



***EVIDENCE AS BORDER BETWEEN OBSERVATION
AND RHETORIC
STUDIES OF RHETORICAL INHERITAGE IN
DISCOURSES OF KNOWLEDGE IN ARGUMENTATION
THEORY
EXEMPLIFIED IN CASES OF THE TRANSFERS OF
RHETORICAL TECHNIQUE IN EMPIRICAL
EXPERIENCE***

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ABSTRACT: Terms change meanings as soon as they are used in a specific language, context, discipline, or doctrine. Evidence is one of them. This article claims that evidence is a concept we can communicate universally and consists of three parts for the development of the related discourse. In this article we will in part I examine the conditions and limits the postmodern era offers for evidence in argumentation in texts by thinkers of postmodernity, research, and commentators. In part II we describe the place of evidence in a theoretical rational discipline (rhetoric) focusing on the question how evidence refers to the classical model of argumentation in rhetoric. With a topological model of evidence, we conclude that the evidential argument as a carrier of argumentation can be an oral, written, or sensual experienced, e.g. visual, means and illustrate this in examples that comprises means of evidence and communicative means. Despite the employment of evidence in a variety of fields, we will show that evidence as a concept can be described as reference to sensual experience. In part III we show in examples the conditions and practical application of evidence. We claim that when artificial and technical processes dominate development of knowledge and limit evidential aspects, the obtained knowledge can only be a knowledge that is a reference to the technical process, but lacks evidential authenticity.

KEYWORDS: Studies of Rhetorical – Argumentation Theory – Empirical Experience

RESUMEN: Términos cambian los significados tan pronto como se utilizan en un idioma específico, el contexto, la disciplina, o la doctrina. La evidencia es uno de ellos. En este artículo se afirma que la prueba es un concepto que se puede comunicar universalmente y se compone de tres partes para el desarrollo del discurso relacionado. En este artículo vamos a examinar en la parte I las condiciones y los límites de las ofertas de la era postmoderna de pruebas en la argumentación en los textos de los pensadores de la posmodernidad, la investigación y comentaristas. En la segunda parte se describe el lugar de la prueba en una disciplina racional teórica (la retórica), centrándose en la cuestión de cómo la evidencia se refiere al modelo clásico de la argumentación en la retórica. Con un modelo topológico de las pruebas, se concluye

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que el argumento probatorio como portador de la argumentación puede ser una experiencia oral, escrita, o sensoriales, por ejemplo, medios visuales, y ilustrar esta en los ejemplos que abarca los medios de prueba y los medios de comunicación. A pesar del empleo de pruebas en una variedad de campos, vamos a mostrar que la evidencia como un concepto puede describirse como de referencia a la experiencia sensorial. En la parte III se muestra en los ejemplos de las condiciones y la aplicación práctica de las pruebas. Afirmamos que cuando los procesos artificiales y técnicos dominan el desarrollo de los conocimientos y limitar los aspectos probatorios, de los conocimientos sólo puede ser un conocimiento que es una referencia a los procesos técnicos, pero carece de autenticidad probatoria.

PALABRAS-CLAVES: Los estudios de retorica - Teoría de la argumentación - La experiencia empírica

RESEARCH IN THE DISCOURSE WORLD OF POSTMODERNITY

The Greek term *energeia* stands for the quality of an operation or activity of a thing. In the philosophy of Aristotle, *energeia* is the actuality characteristic of every individual substance, in contrast with its potentiality or capacity to change. *Energeia* was supposed to be the immanent power of a thing. In Aristotle's work we find the first concept that extends the concept of *energeia* to language. For Aristotle¹ liveliness is produced by the use of metaphors for the effect of "seeing things". By "making them see things" Aristotle means the use of expressions that represent things as in a state of activity (*energeia*; ἐνέργεια). We must be aware that the separation of rhetoric and philosophy historically was fostered by philosophers in ancient Greece. De facto the disciplines share common principles and terms. The continuing separating of the disciplines is obvious in Western studies, but not necessary. Among the principles the disciplines of rhetoric and philosophy share is evidence. *Energeia* later called evidence (*evidentia*) is a rhetorical figure of accumulation consisting of the actual separation of the main idea in part coordinated several ideas which appear as detailed description. Alternative terms in English are actualization or effectiveness at work. In philosophy self-evidence is the principle that allows us to accept a truth without proof. Ever since different disciplines were interested in arguments employed as the ground of argumentation (and also employed in practical applications), argumentation was considered a concept connecting empirical events, e.g. a crime, with a technical process of argumentation. Postmodernity for the early 21st century is the ruling concept for this time and also for the Western world based on philosophy, it is very helpful to face the limits. On the other hand we should ask if the contemporary time still falls in the frame

¹ **Rhetoric** 3, 11.

of postmodernity. Here of course the perspective of postmodernity is a selected one, it is not the dominant one for all areas of the world and it is also opposed to other concepts and worldviews. We cannot answer this question here, but we can rely on the categories of postmodernity as a framework for our interest in this article. Evidence had in the rhetoric and philosophy a special place for argumentation; self-evidence was agreed by both disciples to be out of the realm of proof. Here we conclude our introduction with an example of the ignorance of historical reference for postmodernity despite the existence of the term.

The concept of evidence in postmodern thinking was less considered a component of knowledge compared to rational processes. Pieters distinguished between the two variants of postmodern historicism of a narrativist one (Michel Foucault) and a heterological one (Michel de Certeau) stating that “in both cases, it points to the dangerous spot where the new historicism threatens to fall prey to the evils of the traditional historicism against which it defined itself”. The historicity of discourse in fields that are concerned with argumentation tends to repeat structural and artificial elements of disciplines, while the empirical aspects are less memorized. Even in the early writings about rhetoric the artificial methods of argumentation employ a much wider discourse than the principle of evidence. Thompson pointed out the difference between *energeia* and the discourse:

In contrast, the discourse based on the syllogism acknowledges the dependence of our knowledge on past knowledge; it builds on past knowledge rather than soaring independently of it or in defiance of it. Syllogistic thinking acknowledges the varying degrees of certitude, as when converging circumstantial evidence (arrived at syllogistically or by means of examples) produces a set of conclusions for which no perfect truthfulness is claimed but which seem to point most coherently to the probable state of affairs.²

Polisemantic and transdisciplinary use of the term evidence in different disciplines is a characteristic feature of the concept of evidence. Kelly wrote:

The concept of evidence is central to both epistemology and the philosophy of science. Of course, ‘evidence’ is hardly a philosopher’s term of art. [...] The concept of evidence would thus seem to be on firmer pre-theoretical ground than various other concepts which enjoy similarly central standing within philosophy.³

² THOMPSON, Ewa M. Ways Out of the Postmodern Discourse. *Modern Age* (2003). Path via Find Articles, June 28, 2008. <http://findarticles.com/p/articles/mi_m0354/is_3_45/ai_n6143307/pg_9>.

³ KELLY, Thomas. Evidence. *Stanford Encyclopedia of Philosophy*. Stanford University, June 23, 2008. <<http://plato.stanford.edu/entries/evidence/>>.

