

# PERSUADING THROUGH PITY AND FEAR: ARISTOTLE'S ACCOUNT OF THE EMOTIONS IN THE *RHETORIC*

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*Come, poor little beasties, yap, up on your haunches, beg and whine!*

– Aristophanes <sup>1</sup>

## Introduction

In this paper I want to look closer at what has commonly been perceived as a discrepancy between the general pragmatic or amoral tone of the *Rhetoric* and Aristotle's preoccupation with ethics and politics in general. I will also discuss the same apparent discrepancy within the *Rhetoric* itself, i.e. between the moralizing attack on the wrong use of rhetoric in the beginning of Book 1 and the seemingly more amoral, pragmatic tone that permeates the rest of the work, especially Book 2. The paradox at the heart of this investigation is this: how can Aristotle attack the use of emotions in the opening chapter of the *Rhetoric*, while delivering a detailed account on how to wield influence by means of emotions in Book 2?<sup>2</sup> This has been viewed as a real discrepancy by many commentators, and there are various explanations as to why this discrepancy occurs.<sup>3</sup> I will return to this apparent contradiction in more detail and attempt to demonstrate that there is no real contradiction after all.

By focusing on the place Aristotle gives emotions in rhetorical persuasion I will try to show that the warning against the use of emotions for purposes of rhetorical persuasion in Book 1 is not a warning against all kinds of emotional influence. What Aristotle in my view warns against is emotional influence that we might call foreign to the subject, or, in Aristotle's own words, *exo tou pragmatos*, "matters outside the subject".

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<sup>1</sup> This quote is taken from Aristophanes' comedy *The Wasps*, v. 975. The play is about a father eager to participate in law courts as a judge, his son trying to prevent him from it. Eventually the father gets his need to pass judgement in court gratified at home by the son staging a mock case, prosecuting one of the dogs. To try to get the dog acquitted, the son parades the dog's puppies to stir pity, and of course, the father is not unaffected. The parading of the puppies is obviously a simile to the parading of the defendant's children in a real court. This comedy by Aristophanes thus indicates that this sort of practice, i.e. trying to stir the mercy of the judges by having children or others plead, was not only common, but also perhaps thought not quite right or proper, and therefore here ridiculed by Aristophanes.

<sup>2</sup> Compare what Aristotle says in 1.1.3–5, which on the face of it seems to criticize the use of emotions, with 2.2.27, 2.3.17, 2.4.32, 2.5.15, 2.7.5, 2.9.5, which seem to give advice on how to use emotional influence quite pragmatically. See further Kennedy, who points out that the first chapter of Book 1 "is generally recognized as creating problems for the unity of the treatise. Aristotle here seems firmly to reject using emotional appeals, identifies rhetoric entirely with logical argument, and gives no hint that style and arrangement may be important in rhetoric" (Kennedy 2007, 29).

<sup>3</sup> Common for most of these commentators seem to be that they take for granted that there is a fundamental division between emotion (connected to *ethos* and *pathos* in *Rhet.*) and reason (*logos*), given that most people take this division for granted in every day life. "Along with offering a definition, most modern dictionaries remark that emotion is often contrasted with logic, or with rationality, or with cognition. Such remarks derive from folk theory. In Western cultures, we tend to believe that intelligence and emotions are at odds" (Oatley 2004, 135).

Aristotle's warning against emotional influence must be seen in context with his critique of previous writers of rhetorical handbooks. These handbooks gave recommendations on how to influence in court in particular, and by any emotional means possible. Most importantly, these ways of influencing the jury emotionally were, in Aristotle's view, presented independently of any argument, any *logos*, and as such the emotional influences were not connected with the argument. This leaves open the possibility that there might still be ways of exerting emotional influences that are *not* foreign to the argument, and therefore have their legitimate place in rhetorical persuasion. If we understand the description of ways to persuade by influencing emotionally in Book 2 as ways that are, or at least could be, connected with argument, the discrepancy between Book 1 and 2 disappears. What Aristotle is then doing is first warning against utilizing emotional influences that are foreign to the case or argument, but then later showing ways of utilizing emotions in connection with the argument.

As an illustration of the difference between emotional influence foreign to the argument, and emotional influence belonging to the argument, I will use a familiar case, namely Socrates' defense in Plato's *Apology*. The *Apology* is fiction in that the trial against Socrates was probably not conducted exactly as Plato portrays it. As is well known, many preserved judicial speeches from antiquity are no real speeches, or at least they were never actually held in a court of law. It is reasonable, however, to assume that Plato's account is not too far from the way a speech could be held. Interestingly, Aristotle refers to one of Socrates' arguments as an example of a mode of persuasion in the *Rhetoric*. This indicates that Aristotle himself saw the speech as relevant to actual practice.

In the *Apology* we see Socrates using certain strong emotional means of persuasion, but at the same time refusing to utilize others. I will argue that this corresponds to Aristotle's differentiation between emotional influences belonging to the argument (or subject) on the one hand and influences foreign to the argument on the other. I will also try to show that Aristotle's analysis of modes of persuasion fits very well with what Socrates is doing in the *Apology*.

As a second example of judicial speech shedding light on Aristotle's critique in Book 1 I will use Lycurgos' *Against Leocrates* to further investigate the division between means of persuasion belonging to the subject and means of persuasion foreign to the subject.

In my view, the reason that what Aristotle says about emotional influence cannot be understood as purely pragmatic or amoral is that there is an indispensable connection between emotional parts of the persuasion and its more argumentative parts. This connection exists in such a way that the argument, and so also the conclusion from that argument, is not fully understood and reached without its emotional element. In Aristotelian terms, this amounts to the same as saying that there is a strong connection between *logos* on one hand and *pathos* and *ethos* on the other. So strong is this connection, that the conclusion or understanding reached through *logos* alone is not only in practice, but also in principle inferior to what is possible with the addition of *pathos* and *ethos*.

### **The problem: the apparent conflict between idealism and pragmatism**

It is perhaps no surprise that Aristotle when discussing rhetoric devotes some space to the analysis of how the rhetorician might influence through emotions.<sup>4</sup> The concept of being

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<sup>4</sup> Especially the political situation in Athens with its democratic period between 508 and 322 (with a few short interruptions) had paved the ground for rhetoric as a profession. This need was filled by various teachers of rhetoric, amongst those many of the chief opponents of Socrates in numerous dialogues by Plato. Plato's negative view of the rhetoricians and rhetoric is expressed strongly in various dialogues, perhaps strongest in the *Gorgias*. One of Plato's chief complaints is that rhetoricians do not have real knowledge, but try to persuade people by influencing them emotionally. Plato's Socrates defines rhetoric as a certain habitude of producing a kind of gratification and pleasure (*Gorgias* 462c), adding that rhetoric is nothing more than a form of flattery (*kolakeia*) on the level with pastry baking, working on the passions of the soul in the same way as pastry baking

swayed in one direction or the other by emotional influence is, I take it, familiar. What does come as a surprise to many readers of Aristotle is, however, the fact that the *Rhetoric* contains by far the most thorough treatment of the emotions in the entire Aristotelian corpus. Given Aristotle's emphasis on the importance of being properly affected if one is to be really virtuous one would expect a more thorough treatment of the emotions in connection with his ethics, the *Nicomachean* or *Eudemian*, or given that the investigation of emotions are understood as belonging to psychology we would expect to find such a treatment in *De Anima*, Aristotle's main work on psychology. The ethical and psychological works of Aristotle do contain some discussions of the emotions, but, as we said, the *Rhetoric* contains the most thorough treatment.<sup>5</sup> The emotions are also treated elsewhere, e.g. in the *Poetics*, famously so in connection with the discussion of *catharsis*. In her treatment of the *Poetics*, Synnøve des Bouvrie has convincingly shown the emphasis Aristotle puts on emotional influence in tragedies.<sup>6</sup> All in all the emotions play a predominant role in virtually all practical areas in Aristotle.

