

ISSA Proceedings 2010 - Are Motivational Thoughts Persuasive And Valid?



1. Introduction

In this paper, I would like to examine the rhetorical status of the *1948 Human Rights declaration*.

In order to do this, I first go back to Perelman's theory of argumentation by shedding a light on its juridical thought.

This approach will question the status of "*natural law*" from a rhetorical point of view, as it is expressed in the *1948 Human Rights Declaration*, considered as an expression of natural law today.

Second, I describe four levels of belief expression, and their discursive and rhetorical functions, as they appear in the Human Rights charter:

- a literal level
- a conventional level
- a fictional level
- a motivational level

It will be argued that such a complex construction is possible thanks to rhetorical skills that are shared by every speaker and hearer.

Finally, I analyze the human rights charter's first article in the light of four levels of representation.

2. Perelman and Natural Law

Let us go back to Perelman and Natural Law. As it is argued by Francis J. Mootz (2009), there are no explicit links between Perelman's theory of argumentation and his legal thought. But it is nevertheless possible to build this link. Mootz develops such a point of view in an article entitled: «Perelman's Theory of Argumentation and Natural Law». Indeed, we can claim that the Perelmanian theory of argumentation is for a large part grounded in his judicial culture. As Mootz wrote:

"The New Rhetoric is a rich resource for describing the ontological space in which laws operates, and also for providing normative guidance to those engage

in legal practice.” (Mootz 2009, p. 2).

As I will argue, such an “ontological space” may be described in the Human Rights charter thanks to a rhetorical approach that surmises various parts and also different levels for representation, i.e. the literal, conventional, fictional and motivational. Such a description will lead me to argue that a charter is a kind of rhetorical *genre*. Actually, an important question about the validity and the efficiency of a charter is grounded in the question of the “backing” (in a Toulminian sense) of human rights principles. Are they natural or transcendental? Of course, such a question has to deal with the philosophical and judicial question of natural law.

As it is well known, the theory of natural law claims that laws have natural foundations, either religious or human. This is the case in classical thought, in Christian thought, but also in Enlightenment philosophy that inspired the first Declaration of Human Rights in France (1789). It is also the case for Independence Declaration of American (1776).

And this was finally the case in the so-called “logician” conception of rationality as it was thought in Europe in the 20th Century. In such a conception, “logicism” has to be seen as an optimistic trust toward logic in order to ground rationality.

Let us be reminded that Perelman firmly opposed such a conception of rationality. It is the reason why he proposed to establish a difference between, on the one hand, validity for empirical facts and, on the other hand, reasonableness for social facts. This is of course an important starting point for a possible link between his argumentative theory and his judicial thought.

Mootz examines the possibility to build a link between Perelman’s theory of argumentation and his judicial thought through the status of the Universal Audience. Indeed, in his critique of a “logician” conception of argumentation, Perelman claims that the concept of Universal Audience relies on the idea that a speaker’s rationality is grounded neither in validity nor in truth, like it seems to be the case in all theories of natural law. But, at the same time, the critique of such a positivist point of view often leads to a relativistic vision where it is argued that truth or validity are completely relative, since they have no stable ground.

Finally, the whole history of rhetoric is trapped in a tension between relativism and positivism.

In order to overcome this tension, Mootz proposes to introduce the concept of “*naturalizing rhetoric*”, a concept which I consider to be very fruitful. He claims that we have to keep in mind a naturalistic criterion when we are analyzing rhetorical exchanges, but that it has to be found in our very “rhetorical nature”:

“We “naturalize” rhetoric when we regard human “nature” as rhetorical. Simply put, it is our fixed human condition to be recreating ourselves and our society through continuous rhetorical exchanges with others. A naturalized rhetoric embraces the paradox that non-essentialism is essential to our being, that we can find a foundation for reflection in anti-foundationalism.” (Mootz 2009, p.10).

Now, one may argue that such a definition of our “rhetorical nature” leads to a *petitio principii*, i.e.: “Our nature is to be rhetorical beings, so rhetoric is natural”.

But Mootz promptly adds an important precision:

“Perelman is less vigorous in his critique of Cartesian rationalism than Vico, who argued against the incipient rationalism of the Western tradition by defending the priority of rhetoric and its connections to our imaginative capacities and the metaphoric structure of human understanding. By naturalizing rhetoric in the humanist tradition exemplified by Vico we can elaborate the ontological claims that subtend Perelman’s theory of argumentation.” (Mootz 2009, p. 10).