Postmodern discourse is historically conditionalized; it relies on previous knowledge and terminology. This is not uncommon in scholarly work, which refers to previous knowledge. For our topic we are interested in this writing the predominance of such historical discourse features has a negative effect on the opposite access to knowledge via the empirical access. This is the predominant area of research of the so called hard sciences, but we must be aware that evidential methods revived from the areas of philosophy and rhetoric. Under which conditions is argumentation in contemporary time possible? We will examine the state by looking as the conditions in contemporary research and authors that analysed or described them in various approaches. We will examine recent statement on postmodernity focusing not on their contribution to an argumentation model of postmodernity, but on the conditions for a postmodern context of an argumentation model. The writings regarding the conditions of postmodernity present different perspectives towards postmodernity. Neta (2008) wrote that our evidence constrains our rational degrees of confidence both locally and globally. For Neta the elements of one's evidence set are propositions and he differentiates between the neologisms of "doxastic accounts of evidence" and "non-doxastic accounts of evidence". The postmodern perspective is a perspective that allows to recruit the past and memory, when making statements about the world. Braet (416) mentioned that if we consider Aristotle the founding father, then three classical disciplines may be said to represent the origin of the study of fallacies: logic, dialectic, and rhetoric. But fallacies are not the only rhetorical element these disciplines share. Amossy (2002) wrote that shared values and beliefs work not only for communication but also for verbal efficacy and described rhetorical *topoi* as empty structures (Aristotle's common places). This is actually an interpretation not aware of the importance of structures. We can assume that the conditions of postmodernity describe the state of the 21st century. As mentioned previously, there are different ways to look at the present state. In **A Glance between the Scenes: The State of the Art in the Study of Argumentation** van Eemeren provides an overview of different approaches to argumentation, varying from Toulmin's model of analysis, Perelman and Olbrechts-Tyteca's new rhetoric, informal logic, radical argumentativism, formal dialectical approaches and pragma-dialectics to modern rhetorical approaches introducing crucial

problem areas in the study of argumentation: manifestations of argumentative commitments, argument schemes, argumentation structures, reconstruction of argumentative discourse, normativity and fallacies, and specific argumentative practices.

In **On the Continuing Utility of Argument in a Postmodern World** Cherwitz and Darwin (181) contended that “traditional theories of argument are consonant with and enrich the project of postmodernity. (181)”. Again, we find here the theoretical approach towards contemporary problems. The **Newcastle Philosophy Society** declared that

while postmodernism offers a critique of the rationalist and humanist legacy and rejects the empirical paradigm – all of which developed in large part out of the Enlightenment – paradoxically it evidently participates in the intellectual heritage it criticizes. Postmodernism is quite willing to employ the tools of reason and argumentation, if only to attack reason and argumentation.⁴

Here we find the expressed notion of the historical condition of postmodern thinking relying of traditional concepts. Guarino (654) wrote that postmodernity a word one “finds now with some frequency in both scholarly and casual literature. It is a “movement” that has inspired raging debates about the “cult of theory” across the arts and sciences. Langsdorf noticed that

argumentation is a form of communication, rather than an application of (formal) logic, and is used in communicative activity as a means for inquiry, although it is more typically thought of as bringing inquiry to closure.⁵

Fredric Jameson in **Fear and Loathing in Globalization** pointed out that

this new geopolitical material marks a significant historical difference between these commercial adventure stories and the equally cynical gonzo journalism of an earlier period; indeed, the affinities and distinctions between the cultural products of the 60s and 70s and those of the 90s and 00s would be well worth exploring further.⁶

For Jameson lack of names and genres and the preference for the individualized piece in the postmodern world:

⁴ POSTMODERNISM. **Newcastle Philosophy Society**. Royal Institute of Philosophy, June 10, 2008. <<http://www.newphilsoc.org.uk/PostModernism/postmodernism.htm>>

⁵ LANGSDORF, L. Argument as Inquiry in a Postmodern Context. **Argumentation**, 11, 3, p. 315, 1997.

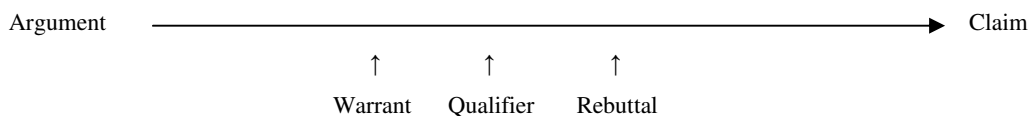
⁶ JAMESON, Fredric. Fear and Loathing in Globalization. **Evans Experimentalism**, Jun 23, 2008. <http://evans-experientialism.freewebspace.com/jameson_globalisation.htm>.

A further point is that, little by little, in the current universe, everything is slowly being named; nor does this have anything to do with the older Aristotelian universals in which the idea of a chair subsumes all its individual manifestations.

The descriptions of postmodernity made here by several authors have a different degree of evidence. Jameson used the ekphrases and illusion and employed this way rhetorical tools of evidence. They are all discursive employing techniques rather than evidence. Regarding the question of the place evidence derives from Kelly wrote:

According to the phenomenal conception of evidence, only one's experiences can serve as evidence. [...] Even if one abandons the phenomenal conception of evidence, however, one might hold on to the idea that one's evidence includes one's experiences, inasmuch as one's experiences can and often do make some difference to what one is justified in believing, regardless of whether one forms beliefs about those experiences themselves.⁷

Toulmin's model is a good example for the discursive form of a rational process that research on argumentation has reached in the time of postmodernity, even though the model borrows from ancient sources. Toulmin emphasizes that arguers make a claim supported by evidence, and proof, and conclusions with implications or applications without acknowledging the opponent's argument. This traditional form of argument is a description of the process of argument. Its model is based on the principal elements claim (what the arguer is trying to prove), evidence (proof or grounds for belief), and warrant as a connection between claim and evidence. Also in Toulmin's model we find a normative structure of claim and evidence. Evidence as a way to show that a claim is true is here marginalized. The error factor of Toulmin's theory is the lack of reference to the empirical words. Toulmin mentions "sorts of evidence", but emphasizes that they are changing and different. It allows us to build sentences about something that is actually composed by components. It is not the error of Toulmin, but comes along with the theoretical framework and its limitations.



⁷ KELLY, Thomas. Evidence. **Stanford Encyclopedia of Philosophy**. Stanford University, June 23, 2008. <<http://plato.stanford.edu/entries/evidence/>>.