With this, we move on to the apparent paradox. The central passage creating the difficulty in the opening chapter of the *Rhetoric* is this:

Now, previous compilers of "Arts" of Rhetoric have provided us with only a small portion of this art, for proofs are the only things in it that come within the province of art; everything else is merely an accessory. And yet they say nothing about enthymemes which are the body of proof, but chiefly devote their attention to matters outside the subject; for the arousing of prejudice, compassion, anger, and similar emotions has no connection with the matter in hand, but is directed only to the dicast. The result would be that, if all trials were now carried on as they are in some States, especially those that are well administered, there would be nothing left for the rhetorician to say. (1.1.3–4)<sup>7</sup>

This then, on the face of it, seems to warn sternly against utilizing emotional influence in rhetorical practice and to say that these types of influences have nothing to do with rhetoric as an art. It has by many commentators been seen as standing in stark contrast to the advice on how to influence emotionally that Aristotle gives in Book 2. The contradiction appears already in chapter 2 of Book 1 when Aristotle lists *pathos* and *ethos*, as well as *logos*, as modes of persuasion belonging to rhetoric as an art, but the contrast is perhaps strongest against Book 2 and the treatment of emotions there. In the opening chapter of Book 2 Aristotle has the following to say:

it is not only necessary to consider how to make the speech itself demonstrative and convincing, but also that the speaker should show himself to be of a certain character and should know how to put the judge into a certain frame of mind. For it makes a great difference with regard to producing conviction – especially in demonstrative, and, next to this, in

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does on the body. We can safely assume that there was a general hostility and skepticism towards rhetoric in the academy and also a general hostility towards trying to influence through emotions. When Aristotle presented his *Rhetoric* (which most agree to be an early work) it was against this backdrop, with rhetoric playing an immensely important role in society while at the same time being strongly criticized by the ones closest to Aristotle.

<sup>5</sup> Aristotle, however, never explicitly presents a comprehensive theory of what emotions are in the *Rhetoric*. He does say that emotions are connected with pleasure and pain and that it influences judgment (1378a19–22), but he says very little about what the connection to pleasure and pain is, how this alters judgment, and how the emotional element of judgment stands in relation to other elements of judgment. A full theory of the emotions in the *Rhetoric* is something that needs to be reconstructed.

<sup>6</sup> des Bouvrie 1990, 60–79.

<sup>7</sup> See also 1.1.9.

forensic oratory – that the speaker should show himself to be possessed of certain qualities and that his hearers should think that he is disposed in a certain way towards them; and further, that they themselves should be disposed in a certain way towards him. ... for opinions vary, according as men love or hate, are wrathful or mild, and things appear either altogether different, or different in degree ... (2.1.2–4)

After this he goes straight on to examining how different emotions arise and thus how they can be awoken.

It is particularly the way Aristotle explains how the speaker must know how to influence the listeners emotionally that seems to collide with Aristotle's ethical and political ideals in that precisely these rhetorical tools that Aristotle present could be used for unjust or malicious purposes. The presentation of rhetorical tools is void of any advice regarding what purpose these tools should be used for. It seems clear that they could be used for immoral purposes, for example to convince an assembly to implement changes in society that would lead to constitutional change, the way Aristotle describes in Book 5 of *Politics*.

It is widely held that at least parts of the *Rhetoric* were written quite early, probably while Aristotle was still at the academy under Plato. This then should make us even more perplexed at the amoral tone of the *Rhetoric*, given Plato's view of rhetorical practice.<sup>8</sup> The warning against emotional influence in the beginning of Book 1 certainly has a Platonic tone to it, but if we for example ascribe to Aristotle a view of the emotions like the one we find in Plato's *Phaedo*, where emotions at best disturb an understanding of the situation, at worst make any real understanding impossible,<sup>9</sup> it seems very strange that Aristotle would recommend the use of emotions for rhetorical purposes. Aristotle would then be recommending for practical use something which he thought was inherently bad, which is unreasonable to expect from someone so preoccupied with ethics and politics as Aristotle, even given a purely scientific interest in the subject.<sup>10</sup> I therefore find it unreasonable to interpret Aristotle's theory of how the emotions can alter the appearance of things in such a way that it is understood as some sort of distorting or hindering that person's good sense. At least it seems to leave us with a blatant inconsistency between the introductory 1.1 and the rest of the work.

### Attempts at explaining the contradiction

But for now it must be admitted that there appears to be an inconsistency between 1.1 and the rest of the *Rhetoric*. Barnes concludes that what Aristotle says in 1.1 amounts to a notion of rhetoric void of emotional influence, only based on logical argument:

the study of the emotions is no part of Aristotle's rhetoric – it is not, strictly speaking, a mode of persuasion. ... Hence, rhetoric, insofar as it is technical or an art, studies deduction, it studies logic. (Barnes 1995, 261)

<sup>8</sup> At least if we suppose that Aristotle had a more Platonic, negative view of rhetoric in early years, which seems reasonable, both given the simple fact of him being a student at the academy, not yet having developed his own philosophical stance, but more so if we accept the testimonies of ancient sources on the *Gryllus*, a lost exoteric work by Aristotle in which he is supposed to have given a strong argument against understanding rhetoric as an art. "Aristotle, it is true, in his *Gryllus* produces some tentative arguments to the contrary, which are marked by characteristic ingenuity. On the other hand he also wrote three books on the art of rhetoric, in the first of which he not merely admits that rhetoric is an art, but treats it as a department of politics and also of logic." (Quintilian *Instituto Oratoria* II.XVII.14 tr. H. E. Butler)

<sup>9</sup> See *Phaedo* 67e–69e, 82d–84c. See also *the Republic* Book 10, 603c–607a.

<sup>10</sup> Aristotle's purely intellectual interest, which is admittedly strong, is often cited as an explanation to the exceptionally pragmatic tone of the *Rhetoric*. I would allege though that Aristotle's interest in right and wrong, good or bad is even stronger, and that any reading of the *Rhetoric* should try to at least establish an understanding which renders the recommendations to the rhetorician ethically neutral.

If this is true, then of course Aristotle's treatment of the emotions in Book 2 comes as quite a surprise, and there seems to be an impassable contradiction. Barnes draws the consequences of attributing a view of Rhetoric 1.1 as understanding rhetoric as an art consisting only of logical arguments – enthymemes, and enthymemes having nothing to do with emotional influence, when he says:

The contention seems clear enough in itself – but it would surely have surprised Aristotle's contemporaries. This surprise would quickly have turned to perplexity; for the contention of chapter I seems to be rejected in chapter 2. (Barnes 1995, 261)

The question then is if we should attribute to Aristotle a view that would bewilder his contemporaries as well as us, or if there is some way to understand what Aristotle says in 1.1 that would both make Aristotle's position familiar to his contemporaries and remove the apparent inconsistency from his work.

