



The Importance of Rhetoric in Legal Discourse

Andrew Nyakundi

Department of Business Administration Kampala International University Uganda

ABSTRACT

This paper examines the importance of rhetoric in legal discourse, specifically how persuasive language shapes legal practice, influences judicial outcomes, and raises ethical considerations. By exploring historical, theoretical, and practical dimensions, the study highlights how effective rhetoric allows legal practitioners to enhance the strength of their arguments, engage in emotional appeals, and influence decision-making. Ethical issues emerge when persuasion crosses into manipulation, prompting reflection on the duty of advocates to balance effective advocacy with ethical responsibilities. This review emphasizes rhetoric as an essential tool in law that, while powerful, must be used responsibly to uphold justice and fairness.

Keywords: Legal rhetoric, persuasion, legal discourse, ethics in law, judicial decision-making.

INTRODUCTION

Language has always been a means of expressing thoughts, feelings, attitudes, and intentions, among other cognitive and emotional states. However, more than simply cognitive or representational, language possesses a practical value. It can shape action. This is because language can persuade and change perspectives. Persuasion persuades us. And persuasion and language are constant bedfellows of the practice of law. It is characterized by an extensive language of its own—a language that not only defines it but also gives it practical efficacy [1, 2]. In this paper, I will be arguing three main points. First, legal practitioners may differentiate themselves according to their ability to persuade their peers, namely judges, judiciary assistants, the other party, the jury, and so on. Second, the art of rhetoric can improve not only any arguments that are, by themselves, legally strong and share the minimum legal qualities required in such practice but also weak legal arguments. Finally, despite the bad reputation of rhetoric in many contexts, the more we are with it, the more we consume and reproduce rhetorical figures, and the more we unwittingly show that rhetoric is pragmatic and puts us in a position to be successful with our judgments and agency. An understanding of the features of the linguistic expression of legal rhetoric can help move forward in all three cases. The English language used in the practice of law is not confined to the institutional sphere: the legal language that is used to persuade and codify is relevant to the discourse of the practice of law [3, 4].

Historical Overview of Rhetoric in Legal Practice

Early in the emergence of law as a formal profession, the Western legal process embraced the teachings of rhetoric. So integrally interwoven were legal and rhetorical practices that in many historical texts, at least in the early common law tradition, they were virtually indistinguishable disciplines. This paper will discuss the history of legal rhetoric, but it differs from numerous accounts in attempting to avoid hyperbole. It will not draw on legal history to conclude that current trends modernize or deconstruct. Instead, we endeavor to provide a detailed study of rhetoric, in terms of the influence it had on a profession and society and how it reflects the pragmatism encapsulated in the idea that rhetoric does not create the real, but it can bridge the dividing line [5, 6]. The historical periods of ancient and classical precepts and ancient rhetoric developed as much in response to corrupt advocacy, the prevalence of witchcraft and superstition, and heavy penalties on contracts entangling commercial law as they did on the growth of professional advocates. In antiquity, rhetoric began as both a skill and a structure for speech, such as poetics and grammar. In Greece, rhetoric was studied extensively and taught clearly,

offering practical exhortations and technology guides towards the provision of any citizen of political, respectful, or forensic speaking duty. Ancient rhetoric is linked with the practice of the law in judicial and legislative speeches, of the five elements of public exposure oratory with speculative analyses, thus this paper is dedicated to discussing its history [7, 8].

Key Rhetorical Strategies in Legal Discourse

Legal discourse, in its essence, is a verbal technique of persuasive communication. This is a time-honored convention that has its roots in antiquity and, invariably, has seen unflagging application in criminal jurisprudence through the millennia. Legal rhetoric, as unstintingly myriad as it may be, employs some powerful strategies to win over an audience – jury, judge, or the public at large. These strategies, especially ethos, pathos, and logos, have been used since antiquity and have poured into the contextual legal rationales, flood after scintillating flood. What follows is a critical analysis of the ways in which these rhetorical tools have been employed to convert an audience to a different belief, or sharper, as found in various case studies, analyses, and the theoretical trappings developed therefrom. Furthermore, it is also contended that garden variety legal practitioners must gain complete mastery over these tools if they must excel in the art of advocacy. This, as against elite presentation, is of dilated relevance to contemporary knowledge and is the objective of this section [9, 10]. According to Aristotle, it is not true that only solid evidence needs to be present and that no arguments are needed in addition to and no less than what is to be proven. Instead, evidence should be rendered, via rhetoric, persuasive. Legal composition across the ages is replete with such distinct observations. An instance of such genre can be cited in the following observation – “As soon as the speaker evokes the emotions by his pathetic diction, people say that the person on behalf of whom he is speaking is right! This is, perhaps, what he should be aiming at. When the minds of the jury have been softened and enlarged by the pathetic diction, it will be easier to prove the facts, for a favorable spirit predisposes” [11, 12].

