

Forensic Rhetoric: A Strategy for Cross-Cultural Conflict Resolution

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Abstract

A foundation for human communication was laid down with the basics of classical rhetorical persuasion. A key element of this persuasive foundation was preserved through the teachings of Aristotle, particularly in his definitions and descriptions of forensic rhetoric. He argued that effective forensic rhetoric provides a positive persuasive model for resolving conflicts. This paper's purpose is to delineate the Aristotelian persuasive model in one of recorded history's greatest debates: the trials of Apostle Paul. Paul's timely usage of language, logic, and intercultural communication competence exemplifies a positive operational strategy for resolving present-day cross-cultural disputations.

Introduction

The account of the Apostle Paul's repeated trials, as documented in the Book of Acts of the New Testament of the Bible¹ (Acts 21:15-26:32), provides an extraordinary example of conflict and resolution within multiple cultural settings. This complex illustration of forensic rhetoric involves many defenses, each differing in terms of venue, audience, strategy, and judicial process. In addition, all of Paul's defenses are multiplex in nature. That is, they are communication systems that simultaneously transmit more than one message on the same channel. In each instance there is a message produced by the speaker in his own defense to a specific judicial body and concurrently a divine communication that is transmitted through the same discourse. Each apology is uniquely different and is worth examining, individually, to analyze the rhetoric of the total legal process.

One purpose in writing this paper is to identify several forensic illustrations, taken within a historic setting, to construct a positive exemplar for conflict resolution and human understanding. An additional motive for this inquiry is to provide scholars of communication and rhetorical criticism with an apt example of classic forensic praxis within diverse linguistic, political, and social contexts.

In order to comprehend these speech acts from a traditional perspective and to analyze the situation facing the defendant, it is worthwhile to undertake this analysis as a historical narration; a process to include Paul's rhetorical strategies, his

adaptation to various audiences, the social context, and his ability “to grab the moment of opportunity” (kairos) with each audience and situation he faced.

Traditional rhetorical analysis involves many things, such as speaker, message, occasion, setting, and audience interactions. The exegesis of the texts in these illustrations is an attempt to analyze how a highly successful orator developed a personal defense against multicultural adversaries. The development of this successful Paulinian rhetorical design provides communicators with a constructive elocutionary choice from today’s competing global marketplace of ideas; an environment where pluralistic pathways toward the development of persuasive messages and interpersonal relationships abound.

Conflict, Prosecution, and Defense Strategies

The Developing Confrontation

A few months before a planned trip to Jerusalem, Paul wrote the church of Rome: “For I long to see you in order that I may impart some spiritual gift to you, that you may be established; that is, that I may be encouraged together with you while among you, each of us by the other’s faith, both yours and mine” (Romans 1:11-12). The resolve Paul displayed in Jerusalem and Caesarea during the resolution of his upcoming conflicts was due, in large part, to his longing to be in Rome; God’s agenda was also to see Paul safely there. While in prison Paul was given the following divine prophesy: “Take courage; for as you have solemnly witnessed to My cause at Jerusalem, so you must witness at Rome also” (Acts 23:11).

On his arrival in Jerusalem, Paul met with the church leaders. He was warmly greeted and his missionary reports were received with enthusiasm. There was a time of praise. Yet, this initial period of encouragement was immediately followed by a set of circumstances that would soon be the cause for intense conflict. Paul was facing criticism by Israeli religious officials as well as from fellow Christians. One adversarial situation concerned certain converts to Christianity who constituted the majority of the members in the Jerusalem church. While they were Christians, they were still extremely zealous for the Mosaic Law. Rumors reached these Hebrew Christians that Paul was admonishing Jews to forsake the Law of Moses. Thus, the very people who Paul looked to for support were a major source of condemnation and the Jerusalem church leaders did little to silence this reproach.

Paul was asked to symbolize a pretext of unity by sponsoring four Christian converts who were taking Nazarite vows in the Jewish temple. However, this tactic for reconciliation by the leaders of the church was unsuccessful. It may have reduced criticism within the church, but it placed Paul in a dangerous position with another group of worshipers from Asia Minor who were on a pilgrimage to the City of Jerusalem at the time of Pentecost. These people were more than mere critics; they were determined to destroy Paul. It can be assumed that these adversaries were

from the synagogue of Ephesus who earlier had rejected Paul's preaching and had severely persecuted him during his time spent in Asia (Ogilvie, 1983). These people were looking for an opportunity to bring a charge against Paul. To accomplish their objective, they accused him, without evidence, of bringing Trophimos, a young Greek Christian convert from Ephesus, into the Jewish temple. This individual may have been mistakenly identified as one of the four Hebrew Christians Paul was sponsoring or perhaps other assumptions were made. At any rate, the angry Asians used this instance as an opportunity for their attack.