Even though I will argue that the contradiction between 1.1 and the rest of the Rhetoric is apparent only and can be solved, it must be admitted that on the face of it there is good reason to see this as a real contradiction. There have been many different attempts at explaining it. These attempts may tentatively be classified into 5 main strategies. (i) The simplest explanation would of course be that Aristotle is contradicting himself.<sup>11</sup> If so it would not be the first time in the Aristotelian corpus. (ii) Another alternative could be that Aristotle here is not directly contradicting himself in the same piece of writing, but that the contradiction has arisen as a result of editing, perhaps by Andronicus. It is widely accepted that the Rhetoric was not originally written as one treatise, but is the result of texts written in different contexts and at different times being edited together either by Aristotle himself or by someone else after his death, or both. Often this explanation is connected to a view of Aristotle changing his mind over time, and that this is reflected in the text.<sup>12</sup> This of course does not remove the inconsistency, and one must then also try to reconstruct how his view changed from a negative view on emotional influence to a more positive or at least neutral later on. (iii) A third alternative is a reading which entails that when Aristotle is speaking of emotions here this is not a unified concept, meaning that there are more than one type of emotions, some of which Aristotle thinks are problematic, others that are not.<sup>13</sup> (iv) A fourth solution argues that

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<sup>11</sup> J. Barnes maintains this first explanation (1995, 261). He seems to mean that when Aristotle is arguing that his predecessors' misconceptions of rhetoric are due to their one-sided emphasis on emotional influence he is saying that rhetoric is really about persuasion by rational arguments, so that it is limited to an exposition of how enthymemes work and how they are used to persuade. In other words that rhetoric is a logical subject. As Barnes points out this then seems to stand in stark contrast to the space Aristotle leaves for emotional influence in Book 2. This conclusion presupposes that emotions have nothing to do with rational argument, which again means that there is no room for emotions in the enthymeme. I wish to challenge this. Rhetorical persuasion is about practical matters and has the good as its goal. (More precisely it is about what is advantageous or harmful, just or unjust, or honorable or shameful depending on whether it is deliberative, judicial or epideictic (demonstrative) oratory – all clearly about judgments of value, cf. Rhetoric 1.3.5, 1358b.) To the degree that emotions play a role in the cognition of value, cognition of the good for man, i.e. cognition of virtue, reasoning aiming at the good will incorporate an emotional element. In other words, the supposition of an absolute division between the rational and the emotional is one that Aristotle does not share, and so the conclusion of Barnes does not follow. In other words, Aristotle's preoccupation with the enthymeme and the later emphasis on emotional influence is compatible.

<sup>12</sup> A classic view along these lines is presented by Solmsen. The most convincing in my view is D. Frede's attempt in her contribution to Rorty's *Essays on Aristotle's Rhetoric* (ed., 2006). Although Frede's explanation is more an explanation of how *Plato* changed his mind or developed his view from early to late dialogues, it can also be reflected in Aristotle, given the notion of parts of the Rhetoric being written at different times.

<sup>13</sup> This is what I think corresponds to Plato's view in his later dialogues, chiefly the *Philebos*.



Aristotle is talking about two distinct forms of rhetoric, one ideal and one pragmatic.<sup>14</sup> All these four interpretations hold that there is then at least some sort of discrepancy between 1.1 and the rest of the Rhetoric, be it intentional or unintentional. Most of these views also understand the practical advice given on how to influence emotionally as pragmatic in some sense, either (a) saying that Aristotle realized that real life politics is dirty and that rhetoric, although inherently bad in itself is necessary in an imperfect world,<sup>15</sup> or (b) that rhetoric as understood by Aristotle is ethically neutral and can be used for both good or bad purposes, or (c) the pragmatism is connected to Aristotle having a purely scientific interest in the study of rhetoric, discarding its moral or political implications. Finally then (v) a fifth solution is that it is the *manner* in which the emotional influence is made that is here essential – more concrete that what Aristotle is warning against in chapter 1 of Book 1 is emotional influence that is *foreign* to the matter – or, to use Aristotelian terms, that one is influencing through establishing *ethos* or producing *pathos* without this having any connection to *logos*.<sup>16</sup> It is this fifth solution I am opting for.

If we look a bit closer at some of these commentators we will better see what the argument is about. The tone of Rhetoric 1.1 is admittedly very Platonic, at least on the face of it, in that it gives an impression of general hostility to rhetoric in saying that all, at least all who theorize about rhetoric (i.e. the writers of rhetorical handbooks) have gotten it wrong and teach something that is not proper and not conducive to understanding and judgment. This because they have put emphasis on emotional influence and so one could also interpret this as a general hostility towards emotions like we find in at least some of Plato's dialogues (most notably *Phaedo* and *Gorgias*). Here then Aristotle seems to leave little or no room for the role he later gives to emotions in rhetoric, and so there is an apparent contradiction between this chapter and the rest of the Rhetoric. Kennedy refers to the attempts to solving these problems as involving

... claiming, for example, that *pisteis*, “proof”, in section 3 already includes the use of character and emotion as means of persuasion; that ethical and emotional proofs are “enthymematic”; and that verbal attack, pity, and anger in section 4 refers to expression of emotion rather than to reasoned use of an understanding of psychology and motivation. None of this is entirely satisfactory. A better approach is that of Sprute (1994), who regards chapter 1 as describing an ideal rhetoric in an ideal state where the laws prohibit speaking outside the subject, whereas Aristotle provides in chapter 2 a second introduction for a more realistic account of rhetoric in contemporary society. (Kennedy 2007, 29)

I disagree with Kennedy and Sprute here and will try to argue a position where it is not necessary to operate with such a division and dual purpose of the text. It is possible to

<sup>14</sup> Engberg-Pedersen holds this view (1996, 122–123). Admittedly, he does not treat the contradiction between 1.1 and the rest of the Rhetoric in particular, but the tension between amoralism and moralism throughout the Rhetoric. He represents a view where Aristotle by “being outside the subject” means all emotional influence.

<sup>15</sup> One particularly interesting strand of this interpretation, which could be called “the conspiracy-thesis” because of its view on the connection between the Rhetoric and its supposedly intended audience, argues precisely that it is understanding the intended audience for the Rhetoric that is key to a correct interpretation. Poster (1997) argues this view in claiming that the Rhetoric was indeed understood as dangerous by Aristotle, but that this text was intended only for the closed circle of the academy/lyceum, where rhetoric was taught so that the pupils could defend themselves and philosophy as such against the evils of the world.

<sup>16</sup> Aristotle's famous division of persuasion in 3 modes, *ethos*, *pathos* and *logos* is found in 1.2.3. Although Aristotle here, in his typical systematic manner, makes this distinction, I do not think he should be understood as saying that these modes are totally independent of each other.

reconcile what is said in the beginning of Book 1 and what is said in Book 2 as being about the same thing.

When trying to explain the apparent contradiction between the pragmatic or amoral tone of this work and Aristotle's general preoccupation and strong views on right and wrong, it is common to point to the practical goal of the *Rhetoric* as a handbook in rhetoric to be used by actual rhetoricians in his time, as opposed to the philosophical works meant for philosophical investigations. Some commentators think that Aristotle in the *Rhetoric* displays a pragmatic attitude towards rhetoric, either thinking that Aristotle realized that politics is dirty, and even if rhetoric is inherently bad, it is necessary in an imperfect world. Alternatively that Aristotle maintained the view that rhetoric is neither good nor bad, but ethically neutral, but can be utilized for good or bad purposes.<sup>17</sup> While I think there is some truth at least in the view that Aristotle thought that rhetoric could be used for both good and bad intentions I still think it is necessary to explain Aristotle's *Rhetoric* in a way that as much as possible conforms with his ethical views. One of the main tools belonging to the orator when trying to persuade is to try to affect the listener's emotions and as we have seen Aristotle devotes substantial parts of the *Rhetoric* to this question. There is good reason to think Aristotle does not view this as perfectly neutral, and so we have to try to explain his treatment of the emotions here in a way that corresponds with his general ethical views.<sup>18</sup> For even ascribing a totally neutral understanding of the emotions to Aristotle, meaning that they neither distort nor contribute to real understanding is in my view problematic, for what the rhetorician would then be doing when affecting the emotions of the audience would be "wasting their time", at least supposing that real understanding could be reached.<sup>19</sup> So even this neutral understanding of the emotions

<sup>17</sup> This view comes close to Gorgias' view in Plato's *Gorgias*.

