of the rights provided by the constitution, in the so called "Reichstag Fire

Decree". The building started being used for propaganda's purposes, becoming a negative symbol and one of the main target of the Red Army bombing. Later it remained on the Western border near the Berlin wall representing the failure of democracy. After the reunion the possibility of pulling down the Reichstag was taken into serious account because of its difficult restoration, but probably also for its political and historical antithetical implications. At the end the choice of it as the future Government Building was the result of the want to return the capital from Bonn to Berlin and also the need to rescue a place from oblivion underlining its regained role. This choice was also a possible implicit question: "If you don't talk and look at the past, would it become easier to accept?" Using the argumentative role of *thesis* to stress the importance of talking about the past in order to overcome it. At the time when Christo proposed his project the emotive and historical argumentative power returned forcefully to the fore and suddenly this "forgotten place" became a familiar place again, too familiar, warm and insidious, for the contrasting historical events it recalled, one need only consider that the artist had to wait 25 years for the necessary authorisation. This wait became an integral part of this beautiful work which apparently lasted only 15 days but contributed to giving back a landmark to the Berliners, which would last for many years.

1.4. Audience Specific: Annalisa Cattani, Amanda McGregor, Adriana Torregrossa, Dragoni-Russo
With audience-specific, the art critic and curator Marco Scotini refers to projects aiming at a more profound and capillary involvement of the social structure. There are many Italian examples, often starting with an infringement of regulations, evading permission and invading unexpected spaces, the casual public finding itself in the vicinity is the first recipient and often becomes a voluntary or involuntary protagonist of the work.

The following project by Annalisa Cattani: *The girls of Trieste* (Ex. 5) followed this line.

Ex. 5

In this case, involvement happens by acting on memory. A pre-existing monument became the drive of the work. Too often monuments lose their function of *manere* and *monere* (staying and reminding) as the etymology of the term would mean, becoming backgrounds only for photos or points of reference for finding one's bearings. In this case "The girls of Trieste", a monument to the women who sustained their men during the war by symbolically sewing the flag became, with the addition of an embroidered cloth with tens of names taken from the archives of the psychiatric hospital, the voice of the forgotten women deceased in mental hospitals, in memory of what happened and as a warning of that which should never happen again. Following Hauser's point of view "*when artistic portrayal is co-extensive with actual and I would add with historical events, these deliberations may organize public memory in other than official terms, thereby shaping society's understanding of its own historicity and the model of its own self-organization*" (Hauser 2005, p. 270). The London artist Amanda McGregor proposed an *Alternative City Planning* for the town of Letchworth, involving people, occupying various roles in the social structure, in a psychodynamic journey, towards the place they live in, guided by an exercise of "creative visualisation", that produced unexpected looks, hidden desires, ways for alternative solutions. In this case, the citizens involved became effective interlocutors who could really take part in determining the urban planning of their town, not simply by voting the members of the administration. It created that which Matzner pointed out as follows: *It is not about the gap between culture and public, but it is to make art public and artists citizens again* (Matzner 2001, p.107). Over the years, this type of operation in Public Art has acquired ever

greater complexity and prominence. The artist, therefore, often becomes the voice of marginal cultures, the artists Siah Armajani and Mischa Kuball express themselves as such in this regard: *Public Art comes in through the back door, like a second class citizen (…)Public Art can present itself as the voice of marginal culture, as the minority report, as the opposition party* (Matzner 2001, p. 45). In this regard, it is necessary to mention a very interesting and effective work by Adriana Torregrossa: *"Article 2"*. The operation outlined by the artist takes the title from the second article of the Italian Constitution which grants citizens the possibility of expressing their own culture. Torregrossa made it possible to sing the prayer of the end of the Ramadan in the marketplace in Turin in order to produce a critical answer to article 2 as, in Torregrossa's point of view it was not respected in this town where there are not enough places dedicated to minorities to grant their rights (Ex. 6).

Ex. 6

Piazza del Mercato di Porta Palazzo in Turin is an area inhabited for the most part by immigrants of the Islamic religion; this is why she wanted to transform the market just for a few minutes into a Middle-Eastern square, in order to give immigrants the presence of a familiar and shared place for a brief time. Two Bolognese artists, Dragoni and Russo, created an interesting audience-specific project, Noting the presence of makeshift seats at the bus stops in the suburbs, the artists intervene adding a name plate stating: *Gift of the Dragoni-Russo family*, mimicking those which can be found on church pews. This subtle criticism of the negligence of the city's administration shows, at the same time, a provincial stance on socialisation, a tendency toward making domestic a public space, which thus becomes a place. A further implication associated with this definition of Public Art is given by the artists Siah Armajani and Mischa Kuball: *"Public Art must go beyond the personal gesture of the artist, must transcend pure subjectivity and respond to the urban, social and political structure that define a*

given place" (Matzner, 2001, p.461).

1.5. People Specific: Darth

As regards people-specific projects, reference is made to works implying ever closer relational processes and at times involving actual neighbours. A small number of people are involved. In relation to this, we recall the work "*Venti-trenta-quaranta metri*" by Annalisa Cattani. This sound installation, showing a speaking hole in a castle, makes the artistic action an engine that brings into play sense and memory processes among neighbours while transforming the form into a dialectical object. As for many other fortresses and castles, it is narrated that the Rocca di Stellata fortress had an underground passageway of uncertain depth – between twenty and thirty metres – which would have connected it with the villa of the owners. However, for years, there has only been weak proof of this story, consisting in an accidental excavation and the recounting of the children of yesteryear who made the entrance of that cave the setting for their adventures. The image of this space, by now lost and covered with sand by the floods of the Po river, has been excavated in memory of Sergio Calori, Ermete Migliari and the watchman Ramon, and serves as a release for a flurry of rumours and stories from those who lived inside the fortress, from those who observed it in the immediate vicinity and finally of those who still diffuse its memory today. In each of the declarations, the underground passageway is present together with the sense of limit, of the prohibited, towards a threshold that was not to be crossed and became a mental matrix of the protagonists of an age. Another example is given by the "*Encounters behind closed doors*" with Darth, a group of artists and curators, that became, to all intents and purposes, a meta-artistic work and was created from the necessity to problematize the distance between generic and specific audiences, but among specialists in the most mindful way. During this meeting, artists, curators and gallerists were invited without an audience, just for the founder of the association, in order to reestablish a shared language among specialists. Sometimes, in Italy contemporary art concentrates too much on a sort of universal audience losing the specificity of the discipline and also its argumentative force. The result of these encounters was videotaped and shown just as a trailer in some galleries in order to let people taste the atmosphere, but also to point out the impossibility of reproducing the event which was an emotional and argumentative mix that had to be lived and not re-enacted.

Let's now see how this development in Public Art affected advertising.

2. Guerrilla advertising between viral marketing and audience-specific

Ex. 7

Public Art influenced Guerrilla Advertising most of all: a relatively new trend in advertising whose aims and forms can be compared with those of Public Art. *"Guerrilla advertising" is a catch-all phrase for non traditional advertising campaigns that take the form of theatrically staged public scenes or events, often carried out without city permits or advance public hype. It was first coined by author Jay Conrad Levinson in 1984 to refer to unconventional, non-big-media-dependent brand-building exercises (…) These were once a low-budget strategies for start ups and small businesses unable to afford a thirty-second spot."***[ix]**

Even with this point of view, its origins are very similar to those of Public Art which emerged as an answer against the big and rich art world, to create new spaces for creativity. Let's start with some audience-specific examples. As we showed previously, these kind of performances and happenings create a gap in every day life; they appear all of a sudden and are oriented to the audience and not to a given or chosen space. They imply an interaction with the public and correspond to what is normally called viral marketing. Like its name implies, it is a way of spreading your message like a virus from person to person. Microsoft covered Manhattan in butterfly stickers for example. This approach is particularly effective in social advertising. Let's take an example made to let people quit smoking, creating peculiar trashcans on the streets that warn smokers of dangers. (Ex. 7).

To make people aware of Prisoner's rights, Amnesty did a stickering campaign in order to reach people from the audience one by one. The sticker simulated an hole in the street showing a prisoner inside with a message in his hands saying: *"Thousands are held prisoners for their beliefs in places worse than this. Write until you free them all. Amnesty International"*. To raise awareness for the Weingart Homeless Center (Ex. 8), they took a non traditional approach that made people imagine themselves homeless if only for a moment, provoking a *self critique* for the indifference they were victim of. They photographed a dozen of the 70.000 people living on the streets of Los Angeles.

Ex. 8

They then took those images, removed their faces and made them into photo-realistic cardboard cut-outs. They placed the cutouts in upscale shopping centres in Beverly Hills and Santa Monica. Soon the homeless could not be ignored. This project not only raised awareness, but it also raised funds. Amnesty International in Germany celebrated the 60th anniversary of human rights in 2008 with "*Frau im Koffer*", "Woman in suitcase", an ambient advertising campaign at German airports. "*Woman in Suitcase*" (ex. 9). It consisted in putting a woman in a transparent suitcase and sending her around the baggage carousel of the airport, again using the visualization instead of the verbal thesis to shock and to criticise our indifference towards this problem.

Ex. 9

Now even big-name brands are taking the guerrilla approach. It offers a way to engage highly targeted audiences, to develop a streetwise identity or simply to reach consumers who are so inundated with advertisements that they tend to ignore them. The advertising industry is in a state of flux, in an age where we can choose what media we utilise, the traditional channels of TV, press and poster are no longer always the most appropriate for a brand to reach its target audience. As a result, global brands are opting to implement ever more inventive and original schemes to get their products talked about. All of a sudden poor and low budget guerrilla methods like stickering, graffiti, etc have become new and creative earning opportunities. On the other hand, this trend has disempowered the political feedback of these operations, promoting big scale temporary site-specific installations much more decorative than argumentative near the viral trend.

2.1.Temporary Site-Specific or Ambient Campaigns

These are very high budget campaigns which create a big urban installation to promote the products in an unexpected way. Ravensburger, the manufacturers of many popular puzzles and games, recently launched a billboard campaign in Berlin, Germany to promote sales of their 1001 piece puzzles. The boards are shaped like puzzle boxes and contain images of internationally recognized landmarks, such as The White House. The "boxes" are surrounded by real, three-dimensional rubble, giving the impression of a "life sized" puzzle. Nevertheless, this visual hyperbole remains a figure of style that simply creates a sense of wonder and a "fairy tale effect" (Ex. 10).

Ex. 10

2.2. People Specific Advertising

Guerrilla marketing can also work as a form of neighbourhood marketing, as happened in a door to door stickering. A sticker featuring the model Eva Padberg holding Otto's catalogue with the order number, was attached to the spyholeof thousands of houses around Germany. In a similar campaign, the customers are reached one by one and they feel important and special; the dimension is very domestic.

3. Conclusions

In the overall context of possible definitions of Public Art and Guerrilla Advertising lies the relationship between self, environment and others which no longer converges today in a single *topos* but flows in a dialectical dynamic in which art creates stages of visual reflection. When advertising does something similar, surely the main goal remains to get you to do something. Whether that

something is buying a product, seeing a movie or, as in the picture above, stop smoking, marketers play on psychological principles to affect our behaviour and tend to close the discourse. On the contrary Public Art started and continues to gain new democratic spaces for creativity. All operations placed outside institutional spaces also bring into discussion the inside and, therefore, the system of art and culture in general while turning to the world as a source of experience and knowledge. Furthermore, the projects of brief duration more than others put the status of the work of art as an eternal and stable expression into decline while promoting the short-lived aspect as an argumentative content and not only as pure form. On the other hand guerrilla advertising and advertising in general shows the capacity of creating or of embodying the *avantgarde* trends, opening many implication that go much further the promotion of a product or in the case of social advertising of an attitude, they diffuse a life style and a life philosophy even normalizing controversial situations.

