

# Making it Public: Testimony and Socially Sanctioned Common Grounds<sup>1</sup>

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**Abstract:** Contrary to current individualistic epistemology, Classical rhetoric provides us with a pragmatic and particularly dynamic conception of ‘testimony’ as a source made available for the orator by the particular community in which she acts. In order to count as usable testimony, a testimony to which one could appeal in further communications, any discourse must comply with specific rules of social sanction. A deliberate attention to the social practices in which testimony is given and assessed may offer us a more accurate view of its epistemological role.

**Résumé:** Contrairement à l’épistémologie individualiste courante, la rhétorique classique nous apporte une conception pragmatique et particulièrement dynamique du « témoignage » : c’est une source rendue disponible à l’orateur par sa communauté. Un témoignage légitime auquel nous pouvons faire appel dans nos entretiens doit se conformer à des règles spécifiques de sanction sociale. Une attention délibérée sur les pratiques sociales dans lesquelles nous avançons et évaluons des témoignages peut nous offrir une vue plus exacte du rôle épistémologique des témoignages.

**Keywords:** argumentation, argument from authority, classical rhetoric, contextualism,

## 1. Globalism, contextualism and pragmatism in studies of testimony

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

As it is well known, *testimony of others*, as a particularly interesting and traditionally neglected source of information and knowledge, is a key issue in current epistemological studies. Among the lines that divide the different standpoints about what testimony amounts to in epistemology, the one that has been most widely discussed and exploited is what distinguishes *reductionist* from *non-reductionist* approaches. It is a distinction, though, that specifically regards different standards for the justification of the knowledge acquired: either in need of further, independent and ideally non-testimonial support (Fricker, 1987, 1994) or bearing a right in itself to count as reasonably justified belief (Coady, 1992). The opposition has little to offer in terms of defining or demarcating what we should, or actually do, consider an instance of testimony and thus we might, in principle, expect a wide variety of alternative descriptions as introductory remarks and assumptions in both reductionist and non-reductionist papers. But this happens not to be so. In fact, the most generalized view coincides with J. Lackey's introductory setting in a recent collective volume on testimony:

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

The problem with this view is that it precludes the possibility of looking, in a more detailed way, at the possibly very wide-ranging dominion to which the particular view on justification that is being defended would apply and, thus, embraces in advance, and without explicitly saying so, a *globalist* or *universalist* approach that is, in many cases, subject to counter-examples. It seems that such a global approach should correspond to a relatively homogeneous and well-defined dominion, while a heterogeneous and complicated realm which, in our view, belongs to the concept of testimony, and much more to the related issue of epistemic interdependence (Kusch, 2002)—would demand some kind of further differentiation, probably based on a certain *contextualism*. The reason why most current epistemologists do not so embrace that alternate route seems to me to rest on the fact that they are, also implicitly, accepting, as a basic frame, some version of the traditional division of the sources of knowledge. Perception, reasoning, memory and testimony is the standard quartet (Kusch-Lipton, 2002); sometimes introspection and intuition are added (Audi, 2006); and sometimes inductive and deductive reasoning are separately considered (Graham, 2006). As a result, their views on testimony as *the* social component of knowledge merely complete an already well-construed epistemological system of justification. This is specially so with reductionists, but it is equally visible in many current non-reductionist approaches (Graham, 2006). Although there is no necessary link, it usually takes some challenge to that neat departmental view—the view that the only non-individual component of our knowledge is the reception, within our individual epistemic machinery, of what