<sup>18</sup> It seems fairly clear that the description of emotions and how people are emotionally affected is meant to be used by the rhetorician in practice when trying to persuade his listeners. Aristotle is trying to survey in which situation certain emotions can be expected and why, so that the rhetorician can try to create or avoid these responses in his audience. In this respect one could say that the treatment of emotions in the *Rhetoric* does not demand a theory of what emotions are, and again one could then say that this means that Aristotle in no way is committed to this description of emotions, but might simply be referring to how they are ordinarily understood by most and how most people normally react, i.e. that they are *endoxa*. It is common for Aristotle to start his investigation with the *endoxa*. But in my view there is still a reason to ascribe an explicit understanding of the emotions to the *Rhetoric*, and more precise a theory of what the emotions are that fits well with Aristotle's writings in other areas. For even if the *rhetorician* does not have to have an explicit theory of what the emotions are and why they can be influenced, *the one advising the rhetorician*, that is Aristotle, should have such an understanding. It is of course possible to imagine that Aristotle has only observed how emotions are influenced and then only refers to this empirical data in his *Rhetoric*, but given that Aristotle, as a pupil of Plato, had a profound interest in moral psychology, it seems to me unlikely that he never during the writing of the *Rhetoric* should have asked himself *why* this emotional influence works as it does. And in addition, since Aristotle is attempting to establish rhetoric as a *techne*, it would be strange if Aristotle should not be interested in *how* the emotional influence works, which naturally leads to the question what emotions are or what it is to be emotionally affected. Someone understanding this, I suppose, would be better equipped to give advice to the rhetorician as to how to influence his listeners through use of emotions. In other words; even if the *Rhetoric* does not explicitly present a theory of what the emotions are and how they work it is reasonable to suppose that such a theory is underlying the practical advice being given and that those practical advises are in accordance to this theory. This gives the opportunity to try to reconstruct such a theory from the *Rhetoric*. A. O. Rorty is expressing much the same when arguing that "the *Rhetoric* presupposes and is implicitly informed by Aristotle's logical works, by his philosophy of mind and his theory of action; it is also strongly conjoined with his political and ethical theory. But while the rhetorician relies on these theories, he is not himself a philosopher, logician, statesman or moralist" (1996, 1–2) and that "[t]o sustain his reputation as a trustworthy guide in political matters, the exemplary rhetorician need not be a philosopher or a *phronimos*. He needs rather to be able to take advice from a philosophically oriented *phronimos*, who counsels him on standard issue fears and desires, on conditions for responsibility, on how to construct sound argument. Call that person 'Aristotle.' And call his advice, '*The Rhetoric*'" (1996, 7).

<sup>19</sup> Of course a rhetorician who does *not* want to transmit any true understanding to the audience might be able to convince the audience through emotional appeal or influence and so avoiding wasting *his* time. This however

would mean that extended use of emotional influence would in practice hinder a real understanding. In other words a reading which thinks the emotions in principle entirely separate from the real understanding of the situation is not in my view something we should ascribe to Aristotle. It is more reasonable to suppose an understanding of the emotions which of course admits that the emotions can be played on and that they might make us see the situation wrongly, but still does not entail that the emotions in themselves are deceptive, or have nothing to do with the real understanding of the situation.<sup>20</sup> We must therefore seek a reading where the emotions can be understood as saying something genuine about the situation, something that without the emotions could not be understood.

Two commentators who also try to reconcile the apparent contradiction between 1.1 and its warning against emotional influence and the focus on emotions throughout the rest of the work are Jacques Brunschwig and Robert Wardy. Brunschwig also notes (Brunschwig 1996, 45) the wordings of Aristotle when warning against emotions as linked to the expression “matters outside the subject” – *exo tou pragmatos*. Brunschwig takes the position that what is said in 1.1 and later reflects an intellectual development in Aristotle that Aristotle wants his reader to notice. Although Brunschwig tries to justify this developmentalist view there is still, in my view, little support for it. For one, if this is Aristotle’s point with the apparent contradiction, why does he not say so? After all if this was the point, Aristotle has been misunderstood by nearly all his commentators/readers. I find it more likely that the apparent contradiction stands because Aristotle himself does not see it as a contradiction at all.

### **What is Aristotle warning against in *Rhetoric* 1.1? The critique of his predecessors**

Aristotle indeed warns against trying to influence through emotions in chapter 1. We have already seen that Aristotle claims that “verbal attack and pity and anger and such emotions of the mind [*psyche*] do not relate to fact but are appeals to the juryman” (*Rhetoric* 1.1.4). First of all note that this is specifically said about trying to influence the juryman. This is part of Aristotle’s complaint about his predecessors and their “guidebooks” in oratory.

The handbooks in question had predominantly been directed towards judicial rhetoric, discarding deliberative rhetoric. I think Aristotle would maintain that it is possible to influence emotionally in an improper manner in all types of oratory. But the emphasis on these handbooks seems to indicate that Aristotle thought things were particularly bad when it came to influencing improperly in law courts. If we then have a closer look at how emotional appeal was used in practice at this time, we might better understand what he is attacking. Aristotle continues:

some even adopt the practice and forbid speaking outside the subject [...] for it is wrong to warp the jury by leading them into anger or envy or pity:

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would mean that emotional influence in itself could never lead or contribute to any real understanding and as such only be useful for one who tries to either divert from any true understanding or does not think there is any such thing to be found. Any real understanding would then depend solely on rational argument, *logos*. Of course you might stumble on a correct understanding through emotional influence, for example reaching the right verdict in a court of law, but this would not be real understanding since it is an opinion without correct reasons. Given that real understanding can be reached through rational argument alone, and that emotions contribute nothing to it, it would be strange that Aristotle devotes so much time and effort to investigating and describing ways of influencing emotionally, even given his strong intellectual curiosity.

<sup>20</sup> The view that the emotions in themselves are deceptive, or have nothing to do with real understanding permeates all the dialogues of Plato that deal extensively with rhetoric (*Gorgias*, *Protagoras* and the *Sophist*) with the possible, but only *possible*, exception of *Phaidros*. This view some wish to attribute to Aristotle as well, at least the young Aristotle, on account on the testimonies of the *Gryllus*, which they think is expressed in *Rhet.* 1.1 as well.



that is the same as if someone made a straight-edge ruler crooked before using it. (Rhetoric 1.1.5, 1154a)

Leading the jury by anger, envy or pity is something good laws in well governed states forbid, says Aristotle, for this is speaking outside the subject. Now the question is of course how we are to understand Aristotle here. Is he saying that emotions are outside the subject and should therefore not be allowed – in this case he is contradicting his recommendations on using emotions in Book 2 – or is he saying that emotional influence (or anything else) *outside the subject* should not be allowed.

If we return now to the quote from 1.1.3–4 we should notice the context of this whole passage. It is directed towards “previous compilers of Arts of Rhetoric”. What Aristotle is referring to here are the earlier writers of handbooks in Rhetoric, primarily designed to aid in defending or accusing in the court of law (“directed only to the dicast”). These handbooks did not pay attention to *pisteis* (proof), focusing instead only on “the arousing of prejudice, compassion, anger, and similar emotion [that] has *no connection with the matter in hand*”. It is not necessary to suppose here that Aristotle is criticizing all previous writers on rhetoric (for example Isocrates) or that this is a general statement about the use of emotions in rhetoric. It is a statement only about (the predominant) use of emotional influences that are outside of the subject by previous writers of handbooks in judicial rhetoric.

Another passage that seems to warn against the use of emotional influence and as such presents the same view as in 1.1 is in Book 3 where Aristotle says the following:

for, as a matter of right, one should aim at nothing more in a speech than how to avoid exciting pain or pleasure. For justice should consist in fighting the case with the facts alone, so that everything else that is beside demonstration is superfluous; nevertheless, as we have just said, it is of great importance owing to the corruption of the hearer. (3.1.5)

Now on the face of it this seems to warn against emotional influence, which is also how most commentators read it. But what Aristotle is saying is that we should not try to please or scare our audience, but only stick to the facts of the case. Scaring or arousing pity might be through parading your children, begging for mercy, or hinting to powerful friends who will revenge you if you do not get it your way. Exciting anger by showing somebody to have acted unjustly, or pity by showing them to have been treated unfairly on the other hand is not foreign to the case, and, I contend, belong to the argument. More importantly, it is reasonable to suppose that this is also how Aristotle himself understands it.