NOTES

[i] *"The consequences on human association of rapidly changing condition of economy, work, travel and information transfer on human association, he notes that desires and purposes created by the machine age are disconnected from the ideal of tradition. (…) Our Babel is not one of tongues but of the signs and symbols without which shared experiences is impossible"* (…) *The remedy for this breakdown is art. More important than the content of an artwork is the artist's power to bond strangers in shared experience through portraits constructed with signs and symbols that evoke deeper reflection. (…) The freeing of the artist in literary presentation, in other words, is a much a precondition of the desirable creation of adequate opinion on public matters as is the freeing of social inquiry. Men's conscious life of opinion and judgment often proceeds on a superficial and trivial plane. But their lives reach a deeper level. The function of art has always been to break through the crust of conventionalized and routine consciousness(to touch the deeper levels of life so that they spring up as desire and thought"* (…) *"They are creation of imagination intended to be performed their performance brings members of society together as an audience. Their performance presents the artist's claim about human feelings, relations and actions. Moreover their audiences are not just spectators whose function is to witness, they are also engaged. They don't simply have to contemplate, they invite deliberation* (Hauser 2005, p. 268-269).

[ii] L'étude de ces deux couches du signifié des phrases pourrait servir comme

définition de la pragmalinguistique." (Sorin Stati, Le Transphrastique, Puf, Paris, 1990, p.16).

Here is a simplified version of the scheme:

Pragmatic Functions

performing function (the speaker performs an act of doing rather than saying)

recall function (the speaker reminds to his interlocutor facts he has to know, or invites him to note an evidence)

erotetic function (pertaining to question, pertaining to a rhetorical question)

assertive function (frasal context, that gives a new information)

epistemic function (expression of the locutor in order to proof that he knows something)

directive function (orders, invitations, advices. We distinguish two classes:

1: directive whose goal is to provoke a verbal action.

2: directive whose goal is to provoke a non verbal action

expressive emotional function

commissive function: (its two main variants are: menace and promise)

Argumentative Roles

Positive: approval, thesis, conclusion, justification.

Negative: disapproval, objection, critique, self-critique, blame

[111] Group Material from Democracy: A Project by Group Material, Dia Art Foundation, 1990, p.2. http://www.franklinfurnace.org/research/projects/flow/gpmat/gpmattf.html

[iv] Group Material from Democracy: A Project by Group Material, Dia Art Foundation, 1990, p.2. http://www.franklinfurnace.org/research/projects/flow/gpmat/gpmattf.html

[v] http://www.bampfa.berkeley.edu/exhibition/132

[vi] http://www.guerrillagirls.com/posters/getnakedupdate.shtml

[vii] http://www.christies.com/LotFinder/lot_details.aspx?intObjectID=5101408"

[viii] http://www.businessweek.com/innovate/content/aug2006/id20060804_290886.htm

[ix] http://digitallabz.com/blogs/11-examples-of-viral-marketing-campaigns.html

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ISSA Proceedings 2010 – Strategic Maneuvering And Appellate Argumentation

Strategic maneuvering can account for the complexities of appellate argumentation in the U.S. This specialized type of reasoning is distinct from the activity type of adjudication identified in strategic maneuvering, a theory that explains the interplay between rhetorical and dialectical features of many types of argumentation. Van Eemeren and Houtlosser (2009) describe strategic maneuvering as a way of reconciling how arguers pursue "rhetorical aims of effectiveness" at the same time they retain "dialectical standards of reasonableness" (p. 5). My goal to extend strategic maneuvering theory and then apply it to the appellate argumentation in the majority and dissenting opinion in *Boumediene v. Bush* (2008, 553 U.S. 723). To do so, the essay explains strategic maneuvering in appellate argumentation, describes the *Boumediene* case, emphasizes how rhetorical features permeate the dialectical processes of appellate argumentation, and gives examples of the argumentation of Justice Anthony Kennedy and Chief Justice John Roberts in this case.

1. Strategic maneuvering in appellate argumentation
Strategic maneuvering consists of explanations of how arguers reason in different activity types by selecting topical potential, framing arguments for particular audiences, and utilizing rhetorical tactics to influence these audiences. Van Eemeren and Houtlosser (2002, 2006, 2009) identify four different activity types–adjudication, mediation, negotiation and public debate. Then they distinguish each activity type according to stages of critical discussion: confrontation, opening, argumentation and conclusion. The type closest to appellate argumentation is adjudication, an activity in which a legal dispute takes place in a specific jurisdiction during the confrontation stage; arguers construct arguments according to the rules of a context in the opening stage; arguers interpret and offer concessions about facts and evidence in the argumentation stage; and a third party adjudicator settles the dispute in the concluding stage (pp. 7-10).

Appellate argumentation has some similarity with adjudication (van Eemeren & Houtlosser, 2009) because this type of argumentation includes a decision about a legal dispute from third party adjudicators. However, appellate argumentation differs significantly from adjudication because it emanates from and is reconstituted in multiple discourses, does not follow defined phases of critical discussion, and incorporates the reasoning of multiple arguers over time about the meaning of a disputed legal principle. For example, *Boumediene* evolved from other appeals of Guantanamo Bay (Gitmo) prisoners who claimed their legal rights had been violated when the U.S. military took them in custody following September 11, 2001. Many attorneys (petitioners) advocated for the detainees, and many other attorneys (respondents) represented the government in other jurisdictions before this case ended at the Supreme Court. The nine Supreme Court judges did not come to a consensus; they came to different conclusions written in multiple opinions, interpreted legal arguments written prior to the case from disparate viewpoints, and targeted their arguments to particular audiences. The overlapping and intersecting argumentation emanate from appeal attorneys and judges recycling and reusing arguments about Gitmo detainees they extracted from public and congressional debates, prior legal cases, statutes and executive orders, the U.S. Constitution, and precedents. What also differentiates appellate argumentation from adjudication is that arguers do not follow an established set of legal rules for presenting evidence and interpreting legal principles, nor do they apply the law as it is formulated by legislators (Feteris, 2008). The decision that results from appellate argumentation is not correct, but it is rhetorically persuasive for judges' target audiences. The adjudicators consist of multiple judges that are political appointees rather than a single adjudicator, and judges usually contest each other's legal interpretations within a single written opinion.

Judges' legal philosophy frequently foreshadows what their legal interpretations will be and predicts what evidence and arguments they will borrow and reuse from legal history and tradition, political forums, public debates, and relevant decisions from other legal jurisdictions. This process of borrowing and reusing of arguments is prominent in judges' strategic maneuvering enabling them to weave their arguments from multiple discourses into an opinion that reflects their choice of legal topics, adapt arguments to particular targeted audiences, rely upon specific types of reasoning, and create rhetorical framing and embellishing of arguments. In *Boumediene,* the judges' argumentation moves back and forth

between political justifications for the detention of prisoners at Gitmo based on threats of terror to the U.S., political motives for locating the detainees at Gitmo, the legal rights of citizens and foreigners incarcerated on Cuban land, and the legitimacy of legal processes available to detainees.

2. *Boumediene v. Bush*

The *Boumediene* decision illuminates the complexity of issues and the intricacies of strategic maneuvering in appellate argumentation. After suicide bombers attacked the United States on September 11, 2001, President George Bush declared a war on terror that he waged through a military offensive in Afghanistan and through the arrest and incarceration of hundreds of "enemy combatants" at Guantanamo Bay, Cuba. Eventually, Congress created new laws that identified the legal restrictions on Gitmo detainees' rights: they could be held and interrogated without legal counsel in the Detainee Treatment Act (DTA, 2005); incarcerated and interrogated without knowing what evidence the government had against them in the Combatant Status Review Tribunals Act (CSRT, 2005); and detained with only a cursory hearing before military personnel in the Military Commission Act (MCT, 2006). After national and international legal advocates eventually met with some Gitmo detainees and initiated challenges to their conditions of custody and interrogation, several challenges made their way to the Supreme Court resulting in the 2008 *Boumediene v. Bush* decision that focused on the rights of Gitmo prisoners to habeas corpus–to be brought before a judge and to hear evidence and charges against them. The *Boumediene* decision (553 U.S. 723) guaranteed habeas corpus rights to Gitmo detainees and declared sections of DTA, CSRT and MCT unconstitutional. Subsequent citations for *Boumediene* are by page number.

Lakhdar Boumediene, a Bosnian citizen captured while working in Algeria, was classified as terrorist sympathizer and designated as an "enemy combatant" before being incarcerated at Gitmo. No charges were filed against him in 2002 at the time of his incarceration nor did he receive legal assistance until 2006. The site of the Gitmo prison became an issue because it is located on a military base that is not formally part of the United States. In 1903, the United States and Cuba agreed on a lease that gave Cuba sovereignty over Guantanamo Bay but granted the U.S. complete jurisdiction and control of this area. Attorneys representing Boumediene claimed that Gitmo was under the control of the U.S. and therefore prisoners held there were entitled to the constitutional provisions of habeas

corpus; whereas the attorneys for the government concluded that Gitmo was Cuban territory and neither citizens nor foreigners incarcerated there had these rights. Another issue concerned whether or not the laws passed by Congress subsequent to incarceration were constitutional since they approved of severe military interrogation of Gitmo detainees even when these prisoners lacked knowledge about why they had been detained and what legal recourse they had.

Boumediene is a significant case because the majority opinion reinterpreted the principle of habeas corpus in relation to Gitmo detainees by designating jurisdictions to which this principle applies, made new law regarding prisoners of war, declared unconstitutional prior legislation, resulted in the release and repatriation of some Gitmo detainees, and provided guidelines for legitimate legal proceedings to be used with high threat Gitmo detainees. This 155-page decision consisted of Kennedy's detailed majority opinion and Roberts' dissenting opinion plus one concurring opinion written for each side.

The Supreme Court decided the case on June 12, 2008, in a 5-4 decision. Justice Kennedy wrote the opinion for the majority and Chief Justice Roberts wrote the dissent. The majority opinion in *Boumediene* concluded that prisoners at Gitmo had the right to the protection of habeas corpus under Article I, Section 9 of the U.S. Constitution and declared parts of the DTA and MCA as unconstitutional.

3.1. Dialectical processes

The appellate jurisdiction establishes broad procedural rules so that legal arguers from one side of a case contest the arguments of the other; it does not prescribe the content of argumentation, nor specify what constitutes effective appellate argumentation. Dialectical processes typically include a collaborative method in which logical reasoning and dialectical procedures guide how arguments are constructed within a discourse (van Eemeren & Houtlosser, 2002). In appellate argumentation, however, dialectic takes the form of back and forth adversarial arguments between attorneys who present written and oral arguments before a panel of judges that decide what the law means. In 50-page briefs, attorneys representing Boumediene and other similarly situated Gitmo prisoners petitioned the Supreme Court to hear their case on legal grounds, and attorneys representing respondents, the Bush administration, filed 50-page briefs refuting petitioners' legal claims and asserting new claims of their own. After the Court agreed to hear this case, the attorneys for both sides presented a condensed version of their briefed arguments and orally defended them by responding to

questions from several of the nine judges deciding the case. Following the completion of oral arguments, the judges gathered as a group to discuss the appeal attorneys' arguments, took a preliminary vote, rendered a split decision, and identified which judges would write the formal majority and dissenting opinions for the official Supreme Court record (Schuetz, 2007b). The appellate court norms for dialectical process also facilitated argumentation between attorneys representing adversarial positions in the civil court cases that preceded this Supreme Court opinion. Typically, the outcome of one segment of the dialectical process, the briefs of the appeal attorneys, leads to a preliminary decision among the judges following oral arguments, and culminates in judges writing a formal decision for the permanent record. Instead of producing one definitive consensus decision, appellate argumentation typically showcases the opposing views and the unresolved issues that remain between the majority and dissenting opinions in the published formal decision. In one sense, the majority opinion is the winner because this interpretation gains official standing as law; however, the minority judges also present reasons for their dissenting opinions (Schuetz, 2007b). Because the published decision acknowledges differences remaining among the judges deciding the case, these opposing views foster political and public debates about the disputed legal principle long after the decision appears in print.