others tell us—to produce the kind of awe in front of the conspicuously enormous diversity of the dominion of testimony that usually determines a choice in favor of contextualism. This is not the only possibility though. The awareness of this initial diversity has led some authors to shift the focus from the problems of justification towards a better definition of testimony. They search, thus, for some essential traits that would be present as constitutive—or, at least, paradigmatic—conditions in broadly all instances of testimony or the communication of information. The alternatives are, again, varied. One route is trying some kind of genealogical method, modeled for example on Craig’s (1990) approach, referring to an imaginary state of nature or abstract pre-conditional state, in which humans would, as a matter of fact (being what and how they are), require “good information” (Kusch, forthcoming) or feel the need to “trust others” (Faulkner, forthcoming), and so give birth to a proto-institution of proto-testimony or proto-trust that would be the model under which to approach the wide variety of its real instances. A second possibility is to use the theoretical resources regarding general pragmatical conditions of language use, comprehension and exchange to describe certain features of the situation under which any testimony would be delivered, interpreted and evaluated. Thus, G. Origgi (forthcoming) offers an account of testimony in which the key concept is the “presumption of relevance” informing the articulation between “trust” and “interpretation” in the evaluation of other’s utterances and communications. There have been, finally, various attempts to analyze testimony under the frame of the theory of speech acts, defining its own success and sincerity conditions (Moran, 2006; Kauffeld and Fields, 2003). The most salient problem with the last-mentioned proposal is that the different definitions provided by the authors for a supposedly identifiable speech act stress different aspects of our interest in testimony (ethical issues in the case of Moran’s account, veracity and accuracy conditions in Kauffeld and Fields) and apply, in fact, to different ranges of phenomena, revealing again the intuitive extension of a notion that is being, somehow artificially, restricted for theoretical purposes.

In any case, these are, no doubt, interesting and very fruitful approaches that define general, and allegedly constitutive, frames in which to place our comprehension of testimony. Nevertheless, it seems that a more contextual approach that would address the real (current or historical) practices of giving, receiving, evaluating and using (appealing to) testimony of others would have to go beyond these general features, and probably contradict some of them. It does not seem even possible to define in advance which parameters are going to determine the relevant “context” for a particular institution of testimony. Moreover, neither “context” nor “relevance” should, in our view, be seen as notions that can simply “solve” the justificatory controversy between reductionists and non-reductionist. In this sense, the view and defense of *contextualism* that N. Vassallo (2006) offers, for example, seems to be restricted to the vindication of a device to decide, on the basis of the issue’s “context”—in this case reduced, at least in the examples given, to the “import” and “consequence” of the subject-matter—in which cases to apply

one or the other strategy for justification. And this is not, in our view, a very interesting use of “context,” although it corresponds to the restricted view of *contextualism* that is usually employed in epistemology. On her part, Origgi (forthcoming) also begins by presenting her account as a “third way” between reductionism and non-reductionism, even though her notion of a “presumption of relevance” has much more far-reaching consequences for the way testimony should be approached, because it really addresses the establishment of a particular frame from which to “interpret” the testimonial exchange that excludes both globalist standpoints.

Now, talking about real practices of testimony, the fact is that, beyond what imaginary genealogies tell us about proto-testimony and its values for an abstract community of human beings, what we really find are historically and culturally situated, specifically field-dependent and role-dependent, and partially or totally ritualized social practices in which there is an exchange of information that is generally interpreted, evaluated and subsequently used according to the setting in which it has been given. But the practical examples we typically find in epistemology papers on testimony are usually described in such a way as to avoid these conditions. Probably one of the situations most usually mentioned and discussed is that of the stranger in a city who asks for directions to go somewhere. There is usually no allusion to possible language problems (interpretation is deemed transparent); none to the fact that a stranger must, indeed, know a lot of things about the city, the context and the local discursive practices before asking for specific directions; and none to any of the common grounds—views about politeness, proper address or appearance but also about time and space conditions for going from one place to another, etc.—that both participants must share in order for the exchange of information to be more or less successful. It seems as though “asking for directions in a strange city” would be the kind of situation to which urban, traveling, polyglot and cosmopolitan academics are so accustomed as to consider it an everyday, non-problematic instance that is good for a decontextualized analysis. But not even this should be seen as such a universal situation or generalized practice. The first traveler arriving at an unknown (to her) land would never act in such a way, nor would people belonging to smaller or more closed societies, people who do not usually travel, who are not used to guides or maps, and who would hardly arrive to that situation in which “just a piece of information” what is asked, in concretewould complete their epistemic needs in order to find their way. It seems reasonable to think that in somehow “similar” circumstances, some of them would turn to highly institutionalized informers in an interaction that we can no longer analyze neglecting specific configurations of authority or expertise.