Many commentators, for example Rorty (1996, 2) interprets Aristotle’s metaphor about warping the ruler as influencing emotionally. Why must all emotional influence warp the ruler, or is it reasonable to ascribe such a view to Aristotle? It is instructive that Rorty links this to making “the worse appear to be the better course”. Making the worse appear the better, or the weaker argument appear the stronger is what Socrates says is the standard complaint against philosophers and it is what is proposed to be taught in Socrates’s school in Aristophanes’ comedy *The clouds*. But none of the examples of making the worse argument the better here, or what Socrates is presumably referring to can be understood as predominantly emotional influence. On the contrary, it is subtle (albeit false) logic that brings this about, and the correcting reaction (here representing sound reason) is very often emotional.

### Is Aristotle alone in his complaints against certain types of emotional influence?

Now we have seen that one of the main questions when it comes to explaining the relation of 1.1 with the rest of the rhetoric is to understand just exactly what Aristotle is criticizing in the earlier quote from 1.1.3–4. Is it any kind of emotional influence, or is it only emotional influence that is foreign to the subject, and if the latter what does this mean? One way we might get a clue to an answer is if we can find somebody else, contemporary with Aristotle and with experience from the same field, expressing something similar. There are no other surviving books on rhetoric from the period except the *Rhetoric to Alexander*, also belonging to the Aristotelian corpus, but generally agreed to be spurious, perhaps written by Anaximenes of Lampsacus. This treatise does not shed much light on our present topic. There are however a number of preserved speeches written by different orators, some written for real events, some not.

One particularly interesting judicial speech is that of Lycurgus against Leocrates. Not only is it an interesting insight into judicial oratory of Aristotle's time,<sup>21</sup> but like Aristotle Lycurgus also has something to say about what is proper in a judicial speech – what means of persuasion are proper and should be allowed and which not. Consider this quote:

In my speech also justice shall come first; on no occasion will I have recourse to falsehoods or irrelevance. Most of the speakers who come before you behave in the strangest possible manner, either giving you advice from the platform on public affairs or wasting their charges and calumnies on any subject except the one on which you are going to vote. (Lycurgus 1.11)<sup>22</sup>

Here Lycurgus, like Aristotle, criticizes what he thinks is the practise of most judicial orators of speaking outside the subject. He also (1.12), like Aristotle (1.1.5) presents the Areopagus as exemplary in prohibiting this talk outside the subject. Further on in his speech we see that much of what Lycurgus means by talking outside the subject is precisely trying to influence the judges emotionally by arguments which have nothing to do with the question of guilt:

But before the witnesses come up I want to say a few words to you. You are well acquainted, gentlemen, with the tricks of defendants and with the requests made by others asking pardon for them. You know too well that desire for bribes and favours induces many witnesses to forget what they know, to fail to appear, or to contrive some other excuse. (Lycurgus 1.20)

And later:

On the other hand which people could he probably impose upon by arguments, appealing to their softer side by his tears and so winning their sympathy? The jury. [...] What was the use of pretexts, pleas, excuses? Justice is plain, the truth easy and the proof brief. (Lycurgus 1.33)<sup>23</sup>

What is outside the subject is “appealing to their (the jury's) softer side”, winning their sympathy by tears, i.e. at least partly *emotional* influence that has nothing to do with the case

<sup>21</sup> Lycurgus lived from 390 to 324, meaning that he was a contemporary of Aristotle; furthermore, he had attended the schools of both Plato and Isocrates.

<sup>22</sup> See also 1.13 where Lucurgus complains that many orators speak outside the subject.

<sup>23</sup> Lycurgus also echoes Aristotle in pointing out that rhetoric can be used in a right and a wrong way, either defending truth, or opposing it; compare Rhet.1.1.12–13 with Lyc. 1.138.

but is designed purely to sway the judges' feelings.<sup>24</sup> Evidently, Lycurgus has some of the same complaints as Aristotle. At the same time, it is clear that Lycurgus has no qualms about utilizing emotional influences. Making no secret that this is what he is trying, by implication he clearly sees these emotional influences as *not* foreign to the subject. On the contrary, they are necessary for the judges to understand the case and to reach a just verdict. He says for example:

And so he disappeared, a deserter, untouched by pity for the city's harbors from which he was putting out to sea, and unashamed in face of the walls which, for his own part, he left undefended. Looking back at the Acropolis and the temple of Zeus the Savior and Athena the Protectress, which he had betrayed, he had no fear, though he will presently call upon these gods to save him from danger. (Lycurgus 1.17)

And:

You have heard the witnesses, gentlemen. What I am now going to say will give you good reason for indignation and hatred of this man Leocrates. (Lycurgus 1.25)<sup>25</sup>

Much of the speech, as exemplified by the above quote from 1.17, is also dedicated to establishing the character (ethos) of Leocrates. He is cowardly, impious, lacking in respect etc. All these characteristics, which are connected with the argument through examples, is of course meant to influence the judges emotionally. And the point is that all these characteristics are seen as relevant to the question of guilt. They are meant to explain why Leocrates acted as he did.<sup>26</sup>

The whole speech is full of examples and statements designed to produce an emotional response in the audience/judges, particularly in connection with descriptions of courage and sacrifice in a military context, appeal to nationalism or national pride, and at the same time constantly pointing out that the defendant is lacking all the moral feelings that the audience/judges, and all decent Athenians as Lycurgus sees it, are having. Lycurgus rounds off his speech by again pointing out the appropriateness of not diverging outside the case, as he could have done by "slandering the private life of the defendant". Such slander would presumably be used to evoke negative feelings in the judges, and from Lycurgus pointing out that *he* has not done this, we can assume that this was done by others.

My task has been to assist my country, its temples and its laws. I have conducted the trial rightly and justly without slandering the private life of the defendant or digressing from the subject of my indictment. It is now for each of you to reflect that the absolver of Leocrates condemns his country to death and slavery, that of the two caskets before you one stands for treason and the other for deliverance, that the votes cast into one are

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<sup>24</sup> Lycurgus also attacks the practise of others, asking a favour for the defendant, trying to sway the judges by appealing to previous services to the state. These are seen as irrelevant for the case, meaning that even if the judges feel gratitude for these deeds they have nothing to do with the question of guilt in this case, and so it is wrong to try to take advantage of the judges' feeling of gratitude in this way; see 1.139 and 1.140.

<sup>25</sup> Further evident examples of emotional appeal or influence are 1.15, 1.27, 1.36, 1.58, 1.126, 1.141, 1.148.

<sup>26</sup> It is an established fact that Leocrates has left the city, but the important question is if he left because he wanted to do trade elsewhere (as Leocrates claims) or if he was afraid to defend the city when it was threatened (as Lycurgus claims). Establishing Leocrates' character is crucial in establishing motif.

given for the destruction of your country and the rest for safety and prosperity in Athens. (Lycurgus 1.149)

So Lycurgus is an orator who can be seen to echo Aristotle's arguing against certain foreign influences in the court,<sup>27</sup> identifying them as emotional influences, while he himself uses strong emotional influence in his speech, though all the while restricting himself, at least according to his own mind, to what is relevant and connected to the case. Of course Lycurgus' position cannot just be assumed to be identical to Aristotle's. After all, if we accept the view of those commentators ascribing to Aristotle a more Platonic view of rhetoric, then Lycurgus is one of the rhetoricians Aristotle is attacking. But the example of Lycurgus shows us that the complaint Aristotle is making about speaking outside the subject he is not alone in expressing, and this can help us understand what exactly he means by "outside the subject".

### **Emotional persuasion exemplified by Socrates' defense speech**

Another familiar source that that I have already mentioned and which can help shed light on what Aristotle might be attacking in 1.1 is Plato's *Apology of Socrates*. Here we can trace the same division between what is considered appropriate and inappropriate emotional influence on the ground that some belong and some do not belong to the subject.