Judges do not conform to a specific standard of reasonableness, such as reasonable doubt and preponderance of evidence, as they do in other types of U.S. adjudication. Instead judges often select evidence and make claims in line with their rhetorical goals, political allegiances and legal philosophy. Since the U.S. President appoints members of the Supreme Court based on partisan views and many judges serve for life, it is not surprising that judge's viewpoints permeate the content of appellate opinions as they did in *Boumediene* (Schuetz 2007a). Kennedy's arguments, for example, reflected his legal realist philosophy, and Roberts' reasoning mirrored his legal pragmatist philosophy. Legal realism, a liberal position, permits judges to deviate from the norms of judicial predecessors' decisions in order to consider the legal circumstances of new situations. Kennedy's opinion relied on historical arguments; he claimed habeas corpus should be granted to Gitmo prisoners to maintain the continuity of the common law legal tradition. In contrast, legal pragmatism assumes that the law making is an ongoing activity that serves the needs of the people and maintains the separation of powers between the executive, legislative and judicial structures of

government. Relying on pragmatism, Roberts justifies Bush-initiated statutes as necessary for fighting the war on terror. Specifically, he argues that the situational facts related to this war demand the incarceration of enemy combatants at Gitmo without benefit of habeas corpus rights. Neither judge follows a set of explicit rules about how to argue, such as deciding a case based on legislative intent, nor do they embrace an objective or an idealized judicial standard of what constitutes effective appellate argumentation.

3.2. Rhetorical processes

The strategic maneuvering in appellate argumentation integrates rhetorical goals with dialectical reasoning but does not equally balance the two. Following van Eemeren and Houtlosser's theory (2007), arguers can "neglect their persuasive interests for fear of being perceived as unreasonable" by an audience, or they may prefer one "critical ideal" over another (p. 61). Justices Kennedy and Roberts did not neglect their interests; they overtly stressed their persuasive goals, expressed their respective legal viewpoints about the Constitution, and identified which branch of government had responsibility for making law. In doing so, both judges used rhetoric to persuade their particular legal, political and public audiences about the reasonableness of their arguments (Tindale, 2009). Particular audiences refer to those groups of people for whom judges craft their opinions; these audiences share a common national legal heritage but hold disparate views about how judges should interpret the meaning of legal principles in a case.

Although the appellate courts require attorneys to address the judges deciding their case in both briefs and oral arguments, judges often write opinions for much broader audiences, including legislators, other members of the judiciary, political and military leaders and the public. Specifically, appeal attorneys for Boumediene initially met a legal obligation to persuade a majority of Supreme Court judges that government policies were unclear, sometimes contradictory and created injustices against Gitmo detainees. Government attorneys also met their obligation by defending legislation (DTA, CSRT, and MCA) and explaining that detainees' rights needed to be restricted to protect the United States against terrorism.

Winning the right to present a case to the Supreme Court results from attorneys for the disputing parties convincing a majority of appellate judges that their arguments are more compelling reasons than those presented by their adversaries. The standard of reasonableness in appellate argumentation is the

intersubjective agreement between judges and their particular audiences about the meaning of a legal principle in a given dispute, a standard of reasonableness similar to Stephen Toulmin's (2001) definition. Achieving intersubjective reasonableness depends on the extent to which attorneys' and judges' claims rely on relevant evidence, present cohesiveness and coherent reasons, explicate legal principles, and create compatibility between attorneys' and their clients' viewpoints and between judges' viewpoints and those of the particular audiences they address. Additionally, attorneys and judges pursue intersubjective reasonableness when they situate their interpretations of legal principles in relevant contexts, relate their reasons to provisions of the Constitution, and use evidence from precedents that reinforce their rhetorical goals.

3.2.1. Definitions

Judges' strategic use of definitions is a common rhetorical maneuver in appellate argumentation. Following Schiappa (2003), definitions are "rhetorical induced, linguistic propositions that are historically situated" (p. 3). Judges strategically use definitions to establish the reasonableness and force of their arguments, resulting in different definitions of key legal terms for the majority and dissenting opinion in a single case. In *Boumediene*, both Kennedy and Roberts used stipulative definitions, descriptions, and ruptures to frame and embellish their arguments. Stipulative definitions enable arguers to assert a particular definition and make it seem like an indisputable fact (Zarefsky, 1998). Appellate judges stipulate definitions to reinforce their preferred meaning of legal terms and reinforce a theme that advances their rhetorical goals.

(1) Both Kennedy and Roberts stipulate definitions of habeas corpus. Using a broad scope, Kennedy defines the right of habeas corpus as "any type of action relating to any aspect of detention, transfer, treatment, trial or conditions of confinement of an alien who . . . is or was detained . . . as an enemy combatant" (p. 759). He contrasts this definition with the one supplied by government attorneys that limits the scope and asserts that "non citizens designated as enemy combatants and detained in territory located outside our Nation's borders have no constitutional rights and no privilege of habeas corpus" (p. 760). Roberts' narrow definition of legal rights makes clear that habeas corpus is not at all appropriate for foreign enemy combatants housed in Cuba. And in fact the government should hold these prisoners as long as necessary to make sure they can never harm the U.S. again (p. 843). Roberts further stipulates that only the government has the

power to make law and limit the rights of detainees and the Supreme Court should not question that right (p. 851). The aforementioned stipulative definitions support the respective legal rhetorical goals and legal and political viewpoints of each judge.

Descriptions provide details about why judges support or reject legal principles relevant to a particular dispute. Zarefsky (1998) points out that descriptions "function strategically by redefining a phenomenon without acknowledging that a redefinition is taking place and a new point of view is being promoted" (p. 5). Appeal judges use detailed descriptions of disputed provisions of the law as a means of redefining the issues in ways that reinforce the judge's goals.(1) For example, Kennedy describes DTA's provision for a military hearing to be so restrictive that Gitmo prisoners lack any legal recourse at all (p. 789). Roberts' alterative description claims that the DTA gives all the rights that any enemy combatant should have because it enables them to hear "newly discovered or previously unavailable" evidence against them (p. 850). Kennedy claims any legitimate military hearings must create a review identifying the reasons for a prisoner's detention and must limit the power of the government to abridge those rights. For him, the CSRT process is defective because it prohibits detainees from hearing what charges have been made against them and why these charges have been made. He describes one provision of CSRT as flawed because "the [detainee] does not have the assistance of counsel and may not be aware of the most critical allegations that the Government relied upon to order detention" (p. 807).

(2) In siding with government attorneys, Roberts describes existing law as appropriate for all prisoners. He concludes, "Detainees not only have the opportunity to confront any witness before the tribunal but they may call witnesses of their own. . . . As to classified information, while detainees are not permitted access to it themselves," they can ask a "personal representative to summarize that evidence and they can appeal their case to a District of Columbia circuit court" (p. 844).

3.2.2. Framing appellate arguments
In addition to definitions, appellate judges frame their arguments by utilizing history and precedents associated with their own particular legal viewpoints. The claims appellate judges make, the evidence they select and emphasize, and the reasoning process they adopt advance their rhetorical goals. In *Boumediene*,

Kennedy locates habeas corpus in the common law legal tradition, invokes definitions from the Magna Carta, and relates both to the due process provisions of the U.S. Constitution. Roberts stresses the purpose of Bush administration laws regarding Gitmo detainees and then asserts these laws should remain in force to help the Bush administration fight the war on terror.

Audience-directed framing refers to argument moves (van Eemeren & Houtlosser, 2006, 2009), and framing refers to the slant or point of view that surfaces in the claims judges make, the evidence they emphasize, the values they evoke, and the legal viewpoints they stress. In appellate argumentation, judges writing for the majority pursue different legal goals with different audiences than those writing dissenting opinions. Judges' framing of arguments depends on several factors related to their legal philosophy including their role and legal reputation on the Court and political allegiances. Kennedy and Roberts constructed very different arguments about the rights of detainees. In doing so, they addressed particular audiences, not the universal audiences sharing common views about what constitutes justice that Chaim Perelman (1963, 1980) conceptualizes. Judges target audiences by framing their arguments from an explicit legal viewpoint that resonates with the beliefs and values held by particular audiences in

(1) Justice Kennedy's legal realism accounts for his framing of arguments for audiences that already agree with his premise that law should be relevant to contemporary circumstances and congruent with the common law legal legacy. This premise informs the following chain of reasoning:

(1) the tradition of due process in U.S. law affords legal rights to incarcerated citizens and to foreigners;

(2) a fundamental legal right for all detainees in U.S. custody is habeas corpus;

(3) Bush-initiated laws restricted the due process rights of Gitmo detainees;

(4) Boumediene and other similarly situated detainees should be released because these laws violate the principles of the Constitution; and

(5) provisions of DTA, CSRT, and MCT that violate the Constitution should be overturned. This configuration of claims informs Kennedy's audiences about his rhetorical goals, legal viewpoint, political values and the slant of his interpretations:

Kennedy makes clear that habeas corpus rights emanating from the common law tradition once provided a safeguard against the powers of monarchs and should continue as a safeguard against the restrictive provisions of Bush-initiated legislation that denies rights to detainees.

(1) Justice Roberts' legal pragmatism informs his approach to questions about which structure of government should make laws during wartime – the Supreme Court or the Congress. The framing of his arguments likely resonates with the views of his conservative legal and political audiences because he valorizes the laws initiated by Bush and passed by the conservative Republican Congress after September 11, 2001. Roberts' framing is predictable since Bush appointed him in 2006 with the expectation he would represent the conservative agenda of the government. As expected, Roberts aligns his arguments directly with those of government attorneys in this way:

claiming that Kennedy and the majority unfortunately have ignored the will of the American people, "who today lose a bit more control over the conduct of this Nation's foreign policy to unelected, politically unaccountable judges" (p. 853).

Roberts refers to one recent appellate case, *Hamdi v. Rumsfeld* (2004), claiming it provides sufficient guidelines for hearing the legal cases of Gitmo detainees. Roberts leaves out key features of the precedent when he notes that at the time Congress passed the DTA, it provided for a military hearing that met all of the due process provisions outlined in the *Hamdi* decision and required the government to provide an evidential basis for classifying detainees as enemy combatants. In contrast, Justice Kennedy emphasizes that drawing this conclusion from *Hamdi* is flawed and inapplicable to *Boumediene* because this decision applies only to the due process rights of American citizens detained at Gitmo, not to foreigners or to habeas corpus. Nonetheless, Roberts stresses that *Hamdi* is a correct decision for addressing detainee rights and no other decision is needed. This defense of Hamdi probably is the best precedent he can find that reinforces the theme of his narrative: foreign detainees pose a threat to the United States and this threat justifies restrictions to their legal rights.

4. Conclusion

This essay extends the strategic maneuvering theory of argumentation to account for the rhetorical features of appellate argumentation in common law legal systems. Although dialectical processes, such as advocacy and defense of interpretations of legal principles in appellate attorney briefs and oral arguments, aim to influence appellate judges to develop a consensus opinion, this outcome rarely occurs. Rather appellate judges create disparate judicial arguments with radically different interpretations of legal principles that reflect their individual goals with particular audiences. Judges writing for the majority create an

interpretation of what the national law is at the same time judges writing for the minority promote arguments that fuel dissent in public and political forums. While appellate decisions reflect a majority vote, they rarely create legal or public consensus.

In appellate argumentation, rhetorical processes are in the foreground and dialectical processes are in the background. The argumentation of the majority and dissenting judicial opinions reflect judges' rhetorical choices in the way they define, frame, embellish , and reason from precedent. My analysis of *Boumediene* shows that appellate argumentation is an activity type that differs from adjudication. It consists of multiple discourses; the phases of critical discussion are not defined; the reasoning is intersubjective; judges pursue rhetorical goals related to particular legal, political and public audiences; and the final published argument continues public debate about a legal principle rather than creates a consensus agreement.