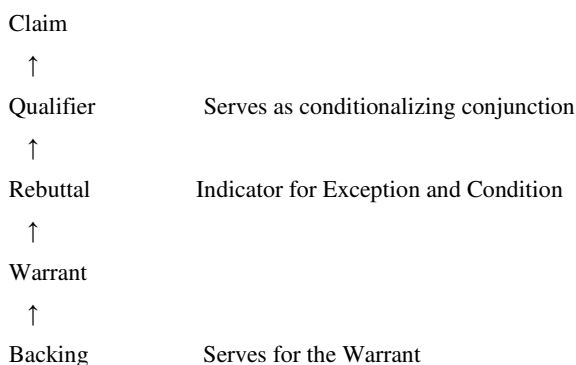
Backing

Toulmin's Model of Argument. Argumentation as a Process according to Toulmin

The postmodern condition is the situation that very clearly shows us the limits of a theory were warrant, backing, and qualifier and rebuttal can be exchanged under the given system. It lacks empirical conditions, which is for a theory acceptable, but restricts the functionality of the theory. Toulmin used for his theory metaphorical comparisons taken from the empirical words. In chapter III **The Layout of Arguments** Toulmin compares the argument with a living organism:

An argument is like an organism. It has both a gross, anatomical structure and a finer, as-it-were physiological one. When set out explicitly in all its detail, it may occupy a number of printed pages or take perhaps a quarter of an hour to deliver; and within this time or space one can distinguish the main phases marking the progress of the argument from the initial statement of an unsettled problem to the final presentation of a conclusion.⁸

Keith and Beard wrote that not all argument was reducible to logic. Toulmin offered an alternative to the material or formal conditional; he envisaged a different inference principle, which he called a warrant. He insisted that warrants, rather than being abstractions like conditionals, were bounded by institutional and disciplinary constraints, contextual boundaries Toulmin called fields. **The Uses of Argument** is actually a book that tries to show how to get from A to B, from argument, to claim when practicing certain procedures in a dense compilation of historical material about argumentation. Argumentation is traditionally understood as a process. In the followings steps we will transform and extend Toulmin's model in order to have a connection to a broader field of applications and a model. The line from thesis to argument shows what went wrong in Toulmin's schema.



⁸ TOULMIN, Stephen Edelston. **The Uses of Argument**. Cambridge/ New York: U.K/ University Press, 2003, p. 87.

↑

Argument

Toulmin's Model of Argument. Argumentation as a Process according to Toulmin

Toulmin distinguishes sorts of evidence. Toulmin (16) wrote that “the sorts of evidence relevant in cases of different kinds will naturally be very variable “and that the sorts of evidence relevant to claims “will be very different” (71). Evidence can change predictions: “Fresh evidence may become available which leads us to modify the prediction without changing our general ideas about the subject concerned” (169). We will later come back to the concept of sorts of evidence, since here our empirical level of argumentation starts. Toulmin puts his metaphoric of evidence in a vivid description.

The postmodern conditions for argumentation are characterized by historicity with discourse feature that allow rhetorical memory to be employed. The metaphorical concept of globality of globalization refers to a potential general existence of a development, but it is actually just a concept referencing to mediated knowledge. It is a paradigm for the preference of historicity and the reduced importance of evidence. The argumentation model of Toulmin and its adaption is an example par excellence for the dominance of artificial aspects of argumentation and the negligence of the sorts of evidence. The postmodern condition has been discussed as well as the approach of postmodernity as a historical era. Even the post-postmodern era has been announced indicating that the ear of postmodernity is over. We give the following definition of postmodernity: A cultural concept that has the potential to rely on different ideas and techniques in order to achieve statements about contemporary life. It is also the *conditio sine qua non* we look at the events behind us, history, from various ambivalent perspectives. Thus, this approach and even the immanent basis to be able to communicate into past, present, and future characterize postmodern communication. Postmodern thinking is ambivalent, since it can chose from a variety of options. It is extreme difficult to examine the conditions of argumentation, since the access to various theories and models allows to chose. Postmodernity is a literal phenomenon, even though it has been seen in the context of cultural conditions and cultural elements have been associated with it (postmodernism). Postmodern thinking is expressed literally. Often the rhetoricity of postmodern thinking has been (negatively) emphasized, but this rhetoricity is actually a *conditio sine qua non*. The relation between words and things

taken from endless material, i.e. the core relation from which rhetoric emerges, in postmodernity has turned to a relation between things of any material expressed rhetorically. Even though mainly associated with philosophy, postmodern thinking is expressed with rhetoric. Tracing back the concept of globalization it is a metaphor derived from the principles of working power like Aristotle introduced using the principle of *energeia* (evidence). At the limits of evidence of sensual experience the technical process is left alone and produces such terms as globalization and postmodernity, which aim to claim a reference to evident occurrences, but are actually mind-born children of historicity and form. Examined under the rhetorical paradigm any approach to globalization appears as ekphrasis of an illusion. At this point we start our investigation into the place of evidence in classical rhetoric.

II ARGUMENTATION – TECHNIQUE AND EVIDENCE. PROPEDEUTICUM FOR A MODEL OF COMMUNICATION

Rhetorical Argumentation

According to Aristotle, every entity can be described in terms of actuality (*energeia*) and potentiality (*dunamis*). Aristotle's distinction of actuality and potentiality (*energeia* and *dunamis*) is for what really the actual case is and what has the potential power to change or to come to be the case. For Aristotle⁹ rhetoric may be defined as the faculty of observing in any given case the available means of persuasion (*dunamis peri hekaston tou theôrêsai to endechomenon pithanon*). Rhetoric we look upon as the power of observing the means of persuasion on almost any subject presented to us; and that is why we say that, in its technical character (*hê de rhêtorikê peri tou dothentos hês eipein dokei dunasthai theôrein to pithanon*), it is not concerned with any special or definite class of subjects. Argumentation historically is placed in the disciplines of dialectics, logic, and rhetoric.

Argumentation is a process. Aristotle differentiates between the enthymeme of rhetoric and the syllogism of dialectic. According to Aristotle¹⁰, the orator's demonstration is an enthymeme. The enthymeme is most effective of the modes of persuasion. The enthymeme is a sort of syllogism. The consideration of syllogisms of all kinds is the area of dialectic, either of dialectic as a whole or of one of its branches.

⁹ Rhetoric 1, 2.

¹⁰ Ibid., 1.1.

For Aristotle just like in dialectic there is induction on the one hand and syllogism (*sullogismos*) or apparent syllogism on the other, so it is in rhetoric. The example (*paradeigma*) is an induction, the enthymeme (*enthumêma*) is a syllogism, and the apparent enthymeme is an apparent syllogism. Aristotle calls the enthymeme a rhetorical syllogism, and the example a rhetorical induction. Persuasion through proof is done by enthymemes or examples: there is no other way. Enthymemes are syllogisms and examples are inductions.

The sign (*sêmeiôn*) can serve according to Aristotle¹¹ for the complete proof. One kind of signs bears the same relation to the statement it supports as the particular bears to the universal, the other the same as the universal bears to the particular. The infallible kind is a "complete proof"; the fallible kind has no specific name. By infallible signs Aristotle mean those on which syllogisms proper may be based. The sign is called "complete proof". Now the one kind of sign, which bears to the proposition it supports the relation of particular to universal, Aristotle illustrates as follows: In the sentence "The fact that Socrates was wise and just is a sign that the wise are just". We certainly have a sign, but even though the proposition be true, the argument is refutable, since it does not form a syllogism. But in the sentences "The fact that he has a fever is a sign that he is ill," or, "The fact that she is giving milk is a sign that she has lately borne a child." we have the infallible kind of sign, the only kind that constitutes a complete proof, since it is the only kind that, if the particular statement is true, is irrefutable. According to Aristotle¹², we must distinguish in dealing with enthymemes the special and the general *topoi* of argument on which they are to be founded. By special *topoi* Aristotle mean the propositions peculiar to each several class of things, by general those common to all classes alike. Aristotle discussed in the third book of his **Rhetoric** the performing in front of the eyes (*per ommaton poiein*) as lively effectiveness (*energeia*). *Energeia* is an important technical term in the works of Aristotle. The two components of his coinage indicate something being "in work". In his **Metaphysics** (X) Aristotle claims that pleasure, as opposed to the popular view of an emptiness that needs to be fulfilled, actually consists in *energeia* of the human body and mind. Aristotle also contrasts *energeia* with *dunamis*, *hexis*, and *kinesis*. *Energeia* means being-at-work and

¹¹ Ibid.