In the *Apology* Socrates, famously argues his innocence against the charges of impiety (*asebeia*) and of corrupting the youth. Despite the fact that the dialogue is written by Plato, Socrates utilizes a lot of rhetorical means, also emotional ones. Consider this passage:

Men of Athens, I respect and love you, but I shall obey the god rather than you, and while I live and am able to continue, I shall never give up philosophy or stop exhorting you and pointing out the truth to any one of you whom I may meet, saying in my accustomed way: "Most excellent man, are you who are a citizen of Athens, the greatest of cities and the most famous for wisdom and power, not ashamed to care for the acquisition of wealth and for reputation and honor, when you neither care nor take thought for wisdom and truth and the perfection of your soul?" (29d–e)

This passage is saturated with emotional appeal. It contains expressions of shared national pride, expresses Socrates' respect and devotion for his citizens, Socrates' persistence in his activity and rebuke for spending time and effort on the wrong sort of activities. In fact the whole dialogue is saturated with Socrates' attempts to emotionally sway the audience/judges. It is perhaps easiest to see the abundant use of emotional influence utilized by Socrates when we look at how he tries to establish his own character (*ethos*) for the listeners. He describes his own character as: trustworthy (in that he is always doing the same thing for the same reason, never hiding his intentions),<sup>28</sup> benevolent (his entire activity is for the sake of the

<sup>27</sup> For further parallels between Aristotle and Lycurgus consider the two following statements from each: "For if they admit that he deserted his country, once they have granted this, let them leave it to you [the judges] to determine the seriousness of the offence" (Lyc. 1.63) and "Further, it is evident that the only business of the litigant is to prove that the fact in question is or is not so, that it has happened or not; whether it is important or unimportant, just or unjust, in all cases in which the legislator has not laid down a ruling, is a matter for the dicast himself to decide; it is not the business of the litigants to instruct him" (Rhet. 1.1.6). This last statement from Aristotle is often quoted as indication that Aristotle thinks no emotional influence should be allowed, but that the litigants should be limited to stating the "facts". It is interesting then that Lycurgus has a similar formulation about what should be left for the judges to decide, but then goes right on to utilizing strong emotional language. It indicates that this emotional appeal is not thought of as overstepping what should be left for the judges to decide in Lycurgus, and indicates that this might also be the case for Aristotle.

<sup>28</sup> See 29d, 33a.

Athenians),<sup>29</sup> unwavering<sup>30</sup> and courageous (in war,<sup>31</sup> against the tyrants<sup>32</sup>). In other words, he is trying to evoke trust, gratitude, admiration etc. His accuser is portrayed as something entirely different: untrustworthy, irresponsible, etc. evoking the feelings of distrust, anger, indignation. At the tail of his examination of the character of Meletus Socrates sums up:

For this man appears to me, men of Athens, to be very violent and unrestrained, and actually to have brought this indictment in a spirit of violence and unrestraint and rashness. For he seems, as it were, by composing a puzzle to be making a test [...]. And yet this is the conduct of a jester. (26e–27a)<sup>33</sup>

Now if the judges accept Socrates' characterization, the result is a feeling of mistrust and perhaps contempt for Meletus.

It might be less evident that Socrates is also trying to evoke a certain feeling in the audience/judges (*pathos*). But first of all one should consider the connection between establishing his own character – his *ethos* – and the emotional reaction of the listeners – their *pathos*. If you believe in the portrayal of somebody as trustworthy and brave, you will have a feeling of trust and admiration. There is no direct description of the *pathos* of the jury in the Apology, as is perhaps natural, but there are quite a few passages that let us understand how the audience is reacting, also emotionally, to what Socrates is saying. The passages seem to portray Socrates as evoking anger in the audience, and as such harming himself, and this could then be seen as Socrates not caring about trying to evoke the appropriate positive emotions in the audience. But this is not so I think. After all, Socrates has to try to evoke the right emotions that are *connected to the case*, and so cannot avoid explaining what he thinks is the truth.<sup>34</sup>

Another possible objection here is that we cannot suppose that Socrates is trying to be acquitted at all, and that he might actually intentionally be provoking the jury in order to be convicted and sentenced to death since death is nothing to fear. Such an interpretation is especially likely if we read the Apology in the light of the *Phaedo*. But any self-interest aside, I believe that Socrates has a strong interest in conveying the truth. This is what he has been seeking all his life, and tried to make others seek. So in his trial he has to try to convince the audience/judges of the facts. And the fact is that he is innocent.<sup>35</sup>

We have seen how Socrates utilizes a wide range of emotional persuasion when defending himself, all of which are relevant to the subject matter. But Socrates at one point specifically addresses what kind of means of influence he is not prepared to use. He says:

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<sup>29</sup> See 23c.

<sup>30</sup> See 28d, 32a.

<sup>31</sup> See 28e.

<sup>32</sup> See 32c–e.

<sup>33</sup> See also 24c, 25c, 26d for attempts to establish Meletus' character designed to evoke hostility or mistrust towards him.

<sup>34</sup> “And, men of Athens, do not interrupt me with noise, even if I seem to you to be boasting; for the word which I speak is not mine, but the speaker to whom I shall refer it is a person of weight. For of my wisdom – if it is wisdom at all – and of its nature, I will offer you the god of Delphi as a witness” (20e). Here Socrates seems to have evoked hostile emotions in his audience. But notice that he right away tries to explain that there is no reason for these hostile reactions. In other words, he is also trying to quench them, but never in a way that will be in breach with, or avoid revealing, the truth. See also 30b–d.

<sup>35</sup> Socrates also states quite clearly that he wants to convince the jury of his innocence: “Now I wish that this might turn out so, if it is better for you and for me, and that I might succeed with my defence” (19a). He also at 37a–b says that he thinks he would have been able to convince the jury had he had more time. Socrates' intention then is clearly to convince the jury of his innocence.



Perhaps one of you might be angry as he recalls that when he himself stood trial on a less dangerous charge, he begged and implored the juryman with tears, that he brought his children and many of his friends and family into court to arouse as much pity as he could, but that I do none of these things, even though I may seem to be running the ultimate risk. [...] I do not think it right to supplicate the jury and to be acquitted because of this, but to teach and persuade them. It is not the purpose of a juryman's office to give justice as a favor to whoever seems good to him, but to judge according to law. (34c–35c)

It is clearly an example of trying to emotionally influence the jury Socrates is attacking here, but it is not the emotional influence per se that is the problem. The problem is that it is foreign to the subject. The question whether Socrates is guilty of impiety (*asebeia*) or not has nothing to do with whether he pleads or not, or whether friends and family plead, or whether they would be sad to see him convicted.<sup>36</sup>

Let me finish this enquiry of the Apology with a quote from the last part when Socrates addresses the judges after having received his death sentence. Here he distinguishes between those who voted for conviction and those who voted for acquittal. The latter he calls friends:

I feel that you are my friends, and I wish to show you the meaning of this which has now happened to me. For, judges – and in calling you judges I give you your right name [...] (40a)

Why is he reserving the name of real judges only for those who acquitted him? Clearly these are the “real judges” because they have seen what is just and judged correctly. Socrates says about these that he feels that they are his friends. There were people in court, and perhaps among the judges that voted for his acquittal, who were actual friends of Socrates. But hardly every person in this group was his friend. I think this characterization of those who voted for acquittal as friends is telling, for it reveals some quality in them that is connected with their judgement. They have a sympathetic or friendly feeling towards Socrates. In other words those with a friendly feeling towards Socrates are the real judges in that they have understood and judged correctly, *not* because they were already friends of Socrates. On the contrary, if we trust Socrates' assessment, most citizens had a hostile attitude towards him, so at least some of these, and a surprisingly large number according to Socrates himself, have changed their mind. Socrates has thus influenced them, both through *logos* and *ethos*, possibly also working directly at their *pathos*, so that in the end they have a correct understanding of the situation, which is both an intellectual understanding, but also an emotional understanding, and thus they feel friendly towards Socrates.