Ethical Considerations in Rhetoric and Legal Argumentation

Rhetoric is a persuasive art that manipulates, breaks silence, and provokes emotions, raising various ethical questions. Is it morally permissible to persuade the judge to give judgments contrary to the law? Is every form of persuasion through rhetoric acceptable? Is persuasive speech always manipulative? What are the dangers of eliminating rhetoric from law and judging? These questions guide us into the ethical framework underpinning persuasive techniques [13, 14]. The problem of manipulation is perhaps the most evident ethical concern regarding rhetoric. Persuading with non-rational tools can manipulate the judge, leading him to enter as an advocate into the truth that best pleases him rather than accessing what is just. Legal practitioners today sell their services with the decent appearance of a lawyer, but underneath that safe playing field, there are still many lawyers who will sharpshoot if they can. Such a person imposes a duty on us to be ardent in defending our client. Statements like these usually reject any form of ethical guidelines on the basis that they are ignoring the need for persuasion in good faith. The arguments are: First, what is the responsibility of the lawyer? It is the role of the advocate to present and argue. The consequences – loss or win – are irrelevant and are at the discretion of the audience. It simply states that tactical rhetoric is necessary to win cases and is an inherent part of the profession [15, 16]. The idea of manipulation is evident. The full guidance is directed to the accusation of unethical rhetoric presented in the context of judging. It provides that great care must be taken when providing a jury with a review of the evidence. The lawyer must not lead the jury in giving the accused justice. Such an action would contradict the truth and the essence of the case. If the review of the evidence according to the rules of rhetoric is false and if it is an injustice, then it leads to allegations of corruption. The use of rhetoric is a question of ethical and legal consequences since the object of their skill should not be to achieve an unjust verdict. The difference between Platonic laws and the guiding principle under the Uniform Rules and model codes clearly shows that the essence of the ethical argument rests in the idea of seeking truth as opposed to a win. The lawyer must share all strong arguments and issues of law, insurance, or innocence of the client, regardless of personal opinion towards the idea [4, 17].

The Role of Rhetoric in Shaping Legal Decision-Making

The effect of rhetoric on the decision-making process can be significant. This is evidenced by the contrasting dissents by Supreme Court Justices such as Oliver Wendell Holmes Jr. and Antonin Scalia. In cases of trial courts, judicial outcomes, and legal interpretations can be inadvertently or otherwise manipulated by persuasive and appealing language. This does not just apply to the courtroom. In making policy, media-friendly and rhetorically effective language often carries the day, regardless of its national justice implications. Even more local decisions, where discussion is less formal, are prompted by

rhetorical force and often come down to which standpoint is rhetorically more appealing [18, 19]. Consider for a moment the *Brown v. Board of Education* case. By 1954, America was visibly being torn apart by virtually unspeakable levels of racial intolerance, and riots were stemming in every major city across the country. Yet, under a lot of social pressure but with a healthy dose of skepticism from much of the Hispanic and African American community, the key legal adviser of the Supreme Court justices at the time delivered a breakthrough verdict that cut through the hearts of America. It was considered almost unparalleled in rhetorical prowess. However, the decision was not achieved overnight and was not untouched by the media attention that surrounded the case. It could also be taken for granted that, internally, the rhetoric of the case shaped the utmost images in the minds of the justices who would deliver their opinions. In the same way, a judge mentioned earlier ultimately succeeded in using emotive language that stirred feelings even within those who were initially bitterly opposed to him by evoking images of oppressed and suffering African American slaves. So, the effect of rhetoric runs deep, and not just at the highest judicial level [20, 21].

CONCLUSION

Rhetoric remains an indispensable part of legal practice, deeply embedded in the art of persuasion that legal practitioners use to advocate, persuade, and ultimately impact judgments. The skillful use of rhetorical strategies, from ethos to pathos, demonstrates not only the value of emotional and logical appeal in legal arguments but also the ethical boundaries within which they must operate. A clear understanding of rhetoric's role in the law allows practitioners to wield it responsibly, advocating effectively while maintaining respect for justice. Ultimately, this nuanced balance is essential in ensuring rhetoric serves as a means to reveal truth rather than obscure it.

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