In the following, I will develop Mootz’s concept of rhetorical nature by examining the case of the Human Rights charter. Indeed, such a concept perfectly fits with the naturalist conception of rationality that I have been trying to develop (Danblon, 2002). Moreover, I will argue that imagination, as an expression of our rhetorical nature, i.e. as an expression of our rationality is necessary to both the efficacy and the validity of a charter. This point will be demonstrated by describing the various levels of thought in the Human Rights charter.

3. The Human Rights charter as an expression of rhetorical rationality

Let us now describe the Human Rights charter from a rhetorical point of view (see Danblon & de Jonge 2010).

As most of the charters, the Universal Declaration of Human Rights is divided into three parts. First, there is a preamble where one generally finds the recent story of people who are concerned with the charter. Such a storytelling aims at justifying the proclamation of the charter. Second, there is a proclamation that is always expressed by a performative speech act. In the 1948 Declaration, one finds the following expression:

“Now, therefore, the General Assembly proclaims this Universal Declaration of

Human Rights as a common standard of achievement (...).”

Such a performative speech act aims at creating a new common world.

Third, there are articles that describe the way in which every human being is supposed to behave in the new common world. Articles have thus a regulative function, which is expressed by assertive or directive speech acts.

Consequently, these three parts (preamble, proclamation and articles) have each a precise discursive status (respectively: storytelling, performative speech act, assertive/directive speech acts) in which each fulfils a rhetorical function (respectively: justifying the creation of a new common world, creating the new common world, regulating the behaviour of actors of the new common world).

These discursive status and rhetorical functions are represented under this figure:

Part of a charter	Discursive status	Rhetorical function
Preamble	Storytelling	Justifying the creation of a common world
Proclamation	Performative speech act	Creating a common world
Articles	Assertive and directive speech acts	Regulating the behaviour of actors belonging to the common world

Such a description allows us to claim that a charter is a rhetorical genre since it presents stable discursive parts and rhetorical functions, that are associated with institutional roles.

4. Discussion about the “ontological” status of a charter

Now, the current philosophical question about such a document is: on what is it grounded? And as a consequence, at which conditions is it either efficient or valid (or both)?

Here comes back the “natural law” question from a rhetorical point of view. Indeed, one often hears that such a charter has no reason to pretend to universal validity since it was thought and wrote in a precise historical and geographical context. Nevertheless, it is well known that such a text was written with the explicit intention to address to the whole humanity. In Perelman’s terms, the Human Rights charter addresses to the Universal Audience (Perelman and Olbrechts-Tyteca 1969; see also Crosswhite 1989; Christie 2000; Danblon 2004). At this stage, we should face the question of the natural grounds of such particular principles and values. In the following, I will go back to Mootz’s idea of naturalizing rhetoric in order to try to go beyond such a difficulty.

5. Four levels for representation

In order to argue in this sense, I will first show that the Human Rights charter does not aim at describing the reality. Consequently, it has to be understood as a convention and not as a description. In order to describe the different levels of representation, let us consider the first part of article 1. from the human rights charter, in order to determine more precisely the kind of *ontological space* (cf. Mootz) that is relevant here:

All human beings are born free and equal in dignity and rights.

Let us first try to interpret such a sentence as a description, at a literal level. Obviously, as a factual description, it is false. Keeping in mind such an interpretation would be irrational, precisely because of the fact that the description is obviously false.

Let us now assume that such a sentence is a convention. Such a convention would have no real efficiency if it is not linked at all with reality, like it is often the case with arbitrary conventions in games.

Third, let us try to interpret the sentence on a fictional level. In this case, one has to act “as if” *all human beings are born free and equal in dignity and rights*. I think that here, more than in the literal and conventional interpretations, the fictional interpretation is offending from an ethical and political viewpoint. Indeed, such a fiction would appear as a sinister farce: life is not a game where social rules may be totally invented.

At this stage, no satisfying “ontological space” was described in order to interpret such an article in a way that it is valid and efficient.