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ISSA Proceedings 2010 – The Rationality Of Rhetoric: How To Cope With Human Limitations

The Problem: Obeying rules of pragma-dialectical model in real life is unreasonable

Within the pragma-dialectical theory of argumentation (van Eemeren & Grootendorst 2004) discussants try to resolve a difference of opinion in a maximally rational way **[i]**. These rational agents are willing to engage in long-lasting and most complex discussions and sub-discussions when assessing the plausibility of standpoints. Other needs have to stand aside. In order to account for rhetorical moves, the concept of strategic manoeuvring has been added to the pragma-dialectical model (van Eemeren & Houtlosser 1999, 2006; van Eemeren 2010), with rational agents aiming for rhetorical effectiveness while still maintaining dialectical standards of reasonableness. However, the extended pragma-dialectical argumentation theory does not account for systematic interaction between rhetoric and dialectics. Rhetoric is a supplement that may be taken into account, a non-rational appendix to rational argumentation that has to subordinate to the demands of the dialectical rules (cf. a similar critique by Hohmann 2000).

A specific problem arising from the idealizations of the pragma-dialectical model is that it cannot be implemented in real life. As pointed out by van Eemeren (2010, p. 4), "the ideal of a critical discussion is by definition not a description of any kind of reality but sets a theoretical standard that can be used for heuristic, analytic and evaluative purposes". The model establishes normative standards of reasonableness for criticizing arguments, but it does not provide rules for constructing rationally justified arguments in practice.

To illustrate this last point, let us see where the ideal model of pragma-dialectics takes us, if we strictly obey its rules, i.e. if we proceed in a strictly rational and dialectical manner. According to rules 7 and 8 of the ideal model (van Eemeren & Grootendorst 2004, pp. 147–151), all premises and justifications of an argument that were left implicit need to be reconstructed, in case of any doubt, by means of

the *intersubjective explicitization procedure* and the *intersubjective testing procedure*. These procedures ensure a mutual understanding of the premises and argument schemata that have been used in an argument, and they test whether these premises and schemata are admissible and have been applied correctly. One can imagine how large the expenditure of time would be in real life if agents would follow these rules. Almost every argument contains one or the other implicit premise. The propositional content of statements is fuzzy and the formal shapes of argument schemata are far from clear. It may take hours for the discussants to agree on the precise content of a proposition or the shape of an argument scheme and its applicability. Usually, the validity or invalidity of an argument depends on just those formal and semantic particulars (cf. also Krabbe 2007 on the functional overload of the opening stage with such issues).

Perfectly rational agents, however, would never let this keep them from resolving their difference of opinion in a maximally rational way. Thus, they accept a rule that one would better not insist on in real life: The protagonist may at any time retract any speech act that he has performed (rule 12 in van Eemeren & Grootendorst 2004, pp. 153f.). This is to say that the antagonist has to accept that the protagonist puts forth claims consecutively, just to retract them one after the other. Expenditures of time carry no weight in the ideal model, after all. This course of action is rationally justified as long as the testing out of several claims serves rational objectives. There is only one thing that must not happen even without any time pressure: discussants must not end up with an infinite regress. That is why the following rule holds in the ideal model: The protagonist and the antagonist may perform the same speech act only once, and they must in turn make one move of speech acts (rule 13 in van Eemeren & Grootendorst 2004, p. 154).

The rules presented so far are normative. Any deviation from the rules counts as a fallacy, i.e. as a deficient move in argumentation (van Eemeren & Grootendorst 2004, pp. 174ff.), a derailment of strategic manoeuvring (van Eemeren & Houtlosser 2006, pp. 387f.; van Eemeren 2010, pp. 187ff.). If we compile a catalogue of those fallacies, we find quite useful moves on this list such as: presenting pros and cons in a systematic way is fallacious as you are allowed only one speech act in turn; at the same time, repetitions of speech acts, e.g. due to noise or misapprehensions, are not allowed in the discussion; premises that are taken as a matter of course must not be left implicit, but have to be made explicit

as soon as an argument is challenged; the same holds for argument schemata, they have to be made explicit and be tested for their correct application.

The fact that these rules are hardly ever met in real life need not be of any concern to the ideal model, as it is absolutely legitimate to make idealized assumptions. The more so as these rules are not meant to be used for conducting real-life argumentation. What is astonishing, however, is that adhering to these very rules of the ideal model seems highly unreasonable in real life, although the rules should specify a rational course of action. Why is it, then, that not following the pragma-dialectical rules seems reasonable rather than irrational?

2. *A problem analysis: Human constraints are not taken into account*
Although the ideal model might work in an idealized world it would hardly be applicable in real life. And the reason for being so seems quite obvious: human beings are by nature subject to various constraints, and it is these constraints that make obedience to the rules seem irrational. Among the most important human constraints are the following.

(1) *The limit of time*: Humans do not live forever, and therefore they cannot discuss issues forever.

(2) *The limit of information*: Humans only have limited access to the information relevant to their decisions. Sometimes they have to argue on the basis of premises the applicability of which has to be assumed but just cannot be verified.

(3) *The limitations of memory*: Sooner or later, humans forget the things they hear. Most humans are not able to follow a discussion without losing one or the other information.

Humans cannot pursue the resolving of a difference of opinion in a perfectly rational way simply because they are not perfectly rational agents. Instead, they have emotions and intuitions, which they rely on in social contexts, and this is what they do within discussions, too.

By largely ignoring these limitations the pragma-dialectical model decreases its applicability in the real world. Nonetheless, a more applicable model can be derived from the ideal model by systematically taking into account the limitations of human beings.

3. *The solution: A rhetorical model of argumentation*
The question then is: If agents are aware of their limitations, how could they best deal with them? How may they arrive at a result that is as close to the ideal result as possible? Rhetoric offers answers to these questions by recommending well-

proven, problem-oriented guidelines for discourse. Rhetorical considerations permit the effective composition of a speech. They cannot neutralize human constraints, but they can reduce the negative effects of these constraints.

A praxis model of rhetoric has to be put next to the ideal model of pragma-dialectics in order to understand the rationality of real-life argumentation. It is not idealized, perfectly rational *homines dialectici* that act within such a praxis model, but *homines rhetorici* with limited time, limited rationality and limited memory. *Homo rhetoricus* is quite aware of his limitations, and he tries to reach the best result under the given circumstances. He knows about his limited memory that makes him forget things. He knows that supposed premises may be false and that this could lead to false conclusions. He knows about his limited rationality that goes against rationally justified results. However, he tries to get the most out of the resources available. His objective is to persuade the recipient nonetheless. He merely succeeds in reaching a compromise between invested time and desired thoroughness, between logical complexity and logistic efforts, between plausibility and rationality (a similar idea can be found in Jacobs 2006). The sustainability of these compromises must prove in the course of time by success or failure of diverse rhetorical strategies and by their consequences in practical life.

3.1. Two simple examples: Alliteration and metaphor
Three examples (two simple ones and a more complex one) may illustrate the idea. The rather simple ones concern alliteration and metaphor. Below are given some well-known advertising slogans.

(1) *Don't dream it. Drive it.* (Jaguar)

(2) *Britain's best business bank* (Allied Irish Bank)

(3) *Today Tomorrow Toyota* (Toyota)

(4) *Persil – washes whiter.* (Persil)

Advertising slogans need to be short and memorable to be successful. And the memorability of the slogans just cited is established by alliterations. Those mnemonic sentences are imprinted not only on the speaker's memory, but also on the hearers' ones. With respect to a praxis model of rhetoric this means that figures of repetition, like alliteration, are a direct answer of rhetoric to a concrete problem that *homo rhetoricus* has, namely that of limited memory.

The second example concerns metaphors in science. I choose the Bohr Model of atoms. Bohr's model depicted atoms as small, positively charged nuclei that are surrounded by electrons, and these electrons travel around the nucleus just like the planets move around the sun in our solar system. Although this model is obsolete in modern physics, the metaphor is still alive in modern theories that speak of atomic orbitals, electron clouds, and wave-like behaviour of particles. These metaphors acquired the function of names for abstract relations. It seems that metaphors like "orbit" or "path of an electron" are helpful, if not necessary, to envisage extremely abstract configurations. If I think of an "orbit" and the "path of an electron" I automatically think of small globules revolving around a central nucleus, i.e. I am transferring a concrete image in my mind to an abstract relation. This is an original rhetorical technique – with all its problems and dangers. Metaphors help to imagine abstract ideas. They transform abstract entities into concrete entities. And it is the concrete things that humans can best think about. Metaphors thus fill in linguistic gaps so that we may articulate concepts that we otherwise would not have been able to talk or even think about. With respect to my praxis model of rhetoric, this means that linguistic and cognitive limits of *homo rhetoricus* are compensated for by the rhetoric mean of metaphor.

3.2. A complex example: Usage declaratives
As a third and last example the rhetorical function of usage declaratives is to be analyzed. Usage declaratives are speech acts that explicate the usage of a word, for example definitions or paraphrases of a certain term. From the language economic point of view, paraphrases of a term (and the like) are violations of the commandment of brevity: "If you can say it with fewer words, then do so!" The use of more words than necessary is justified only (a.) if quality rises with quantity, that is: if you can say it more precisely by using more words. Or (b.) if it saves you words in the long run by introducing definitions.

The rational justification of the second possibility is quite straightforward. If one needs fewer words by introducing new terms, then the usage declarative indirectly meets the requirements of brevity. But what about the first possibility that quality rises with quantity? What is the rational justification from *homo rhetoricus'* point of view? Does not the use of ambiguous terms offer rhetorical advantages, if you do it right? The solution proposed here goes as follows: *Homines rhetorici* are well aware of the fact that they do not have precise

expressions for everything in their language. However, their limited rationality suffices to recognise that imprecise wordings may lead to misunderstandings. If discussants understand one and the same term in different ways, for example, they might think that they have a difference of opinion, though they both agree concerning the issue and only construed a term as different meanings. Or the other way round: they use the same term, but mean different things. It might appear as if they agree, although they diverge in substance.

But every speaker knows, at the same time, that his audience knows about the problem of vagueness. *Homo rhetoricus* anticipates this problem in his communication, and he tries to avoid any obscureness that could, from his point of view, become a problem. It is because of the available language, the limited rationality, the limited time for preparation, that he cannot avoid all ambiguity. It is not because he would act in bad faith.

3.3 The functionality of ethos

But why, then, should *homo rhetoricus* not deceive and mislead his listeners by vagueness? After all, he subordinates everything to the goal of persuading his audience. The reason is that there is a subsequent speech for every *homo rhetoricus*, when he has to step in front of an audience once more, and the audience again knows about the problem of vagueness. If in the meantime it should prove that he manipulated and misled his audience last time, then he would find it much more difficult to persuade his audience once again. (This is not the *universal* audience that Perelman & Olbrechts-Tyteca 1969 employed and which Tindale 2006 also relies on to ensure rationality. It rather is a *particular* audience consisting of imperfectly rational individuals).

Rhetoric introduced the technical term *ethos*, denoting the overall moral character of a person, his habits, his conducts, and his convictions. Every *homo rhetoricus* carries around with him such an ethos mark. Every convincing speech raises his ethos in the listeners' view, if it proves of value in the long run. Every speech that turns out to be demagogic lowers his ethos in the listeners view. Ethos is a moral asset. *Homo rhetoricus* cannot afford to squander his credibility because his actions are geared towards long-term success. His arguments are always evaluated against the background of his credibility. On the one hand, the arguments of a notorious liar do not count. On the other hand, it is only with great effort, that the arguments of an acknowledged authority can be challenged.

If, for example, the sky diving instructor tells me to put on the harness this way

around, as otherwise I should not be safe, then I would need very good reasons for rejecting his advice. In case of emergency, it does not occur to many of us to question the expert opinion and trust the lay assessment instead. The instructor has a self-interest in his customers' reaching the ground safely. His reputation depends considerably on that. This is why he would not mislead us. But if an unknown skydiving pupil tried to convince me that it would be a better idea to put on the harness the other way round, then I have every reason not to let me be convinced. There is not enough deposit in his ethos account. Even if his arguments sound as plausible as possible, he still would not be able to compete with the instructor's opinion.

Taking ethos into account, effects that in rhetoric the status of a person gains importance. Which is, from a pragma-dialectical point of view, a deviation from the rational course of action. But in practice we have to rely on the assertions of other people, as no one can know everything and verify everything. And this is why the accumulation of credibility – of ethos – is so important. Scrutinizing all proponents' standpoints in conformity with the pragma-dialectical rules would impede not only all of our communication activities, but would impede most of our actions.