All these considerations indicate, to us, the importance of examining the different specific practices of testimony institutionalized in specific cultures for specific fields and actors. In some of them, the significance of the institutional setting and procedures will be very evident (e.g., testimony in courts, declaring in a public assembly, lecturing); in others, less so (e.g., private and familiar exchanges or, for

some, asking for directions from a non-descript stranger). But, in any case, social and generally implicit norms inform our taking part in all these exchanges, so that any analysis that tries to avoid such pragmatic normativity and base its results in a logical confrontation of pure claims with a view to their epistemological justification will be certainly losing a lot of reasonable responses to its own problems.

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

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

From the point of view of a rhetorically inspired pragmatic contextualism, a particular, situated practice of testimony would, accordingly, be a normative *institutional fact* (Searle, 1969), and therefore subject to an analysis that would take into account the norms that socially rule that fact or particular practice, however sophisticated. On the other hand, the pragmatic dynamics of “the game of giving and asking for reasons” (Brandom, 1994: 158), to which, in our opinion, the notion of testimony belongs, require a more complex analysis than “the pragmatics of saying and meaning things” (Kauffeld and Fields, 2003). They require at least an analysis with more actors or roles, and especially with more stages, because it is the subsequent appeal to testimony as a reason to accept a content that is the specific mark of the different practices of testimony. Testimony delivered in “the game of giving and asking for reasons” involves, not just the expression of some

thought or the representation of some reference, but a specific practice of openly placing the contents of our claims within the social pool of reasons and beliefs that can be subsequently appealed to as such (as testimony). Their content, thus, is subject, in the first “disclose” stage, to both the institutional setting and the normative restrictions of a complex net of expectations (previously assumed, and usually implicit), background beliefs and “presumptions of relevance” (Origgi, forthcoming), that, among other things, make possible our generally *enthymematic* way of putting things (Vega-Olmos, 2006): *i.e.*, it is subject to “the *inferential* articulation of the social practice of giving and asking for reasons” (Brandom, 1994: 79). Only within such a pragmatic context may their content become, subsequently, part of that same socially sanctioned common ground, so that it will be available for use in a second “appeal” stage as a privileged claim.

In the next two sections, we will try to present the main guidelines for both a contextual analysis of the institutional setting of testimonial practices, and a dynamic approach to the specific pragmatics involved in them, using suggestions from both Classical rhetoric and contemporary pragmatic approaches. Section 4 will provide an historical account of the Classical tradition of testimony and its subsequent development.

## 2. Public and private practices of testimony

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

If we are going to take a seriously contextualist approach to testimony, one of the first things to do is to distinguish between types of testimony or, as we prefer, types of testimonial practices. It seems possible to describe these in terms of the agents involved, the norms that rule possible procedures, the physical and institutional space in which these take place (Fredal, 2006), the field or dominion that is usually associated with these practices, and the net of authorities (individuals, established beliefs or facts) with which testimony will be contrasted, etc., and to build a sociological description and analysis of some particular case or group of cases (Shapin, 1994; Shapiro, 2002). On the other hand, our own hypothesis is that it would be impossible to make an exhaustive inventory of these practices or even to decide a general classification system, because these appear in history as related to the most diverse dominions.<sup>2</sup> However, we can have some guidelines or heuristic hypotheses to approach them from a more general perspective.

In the influential book that somehow inaugurated the current discussion about this issue in epistemological circles, C.A.J. Coady (Coady, 1992) distinguished between *formal* and *natural* testimony, the paradigms of which would be,

respectively, the statements of witnesses in a courtroom and exchanges “to be encountered in such everyday circumstances as exhibit the ‘social operations of the mind’: giving someone directions to the post office, reporting what happened in an accident” (p. 38). By focusing on the latter, as most epistemologists do, Coady seems to have tried to avoid the strictures of certain highly institutionalized settings in order to attain a more fundamental view of the act of testifying. But it is this kind of move that diverts our attention from the very conditions that explain the way we take part in, interpret and evaluate particular testimonial practices. Kauffeld and Fields (2003) have also mentioned this problem:

formal testimony [...] as a form that makes explicit much that is assumed or goes unremarked upon in ordinary conversational settings, can give us guidance as to where we should be looking in these less formal context to find the element that we need.