¹² **Rhetoric** 1, 2.

entelechia means being-at-an-end. These two words, although they have different meanings, function as synonyms in Aristotle's scheme. Garver (38) speaks about a “rhetorical *energeia*” that Aristotle showed. Aristotle in **Rhetoric**¹³ used the expression *energeia doxes*: Slighting is an actualization (*energeia*) of opinion in regard to something which appears valueless; for things which are really bad or good, or tend to become so, we consider worthy of attention, but those which are of no importance or trifling we ignore. Now there are three kinds of slight: disdain (*kataphronêsis*), spitefulness (*epêreasmos*), and insult (*hubris*). According to Cope, in the **Rhetoric** (2, 2, 3) *energeia doxês* represents the opinion, hitherto dormant or latent, as roused into active exercise as a realised capacity, a *dunamis* become an *energeia*. The mere opinion of the worthlessness of so and so, has now become developed into *oligôria*, and assumed the form of an active or actual expression of the contempt by the outward token of ‘slight regard’. *Energeia* is also a value. Aristotle¹⁴ defines happiness (*eudaimonia*) as prosperity combined with virtue, as independence of life, as the secure enjoyment of the maximum of pleasure, or as a good condition of property and body together with the power of guarding one's property and body and making use of them. Parts of happiness are good birth, plenty of friends, good friends, wealth, good children, plenty of children, a happy old age, also such bodily excellences as health, beauty, strength, large stature, and athletic powers, together with fame, honour, good luck, and virtue. Aristotle mentions also that being wealthy consists rather in use than in possession; for the *energeia* and use of such things is wealth.

Cicero in **De Inventione** (1, 7) mentioned that the divisions of speech production are invention (*inventio*), arrangement (*dispositio*), elocution (*elocutio*), memory (*memoria*), and delivery (*actio*) and defines them as follows: Invention is the conceiving of topics either true or probable, which may make one's cause appear probable. Arrangement is the distribution of the topics, which have been thus conceived with regular order. Elocution is the adaptation of suitable words and sentences to the topics so conceived. Memory is the lasting sense in the mind of the matters and words corresponding to the reception of these topics. Delivery is a regulating of the voice and body in a manner suitable to the dignity of the subjects spoken of and of the language

¹³ Ibid., 2, 2, 3.

¹⁴ **Rhetoric** 1, 5.

employed. Parts of the speech are *initium* (beginning), *narratio* (narration), *argumentatio* (argumentation), and *conclusio* (conclusion). *Stasis* is an element of a procedure asking certain questions in order to arrive at the argumentation especially in law cases. The handling of conflicts was categorized by ancient rhetorical doctrine in conjectural, definitional, qualitative, and translative states (Cf. Quintilian. **Institutio Oratoria** Book III, chapters 42-99).

Did he do it?	Fact	Conjectural State	(status coniecturae)
What did he do?	Definition	Definitional State	(status finitionis)
Was it expedient?	Quality	Qualitative State	(status qualitatis)
Is the law applicable for this issue?	Jurisdiction	Translative States	(status translationis)

States in the Rhetorical Stasis Doctrine

If a case with a cause (*causa*) occurs that is discussed by two persons, the status of the issue needs to be checked. In the **Institutio Oratoria** (7, 10; 3, 6) Quintilian describes the *status* or *bases* of a case. The *status* or *basis* (στάσις) investigates into a cause (*causa*). Different models exist.

3-Status Model (3, 6, 44)

Status of quality

Status of conjecture

Status of definition

Model of General Status (3, 6, 44)

Status questioning whether it is

Status questioning what it is

Status questioning what kind it is

3-Status Model (3, 6, 47)

Hortative Status

Conjectural Status

Definitive Status

Juridical Status

Ciceronian Model (3, 6, 50)

Fact

Names

Kinds

Legal action

5-Status Model (3, 6, 51)

7-Status Model (3, 6, 54)

Definition

the translative, transumptive or transpositive basis

the syllogism (the ratiocinative or deductive basis)

those which turn on ambiguity or ἀμφιβολία

(= 4 legal questions or four legal status)

Conjectural Status

Definitive Status

Qualitative Status

(=3 rational status)

Status Model of Hermagoras (3, 6, 61)

Status of Competence

Status of letter of the law and its intention

Ratiocinative Status

Status of ambiguity

Status of contradictory laws

Status Model of Quintilian (3, 6, 66)

Rational Status

Conjectural Status

Qualitative Status

Definitive Status

Conjectural Status
Definitive Status
Qualitative Status
Quantitative Status
Relative Status

Legal basis

Rhetorical Status Concepts for Cases

Every kind of case contains a *cause*, a *point for the decision of the judge*, and a *central argument* (3, 6, 104). The stasis concepts aimed to determine the events.

	Cause (<i>causa</i>)
Status determined via	Determination of Status
	Judgement

Elements of Juridical Argumentation

Argumentation via Artificial Arguments

Arguments are *enthymemata* (ἔνθυμήματα), *epicheiremata* (ἐπιχειρήματα), and *apodeixeis* (ἀποδείξεις) (Inst. Orat. 5, 10, 1). The *enthymeme* (ἔνθυμημα, commentum or commentatio) has three meanings: Anything conceived in the mind, a proposition with a reason, a conclusion of an argument drawn either from denial of consequents or from incompatibles. It is also called a rhetorical syllogism (5, 10, 1). *Epicheireme* (ἐπιχείρημα) is *reasoning* (5, 10, 6). *Apodeixis* (ἀπόδειξις) is clear proof (5, 10, 7). These three means are called *πίστεις* (*fides*), which is a warrant of credibility, translated by *probatio* (proof) by Quintilian (5, 10, 8).

	via	Artificial Arguments
		Proof Probatio πίστεις (<i>fides</i>)
		Enthymemes <i>enthymemata</i> (ἔνθυμήματα) “ <i>rhetorical syllogism</i> ”
“ <i>commentatio</i> ”		Epichairemes <i>epicheiremes</i> (ἐπιχειρήματα)
		Apodeixeis <i>apodeixeis</i> (ἀποδείξεις)
Argumentation	via	Inartificial Arguments
		Commonplaces
		Arguments from persons and arguments from things

Derived from loci (*topoi*)