3.4. Rules within the praxis model

Certain rules hold within the praxis model of rhetoric, which are normative, just as the rules in the ideal model of pragma-dialectics are. In contrast to the dialectical ones, though, these rules have to be applicable in practice and have a chance to lead to results in real life. A normative persuasion rule is on top.

(1) Persuasion rule: "Try to maximize your success of persuasion in the long run!"

The main objective of *homo rhetoricus* is to win discussions. He wants to persuade others, not figure out the truth. The ethos mechanism acts as a counterbalance to this dangerously egocentric rule.

(2) Ethos mechanism: "Every conviction effected by the speaker that proves untenable, lowers the ethos of that speaker, and therewith the persuasive power of all consecutive contributions of the speaker who is made accountable for effecting the untenable conviction."

As *homo rhetoricus* is to maximize his long-term success over a long sequence of contributions, he needs to take into account the ethos mechanism whenever he puts forward an argument, since the ethos account cannot be high enough for

reaching the long-term success.

Regarding the disposition of a speech, I assume a normative rule of disposition.

(1) Disposition rule: "When speaking, take into account the constraints that you and your recipients are subject to."

The constraints mentioned here regard the available time, language, memory etc. The use of various rhetorical means can be derived from this rule: shortening, amplification, repetition, and metaphor. These methods are permitted as long as they serve the resolution of a problem that arises from the limits of *homo rhetoricus*.

No more rules are needed to get the model started. The interaction of the ethos mechanism and the normative rules should result in the effect that it would be unreasonable and irrational for *homo rhetoricus* to pursue persuasive success by rhetorical tricks. The looming decline in ethos prohibits short-term thinking.

4. *Summary*

Limits of time, language, rationality, and so on prevent human beings from strictly obeying the rules of the ideal model. The most rational solution to this problem is to deviate from the rules. The rhetorical model offers a rational justification for a compromise between an ideal acceptability check and the constraints that apply in practice. This compromise is associated with both a cost and a promise. The cost consists of uncertainty whether the maximally rational solution has been reached. The promise is that no better solution could be reached under the given circumstances.

The optimality of rhetorical compromises can only be guaranteed over a whole series of discussions. Hence the most important rule within the rhetorical model is: "Try to maximize your success of persuasion in the long run!" The ethos mechanism acts as a counterbalance. It assures that every untenable conviction effected by the speaker lowers the ethos of that speaker. And this also lowers the persuasive power of his consecutive speech acts. Various rhetorical means can be derived from the rule of disposition. These figures are aimed at dealing rationally with the constraints of time, language, memory, and so forth.

NOTE

earlier draft of this paper. The remaining shortcomings are my own.

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ISSA Proceedings 2010 – Rhetoric And Argumentation In Advertising: TV Campaign "Let's Live Like

Galician"

1. *Introduction*

The aim of this paper **[i]** is to analyze the persuasive effectiveness of the video *Vivamos como Galegos* [Let's live like Galician] and to underlie its three main features: 1) indirectness; 2) emotiveness; 3) multimodality.

Galicia is one of the 18 Spanish administrative regions. The local language is Galician (a variety of Portuguese), which is spoken, not without some complexity, together with Spanish. A very strong feeling of local identity is common within the inhabitants of this country. This feeling has become a real nationalist stance, which has also institutional expression in political parties.

In 2007 a Galician local company called GADISA (*Gallega Distribuidora de Alimentos*, i.e. Galician Food Supplier) started a campaign in order to increase its sells in its supermarket chain called GADIS. The commercial reach of the campaign is Galicia itself. The campaign is aimed at enhancing GADIS market against its main competitors, which are all foreigners: Carrefour, Alcampo, and Día (France), Lidl (Germany), Eroski (Basque Country, Spain), Mercadona (Valencian Community, Spain).

The campaign was designed by the advertising company BAPConde and utilized various forms of media (TV, radio, posters, web, etc.). The campaign started with the video we treat here. All the videos or advertisements feature the same concept: praising the Galician way of life, trying to reverse a previous feeling of inferiority, and transforming this inferiority into pride or in feeling of superiority for being Galician. We chose to deal with the video *Vivamos como Galegos*, because it was the original, it was the first broadcasted on television, and it was by far the most popular of the series – people frequently use expressions employed in the commercial, or they consciously stress behaviors displayed in the video, or their mobile phone tone is the video's soundtrack. The video also had commercial success: as states Miguel Conde, President and Art Director of BAPConde, thanks to this video, the selling volume of GADIS increased 4.7%.

2. *Video transcription*

A transcription of the video with its translation in English and short descriptions of characters and scenarios is presented below. Every scene (S1, S2, etc.) has different characters and scenarios. We considered the performance of the main

character as a single scene interrupted by other scenes. Italicized 5) and 6) indicate Spanish, instead of Galician.

S1: the main character (character A) returns from a trip; his mother, father and sister are picking him up from the airport. The protagonist, sitting in the car, talks to his relatives. Except when indicated otherwise, the utterances are made by character A.

1) Woah…you're better off here than anywhere else… (character A)

2) People are still kind, not too stressed

3) What? (B)

4) Out there it's different

S2: two persons running along the platform in an underground station.

5) *How are you doing? (C)*

6) *Here, going for the 5th tube of the day (D)*

S1: coming back to the main character in the car.

7) How can we not feel fine here?

8) Here we have the best beaches in the world

S1: view of a Galician beach from the car window, seen from the perspective of the main character. Coming back to him in the car.

9) The best omelette on the planet is

S3: a housewife in a kitchen, showing an omelette.

10) My mother's (E off-screen)

11) It's my mother's (F off-screen)

12) It's my mother's (G off-screen)

S1: coming back to the main character in the car.

13) We're optimistic by nature

14) For us everything is…

S4: two persons in a rural – very Galician – setting.

15) …"well" (H)

16) Is it warm? (I)

17) …well (H)

18) Is it cold? (I)

19) …well (H)

20) And how are the family getting on? OK? (I)

21) …well (H)

S1: the main character stops in the middle of the street to talk to a man walking along the street. From this point the main character talks off-screen.

22) We're positive by nature!

23) And Galicians never are wrong

S5: A child and his grandmother in a park. The child stumbles and falls and his grandmother says:

24) You'll fall!... (J)

S6: a girl in a kitchen, eating directly from the saucepan.

25) We can go home for lunch and see the family

S7: 3 foreground shots of two refrigerators wide open, full of food.

26) We love to see our cupboards and fridges always full

S8: two children playing in a park with a dog.

27) And when we see children we still smile at them

S9: an elderly man walking in a park with a child.

28) And they're welcome

S10: an elderly man dancing with a child.

S11: some young people playing table soccer.

29) We invented table soccer

S12: a football player in a press conference; a journalist asks a question off-screen.

30) And the absolute question

31) So Fran...? (K)

S13: a blackboard of a restaurant with the English phrase *octopus to the party*, subtitled as *pulpo a feira* (a typical Galician course made with boiled octopus).

32) Free translation

S14: a shaking hand touches the back windscreen of a car manoeuvring for parking.

33) And hand-parking

34) That's it, there, there (L off-screen)

S1: coming back to the main character in the square; people start moving nearer to him.

35) Go to your parents' for lunch whenever you can

S1: the main character climbs onto a car roof, talking to the people around him.

36) And if someone asks you a tricky question, ask one back!

S1: the main character gets off the car and mounts a brown horse; he starts galloping in a field; more and more people come up to him: they appear from behind; he talks to them as he canters along.

37) And if someone asks where the best soccer is played, answer categorically...

S15: a stadium full of people cheering.

38) In Galicia (M off-screen)

Final moments of Beethoven's Ninth Symphony; main character's voice is off-screen.

39) We have 17,340 different festivals

S15: two men in a stadium sharing some food.

S16: an elderly man and a young girl dancing in a rural setting.

S17: some young people standing around a pot chanting a *conxuro* (a traditional Galician spell).

S18: a beach full of people and bonfires during the summer solstice celebrations or the Festivity of Saint John (June 24th)

40) We've got *grelo* harvesters

S19: a woman with some *grelos* (turnip greens – a traditional Galician vegetable).

41) Goose barnacle hunters

S20: a *percebeiro* (barnacle hunter) in his wetsuit shows some barnacles from the sea.

42) We've got *orballo* (drizzle)

S21: foreground shot of fine rain falling upon some leaf.

43) Oak trees

S22: image of an oak tree.

44) Rain

S23: foreground shot of wet paving-stones.

45) Rain

S24: a typical rural Galician house (made of granite and slate) in the rain.

46) And…

S25: a typical Galician house in the rain.

47) Rain

S26: two persons playing and laughing in the rain.

S1: the main character riding the horse and talking to the persons facing the sea.

48) Where food is a religion

S27: a table in the middle of the garden of a typical Galician rural house; around the table some people are eating, and some children playing; (main character's voice is off-screen).

49) And if you don't go to your village on Sunday it's not a proper Sunday.

S1: coming back to the main character on horseback, alternating with shots of people standing on a hill. Protagonist keeps talking to them.

50) And where people aren't ugly, they're nice

51) It's time we realised that life here is really great

52) Let's enjoy our way of life

53) Let's live like Galicians!

3. *Methodological frame*

Our methodological approach is *transdisciplinary*. We are convinced that complex phenomenon such as persuasive discourse (especially if it is multimedial, as in this case) can only be examined through multiple perspectives and different analytical tools. For this reason we use, for this study, Traditional Rhetoric and modern Theory of Argumentation as well as (Critical) Discourse Analysis; Semiotics; Pragmatics; Social Psychology. Even what the advertisers themselves say about advertising is taken into account.

We specially draw attention to the performativity of speech acts (Austin 1962); to the idea that multimodal texts are more persuasive than monomodal ones; and to the fact that text and context are indivisible. Also two concept are fundamental for this analysis: the notion of image in the sense of Goffman (1965); and that of frame, used in the sense of Goffman (2006 [1974]) and Lakoff (2007).

3.1. Performativity of language

Following Austin we consider speaking as form of acting: describing the world (and what is going on in it) means building it, along with conveying speaker's attitudes and shaping listeners' attitudes about it; describing actors means construing them, and especially their image. In doing so the speaker shows his/her attitudes about actors and shapes listeners' attitude about them.

3.2. *Image*

According to Goffman, subjects construe/transmit an image of themselves in society, and they do so through actions/discourses. So subjects usually act/speak in society coherently with the image they want to construe/transmit. This is true at a microsociological level, but also at a macrosociological level, in unmediated interactive context (face-to-face) as well as in mediated ones (TV, web, radio). We can consider a subject everything that acts *as a subject*, for example institutions or companies, like GADIS. In order to construe and transmit an image of GADIS in/to society, GADIS 1) acts in a particular way; 2) and speaks in a particular way.

3.3. *Frame*

This notion is also based on Goffman's sociological research, albeit developed as a psycho-sociological tool. A frame could be defined as the system of mental structures shaping the way of seeing the world. Advertising discourses can: 1) confirm (already existing) frames, using them for economic ends; 2)

confutate/change frames (or even invent a new frame), use them for economic ends: for example for opening new markets or redirecting consumers' attitude/behaviors.

Actually, changing frame means changing the way of seeing the world and living in it.

Persuasive discourses could be aimed both at giving (or managing) some image of the speaker or changing/strengthening some frames in order to achieve certain goals.

3.4. *Context*

As Blommaert puts it: "context is not something we can just 'add' to the text – it is text, it defines its meaning and condition of use" (2005: 45). From this perspective text and context (if it is really possible to define where the former finishes and where the latter starts) are in a circular relation: they influence each other reciprocally.

In addition, context also influences the discourse meaning for the scholar. Actually without paying attention to the sociodiscursive context of the video *Vivamos como Galegos* it will be difficult to grasp its meaning and the way it works within the Galician society.