Following this suggestion, our own heuristic hypothesis would therefore be the opposite of Coady’s. That is, instead of considering *formal* (institutional, public) practices of testimony as extremely ritualized, sophisticated and complicated ways to deal with what we expediently solve, in a more essential format, in private, *natural*, life, we propose to contemplate these so-called *natural* practices as cases in which, under certain social conditions (just in certain cultures and, in many cases, tentatively), it is possible to engage in a more relaxed “everyday” exchange in which some of the more formal conditions can be (really or just apparently) *dropped* or *disregarded*. It is the social setting that tells us, acculturated individuals, whether and when that is possible, and we all have experiences of being rebuked (or not even understood) when our assumptions about the possibilities of a relaxed approach fail. Accordingly, instead of building a basic account of testimony centered on everyday, allegedly universal, cases, to which “further conditions” (Lackey, 2006: note 2) should be added in order to subsume the *formal* ones, we propose, as rhetorical tradition has always done, to focus our interest on paradigmatically procedural instances, such as courtroom witnessing, religious rituals, speeches in the public assembly, public controversies, and embassies and envoys, in which the rich variety of social conditions and normative constraints (“internal constraints” in Kauffeld and Fields terminology) explain many features that tend to become “transparent” in apparently less rule-governed instances.

There is, apparently, a certain genealogical idea behind this heuristic scheme. It is the idea that somehow our sophisticated—or extremely local—field-dependent, role-dependent, ritualized practices are prior to and the original source of our apparently all-pervading democratic, cosmopolitan, egalitarian testimonial exchanges with strangers. It could be a kind of historical hypothesis too, as opposed to genealogies based on imaginary “states of nature”. But we would like to make plain that we are not maintaining any realistic hypothesis about a certain historical or cultural development, and least of all about any definite origins. Rhetorical theory and any theory about public, institutional practices of talking to each other, exchanging, sanctioning and using information start *in medias res*, with an already



working society, with its ongoing public and private, *formal* and socially-regarded-as-*natural*, practices and realms. There are private practices of testimony that can become formal and institutional at a certain point in certain cultures (we can think, for example, of some historically situated institution of education in which teaching becomes public and formal in a particular moment), and at the other extreme we just have to think of all those situations in which the tendency among us has been, for a long time, to keep dropping *formalities*. On the other hand, the kind of conditions and more or less *formal* constraints that apply in the evaluation of testimonies in a certain situation might change more than we think in apparently rather similar settings. Just to give an illustration within argumentation studies, recent empirical research about persuasiveness reveals even national differences within contemporary Europe in the evaluation of the authority of testimony that supports applications for research project funding. While in some countries the authority of academic titles is still decisive, in others it is personal experience that makes an “expert” (Hoeken-Smeulders, 2006). Again, we would not try to imply any absolute priority—or any kind of priority—for what we have called public (*formal*) practices of testimony in opposition to private (*natural*) ones. But it seems that following rhetorical tradition and paying more attention to public and formal testimonial practices could be a good alternative to the current decontextualized setting based on an evasive model of *natural* testimony.

All these considerations seem to invite us to a holistic and interdisciplinary approach to the issue of testimony that is explicitly rejected by epistemologists like Fumerton (2006) in a rather peculiar way. Paradoxically enough, Fumerton points out many of the difficulties faced by those trying to account for a *sui generis* justification of testimony, and declares: “I suspect that there are all sorts of background beliefs playing a critical causal role in the resulting ‘output’ beliefs”, only to add: “But I’m a philosopher not a psychologist/sociologist/cognitive scientist” (pp. 88-89). This is a view we find surprising enough when both from the sociology of knowledge and from the rich and conspicuously interdisciplinary field of argumentation studies, we can achieve a much more compelling analysis of an ample variety of testimonial practices together with their particular means of interpretation, evaluation and assimilation.