Types of Arguments in Argumentation

Quintilian describes the *enthymeme* as a *rhetorical syllogism*. Quintilian calls the enthymeme a *commentum* or *commentatio* (5, 10, 1-2). Under the name arguments Quintilian comprises the ἔνθυμήματα, ἐπιχειρήματα, and ἀποδείξεις of the Greeks, terms which, in spite of their difference, have for Quintilian the same meaning. For the *enthymeme* (which Quintilian translates by *commentum* or *commentatio* suggesting that since there exists no alternative, the Greek name should be used) has three meanings: firstly it means anything conceived in the mind (this is not however the sense of which I am now speaking); 2 secondly it signifies a proposition with a reason, and thirdly a conclusion of an argument drawn either from denial of consequents or from incompatibles; although there is some controversy on this point. For there are some who style a conclusion from consequents an *epicheireme*, while it will be found that the majority hold the view that an *enthymeme* is a conclusion from incompatibles: wherefore Cornificius styles it a contrarium or argument from contraries. An enthymeme consists of three parts:

Major premise
Reason
Conclusion (5, 13, 10)

Argumentation via Inartificial Arguments

Inartificial arguments are signs also called indications from arguments (5, 10, 12). Probable arguments (εἰκότα) are related to credibility (5, 10, 15). Quintilian lists the following types of places of arguments (5, 10):

1. Commonplaces (5, 10, 20)
2. Arguments from persons and arguments from things (5, 10, 23)

Quintilian lists the following systematic places of arguments.

Arguments from the causes of past or future actions (5, 10, 33)
Argument from contraries (5, 10, 2)
Arguments from place (5, 10, 37)
Arguments from time (5, 10, 42)
Arguments from circumstances (5, 10, 46)

Arguments from definition (5, 10, 54)
 Arguments from similarities, from unlikes, from contraries, from consequences necessary or probable (5, 10, 73)
 Ἐπαγωγῆ (*induction*) (5, 10, 73)

Inconsequential arguments derive from facts that have no mutual support.

Consequential arguments are those derived from facts which lend each other mutual support and are by some regarded as forming a separate kind of argument, which they call ἐκ τῶν πρὸς ἄλληλα, arguments from things mutually related (5, 10, 73)

Arguments from causes (5, 10, 80)

Arguments from conjugation (5, 10, 85)

Arguments from *apposite* or *comparative* (5, 10, 86)

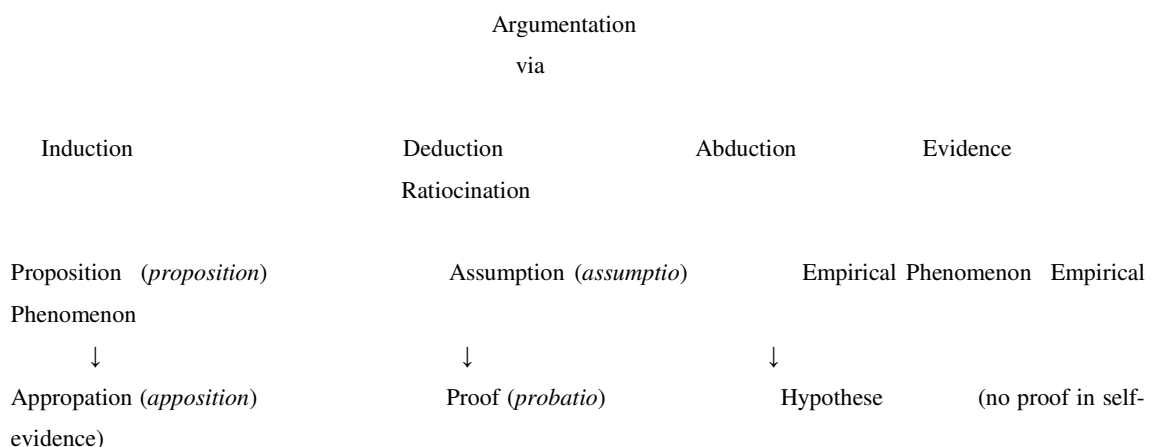
Arguments from *genus* to *species* (5, 10, 90)

Arguments from admitted facts (5, 10, 90)

Arguments from fictitious suppositions (5, 10, 95)

Arguments from circumstances (περίστασις) (5, 10, 104)

Cicero in **De Inventione** (1, 10) wrote that if divisions (*partes*) cannot properly be considered divisions of a kind of case (*causa*), much less can they properly be considered divisions of a division of cause. But all statement of the case is a division of a case. The case is not adapted to the statement (*constitutio*) of the case, but the statement of the case (*causa*) is adapted to the case. Cicero in **De Inventione** (1, 29) wrote that argumentation (*argumentatio*) derived from those topics either probable or unavoidable. Indeed, to define it in a few words, argumentation appears to be an invention of some sort, which either shows something or other in a probable manner, or demonstrates it in an irrefutable one.



Methods of Argumentation

Argumentation can be conducted via induction (*inductio*) or ratiocination (*ratiocinatio*). Cicero in **De Inventione** (1, 31) wrote that all argumentation

(*argumentatio*) is to be carried on either by induction or by ratiocination. Induction is a speech (*oratio*) which, by means of facts which are not doubtful, forces the assent of the person to whom it is addressed. Ratiocination (1, 34) is a speech (*oratio*) eliciting something probable from the fact under consideration itself, which being explained and known of itself, confirms itself by its own power (*vis*) and principle (*ratio*).

Non-evidential Argumentation and Evidential Argumentation

Elenchos is the Greek word for refutation (*refutatio*). For Quintilian refutation may be understood in two senses. For the duty of the defense consists wholly in refutation, while whatever is said by our opponents must be rebutted, whether we are speaking for the defense or the prosecution. It is in this sense that refutation is assigned the fourth place in pleadings, but the methods required in either case are identical. For the principles of argument in refutation can only be drawn from the same sources as those used in proof, while topics and thoughts, words and figures will all be on the same lines. As a rule no strong appeal to the emotions is made in refutation (5, 13, 1). For Aristotle an argument may be refuted either by a counter-syllogism or by bringing an objection. Counter-syllogisms can be built up from the same lines of arguments as the original syllogisms: for the materials of syllogisms are the ordinary opinions of men, and such opinions often contradict each other (**Rhetoric** 2, 25).

Beginning Part	Beginning	<u>Exordium</u>
Narrative Part	Narration	<u>Narratio</u>
Argumentative Part	Partition	<u>Partitio</u>
	Confirmation	<u>Confirmatio/probatio</u>
	Refutation	Refutatio
Ending Part	Ending	Peroratio