Galicia is traditionally one of the poorest Spanish regions, and one of the most depressed European zones, probably due to its geographical "peripherality" and to its "rurality" (rural economy and way of life). Galicians have traditionally emigrated in every part of the World. In some South American countries the term *gallego* (Galician) has a pejorative meaning, as synonym of *stupid* (as it appears also in the official Spanish *Dictionary, the Diccionario de la Real Academia de la Lengua Española*), and Galicians are often the ingenuous or thick protagonist of jokes. Feelings of inferiority compared to other countries or other Spanish regions are traditionally common among Galicians. At the same time, strong local identitarian/nationalist feelings also are common within Galician society.

3.5. *Multimodality*

Multimodality is the presence, in the same text, of different semiotic codes (ways of expressing the meaning), as, for instance, verbal, visual, and aural. They all cooperate in persuading receivers. The relationship between signs of different semiotic codes within the same text is argumentative. Signs of different semiotic codes may be in relation of complementation (for example, images complement words), contrast (images deny words), or exegesis (images explain words). In any

case, images or sounds reinforce the persuasive value of the words or vice versa. We will come back on this below with an example.

4. *Advertising and Aristotle*
As known, Aristotle stated the existence of three main discursive genres:
1) Judicial discourse, which judges things that have been done (in the past);
2) Deliberative discourse, which persuades receivers for (not) doing something (in the future);
3) Epideictic discourse, which praises/blames some person or institution.

According to Albaladejo Mayordomo (1999), who distinguishes between *central* and *peripheral component*, all rhetorical discourses have one main (central) component and one or many other secondary (peripheral) components. For example, conventional advertising whose end is convincing/persuading receivers for doing something (e.g. buying some product) does not simply belong to the deliberative genre: advertising has one central deliberative component (persuading receiver for buying the product) plus one peripheral epideictic component (praising the product).

The video *Vivamos como Galegos* also has one central component and a peripheral one. But in this case the epideictic component is central: almost the entire video is aimed at praising the present Galician way of life. The deliberative component is the peripheral one: just the final slogan "let's live like Galician" is aimed at convincing the receivers to adopt/keep the Galician way of life in the future.
Certainly the video has a deliberative goal, since it is aimed at persuading receivers to buy products form GADIS supermarket, but it tries to persuade them through an epideictic discourse, which tries to demonstrate the dignity and the positivity of the Galician way of life.

5. *Persuasion and attitude*
Persuasion is not a direct function of the discourse, but is mediated by attitudes (Petty & Briñol 2010; Petty & Wegener 1998, among many others). Persuasive discourses do not determine directly receivers' behavior (maintaining/changing their conduct in order for doing/not doing something). Rather, persuasive discourses can change or strengthen some attitude, which in turn determines (among other variables) behavior. Persuasive discourse acts on receivers' attitudes or representation, which constitute what we termed frame. Thus the

effectiveness of a persuasive discourse depends on the ability of managing socio-discursive frames in order to achieve the speaker's own interests. GADIS has to change receivers' frame/attitudes about Galicia/n(s)/nity. Since the given sociodiscursive frame of reference is the Galicians' sense of inferiority, GADIS tries to change this frame, by trying to persuade the receivers of being proud of being Galician, through a demonstration of how nice it is being Galician: "Let's realize how nice we live; Let's enjoy our way of life, Let's live like Galician".

6. *Indirectness*

The evidence that the epidictique component is the central one and the deliberative component is the peripheral one is that GADIS never explicitly impels receivers to buy from GADIS. Rather GADIS merely demonstrates that the Galician way of life is the best in the world. GADIS simply invites receivers (which are Galician) to live *their own* way: in reality speaker and addressee are in the same group, as shown by the form *let's*, which implies a subject like *us*, instead of a form like (*you*) *live.*

One of the last trends in advertising is not directly inciting the receiver to do/not do something, letting him/her infer it alone (Campmany 2005; Olins 2003). Accordingly the video *Vivamos como galegos* does not directly ask its receivers to buy some product. This indirectness probably was one of the most important reasons of success of the campaign:

1) Receivers actively cooperate in interpreting the argumentation (Eco 1979), and actively involving them in message interpretation increases persuasion.

2) The commercial shocks receivers' attention, which is essential for the remembering of persuasive messages.

3) The entire commercial constitutes a sort of *captatio benevolentiae*: it praises receivers' way of life (receivers are Galician, as the addresser); it does not threaten receivers' *image* with directive speech acts (Grice 1975; Searle 1965, 1969; Goffman 1959), as would a form like "(you) live like Galician".

Using the subject *us*, the speaker construes a group in which addresser and receivers are united by virtue of their *Galicianity*; this reduces the receivers' sensation of being an indefinite target of a persuasive discourse, and minimizes receivers' resistance to persuasion, increasing its efficacy.

7. *Discursive strategy: managing addresser's image and changing receivers' frame*

GADIS try to discursively construe and transmit an image of itself as an

institution not interested in defending its own economical and commercial benefit; but rather aimed at defending the Galician (addresser + receivers) way of life. Actually the video *A historia do avó* [the story of Grandfather] and the campaign "Changing the dictionary" started by GADIS for deleting the connotation of 'stupid' from the term *gallego* (Galician) within the Spanish Dictionary, were both coherent with this image: GADIS defends Galicians, their way of life, and their values.

At the same time, GADIS try to change receivers' frame, from a sense of inferiority to a sense of pride (and even superiority) for being Galician. Obviously, this kind of discourse is aimed at getting the receivers' empathy and sympathy, so they will prefer buying from GADIS supermarkets rather than other supermarket chains owned by foreigners. The slogan *Vivamos como galegos*, appearing at the end of the video with the GADIS logo, allows the receivers to recognize the addresser of the discourse (GADIS) and to infer: "GADIS is Galician (like us); GADIS defends (our) Galician way of life; GADIS defends us".

The commercial tries to change an existing frame, in which being Galician is seen as negative (in Galicia itself, in the rest of Spain, or in the World), substituting it with a new one, in which Galicia, Galician and Galicianity are positive. GADIS does not defend Galicia from the political/institutional nationalism standpoint, or from the position of some political nationalist party; rather GADIS just defends the local, the Galician (and in doing so it defends its particular economic and commercial ends). In order to make the message more acceptable within the Galician society (among the receivers there are nationalist but also not nationalist person), GADIS remains as most neutral as possible. So the video simply defends some features of the local identity, through the representation of some topics *about* Galicia/n(s) generally admitted and usually accepted *within* Galicia/ns. These topics displayed in the video are the discursive frame of reference.

8. Argumentative resources for changing frame

In the following lines we are going to deal with the main argumentative resources used by GADIS in order to change the existing pejorative frame about Galicia/n(s). They are: 1) the exploitation of topics of quality (Perelman & Olbrechts-Tyteca 2000); 2) the exploitation of emotiveness, humor, irony, and hyperbole.

1) The video continuously stresses the value of uniqueness, as an essential feature of Galicia/n(s): "here like nowhere else […] out there is different". This utterance is the base for a polarized construction of the world between Galicia and non-

Galicia, which characterizes the entire commercial: Galicia and its singularity are positive, whilst non-Galicia and its ordinariness are negative.

GADIS changes the existing frame of reference exalting Galicia/n uniqueness as a positive feature against the non-Galician banality.

2) Irony (or auto irony) is one of the best devices for overcoming one's defects through laughing or for minimizing them. As van Dijk (2003) argues, in every polarized description of actors, speakers emphasize positive in-group features and deemphasize negative in-group features. Accordingly, we can observe that in this video, the speaker emphasizes the in-group positive features stressing some (objective or perceived as) positive Galician habits/products/things; and it deemphasizes the in-group negative features minimizing through the humor some (objective or perceived as) negative Galician habits/products/things. Irony also allows the speaker temperate the aggressiveness of what could be perceived as a nationalistic defense of the local. Thanks to the humor, GADIS professes a sort of ironical (and funny) patriotism, which seems more hilarious if compared to the social context: the real existence of some Galician nationalistic aggressive movements within the Galician society.

Within the discursive devices through which the speaker implements its discursive strategy, we can observe two main ways of re-valorizing Galicia/n(s)/nity: 1) Emphasizing positive in-group features: listing some *per se* positive Galician features or Galician features generally appreciated in/out of Galicia; 2) Deemphasizing negative in-group features: listing ironically "negative" Galician features for inverting them, transforming them into positive features.

1) Emphasizing positive in-group features: listing some *per se* positive Galician features or Galician features generally appreciated in/out of Galicia: a lot of *fiestas* [parties]; good and abundant foods; niceness and amiability; products like *grelos*, *percebes*, table soccer (supposedly invented by Galicians), also renowned and appreciated out of Galicia; nice beaches; etc.

Everything is not just good, but it is the best in the world. It is a normal feature of the advertising discourse, but here the hyperbolic description of the positive features of Galicia maximizes their importance, accordingly to the typology sketched above about the polarized description of the world.

2) Deemphasizing negative in-group features: listing ironically "negative" Galician features for inverting them, transforming them into positive features. We normally have an initial situation, generally dealing with some negative stereotypes about Galician(s) or with some feature normally judged as negative, and a final situation where the initially negative feature has become positive.

Consider one stereotype about Galicians: indolence; for example, they always respond "well" to every question. Through a pun between the pragmatic value of *bueno* 'well', 'actually' (used as a discursive marker) and the semantic value of *bueno* 'good', 'fine', the speaker states that the reason why a man always responds "well" to every question is just optimism: "we're optimistic by nature". In this way we can observe a discursive transformation of a *frame*: the same event (always responding *well*) is seen from a new perspective that changes it from a negative feature (indolence) into a positive one (optimism).

Consider another stereotype about Galicia: in Galicia weather is always rainy. The protagonist of the video proudly says that "We've got chillwind...rain, rain, and...rain". The conjunction of these words with the images of two persons happily playing in the rain allows receivers thinking about the rain in a positive way: this discursively transforms the rain into a positive feature.

9. *Multimodality*

This last example allows us show the importance of multimodality. Verbal, visual, and aural signs cooperate in construing the meaning and in persuading the receivers. Signs belonging to different semiotic codes reinforce the peruasiveness of a message. In the video *Vivamos como Galegos*, we can easily observe a narrative structure where together with the main scene (S1) there are different scenes which each displays a different feature of Galicia/n(s)/nity. Each feature is represented by one scene which is visually, verbally, and acoustically different. In this way each scene works like a vivid *exemplum* of the Galician feature the speaker is dealing with.

Consider, for instance, the change between the S1 and the S2. There are many differences between these two scenes. Differences concern images, sounds, and words.

1) Images: different characters (protagonist's family vs. two unknown persons), different color tones (warm vs. cold), different angles of shooting (front vs. back; eye level vs. bottom-up), and different moving of the shoot (stable vs. moved).

2) Words: different discourses and also different languages. In S1 the hero itself makes a statement about the calmness of Galicia ("here like nowhere else; people is still kind here, not too stressed [...] out there is different") compared to the stress of non-Galicia (called "out-there"). Between S2-S1 there is also a switch from Galician (1-4) to Spanish (5-6) and again to Spanish (*7 et seq.*): protagonists of S1 speak Galician, whilst persons living "out there" (represented in S2) speak Spanish, which works as a typical representation of the out-group language.

3) Sound: variations in the soundtrack mark the difference between the peace of Galicia (S1: people talking in their car; the sound of a beach) and the noise of the city (S2).

Images, sounds, and words cooperate in construing the difference between S1 and S2. Iconical, acoustic and verbal signs together construe a dichotomy between *herein* (Galicia) vs. *out there* (non-Galicia), and between *us* vs. *them*. Obviously values are attached to these two spaces (Galicia vs. NO-Galicia): the *here* is judged as positive, whilst the *out there* is negative.