### 3. A social net of common knowledge and experience

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

Speaking about the conditions for the possibility of *enthymematic argumentation*, Vega and Olmos (2006) make use of:



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

It is this same net of available socially sanctioned common grounds that makes possible the dynamic pragmatics of testimony as involving three steps:

- (1) the interpretation of utterances in their particular setting according to a “presumption of relevance” (Origgi, forthcoming);
- (2) their inferential integration and contrast within a pragmatic frame of “giving and asking for reasons” (Brandson, 1994: 79, 89); and
- (3) their possible incorporation into the net of socially authorized “usable testimony”.

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

This was clear from the beginnings of the theoretical consideration of our practices, especially public practices, of exchanging reasons. Thus, Aristotle’s *Topics*, beyond offering a series of devices to confirm, support, contradict or undercut statements, places the notion of *ta éndoxa* (Vega, 1998) at the base of its general approach to dialectic or public discussion. This term refers to those claims that are *plausible* because *socially reputed*, that is, to those propositions “which seem so to everyone, or to the majority, or to the wise—and either to all of them, or to the majority, or to the most notable and reputable [*éndoxois*] among them” (*Topics*: 100b21-23), that is, express the point of view of everyone, of most people, or of a few but accredited experts in a certain field. This can be seen as just a kind of well-meaning “advice” to someone who wants to win such encounters (“do not say foolish things”, “stick to commonsense”) but it is in fact presented as an almost constitutive norm of what it is to take part in understandable and reasonable social discussions:

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

Thus, although Aristotle’s conception of a *socially sanctioned plausibility* (or *reputability*) relates to the real pragmatic conditions of political, ethical and theoretical discussions in Ancient Greece, it is still a paradigm of a contextually and pragmatically

conscious approach to discursive interchange. According to Vega (1998), Aristotle's conception and use of *ta éndoxa* might still provide us with interesting "hints" and "guidelines" which could help orient our contemporary studies about argumentation and which are, precisely: (1) the pragmatic approach to plausibility; (2) its consideration in terms of doxastic attitudes (views, states of opinion); (3) the gradual character of plausibility; (4) the continuity of an extended argumentation domain, with demonstration and fallacy as external limits; (5) the treatment of argument as a process of discursive interaction and conflict and (6) the controversial character of plausibility (the implausibility of the counter-proposition and counter-argument). It is this kind of "*endoxastic* (socially reputed) plausibility" (Vega-Olmos, 2006), moreover, that makes possible our usually enthymematic practices of discursive interchange in which the agents share a common background of knowledge and expectations (a *cognitive environment* and a *script* of common and ordinary experience).

The pragmatic "space of giving and asking for reasons" presupposes, thus, an already rich and more or less organized set of shared assumptions that places particular utterances—candidates to become usable testimony—in a context of contrasting assertions which takes care of their normative classification within the common pool of beliefs and inferential connections. As Brandom puts it:

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

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

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

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

#### 4. The use of socially sanctioned grounds in Classical rhetoric

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

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

Aristotle, and all the tradition after him, offers particular suggestions and rules for the oratorical treatment of such *extrinsic* material (in Ciceronian terminology) whose legitimacy (or relevance) is not provided by the orator but by a previous public sanction of which the orator himself takes advantage. This kind of *interpersonal* socialized material is, in principle, more varied and directly subject to contextual and particularized conditions than the more abstract “proofs” or argumentation devices based on logical or conceptual links, which comprise the “artificial” means of support, and therefore presents a less classifiable casuistry that leaves it out-of-reach of a technique. From another point of view, these oratorical devices are also considered *átechnoi* (non-technical or artificial) because, as Cicero says in the paragraph quoted at the beginning of this section, they must be handled directly, not being the result of rhetorical *invention*.