Parts of a Speech

In the speech *evidentia* is employed in the narration and argumentation. *Evidentia* means clearness, distinctness, and in rhetorical language perspicuity. The term *evidentia* was used by Cicero along with *perspicuitas* as a translation of *enargeia* (Ac. 2, 6, 17). *Perspicuitas* falls in the systematic field of elocution (*elucutio*). *Perspicuitas* means transparency or clearness. As a trope it stands for evidentness,

clearness, or perspicuity. Cicero wrote: “Nihil est clarius enargeia, perspicuitatem, aut evidentiam nos, si placet, nominemus.” (Ac. 2, 6, 17). Quintilian wrote: “Perspicuitas in verbis praecipuam habet proprietatem (8, 2, 1). Quintilian (**Inst. Orat.** 6, 2, 32) writes that from impressions arises ἐνάργεια which Cicero calls illumination and actuality, which makes us seem not so much to narrate as to exhibit the actual scene, while our emotions will be no less actively stirred than if we were present at the actual occurrence. Quintilian (**Inst. Orat.** 4, 2, 63) writes that Theodectes asserts that the statement of facts should not merely be magnificent, but attractive in style. But this quality again though suitable enough to the statement of facts, is equally so in other portions of the speech. There are others who add palpability (*evidentia*), which the Greeks call ἐνάργεια. Quintilian (**Inst. Orat.** 9, 2, 40) writes that with regard to the figure which Cicero calls ocular demonstration, this comes into play when we do not restrict ourselves to mentioning that something was done, but proceed to show how it was done, and do so not merely on broad general lines, but in full detail. In the last book he classified this figure under the head of vivid illustration, while Celsus actually terms it by this name. Others give the name of ὑποτύποισις to any representation of facts which is made in vivid language appealing to the eye. **Claritas** means clearness, brightness, or splendor. Quintilian wrote: “Pulchritudinem rerum claritas orationis illuminat” (2, 16, 10). It is also an expression of excellence (3, 7, 11): “viri claritate praestantes”. Clarity (*claritas*) is often associated with *enargeia* for the presentation. Cicero translated *enargeia* in his dialogue *Lucullus* (17) with the neologism *evidentia*. It was used in the rhetorical, legal and philosophical language. In **De Oratore** (3, 202) it is also used as a figure of vivacity of the visual impression. Longinus speaks in *Peri Hypsous* (About the Sublime (15.2)) about the rhetorical clarity (*enargeia*). Quintilian in different places his **Institutio Oratoria** refers to Cicero and his *evidentia* (8, 3, 61) and Aristotle's *energeia* (8, 3, 89).

Three Levels of Evidence **The Argumentative Level**

The traditional speeches use the part of the ‘argumentatio’ for the application of arguments. Argumentation is a technique for reaching conclusions through logical reasoning, that is, claims based on premises. An argumentation has a structure comprising of the following elements:

a set of assumptions or premises

a method of reasoning or deduction
a conclusion

Non-argumentative techniques are e.g. repetition of an idea or visuality. Argumentation is practiced and necessary, when evidence is missing. Argumentation relies on a process. Argumentation is not empirical. Argumentation can use empirical data in order to come to a conclusion. Argumentation as a process cannot guarantee, if a conclusion (claim) is correct or not. The evidence of the conclusion finally makes an argumentation successful. Besides the argumentation, evidence can be used in the narration.

The Empirical Level

Evidence as argumentation is considered a tools for claims of knowledge in rhetoric and philosophy. In **The Problems of Philosophy** Bertrand Russell in the chapter **XI On Intuitive Knowledge** wrote that

there is a common impression that everything that we believe ought to be capable of proof, or at least of being shown to be highly probable. It is felt by many that a belief for which no reason can be given is an unreasonable belief.” On the contrary, “self-evidence, however, is not confined to those among general principles which are incapable of proof.”¹⁵

Russell emphasizes the sensual experience as the ground for self-evident truths:

In addition to general principles, the other kind of self-evident truths are those immediately derived from sensation. We will call such truths 'truths of perception', and the judgements expressing them we will call 'judgements of perception'. But here a certain amount of care is required in getting at the precise nature of the truths that are self-evident. The actual sense-data are neither true nor false.¹⁶

Russell distinguishes self-evident truths of perception and their judgement and as intuitive judgements and judgements of memory. Also rhetoric theoreticises the self-evidence not necessary to give an proof. For Cicero (**De Inventione** 1, 50) that is self-evident (*perspicuum*), about which there is no dispute (*controversia*) at all. Quintilian in the **Institutio Oratoria** (5, 10, 32) mentions that in regard to every action the question arises either *Why* or *Where* or *When* or *How* or *By what means* the action is performed. The questions to describe the event are: Who? What? Where? When? Why? How?

¹⁵ Russell, Bertrand. *The Problems of Philosophy*. **Dickran.net**. June 23, 2008. <<http://www.dickran.net/books/russell/chapter11.html>>.

¹⁶ Ibid.

The Topological Level

Topology can serve as a bridge between evidence and reason. Aristotle¹⁷ mentions that it is a *topos* to use a sign, or single instance, as certain evidence, which, again, yields no valid proof. An argument is a tool that makes the process of argumentation possible. The point is that an argument is not per se an argument. Something can serve as an argument. It can be used as an argument. The fact of evidence can turn out to be an argument. An argumentation is the process that leads from one state of knowledge to another state of knowledge. As a result, the actions related to this new state of knowledge can change. We can divide argumentation falling in an empirical area and a theoretical area. Both areas are related to each other: The higher the empirical impact, evidence, the less the artificial impact, the theoretical construct and vice versa. We call them here real world and discourse world. Evidence refers to both. Argumentation is a communicative action regarding the exchange of knowledge. Knowledge changed under those conditions aims to be universal; it might be not universal, but it actually can have the tendency to be universal, since it aims to integrate other persons into the given and communicated state of knowledge. The topical background refers to the places arguments can be taken from. Here again we can divide the *topoi* in empirical and theoretical places; e.g. an empirical statement or an abstract value.

Evidence and the Communication Model

To express the flexibility of the evidence as argument as actual and potential element of argumentation we use the expression nodus in a cluster for it. As a nodus the evidence is connected to other elements of a system, e.g. to the hypothesis in philosophy or the speech in rhetoric. Toulmin used the concept of sorts of evidence for argumentation. We have to extend the traditional concept of argumentation for the area of evidence. We will speak in the following text about 'clusters of argumentation' that refer to our sensual "real world" perception. Clusters are units for arguments from topoi of evidence that we can use in an argumentation. Clusters can be literal, oral, or visual/sensual elements of perception. Clusters can be arranged in potentially any form

¹⁷ **Rhetoric** 2, 24

as a representation of the structure of the argumentation. Nodi represent the relevant argumentative units (e.g. text parts, pictures, acoustic phenomena). For example in a multi media installation or in a computer several perceptual nodi exist. They serve as sensual self-evident area for an argumentation. In classical rhetoric the *signa* are the places for self-evidence. Nodi can be related to each other in the way traditional argumentation theory would refer to argumentation. The point is that argumentation theories have taken fewer efforts to explain argumentation effects that include esthetical, intertextual and intermedial aspects. We can indicate that nodi are the units of argumentation we will explain using an abstract scheme indicating the connection between the nodi (e.g. graphically as a tool and by ascribing argumentative structures to the set of nodi). The advantage of such a cluster model is that it includes different media. Evidence is a quasi-natural element in argumentation. What is evident has the potential to serve immediately as an argument. Assuming that argumentation is a communicative action, we should be aware of the fact, that here several sub-processes are involved in argumentation. An example of the ambivalence of argumentative units: “The house has five floors” is an evident statement as long as the sentence refers directly to reality and a real-world experience. But “X says that the house has five floors.” is an indirect statement that does neither rely on nor refer to the house, but to X. In both cases the sentence can be an argument. The argumentative issue it is related to is different. In an argumentation we can use self-evident topoi such as topoi from space, time, persons or objects, method, and technical actions and methods that refer to the questions where?, when?, who?, what?, and how?.