10. *Final remarks*

Discursively construing a positive feeling about Galicia/n(s)/nity and a negative one against the non-Galicia/n(s)/nity means construing identities. Actually GADIS defends a "solid" identity against the "liquid" one which – according to Bauman's definition (2003) – seems to prevail in the present postmodern times. GADIS defends the local identity (represented by the intimate, calm and safe, old Galicia) against the universal one (with its stress, its formality, and its unsafely large limits). GADIS protects the traditional identity (represented by the iconical, acoustical and verbal references to the family, the village, the quiet, the silence, the nature, and the rural world) from the modern one (represented by the tube, the noise, the acquaintance). GADIS defends the solid tradition against the modern liquidity. Obviously the validity of the defended values is self-justified; not proved, but instead taken for granted. GADIS' discursive strategy only tends to the fulfillment of its commercial and economical ends, namely increasing its sells. In doing so, GADIS tergiversates its own image: instead of representing itself as an institution aimed at its own benefit, GADIS acts and speaks as the defender of the Galicians' interests, what provided receivers' empathy and sympathy.

Indeed, the entire commercial is a sort of *captatio benevolentiae* aimed at obtaining the empathy and sympathy of the (Galician) receivers, who are GADIS' potential customers. In order to obtain their *benevolentia* GADIS has to show them that Galicia is the best place in the world to live in. It does this by the rhetoric devices listed above (topics of quality; inversion of negative aspects into positive features; hyperbole; irony). GADIS therefore changes receivers' representations about Galicia; whilst the speaker changes the receivers' frame about Galicia/n(s)/ness.

The *benevolentia* is also obtained thanks to the comic and pleasant narration, full of hyperbole and irony. GADIS uses these two rhetorical devices in at least two ways.

1) To make more pleasant its message. Accordingly to Pratkanis and Aronson (1994), the more pleasant the message is, the more persuasive and the more permanent in the receivers' memory it tends to be.

2) GADIS uses irony and hyperbole in order to temperate the aggressiveness of what could be perceived as a nationalistic defence of local values. It must be remembered that the audience is made up of nationalists and non-nationalists, as well as anti-nationalists. The commercial shifts from the real towards the unreal, ending in a hyperbolic narration, with ironic or humoristic effects, which is highly appealing to receivers. The intrinsic nationalistic aggressiveness of the scene is attenuated due to its lack of reality. Through the use of humour, GADIS professes a sort of ironic (and funny) patriotism, which seems more hilarious if compared to the social context: the actual existence of some Galician nationalistic aggressive movements within the Galician society. Therefore, GADIS strategically uses nationalism, through its parody (Screti 2009), in order to achieve its commercial and economical objectives.

NOTE
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ISSA Proceedings 2010 – Strategic Manoeuvring With Direct Evidential Strategies

1. Introduction

In this paper**[i]** , the linguistic expressions pointing to a sensorial type of information source are taken into account within the framework provided by the argumentation theories of pragma-dialectics in order to highlight the argumentative values that these expressions acquire in a particular context. The paper aims at confirming the previously mentioned hypothesis (Gata 2007) according to which evidential strategies do not serve only to indicate the information source, but they are endowed with argumentative value. In this context, they are approached in terms of presentational devices meant to sustain a standpoint by putting forward hardly refutable evidence.

The general framework of this study is provided on the one hand by traditional and recent studies in the field of evidentiality theory (Chafe 1986; Journal of Pragmatics, vol. 33, March 2001; Aikhenvald 2003; Gata 2007, 2009(1)) and on the other hand by the Argumentation Theory, developed by van Eemeren & Grootendorst in the 1980's and enriched later on due to the contributions of Houtlosser and Snoeck Henkemans, namely by means of the concept of strategic manoeuvring.

The first part of the paper aims at providing a clear cut distinction between several evidential strategies. The focus is placed on the verbs of visual and auditory perceptions (see, hear) which, according to the context, pertain to both types of evidentiality, namely direct vs indirect evidentiality. The second part approaches direct evidential strategies within argumentative discourses in the attempt to identify the types of strategic manoeuvring that stand out in the stages

of the resolution process. The analysis is performed on several excerpts of discourse**[ii]** taken from the Internet in which the authors attempt to convince the readers of the truthfulness of a particular standpoint.

2. Critical discussion and strategic manoeuvring

The model for critical discussion incorporates four stages which occur in the resolution process as well as "verbal moves that are instrumental in each of these stages" (Van Eemeren, Grootendorst & Snoeck Henkemans 1996, p. 280). It also puts forward, under the form of Ten Commandments, the rules both parties involved should observe in order to be dialectically reasonable, i.e. to "lead to generally acceptable opinions or points of view". (*Idem*, p. 32) Violation of these rules equals fallacies defined as "discussion moves which damage the quality of argumentative discourse" (*Idem*, p.21).

According to Van Eemeren, Grootendorst & Snoeck Henkemans (2002, p. 25), the four stages analytically identified in the model of critical discussion include:

1) the confrontation stage (the parties agree they are dealing with a difference of opinion);

2) the opening stage (the parties take up their roles of protagonist and antagonist, implicitly accepting the rules which govern the critical discussion);

3) the argumentation stage (the protagonist defends his standpoint against the critical responses of the antagonist);

4) the concluding stage (they evaluate whether the protagonist has successfully defended his standpoint).

Although aware that real-life argumentative discussions hardly fit into the given model, we admit that it may function as a useful pattern in relation to which the analysed argumentative discourses should be further placed.

More often than not, in argumentative discussions, the parties do not attempt only to reach the resolution of the difference of opinion, but they aim at resolving it in their own favour. In this context, the parties try to reconcile both their goals of increasing the acceptability of the standpoint at issue while intending to convince the audience of the correctness of the particular standpoint. This simultaneous pursuit of the dialectical and rhetorical aims leads to strategic manoeuvring. This concept is not always easy to grasp in a particular discussion since "the habitat of strategic manoeuvring is a context of controversy and critical testing where one party tries to steer the resolution process so as to serve his personal aims." (Krabbe 2008, p. 455)

Strategic manoeuvring refers to the "continual efforts made in principal by all parties in argumentative discourse to reconcile their simultaneous pursuit of rhetorical aims of effectiveness with maintaining dialectical standards of reasonableness". (Van Eemeren & Houtlosser 2009, p. 5) Strategic manoeuvring is a theoretical concept meant to bridge the gap between dialectic and rhetoric, between a "collaborative method of putting logic into use so as to move from conjecture and opinion to more secure belief" and a "theoretical study of the potential effectiveness of argumentative discourse in convincing or persuading an audience in actual argumentative practice" (Van Eemeren & Houtlosser 2006, p. 383). In each of the four stages for critical discussion, the parties, while keeping within the dialectical procedures of reasonableness and logic, make use of rhetorical devices with a view to making things go their way and to convincing the audience of the correctness of a standpoint.

Strategic manoeuvring becomes manifest at three levels in argumentative discourse, namely "in the choices that are made from the 'topical potential' available at a certain stage in the discourse, in audience-directed 'adjustments' of the argumentative moves that are made, and in the purposive use of linguistic (or other) 'devices' in presenting these moves". (*Ibidem*)To put it differently, speakers / writers may choose the material they find easiest to handle, the perspective most agreeable to the audience and they can present their contribution in the most effective wordings. (Van Eemeren & Houtlosser 1999, p. 484)

Despite the fact that these three levels of strategic manoeuvring have been analytically distinguished, in real-life argumentative practice, these aspects occur and function together. (Tindale, quoted by Van Eemeren & Houtlosser 2009, p. 5) I argue in this paper that direct evidential strategies should be considered among presentational devices that are put to good use by the speaker / writer in order to convey optimal rhetorical efficiency.

3. Direct evidential strategies

In general, *evidentiality* is referred to as the linguistic phenomenon, specific to some non-Indo European languages, indicating the way the source of information is grammatically marked in an utterance (Aikenvald 2003). The linguistic markers that point to the information source are called *evidentials*.

Plungian (2001, pp. 351-352), based on Guentchéva's work (1996), provides the following classification of evidential values:

a) the speaker has observed the situation directly, through visual experience;

b) the speaker has perceived the situation directly, but not through visual experience; we are dealing with a value that points to other senses (hearing and smelling);

c) the speaker has not noticed the situation directly since he was spatially and temporally separated from it; at this point, literature provides three possibilities that render indirect perception:

1) the speaker has directly perceived the situation S' which triggers an inferential process that leads the speaker to the initial situation S (inferential value);

2) he knows something which allows him to consider the situation S as probable (presumptive value);

3) he acquires the information concerning S from a third instance (hearsay value).

This typology is further enriched by Gata (2009(1), pp. 484-490) who provides a refined taxonomy of evidential functions starting from the same distinction between direct evidentiality (divided at a first level in performative evidentiality and non-performative / sensorial / experimental evidentiality) and indirect evidentiality (firstly classified in inferential and non-inferential evidentiality). The final classification comprises eight sub-classes for direct evidentiality and eight for indirect evidentiality.

In this paper, I have used the term evidential strategy to separate from the non-Indo European languages where affixes or particles are specialized in indicating the information source. In English, evidentiality is rendered by both lexical strategies and grammatical markers including verb tenses, epistemic verbs, adverbs, *verba dicendi*, and other various expressions.

Direct evidential strategies highlight the fact that the speaker has had access to the information conveyed in the utterance through visual or auditory experience and, moreover, that this information plays a significant part in the actual argumentative discourse (Gata 2007).

The most explicit evidential strategies belonging to this category are the perception verbs (*see, hear*): *I see her coming down the hall*. The use of present continuous may also have an evidential value. Chafe (1986, p. 267) argues that the sentences *I see her coming down the hall* and *She's coming down the hall* are equivalent, except for the lack of evidential specification in the latter. However, my opinion is that the two assertions are not equivalent, since in the latter case, the knowledge can be issued from direct, auditory experience and not necessarily visual (*when hearing her walking down the hall, wearing high hills*, for instance). An inventory of possible direct evidential strategies should also encompass

expressions (*Here it is!*) and interjections (*Whoops! My God!*) usually accompanied by an admirative value (Scripnic & Gata 2008, p. 381).

From the whole range of direct evidential strategies, I deal in this paper with evidential structures centred on a perception verb such as *I see / saw he is / was ill. I hear / heard he is / was coming*.

By adopting the pragma-dialectical perspective according to which any discourse is a priori argumentative since it aims more or less overtly at convincing the interlocutor / audience / readers about the acceptability of a standpoint, I attempt to highlight the part evidential strategies play in dialectically solving the difference of opinion and in reaching the rhetorical goals that the parties involved have set. I assume that these strategies contribute to supporting a standpoint by putting forward visual and auditory type of evidence as well as to obtaining and to enhancing the other party's commitment to this argumentation presented as objective, although through the speaker's subjectivity.

Before approaching direct evidential strategies in the framework of the critical discussion, it is worth assessing the relation between the verbs see, hear and the type of evidential strategy they are likely to bring to the fore.

4. Types of evidential strategies centred on the verbs see and hear
4.1. See

The verb see, according to its meaning, may point to two types of evidential values:

a) *I see mom leaving the house* (direct evidentiality – visual perception of the event);

b) *I see mom has left the house* (indirect evidentiality – inferential process triggered by other clues that the speaker took notice of: *door locked, absence of his mom's coat*, etc.).

In order to account for their argumentative function, the two utterances may be followed by another one such as *So we can come in and listen to music without being disturbed*. In both cases, we are dealing with visual perception, but the difference lies in the fact that, in the first case (a), the speaker is a direct witness to the event (*his mother's departure*), while in the second case (b), the speaker visually notices certain clues which lead him, through an inferential type of reasoning, to the conclusion that *his mother has left the building*.

The two evidential values (direct and indirect) become manifest in the real life argumentative discourse:

(1) *I see* that death is the only option…
I sit on the edge of my bed every night with thoughts of pulling the trigger…
(http://help.com/post/342555-i-see-that-death-is-the-only-optio)
In (1), the verb *see* functions as a verb of opinion, namely *I believe that, I think that*; it points out that the speaker has had access to the information conveyed (*death is the only option*) through reasoning based on the direct experience of a series of situations related to the situation described.