The throngs of pilgrims in the courts outside the temple needed very little prompting to become an unruly mob. They seized and dragged Paul outside the temple, beating him with the intent to kill. Fortunately, news of the beating reached a Roman commander. Luke, thought to be the author of Acts, stated that there were centurions—each having charge of one hundred men—mingling in the crowd, so we can envision hundreds of soldiers rushing into this insurrection. The mob shouted the angry charge: "Away with him!" (Acts 21:36). This phrase, in the Greek translation, is identical to the words—airé auton—written by Luke in his gospel relating to an earlier mob's demand that Pontius Pilate crucify Jesus of Nazareth (Luke 23:18).

Order was momentarily restored by placing Paul in chains; an act as much for his protection as for his arrest. There was no trepidation in Paul's voice as he requested to speak with the commander: "May I say something to you?" Claudius Lysian, the commander, was startled and replied "Do you know Greek?" (Acts 21:37). The commander assumed he had placed an Egyptian revolutionary in chains, not a Roman citizen. One extant Jewish historical account, Josephus (*Wars of the Jews*, II.13.5), mentioned an uprising of many thousands; Josephus claimed 30,000 compared to the commander's estimate of 4,000. The uprising was led by an Egyptian false prophet against Jerusalem during the reign of Felix, the Roman governor (Josephus, 1985).

Although the Romans suppressed the insurrection described by Josephus, the Egyptian escaped arrest and was currently wanted by the authorities. Indeed, the Roman commander assumed that he had captured the dangerous Egyptian leader, thus explaining his surprise when Paul spoke Greek. Paul defended himself by pointing out his citizenship in Tarsus, the capital of a Roman province. It was Paul, not Lysian, who was in charge of the moment. This resolution established justification for a fair hearing, and provided the opportunity for an immediate plea before the throng that was illegally prosecuting and sentencing the defendant.

Jerusalem Prosecutions

Paul's defense before the mob was interceded by the Romans. It is interesting to note that the commander decided to allow Paul to speak in his own defense before the crowd; Lysian must have been curious to learn what it was that caused such anger in the crowd. To communicate effectively, Paul spoke in Syro-Chaldaic,

the Hebrew dialect spoken at the time by the audience he was addressing (Spence & Exell, n.d.). The crowd immediately hushed as they heard his first words. Paul, a highly educated intercultural rhetor, was aware of the positive effect that his language choice would have on his audience. He said “hear my defense which I now offer to you” (Acts 22:1). The classical Greek word for defense as used in this context is *apologia*, a technical word for a forensic defense in answer to an accusation. From this usage, it later became common practice to refer to Christian arguments as *apologetics* (Spence & Exell, n.d.).

Following his introduction, Paul provided an autobiographical sketch highlighting his birth as a Jew of Tarsus and his training in Jerusalem under Gamaliel, at the time one of the most respected teachers of the Jewish Law. This rapport-building approach provided a high degree of distinction to Paul’s personal character. The defense went well until he mentioned his vocation as a missionary to Gentiles. At that moment positive audience feedback ceased. All ears were closed because of the audience’s cultural bias against Gentiles; they refused to consider more arguments. It is clear that Paul knew his audience’s prejudicial nature well, yet he did not sidestep the issues that needed to be said in this exhortation. Once again, the mob called for sentencing based upon biased preconceptions rather than upon reason or justice.

At that point in time, the Roman commander decided to torture the truth out of the defendant in order to determine what caused the violent anger from the mob. The means of torture was to be by scourging with a Roman *flagellum*, a cruel instrument with leather strips interwoven with pieces of sharp bone or metal. Crippling or death could result, therefore the *flagellum* was strictly forbidden by law to be used on a Roman citizen before that person’s trial (Ogilvie, 1983). However, Paul was bound with thongs and stretched forward and tied to a post. As the *flagellum* was raised by the centurion, Paul expeditiously asked the question: “Is it lawful for you to scourge a man who is a Roman and uncondemned” (Acts 22:25)? The arm of the flogger immediately dropped, as the penalty for scourging an uncondemned Roman citizen was death. Once again, Paul demonstrated his knowledge of his audience and personal rights and employed propitious timing for a favorable resolution of the conflict.