Parts of a Speech According to Classical Rhetoric

Space	Where	→		Initium
Time	When	→		Narration
Person or Object	Who or What	→	Argument	→ Argumentation
Method	How	→		Conclusion

Basic Empirical *Topoi* as Carrier of Self-evident Arguments in an Argumentation Process

We distinguish here discourse world consisting of all means and contents that enable us to communicate with others and the real world as the world we can perceive sensually. Both can contain the same contents, but refer to different means. The

Despite the differences concerning the way, evidence is employed in several disciplines; a common feature of evidence is its placement in the area of empirical experience. It is the occurrence we observe. In other words: Evidence cannot be produced artificially or technically by any means. In order to say more about this concept, we must look at the experience of senses. Expressed in the body-mind dichotomy, evidence refers to the bodily experience of the senses, while procedure like techniques employed in sciences refer to the cognitive processes of the mind. Evident statement will refer to sensual experience. The topics (*topoi*) of evidence derive from sensual experience of the human senses and are facts that can be integrated into other systems.

At home I listened to the song yesterday in the afternoon played by a local radio station.
Where Who What When How

Example of Event. Topological Elements of a Statement of Evidence

In the example above the speaker/writer refers to topological elements that produce an event. The event is recorded by writing or it could be recorded as spoken words. Also a drawing could be used to record the event. Argumentation is a binary communicative action. The arguments must be found and communicated. The first communicative action is the action of the person communicating with the exterior world via sensual experience. In the second communicative action the sensual experience is communicated to others. It can be employed in a classical rhetorical argumentation process; we have seen the self-evidence as a part of the argumentation and rhetoric described by Aristotle, Cicero, and Quintilian. The topical ground for the evidence of arguments can be described by the classical *topoi* *who*, *what*, *when*, *how*, and *where*. Since on the level of evidential proof sensual experience, words, and written texts can serve as means, we must extend these categories in categories of communication. Self-evident *topoi* can have associated values; for example expressed in the sentence “The food tastes good”.

Topoi *who, what, when, how, where*

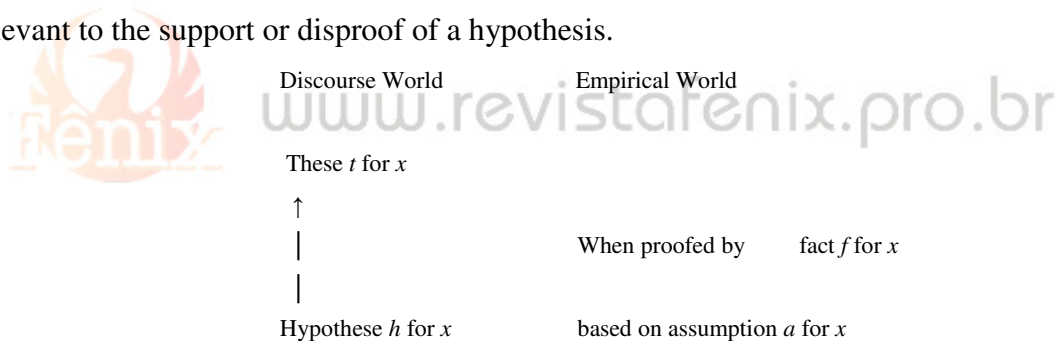
Communicative Systems: Writing
Senses of Sensual Perception

We can claim that evidence has the character of a concept with universal status beyond the level of a single discipline. As universal we can distinguish evidence as a principle from other principles and methods. Evidence stands in contrast to rational methods, but nevertheless is employed by them. Examples here are science, natural science and the humanities and social sciences. Taking the example of one of its earliest disciplines employing evidence, rhetoric, we see the contrast between the formal process of argumentation and the ingressive function of evidence. The reference of evidence to things we sensually experience and to the systematic process of a method like argumentation gives evidence the function of a nodus communicating between the areas we call real world and discourse world. By authors of classical rhetorical argumentation it was already noticed that evidence can serve as a topos. But less efforts were done to integrate evidence into a major concept of argumentation. Evidence refers to empirical experience; in rhetoric, it is as a figure of speech related to the visualization of a thing or person with means of language as an effect of illusion. In philosophy evidence is often associated with intuitive judgement. In both cases it occurs to be a pre-rational mode of action. The experience in the realm of sensation, the human senses, is the evidence of an actual event. The categories of evidence are time and space and the perceived sensations of our senses. “Yesterday at 5.00 a.m. in Paris I saw a gray sky with fast moving clouds” is a sentence that comprises such evident description of a sensual experience. It depends on the contents if the evidence is integrated into argumentation or philosophy. It can be employed as an argument for e.g. a rising storm.

III PURE SCIENCE AND TOPOGRAPHICAL EKPHRASIS. EXAMPLES FOR THE COMMUNICATION OF EVIDENCE

Different standards, interpretations and uses of evidence in various fields of research and practice are employed. But these features come along with the post-empirical communication of evidence after the sensual experience. Pure evidence relies on sensual experience and is not accessed by an artificial tool. Evidence includes anything that is used to determine or demonstrate the truth of an assertion. In science evidence is accumulated through observations or in a laboratory. We will call this the real world as a contrast of the discourse world. Self-evidence also means that the object of self-evidence does not refer to prove or disprove an assertion. Probe here indicates that a line of argumentation is produced and here the intention would be persuasion.

Natural science use sets of carriers of meaning that transfer the object of evidence into a system of carriers of meaning that communicate the observed sensual experience as an abstract process in discourses. Natural science tends to refer in their evidence process to refer to the carrier system of meanings and normative conditions and not to the observed sensual experience. For example, a person is able to determine when the sun is too hot and his/her skin will get burned in a certain place of the world at a certain time and is able to avoid the risky stay in the sun observing his/her skin, but a normative system, even though covering most parts of the world, would not be able to give an exact information about the sensitiveness of the skin, e.g. for a product that blocks the sun. Here only average factors can be used in a system that refers to the effect of the sun blocker, but not to individual sensitiveness of the skin, time of the day, intensity of the sun etc. The concept of scientific evidence in pure science is evidence which serves to either support or counter a scientific theory or hypothesis. Evidence is information that can be communicated. Evidence consists of facts (referring to the set of questions) coupled with principles of inference of beliefs and assumptions, that make information relevant to the support or disproof of a hypothesis.