When the verb *see* occurs in the present perfect or past tense, it commonly functions as a direct evidential strategy. This value is reinforced in some contexts by the use of the facultative and pleonastic element with *one's one eyes***[iii]**. Gata (2009(2)) explains that the adding of the element *with one's own eyes* may be justified by the fact that the speaker feels the need to make a distinction between the multiple meanings which the verb *see* has developed besides the meaning of sensorial perception: (for instance, *understand, imagine, seize the reasons of*).
Direct evidential strategies centred on the verb see can be envisaged as having the following general schematic form, by means of which the speaker attempts to impose the truthfulness of a propositional content on the audience (Figure 1):

Figure 1

(2) *I've seen* the Honda Fury, and It's…… uh, real. And unfortunately that's all I can say about it until January 16th, due to an embargo agreement I signed.

(http://motorcycles.about.com/b/2008/12/18/ive-seen-the-honda-fury-and-its.htm)

(3) "*I saw it with my own eyes how civilians were shot.*"
I was an eyewitness. I was on vacation at home taking a break from my studies at school in Rezekne. There was a cemetery 3 kilometers away from us. My father said that there was a Nazi order for all the people in the village to take spades and go – I did not know where and why. When we came, we saw a big pit, a ditch around 15 meters deep. The bottom was covered with sand. It was very strange, and it turned out that 800 Jews had been shot dead in Karstov. It was such a psychological blow for me. I realized what Nazi rule meant (Vladislaus Buklovskis, Latvia)
(http://victory1945.rt.com/witnesses/saw-shot-dead-nazi/)

In (2) and (3), we can identify direct evidential strategies which point to a visual perception of the events (*the creation of a new type of motorbike; the civilians shot by the Nazis*). According to the different propositional content as well as the rhetorical effect pursued, the speakers have adopted different ways of using direct evidential strategies: in (2), the speaker gives as a single argument for the existence of the motorbike Honda Fury his visual perception of the object: *it exists because I saw it*, enhancing therefore his ethos as a trustworthy person whose words cannot be questioned; in (3), the speaker makes use of two direct evidential strategies which point to the same way of access to the information conveyed (*I saw it with my own eyes, I was an eye witness*); these expressions are endowed with powerful rhetorical effect since he attempts not to convince the readers of the events described (everybody being aware of the Nazis' horrors), but to draw their attention in order not to forget that such atrocities took place. Moreover, the repetition of the information source aims at dismissing any attempt of attack from the other party and at imposing the standpoint on the audience.

4.2. *Hear*

The verb *hear* may enter two types of evidential strategies, according to the context:

a) *I hear / I've heard people shouting in the street.* (direct evidentiality – auditory perception of the event);

b) *I've heard he has been dismissed*. (indirect evidentiality – reportative value since the speaker has got the information from a third instance, not overtly mentioned in discourse; in this case *I've heard* can be considered synonymous to *I was told*).

When the verb *hear* points to an indirect access to the knowledge conveyed in the utterance, this knowledge proves to be uncertain; that is why, more often than not, the speaker requires a confirmation of the knowledge peddled by the community and related to the speaker's interests.

(4) *I've heard* that the police are now using lasers in addition to radar to catch speeders on the highway. How does a laser measure the speed of a car?
(http://www.scientificamerican.com/article.cfm?id=ive-heard-that-the-police)

In example (4), the speaker is not obviously an auditory witness to the use of lasers to catch speeders on the highway. He derives this knowledge from the public opinion which peddles certain information whose truthfulness needs to be confirmed by the appropriate authorities.

Direct evidential strategies centred on the verb *hear* usually have the following schematic form *(Figure 2)*:

$$I\ hear_{present\ /\ present\ perfect\ /\ past\ tense} + X\ (entity_{[-animate]\ /\ [-animate]}\ dealt\ with\ in\ the\ utterance) + verb_{infinitive}\ (act\ of\ saying\ or\ act\ of\ doing) \Rightarrow it\ is\ true\ X\ said\ /\ did\ it.$$

Figure 2

I hear_present / present perfect / past tense + X (entity[+animate] / [-animate] dealt with in the utterance) + verb_infinitive (act of saying or act of doing) ⮕ it is true X said / did it.

(5) In February 2001, *I heard* Colin Powell say that Saddam Hussein 'has not developed any significant capability with respect to weapons of mass destruction. He is unable to project conventional power against his neighbours.' (http://www.lrb.co.uk/v27/n03/eliot-weinberger/what-i-heard-about-iraq)
In (5), the verb *hear* points to the speaker's direct perception of the act of saying; he attempts to avoid any doubt that may raise whether the act of saying took place or not. Therefore, the information cannot be questioned since it is presented as issuing from the speaker's perception which cannot be misleading.
Furthermore, this paper approaches direct evidential strategies with the view to identifying their place within the critical discussion as well as their role in argumentatively supporting a standpoint.

5. *Direct evidential strategies – presentational devices of strategic manoeuvring*
The examples meant to highlight the hypothesis are taken from blogs and discussion forums; therefore, it may be assumed that we are dealing with a special type of argumentative discourse in which the protagonist is defending a standpoint against the implicit attacks of a virtual antagonist (readers, public opinion).
Firstly, I aim at establishing in which stage of the critical discussion direct evidential strategies are likely to occur. Secondly, the enquiry is directed towards approaching evidential strategies as strategic manoeuvring devices.
As it has been mentioned in part 2, in the model of critical discussion, the resolution of a difference of opinion goes through four stages that are not always explicitly retraceable in a real-life discussion. The evidential strategies *I saw / I've seen (that)* and *I heard / I've heard (that)* are most likely to occur in the argumentation stage when the protagonist "methodically defends the standpoint

at issue against the critical responses of the antagonist" (Van Eemeren, Grootendorst & Snoeck Henkemans 1996, p. 282).

(6) *I saw it with my own eyes,* so it must be true (title)
Every day that the courts are in session, person after person tells lies in the witness box. Each will swear to tell 'the truth, the whole truth, and nothing but the truth,' and the majority will fail miserably to do so. Because the absolute truth is a tricky business to pin down.
(http://brianclegg.blogspot.com/2010/02/i-saw-it-with-my-own-eyes-so-it-must-be.htmlthe)
In (6), the protagonist claims to stay within the bounds of reasonableness as he attempts to convince the audience that in the courts of justice, people tell lies despite of having sworn to tell the truth. The single argument that the protagonist puts forward is the fact that he was an eye witness to such behaviour in court. This single argumentation displays the basic structure in which we can identify one explicit and one unexpressed premise:
– the explicit premise: *I saw people in court telling lies after they had sworn to tell the truth*;
– the unexpressed premise: *the situations that one can perceive are true*;
– conclusion: *it is true people lie in court*.
In this case, the argumentation can be also interpreted as: a) a symptomatic type of argument scheme: if I saw the event (and all that can be seen are true), the event is real and everybody should represent it as I have seen it (Gata 2009(2)); b) a causal type of argument scheme: the event is true because I've seen it.
This single argument issued from visual (and auditory) perception is assumed to have a high degree of tenability in the light of critical responses. Therefore it cannot be attacked through rational moves since it is presented as coming from visual experience which cannot normally be deceptive. The feeling that we are dealing with hardly refutable evidence allowed the protagonist to draw himself the conclusion (*it must be true*), instead of letting the audience reach the same conclusion and accepting the standpoint at issue as true. However, the argument can be undermined in two ways: a) by attacking the relation existing between the premises; b) by violating the rules for critical discussion, namely by casting doubt on the protagonist's credibility and image.
The direct evidential strategy based on auditory perception is likely to have the same values as the visual evidential:

(7) *I heard* Palfrey *with my own ears* tell an Austin radio host that if she is ever found dead, it wasn't suicide and that she would never do that. Debra Jean Palfrey was murdered.
(http://www.democraticunderground.com/discuss/duboard.php?az=view_all&address=389×3232114)

In (7), the protagonist attempts to impose a standpoint on the audience (Debra Jean Palfrey was murdered). In doing so, he does not introduce himself as someone who was an auditory witness to the crime itself, but as a witness to an act of speech (*Palfrey's statement according to which she would never commit suicide*). Therefore, in this case, the protagonist commits himself to the truthfulness of the propositional content of the act of saying while aiming at convincing the audience of the truthfulness of an act of doing (*Palfrey's being murdered*).

In both cases of direct evidential strategies (visual and auditory), the protagonist strategically manoeuvres the pole of ethos by appealing to his previously built image as a man whose words are to be trusted. We can speak about manoeuvring with argument from authority: we refer here to the case when the protagonist evokes his own authority in order to impose the standpoint at issue on the audience. In this way, one can speak about the speaker's intent to manipulate the readers.

(8) "*I saw* the match yesterday and they play well, they have big chances to promote from the second league if they go on playing like this." (Iuliu Muresan, president of the football team CFR Cluj)
(http://www.citynews.ro/cluj/sport-9/muresan-am-vazut-cu-ochii-mei-sacosa-4312/)

In this example, the protagonist backs his standpoint (*the football team has big chances to promote*) with some information derived from his direct experience (*he was a visual witness to a match where the team played well*). At the same time, he attempts to manipulate the audience since his argumentation is based more on ethos and less on logos; he exploits his image as an experienced manager who is able to draw a conclusion about the trajectory of a football team just by witnessing one of its performances.

In the light of these observations, it can be argued that direct evidential strategies may function as strong rhetorical devices (the visual and auditory perceptions expressed by the verb *see* / *hear* are increased by the use of the pseudo-pleonastic expressions with *my own eyes* / *with my own ears*) by means of which the party aims at convincing the readers of the correctness of the

standpoint. This observation is underlined by Gata (2009(2)) who states that the use of evidential expressions in discourse aims at making the others believe that an event E took place and this equals presenting the propositional content as true.

Speech acts are accomplished at every stage of the critical discussion. They account for the pragmatic insights that the dialectic of the critical discussion puts forward. In the argumentation stage, direct evidential strategies (*I've seen with my own eyes, I've heard with my own ears*) attempt to advance arguments through an assertive speech act. Gata (2009(2)) introduces the notion of covert directivity which involves a persuasive act (the perlocutory effect of getting the audience committed to the representation of reality proposed by the speaker) and can be understood as follows: Y*ou must believe me because I've see / heard it*. In this case, the commitment to the propositional content may be enhanced. This is the reason why the argument based on visual and auditory perception proves to be efficient and tenable in the light of critical responses and it can only be attacked by violating the rules for critical discussion (for instance, by a fallacy such as *ad hominem*, attacking the person).

6. *Conclusions*

The analysis of perception evidential strategies points out how the rhetorical opportunities of strategic manoeuvring are used in argumentative discourse so that one party could resolve the difference of opinion in his favour. The model for critical discussion provided by pragma-dialectics allowed for the approach of these strategies in terms of the stages where they are likely to occur. In this context, it has been established that direct evidential strategies can generally be used in the argumentation stage (with a view to defending the standpoint at issue) so that the arguer could strategically manoeuvre the discussion in such a way so as to reach both his dialectical and rhetorical goals. Evidential strategies usually perform the act of asserting, bringing to the fore a very tenable argument in the light of critical responses.

Firstly, I highlighted the evidential value of the strategies centred on the verbs *see* and *hear*. At this point, it was shown that the structures under study do not always function as direct evidential strategies. According to the context and the verb tense, these verbs render both direct and indirect evidentiality: visual perception and inferential values (for the verb *see*) and auditory perception and reportative values (for the verb *hear*).

In analyzing direct evidential strategies in discourse, I pointed out that they are

likely to occur in the argumentation stage when the protagonist defends his standpoint against the implicit attacks of a virtual antagonist (the readers). They put forward strong evidence since issued from direct experience which is not normally misleading. The speaker aims at increasing the acceptability of a standpoint which he fully commits to. While accomplishing assertive speech acts which cover however a directive value, these strategies represent reader oriented rhetorical devices. The party may use the strategy of the argument from authority (his/her own authority), enhancing his/her ethos as a trustworthy person whose words cannot be cast doubt on.

NOTES

[i] This study is part of the research developed within the PNII-PCE 1209 / 2007 Project financed by the Romanian Ministry of Education, Research and Innovation.

[ii] The examples are provided with their original spelling.

[iii] For a thorough study of the stylistic, semantic, pragmatic and rhetorical values of the pleonasm like constructions see with one's (own) eyes, hear with one's (own) ears, see Gata (20092).

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