It is curious that the commander did not, at that time, turn the defendant over to a higher Roman authority. Instead, a meeting was called with the Hebrew court officials in order to try this Roman citizen. We see providence working once again, not only in Paul’s defense, but in the selection of audiences for Paul’s personal witness to his faith. The next apology was really the first one to be conducted in an “authentic” court setting. The Council of the Sanhedrin, presided over by Ananias, was composed of Sadducees and Pharisees. The judges in this instance were at one time Paul’s peers (formerly known as Saul of Tarsus) when he was a zealous protector of the Law.³ In his introduction to this audience, Paul developed his own ethos and had the courage to defend himself with an *apologia* of integrity before this

powerful assembly. The fact was established that he was formerly a fellow Pharisee, and that his actions were manifestations of his desire to serve God well. This argument before the Sanhedrin is crucial, as it brings into the open for the first time the real point of conflict with the leaders of the Jewish religious community in Israel. The leaders' objective was to destroy the defendant because of perceived religious blasphemy; the Jewish auditors were attempting to sustain the orthodoxy of Mosaic Law. Sullivan (1990) claims that to sustain a culture, new views are criticized, and if these convictions are not in agreement with orthodoxy, the exponent of such new views might be branded a heretic. The perception and belief of the Mosaic orthodoxy was that Paul was a heretic, and therefore the death penalty was, according to their cultural edicts, just and even necessary. Although the outward charge against him was heresy—he was accused of teaching disobedience to the Law and customs of Moses—the deeper conflict was with Paul's belief that Jesus was the Messiah. In each of his defenses Paul was able to bring this second issue to light and establish the true nature of the charges against him.

Focusing on a theological disagreement between the judges themselves (the Pharisees and Sadducees) was another excellent forensic strategy Paul initiated at this time; moving attention away from himself and forcing an internal divisiveness within the Sanhedrin assembly. The Pharisees started defending Paul, not on his behalf, but as a move against the Sadducees' opposing theological beliefs.⁴ Again, through knowledge of the audience and identifying their values and views, Paul was able to defend his character and serve the agenda for his eventual release to Rome. Following these emotional and prejudicial Judean court proceedings, the Roman commander was finally convinced that charges against this citizen involved religious Law alone and did not violate Roman edicts.

However, at this same time a conspiracy was initiated by Paul's adversaries to abduct him from the Roman prison and to kill him. Paul's nephew learned of this plot and warned the Roman commander of the danger. The decision was made to move the trial venue to Caesarea; future defenses would be before Roman authorities. Under tight security, Paul was transported to Felix, the governor, in Caesarea. The narratio continued: auditors were now Roman and the accusers were represented by an attorney; Paul continued to defend himself.

Caesarean Defenses

The first Caesarean trial took place five days later. Ananias and the other plaintiffs, along with their trial attorney, came well prepared to make their charges against Paul. The order of the trial followed standard court of law procedure: as soon as the charge was laid against the prisoner, the defendant was called into court to hear what his accusers had to say against him. The trial followed. Tertullus, the attorney for the plaintiffs, was glib; he started the prosecution by flattering the governor. In as much as the Jewish people had an open distrust of the Roman authorities, Tertullus's puffery was probably viewed by the judge as insincere. The

charges brought against the defendant were either false or irrelevant. The attorney declared that Paul was a pest! Although not complimentary, the commentary hardly constituted a charge that alarmed Felix. The attorney continued with the next charge, claiming Paul caused dissension among the Jews of the world; no evidence was presented supporting this charge. A further accusation was that Paul was a “ringleader of the sect of the Nazarenes” (Acts 24:5). This claim more accurately focused upon the real disagreement the accusers had with Paul, yet the charge was not relevant to Roman law. All in all, the case by the prosecution was legally shallow and of little relevance to a Roman judge.

By contrast, Paul’s defense was brilliant. He established, as in earlier defenses, a commonality with his accusers through his stated love of Israel. He made clear that the charges against him were theological in nature, and he did not deny that condition. In fact, his defense focused on this differing of theology, for he realized the real underlying charge against him was of little concern to the Roman court.

The opportunity of release was offered to Paul in exchange for monetary considerations—an offer immediately repudiated by Paul—and no judicial resolution was in sight. Felix knew Paul was innocent of the charges brought against him by his accusers yet he procrastinated in a release decision. Indeed, two years later Felix left Caesarea in the hands of Festus, a newly appointed governor, with the charges still unresolved. Once again, the legal proceedings reconvened. The judge was new but all the rest of the scenario was unchanged.

Festus resumed the court hearings and the accusations by the plaintiffs were unchanged from previous trials. However, a difference was evident in the defense, as Paul was no longer willing to endure the unrelenting harassments; his forbearance with his accusers no longer served any legal or elocutionary purpose. Further, he was anxious to proceed to Rome, and the defendant’s closing words were “If then I am a wrongdoer, and have committed anything worthy of death, I do not refuse to die; but if none of those things is true of which these men accuse me, no one can hand me over to them. I appeal to Caesar” (Acts 25:11).