If we return to Aristotle's complaint in 1.1 then, the same type of emotional influence that we have seen Socrates criticizing as foreign to the subject matter is precisely what the previous writers of rhetorical handbooks were emphasizing. It was a common practice in trials for the defendant to parade his children as part of a pledge for pity.<sup>37</sup> When Aristotle argues against the use of these specific emotional influences, this is what one would expect, even if he held that emotional influence in general was not bad in itself. It is these types of emotional pleas, I suggest, that he argues against in 1.1. It is these types of emotional influence that the laws ought to forbid for they have nothing to do with the matter in question. If Socrates has

<sup>36</sup> It is quite clear that Socrates distinguishes between a type of rhetoric, or at least way of speaking that utilizes illegitimate means, and one that uses legitimate means. At 38d–e he states that he *could* have spoken in a manner utilizing illegitimate modes of persuasion, like the ones the court is used to hear, but that he has refused to do so.

<sup>37</sup> As we saw ridiculed by Aristophanes in the opening quote from *the Wasps*, 975.

committed impiety as the law describes it, he is guilty. If not, not. This is all that the judges have to decide. But for a judge to decide this, he has to know something about the character of Socrates, and of his accuser, and the way the judge feels towards the accused is surely influential on his judgment, and should be.

### **The rule of law and how the judges judge**

There is however a further difficulty which we have not yet looked at, and which is often referred to as showing that Aristotle had an austere concept of rhetoric, void of all emotional influence in mind in Rhetoric 1.1, namely that Aristotle says that we ought to have as much as possible decided by law instead of leaving it to the jury's judgment. He says about the jurymen:

For them, friendliness and hostility and individual self-interest are often involved, with the result that they are no longer able to see the truth adequately, but their private pleasure or grief casts a shadow on their judgment. (Rhetoric 1.1.7, 1354b)

What Aristotle attacks here are *personal* feelings, not feelings or emotions in general.<sup>38</sup> That you pity this man because his many children plead so movingly, or that you dislike his brother, or that you dislike people with snub noses must not be allowed to influence your judgment as juror. This is the strength of the law, as Aristotle points out. Laws are about generals (Impiety is ...), not about particulars (Socrates is guilty of impiety). However, in order to reach a conclusion on Socrates's guilt, an impression of whether he is generally trustworthy, just, honest etc., all of which will create an emotional attitude towards him, is relevant for deciding whether it is likely that Socrates has now acted impiously, or has intentionally corrupted the youth.

In my opinion many commentators of the apparent discrepancy between chapter 1 of Book 1 and the discussion of emotions in Book 2 presuppose that there is a conflict between reason (which they then believe the law to express) on the one hand, and (irrational or a-rational) emotions on the other. This of course will create the conflict (in addition to the puzzle why a person like Aristotle, so preoccupied with what is good and virtuous, should devote so much time to giving advice on how to utilize emotional influence in oratory). But if we instead understand the emotions as part of any understanding in the practical sphere, i.e. questions about value, the conflict (and puzzle) is at least weakened.

Kennedy comments on Aristotle's insistence on leaving as little as possible to the juror's judgment and deciding as much as possible by law by saying:

Aristotle probably had little personal experience with cases at law and thus did not quite appreciate the impossibility of providing by law for every conceivable future circumstance. (Kennedy 2007, 32)

I would say that on the contrary Aristotle was keenly aware of this, which I think is pretty clear from his discussion of equity or reasonableness in Book 5, chapter 10 of the *Nicomachean Ethics*. Here Aristotle points to the apparent problem of the reasonable sometimes being contrary to what is just; the just being understood as what is according to law:

What creates the problem is that while the reasonable is just, it is not the just according to law, but rather a rectification of the legally just. The

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<sup>38</sup> Personal in the sense that they are feelings you have towards somebody for other reasons than what the case is about.

cause of this is that all law is universal, and yet there are some things which it is not possible to make correct universal pronouncements. So in the sorts of cases in which it is necessarily pronounced universally, but cannot do so and achieve correctness, law chooses what holds for the most part, in full knowledge of the error it is making. Nor is it for that reason any less correct; for the error is not in the law, or in the lawgiver, but in the nature of the case; for the sphere of action consists of this sort of material from the start. [...] And this is the nature of the reasonable: a rectification of law, in so far as law is deficient because of its universal aspect. (NE 1137b11–1137b28)

The rule of law is very important for Aristotle in general. One could say that it is the rule of law on which Aristotle bases his political thinking. But laws are not ideal. Laws are only valid for the most part and in general, so something has to be left for the judges and for individual judgment. In my opinion Aristotle states this as an indispensable part of what laws are and what we can expect of them. Even the best laws in the best state would still demand equity (*epieikeia*) from the judges administering the law. In connection with rhetoric the point is that there will always be the need for judgment in individual cases, and in these individual cases rhetoric has its function. If the laws could be expressed perfectly, covering all possible instances once and for all, the task of the judge would simply be to decide “the facts”, i.e. establishing what has happened and then judge whether this is in accordance with law or not. There would be no room for equity. If however even the best of laws are too general to incorporate all possible instances, there will always be room for equity.

Another aspect is the transition from written law to real circumstances. Here also equity is indispensable. Take a law against stealing for example. Let us say that a very crude law says that stealing is taking something that does not belong to you and that this should be punished by you having to compensate the value of the stolen item, plus an additional punishment in proportion with the value of what was stolen.<sup>39</sup> Say I took a horse from Thrasymachus. Now according to the law I am guilty and should be punished. But I could try to convince you that I did not steal the horse, I thought it belonged to Glaucon and had promised to bring his horse back with me from Piraeus. I might try to portray myself as an honest character, not much fond of horses etc. The way you would feel towards me would then depend on whether you trusted my portrayal of my own character or not. This in turn would certainly influence your verdict on whether I am really guilty of theft or not, although according to the word of the law I am, since I have indeed taken a horse. These ways of trying to influence the jury emotionally are therefore perfectly acceptable, because they shed light on the case in a way the simple description of me taking a horse does not. If I on the other hand should point out that you all really dislike Thrasymachus, and that he deserves some bad fortune, and I pull out my lyre and give you a splendid performance containing the best of Attic power ballads, this is not a proper way to sway your judgment, simply because it has nothing to do with the question whether I stole or not.

In summary, what I take Aristotle to be saying in Rhetoric 1.1 is that the laws should forbid the rhetorician from trying to influence the jury with things that are foreign to the case. Again,

<sup>39</sup> Now this as I said is a very crude law which could easily be approved upon by specifying more precisely what counts as stealing. The point is however that no matter how well you formulate the law or how precisely you specify it, there will always be cases where the law does not fit, and where the judge must use equity to reach a correct judgment, the judgment being based on the fullest possible understanding of the situation. (This is not to say that Aristotle doesn't think one should attempt to make the laws as good as possible by trying to specify as precisely as possible what is understood as right or wrong, just or unjust. The point is that no matter how well formulated the law is, it is never perfect. The subject matter, which is the practical sphere, does not allow for perfect laws.)

Socrates' example of putting his children's grief and pleas on display would be foreign to the question of his guilt. This type of emotionally swaying the jury should therefore be disallowed. On the other hand, emotional influences that are relevant to the case are not only acceptable, but necessary means in order to reach a full understanding. No matter if the conclusion is that "Socrates is impious!" or that "Socrates is innocent!", the jury's verdict will – at least in part – be based on an emotional judgment.