Evidence Employed in Pure Science

X here is a phenomenon that can be proved in the empirical world. When the fact f proved the assumption, the hypothesis becomes these. It is important to mention that evidence is employed in pure science in a process, but itself is not part of the process. The facts must be suitable for the proof. The empirical material must fit with the needs of the theoretical assumptions. Beliefs and systems that employ evidence can differ. For example an experiment of the hard science has different conditions than in the social sciences. Hard sciences operate with a set of meaningful carriers such as numbers or signs that refer to phenomena. Hard sciences will explain these phenomena in terms of their meanings. As mentioned before, evidence is a way of argumentation:

for Cicero (**De Inventione** 1, 50) that is self-evident (*perspicuum*), about which there is no dispute (*controversia*) at all. In our model the argument is related to the level 'Discourse World' and the argumentation is based upon the topical background including the places the arguments are taken from referring to self-evidence. Within the discourse the knowledge is communicated and it can result in an action taking place in the 'real world'. For Aristotle¹⁸ liveliness is produced by the use of metaphors for the effect of "seeing things". By "making them see things" Aristotle means the use of expressions that represent things as in a state of activity (*energeia*). This principle is employed in the *Eikones* of Philostrate. While it is assumed that the *Eikones* written by Philostratus are a description of 64 pictures in a gallery, the question whether they are authentic and actually existing works of art or fictitious poetical products. Ekphrasis, the description of a situation in detail, is in rhetoric associated with the visualization of a situation. A root of evidence is a sign, symptom, or mark. As such the illustrations serve as evidence of something. In the 2nd book of his *Eikones* Philostratus describes island, a topographical ekphrasis. The contents of the description Philostratus communicated to a boy who is supposed to follow his in the exhibition of the pictures. The description starts with the question

Would you like, my boy, to have as discourse about those islands just as if from a ship, as though we were sailing in and out among them in the spring-time, when Zephyrus makes the sea glad by breathing his own breeze upon it? But you must be willing to forget the land and to accept this as the sea, not roused and turbulent nor yet flat and calm, but a sea fit for sailing and as it were alive and breathing. Lo, we have embarked; for no doubt you agree?¹⁹

After the answer for the boy "I agree, let us go sailing." The description begins:

You perceive that the sea is large, and the islands in it are not, by Zeus, Lesbos, nor yet Imbros or Lemnos, but small islands herding together like hamlets or cattlef-olds or, by Zeus, like farm-buildings on the sea-shore. The first of these is steep and sheer and fortified by a natural wall; it lifts its peak aloft for all-seeing Poseidon; it is watered with running water and furnishes the bees with food of mountain flowers, which the Nereids also doubtless pluck when the sport along the seashore.²⁰

¹⁸ **Rhetoric** 3, 11.

¹⁹ PHILOSTRATUS. *Imagines*. Tr. Arthur Fairbanks. **Theoi**, june 10, 2008 <<http://www.theoi.com/Text/PhilostratusElder2B.html#17>>.

²⁰ *Ibid.*

Invocation of the boy keeps the authenticity of the description as a frame of the narrative about the islands:

The neighbouring island, my boy, we may consider a marvel; for fire smoulders under the whole of it, having worked its way into underground passages and cavities of the island, through which as though ducts the flames break forth and produce terrific torrents from which pour mighty rivers of fire that run in billows to the sea. If one wishes to speculate about such matters, the island provides natural bitumen and sulphur; and when these are mixed by the sea, the island is fanned into flame by many winds, drawing from the sea that which sets the fuel aflame. But the painting, following the accounts given by the poets, goes farther and ascribes a myth to the island.²¹

Evidence in our example is in a rhetorical description applied that uses sensual elements such identification of the written and the visual medium. The classical rhetoricians placed ekphrasis close to topography, which starting in ancient Greece, has been used for places described in topography (τοπογραφία). Later on the technical topography used maps to visualize the arrangement of the places or single places. Ekphrasis is a rhetorical device replacing the written by the visual medium of art in order to relate more directly to the audience. The perspective of the narrative is one that reaches any detail. The narrator turns from the described island to the boy.

Canopied with ivy and bryony and grape-vines, this next island claims to be dedicated to Dionysus, but adds that Dionysus is now absent, doubtless reveling somewhere on the mainland, having entrusted to Seilenus the sacred objects of the place; these objects are yonder cymbals lying upside down, and golden mixing-bowls overturned, and flutes still warm, and drums lying silent; the west wind seems to lift the fawn-skins from the ground; and thee are serpents, some of which are twined about the thyrsi and others, in a drunken sleep, are at the disposal of the Bacchantes for use as girdles.²²

Illuminative liveliness was mentioned by rhetoricians. The evidence employed in rhetoric is here actually limited through the artificial strategy of rhetoric, which results in the effect of authenticity for the reader. The authenticity is a double-authenticity: On the one hand the description of the islands gives the reader the impression of the landscape. On the other hand the communication towards the boy is a vivid description of scenery the internal topographical description is placed in. The

²¹ Ibid.

²² PHILOSTRATUS. *Imagines*. Tr. Arthur Fairbanks. *Theoi*, June 10, 2008 <<http://www.theoi.com/Text/PhilostratusElder2B.html#17>>.

sensual experience that is dominant in the text is the visual experience, which is communicated to the boy.

Nature in fashioning yonder mountains has made an island thickly grown and covered with forest, lofty cypress and fir and pine, oaks also and cedar; for the trees are painted each in its characteristic form. The regions on the island where wild beasts abound are tracked by hunters of boar and deer, some equipped with hunting-spears and with bows.²³

The narrated content is more detailed than the visually experienced contents of the pictures. The narrator combines the illusion of an interpretation and narration in his description:

So when the gulls fly away after food, the tern keeps guard around the home rock, and the gulls return towards evening bringing to it a tithe of what they have caught; they at once sleep round about the tern, and it stays awake and is never overcome by sleep except when they are willing. If it senses the approach of any danger it raises a piercing shrill cry, and they rise at the signal and fly away, supporting their warden if ever it grows weary in flight. But in this picture it is standing and watching over the gulls. In that it stands in the midst of its birds, the tern is like Proteus among his seals, but it is superior to Proteus in that it does not sleep.²⁴

The illusion of the description makes details visible that are seen during the journey from one to another island. The description of the last island ends with small details, while in the beginning larger topographical sites are described:

Yonder hare, brought into the house only yesterday, I believe, is fastened with a purple leash like a dog, but it objects to being bound and seeks to slip its bonds with the help of its front feet; and a parrot and a magpie in a woven cage sing like Sirens on the island; the magpie sings what it knows, but the parrot what it has been taught.²⁵

Evidence is here the means to create a powerful impression of illusion. It is the rhetorical counterpart to the philosophical claim of truth via evidence. The communicative act in rhetoric is the turn to the audience; in philosophy it is the turn to the empirical world.

CONCLUSIONS

²³ Ibid.

²⁴ PHILOSTRATUS. *Imagines*. Tr. Arthur Fairbanks. **Theoi**, June 10, 2008 <<http://www.theoi.com/Text/PhilostratusElder2B.html#17>>.

²⁵ Ibid.

Taking the paradigm of rhetoric as a discipline that employs evidence we have extended classical rhetorical theory using a topological model of empirical topoi of sensational experience in order to demonstrate the connection between rational process and empirical evidence. Evidence has a cutting edge function mediating between experience and process. As a nodus it refers both to experience and process. The limits of evidence are the processes employed for rational processes; in such a case the facts would refer only to the reference system, but not to the fact. For example a sampling study would refer to the parameters of the study, the single fact is not important. The single fact here is also not evident, since it is result from an artificial experiment. This artificiality we can compare to the rational processes employed in the humanities. Despite the employment of evidence in a variety of fields, we showed that evidence as a concept can be described as reference to sensual experience. We come to the following definition of evidence: Something can serve as evidence; it has the potential to be an argument that is evident, a special kind of argument, which derived from the empirical experience. The actual argument, which is evident, is integrated into the argumentation process or a process of proof depending on the way knowledge is achieved in a discipline.