All Roman citizens had the right to appeal to Caesar, and Paul, as an educated Roman citizen, was well aware of this privilege. Further, Paul had faith that he was divinely called to Rome.⁵ Festus’s declaration “you have appealed to Caesar, to Caesar you shall go” (Acts 25:12) signaled that the local hearings were about to end. However, one last justification was still required. King Agrippa and his wife, Bernice, were brought into the picture to hear a final appeal of the conflict. The prosecution was not present and Paul was free to speak; he grasped the opportunity. His petition before the royal Judean couple was robust and direct and established a commonality. Agrippa and Bernice came to an agreement after hearing Paul: “this man is not doing anything worthy of death or imprisonment” (Acts 26:31). The royalty and governor were visibly moved, and when the king rose from his seat, it was clear to all present that the Caesarean trials were concluded. The great Apostle

would soon move on to Rome. Future defenses for unrelated charges would have to be faced in Rome, but for the present, a judicial resolution was reached.

Rhetorical Dimensions

Paul employed the best techniques of forensic rhetoric and moral persuasion in the Aristotelian tradition. Aristotle wrote that there are three modes of presentation for successful orators to establish when persuading an audience: first, the speaker's personal character; second, putting the audience in a certain frame of mind; and third, elaborated proof(s) provided by the speech itself (Aristotle, 1984, p.2155). Paul masterfully employed all three modes in his Jerusalem and Caesarea apologetics. Wichelns (1925, p. 209) added to the rhetorical foundations of persuasion within the context of criticism: "It [rhetorical criticism] regards speech as a communication to a specific audience, and holds its business to be the analysis and appreciation of the orator's method of imparting his ideas to his hearers."

Throughout, Paul directed his speech acts to various audiences in settings of disagreement and severe conflict (stasis). Stasis, in the classical tradition, identified disagreement, the points of argument, and the issue of the case by establishing questions concerning fact, definition, quality, and procedure.⁶ Nadeau (1964) provided a lengthy analysis on the traditional theories of stasis found in the writings of Hermogenes. Quintilian also recognized three legal questions to be resolved on any legal conflict; he wrote that the notion of stasis can be reduced to the following: if the issue is concerned with what the law literally says, it is stasis of fact; if concerned with the spirit, this is quality; and either of these might involve stasis of definition (Kennedy, 1969).

Stasis is an important ingredient in the analysis of the Paulinian formula, and while classic in nature, the concept is relevant to methods of textual criticism relating to social and cultural conflicts of any age. By establishing controversy, stasis demonstrates the power of opposing forces in social contexts in any time frame. Carter (1988, pp. 99,101) expressed the following: "The doctrine of stasis is not a doctrine of simply standing still; rather, it provides a means to turn the static situation caused by conflicting forces into action, into rhetoric...Clearly, stasis was a principle that was not individualistic and internal, it represented a community-oriented rhetoric. Rhetorical discourse found its motivation not in one person who wanted to impose an opinion on another but in a shared conflict of knowledge."

In addition to stasis, Paul employed kairos with great skill. Kairos, associated with pro-Socratic philosophy and rhetoric, recognizes connotations such as opportune moment and appropriateness of logic. It is evident from the analysis presented in this paper that Paul relied heavily on kairos in his appeals. The principles of stasis and kairos are not limited to traditional approaches, but are applicable to modern rhetorical criticism and social construction as well.

While the scope and purpose of this essay was not to conduct an in-depth probe of the processes in these debates, I believe that from the above analysis,

communicators are able to make an important conjecture: traditional approaches to forensic criticism reveal procedures that can be useful—and timeless—for positive conflict resolution within present-day communication contexts. The resolution strategy developed in Paul's forensic address is germane to confrontational exchanges ranging from spontaneous interpersonal encounters to formal litigation settings. Persuasive messages constructed upon a foundation of individual trustworthiness and solid, nonprejudicial proofs provides powerful rhetorical logic to employ in today's global marketplace of ideas.

Footnotes

1. Biblical references are from the New American Standard Bible. The Lockman Foundation. La Habra, California.

2. Nazarite vows involved certain abstentions, such as eating certain foods and drinking wine, as well as head shaving as outward signs of one's inward allegiance to the Law of Moses. It was hoped that Paul's sponsorship of four Jewish Christians taking Nazarite vows would provide assurances to his critics of his continued deference for the Mosaic Law.

3. Paul's name was changed at the time of his conversion to Christianity. Formerly known as Saul, he was a leader in the persecution against members of the newly formed sect that proclaimed Jesus of Nazareth as being the long-awaited Messiah.

4. The Pharisees believed in the resurrection of the dead, while the Sadducees posited an opposing view to spiritual regeneration.

5. Acts 23:11

6. Although the original manuscripts of Hermangoras concerning stasis appear to be no longer extant, much can be learned regarding his theories of stasis from other sources such as Quintilian and Hermongenes.

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