### **Bridging the gap between Book 1, chapters 1–3 and Book 2 of the Rhetoric**

I have said earlier that it is particularly the way emotional influence is used in judicial oratory Aristotle criticises and which he describes as speaking outside the subject. Here is the important passage in this respect:

Hence, although the method of deliberative and forensic Rhetoric is the same, and although the pursuit of the former is nobler and more worthy of a statesman than that of the latter, which is limited to transactions between private citizens, they say nothing about the former, but without exception endeavor to bring forensic speaking under the rules of art. The reason of this is that in public speaking it is less worth while to talk of what is outside the subject, and that deliberative oratory lends itself to trickery less than forensic, because it is of more general interest. For in the assembly the judges decide upon their own affairs, so that the only thing necessary is to prove the truth of the statement of one who recommends a measure, but in the law courts this is not sufficient; there it is useful to win over the hearers, for the decision concerns other interests than those of the judges, who, having only themselves to consider and listening merely for their own pleasure, surrender to the pleaders but do not give a real decision. That is why, as I have said before, in many places the law prohibits speaking outside the subject in the law courts, whereas in the assembly the judges themselves take adequate precautions against this. (1.1.10)

This division between judicial and deliberative oratory is telling; so is the observation that what is outside the subject is more common in judicial than deliberative oratory. For why, if Aristotle was attacking emotional influence in general, would there be such a division? Surely, in deliberative oratory, the use of emotional influence is quite common and effective. Again the crucial passage is "to talk of what is outside the subject". It is not emotional influence or appeal in itself that is the problem, but that it does not belong to the subject. Then this division between judicial and deliberative oratory makes perfect sense. For it is fully understandable that somebody might be swayed to acquit somebody, or give them a milder sentence, by having weeping and begging children paraded before them. It is less likely that someone will be persuaded to go to war against the Spartans, or build a new temple by the same means. The reason is that in the judicial case there is no (or at least less) self-interest involved, whereas in the deliberative case there is more self-interest involved. So these ways of utilizing emotional influence that is *outside the subject* is more common in judicial oratory, but the use of emotional influence as such is equally common, and from this we can conclude that it is not the emotional aspect Aristotle is criticizing in 1.1, but what is foreign to the subject. This also means that there can be equally appropriate means both in judicial and deliberative oratory to persuade emotionally.

Brunschwig draws the attention to an important passage where we can see a division between emotions belonging to the art (entechnical) and those not belonging to the art

(atechnical) by the phrase “roused to emotion by his speech (*hupo tou logou*)” (1.2.5).<sup>40</sup> This important division is precisely what explains what Aristotle is warning against in 1.1. It is the atechanical emotions that are the problem, not emotions themselves. This is also Brunschwig’s position. But it must be admitted that, as the text of Aristotle stands, there is certainly room for interpreting it otherwise, and that, if we incorporate our own “modern” understanding of emotions when trying to interpret Aristotle, it is perhaps more natural to interpret what is atechanical or foreign to the subject as precisely the emotions. This is the relevant passage:

The orator persuades by means of his hearers, when they are roused to emotion by his speech; for the judgments we deliver are not the same when we are influenced by joy or sorrow, love or hate; and it is to this alone that, as we have said, the present-day writers of treatises endeavor to devote their attention. (We will discuss these matters in detail when we come to speak of the emotions.) Lastly, persuasion is produced by the speech itself, when we establish the true or apparently true from the means of persuasion applicable to each individual subject. (1.2.5–6)

Given the previous critique of other writers of handbooks in rhetoric, on the face of it Aristotle seems to say that what these writers have been preoccupied with is emotional influence, and that emotions as such alter our judgment (presumably by obscuring the truth, or at least not in any way contributing to it). I do not contend that this is a reasonable interpretation of the above text. But this interpretation leaves us with the puzzle as to why Aristotle, when he returns to the treatment of emotions in Book 2 (as he says he will) no longer seems to censor the use of emotional influence. On the contrary, he gives detailed advice as to how to use it.

But we do not have to read the above paragraph this way. If we instead, for the sake of the argument, suppose that Aristotle thinks there is no absolute distinction between reason and emotion, but that they, in the practical sphere, intermingle, what Aristotle is saying can be paraphrased like this:

*The orator, in order to make his argument clear and fully understandable for the listener, must, through his speech and its arguments, be able to arouse the appropriate feelings in the listener, feelings that will make them see the situation and argument clearly. It is however important that this evoking of the emotions is done in connection with the argument, and that he does not try to evoke feelings by appealing to things that has nothing to do with the case. This will only obscure the argument. The other writers of handbooks in rhetoric have however focused solely on the arousal of emotions, without showing how they are connected to the argument or indeed bothering about whether they are connected to the argument or belonging to the case. I will in more detail (in Book 2) show how emotions can arise in connection with particular cases and thus contribute to a true understanding of the situation.*

And so, when he gets to Book 2, this is what Aristotle does.

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<sup>40</sup> Brunschwig 1996, 45.



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### Latin summary

*Misericordiā atque timore persuadere: quomodo Aristoteles motiones animi in Rhetoricis exhibuerit.* Scopus huius symbolae est in eo, ut id examinetur, quod communiter percipitur discrepantia inter sonum generaliter pragmaticum sive non moralem operis, q.e. *Rhetorices*, et modum, quo Aristoteles aliis in operibus suis quaestiones normativas tractat, capitulo introductorio *Rhetorices* incluso. Interpretationem autem propono, qua hanc discrepantiam vitare licet.

Cum Aristoteles in Rhet. 1,1 moneat effectum motionum animi esse cavendum, haec sententia percipienda est in conexu adnotationum criticarum, quae spectant ad priores auctores oratoriorum librorum manualium. Cum alios fontes historicos ad praxim rhetoricam pertinentes spectemus, melius intellegere valemus, de quanam re illis adnotationibus criticis agatur. Ipse censeo ex conexu historico apparere criticam Aristotelis directam esse contra quandam contemporaneam praxim iuridicam, nempe tali, qua conamina fiebant motiones animi flectere modis, qui ipsi argumento erant alieni. Primarii fontes mei in hoc conexu historico instituendo sunt Platonis *Apologia* et Lycurgi oratio *In Leocratem*.

Cum Aristotelis textum sub aspectu contemporanei iuridici modi practici legamus, praebetur intellectio diversa, quae nos ab illa contradictione, quae videtur, liberat. Puto enim modum, quo effectus motionum animi exseritur, esse magni momenti. Id quod Aristoteles monet cavendum, est modus, quo animi commoventur et qui tamen ipsi argumento est alienus. Adnotationes criticae sunt directae contra talem commotionem, qua *ethos* instituitur vel *pathos* efficitur neque *logos* omnino respicitur. Quaerendo modum legendi, quo motiones animi intellegi possunt proferentes aliquid genuinum de condicione, id est aliquid, quod sine motionibus animi non revera intellegitur, discrepantia haec apud Aristotelem invenienda solvi potest.

### English summary

The aim of this paper is to examine what has commonly been perceived as a discrepancy between the generally pragmatic or amoral tone of the *Rhetoric* and Aristotle's preoccupation with normative questions elsewhere in his works, including in the opening chapter of the *Rhetoric* itself. I suggest an interpretation that allows for this discrepancy to be avoided.

When Aristotle warns against emotional influence in *Rhetoric* 1.1, this statement must be seen in context with his critique of previous writers of rhetorical handbooks. By looking at other historical sources to the rhetorical practice that Aristotle appears to criticize, we can better understand what the critique is really about. I argue that this historical context makes plausible an understanding of Aristotle's critique as being directed towards a specific practice in the contemporary judicial practice, namely, that of trying to influence emotionally by means that are foreign to the argument. My main sources in establishing this historical context are Plato's *Apology* and Lycurgus' *Against Leocrates*.

Reading Aristotle's text in light of the judicial practice of the time offers an alternative understanding ridding us of the apparent contradiction. I suggest that it is the manner in which the emotional influence is made that is essential. What Aristotle is warning against is emotional influence that is foreign to the subject matter; the critique is directed against influencing through establishing *ethos* or producing *pathos* without this having any connection to *logos*. By seeking a reading where the emotions can be understood as saying something genuine about the situation, something that without the emotions could not be properly understood, the apparent discrepancy in Aristotle can be resolved.

### Keywords

Aristotle, Plato, Lycurgus, *Rhetoric*, *Apology*, Emotions, Emotional Persuasion.