In any case, the category of *testimony* as inherited by rhetoricians up to early modern times was never a completely fixed one. On the one hand, if it began as a category closely related to forensic practice, as the classificatory lists of Aristotle or Cicero suggest, it was soon increasingly related to recourse to reputed authorities more than to circumstantial witnessing, and thus confounded and identified, from an analytical more than a rhetorical perspective, with a ‘*topic from authority*’. On the other hand, by means of this kind of theoretical treatment, the category was expanded, as a model, to a widely generalized field of argumentation, and thus classified among other rational and equally abstract schemes. This type of approach is already present in Boethius’s *De Differentiis Topicis* (whose list of topics is allegedly taken from Themistius), where the main division between artificial and non-artificial proofs is dropped and where a new topic “*a rei iudicio*” appears. This topic will be named “*ab auctoritate*” in the Petrus Hispanus’s 13<sup>th</sup> century version of the topical system as presented in the *Summulae Logicales*, a most standard source for at least three centuries (Green-Pedersen, 1984: 50).

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

However, we should not forget that the possible expansion of the forensic model of the use of (appeal to) testimony in any kind of argumentation was always present in the suggestion traditionally made to orators (and, later on, writers and preachers) to keep a collection of sayings, sentences of sages, and commonplaces to be used in public speeches, as propositions or claims of which one can take advantage. These would function as Brandom’s “free moves”:

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

From this brief historical review we might conclude that from the standpoint of the rhetorical, public and interpersonal space of giving and asking for reasons, the

category of testimony was always understood as that of *usable* testimony based on different ways of institutionalized sanction whose legitimacy had to be acknowledged by the members of the community in question. The classification of such a category, difficult and ever-changing as it was, tended to be based on a typification of sources that was also a typification of sanctions. Thus, the main distinction was traditionally that between *divine* and *human* testimony,<sup>3</sup> while the latter was usually divided into *public* (or *common*) and *private* (or *proper*). This last division should not, however, be identified with Coady's (1992) mentioned one of *formal* vs. *natural* testimony, because in the rhetorical framing of the question, the setting was always a public normative one in which the opposition regarded the distinction between highly institutionalized and general sanctions, valid at any time (such as those of "written and unwritten laws, plebiscites, deliberations of the senate, verdicts of the sovereigns, edicts of the magistrates, replies of the prudent, the common opinion of doctors, proverbs and adages"<sup>4</sup>) and the authority granted, at a particular time, to particular pieces of information related to the case in question. (One of the possible divisions of this latter category includes "spoken testimonies, either made of free will or forced *by religion* or *by rigor*, and written documents"<sup>5</sup>.)

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

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

This kind of attitude is an indication of the subsequent historical loss of place of *authority* as a valuable scientific source and sanctioned scheme of argumentation, up to the point where, from a logical point of view, *any* appeal to authority or testimony began to be seen as an *ad verecundiam* fallacy (Woods-Walton, 1982)<sup>7</sup>. It is just recently that argumentation studies have begun to contextualize and adjust such a radical claim. On the other hand, it is not surprising that traditional foundationalist epistemology, whose roots go back to the times where authority-based science was at its lowest point, should have been at such pains to integrate testimony and testimonial practices, including justifying practices and norms peculiar to testimony. Again Brandom helps us put it:

Classical foundationalism considers only justifying in the narrow sense of an inferential activity, not in the broader sense of vindication that includes

the communicational dimension appealed to by deferential entitling (the authority of testimony). (1994: 204-205)

## 5. Conclusion

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

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

Here we claim that Classical rhetoric, with all its limitations and peculiarities, was on a better track to give a proper account, even a proper general account, of testimony than many contemporary decontextualized approaches. It addressed issues of understanding, interpreting and using testimony in public settings and civil and professional practices and not just from a merely descriptive point of

view but also with an educational and training concern in mind. Moreover, it dealt with the particular structure of the social systems of sanction and authority by placing the dominion of spoken testimony as contiguous to that of agreed principles, written laws and common notions. There is a lesson to be learned from Classical rhetoric in this sense, a contextualist and pragmatic lesson that comes from its realistic and dynamic consideration of the social practices of testimony.

## Notes

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

<sup>3</sup> I just know the case of Ralph Lever’s *The art of reason, rightly termed witchcraft* (1573) that added a category of *Infernal* testimony.

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

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

<sup>6</sup> P. Simón Abril, 1587. (2nd ed., 1886: 178).

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

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