As I argued elsewhere (Danblon 2010), the best way to interpret such a sentence is at a “motivational” level. I borrow the concept of “motivational belief” from (Clément 2005) who tries to describe the cognitive functions of what he calls “credulity”, i.e. a cognitive and rhetorical function using our “natural” ability of imagination. A motivational thought is a representation that is both possible and desirable. I think that this is exactly the case for the sentence: “*all human beings are born free and equal in dignity and rights*”: it is not true but it is both desirable and possible. In such an interpretation, the sentence perfectly fulfils its rhetorical regulative function, expressed by an assertive speech act, even if this assertion is neither a description of reality, nor an arbitrary convention, nor a metaphorical fiction.

Now, following this description, we have to admit that human ability of imagination is one of the conditions for its rationality, which is very useful in all domains where we need to exert rhetorical skills: politics, law, ethic, education, etc (see also Schaeffer 2002).

But to be honest, a motivational thought becomes both valid and efficient if and only if we are able to meet our rhetorical nature that allows us to use multiple levels of conventions and especially imagination. And, as it was underlined by (Vico 1986) and also by (Mootz 2008), such an ability has to be practiced (see also Girard 2009):

“Exercising the imagination through topical argumentation is necessary because there is no substitute for the accumulation of experience. One cannot become prudent by deducing answers to practical problems; one becomes prudent through the exercise of judgment based on insight, which actually is a way of apprehending the world by cultivating a rhetorical engagement with it. Vico stresses that education in rhetoric can develop this capacity. ” (Mootz 2008, p.18).

6. Conclusion

Motivational thoughts are persuasive and valid if they are exercised. Such a practice is one of the most important functions in rhetoric. It is the only way to build a common world thanks to imagination and representation of possible worlds. Indeed, imagination is neither a fallacy nor a masquerade, but we have to exercise it regularly in order to understand the cognitive importance of this

rhetorical function. In this perspective, charters illustrate a genre, which fulfils essential political and regulative functions in society. Old Europe is faced with a problem: it no longer believes in Utopia and therefore refrains from exercising imagination.

REFERENCES

- Christie, G. C. (2000). *The Notion of an Ideal Audience in Legal Argument*. Dordrecht: Kluwer Academic Publisher.
- Clément, F. (2005). *Les mécanismes de la crédulité*. Paris/Genève: Droz.
- Crosswhite, J. (1989). Universality in Rhetoric: Perelman's Universal Audience, *Philosophy and Rhetoric*, 22, 157-173.
- Danblon, E. (2002). *Rhétorique et rationalité. Essai sur l'émergence de la critique et de la persuasion*. Brussels: Brussels University Press.
- Danblon, E. (2004). La Nouvelle Rhétorique de Perelman et la question de l'Auditoire Universel. In M. Meyer (Ed.), *Perelman. Le renouveau de la rhétorique* (pp. 21-37, Ch. 2). Paris: P.U.F.
- Danblon, E. (2010). À quelles conditions une charte est-elle efficace?, In E. Danblon & E. de Jonge, (Eds.), *Les droits de l'homme en discours, Argumentation et Analyse du discours*, 4, available at <http://aad.revues.org/index769.html>.
- Girard, P. (2009). *Giambattista Vico. Rationalité et politique. Une lecture de la Scienza nuova*. Paris: Editions de la Sorbonne.
- Mootz III, F. J. (2008). Perelman in Legal Education: Recalling the Rhetorical Tradition of Isocrates and Vico. Available at <http://ssrn.com/abstract=1291570>.
- Mootz III, F. J. (2009). Perelman's Theory of Argumentation and Natural Law. Available at <http://ssrn.com/abstract=1266139>.
- Perelman, Ch. & Olbrechts-Tyteca, L. (1969) [1958]. *The New Rhetoric. A Treatise on Argumentation*. Translation by J. Wilkinson & P. Weaver, London: University of Notre Dame Press.
- Schaeffer, J-M. (2002). De l'imagination à la fiction. Available at <http://www.vox-poetica.org/t/fiction.htm>.
- Searle, J. R. (1969). *Speech acts*. Cambridge: Cambridge University Press.
- Toulmin, S. E. (1958). *The Uses of Argument*. Cambridge: Cambridge University Press.
- Vico, G. (1986) [1953]. *Principes d'une science nouvelle relative à la nature commune des nations*. Translation by A. Doubine, presentation by B. Croce, notes and index by F. Nicolini, Paris: Nagel.