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The Ancient Argumentative Game: τόποι and *loci* in Action

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ABSTRACT: In classical logic and rhetoric the strategies of argumentation known as *topoi* played a crucial role. Yet, *topoi* refer there to different kinds of strategies that this study intends to explain synoptically. Main focus will be on passages from Aristotle and Cicero. Indeed, these sources contain examples and theoretical considerations, which provide the basis for a general investigation of the complex phenomenon of *topoi* in the ancient world. Four main types of *topoi* will be juxtaposed and discussed comparatively as a way to inspire historical reconstructions of the system of *topoi*, as well as modern theory formation on argumentation where *topoi* still receive much attention.

KEY WORDS: Aristotle, Cicero, ancient theory of argumentation, strategies of argumentation, typology of *topoi/loci*

1. INTRODUCTION

This study focuses on the nature and functioning of the much-discussed argumentative devices known as *topoi* (sing. *topos*, from the Greek τόπος; in Latin *loci*, sing. *locus*), respectively in Greek and Latin rhetoric.¹ The reasons at the origin of this focus are several. Scholars of ancient rhetoric and theory of communication recognise that the term *topos* was generically used in the classical tradition to indicate several kinds of *topoi*. Yet, so far no work has sufficiently explained these kinds comparatively so as to fully grasp their essence.² The tendency is to focus on a single strand in the tradition of *topoi*, discouraging synoptic analysis of the term.³ This lack in the explanation very often clouds the understanding of the passages where *topos* occurs in the ancient texts.⁴ Moreover, it seems to prevent a comprehensive exploitation of the subject, and a full understanding of those characteristics of the method of *topoi* that could inspire both historical reconstructions of the doctrine and its adaptation to modern theories of argumentation where the concept is still highly relevant.⁵ The ancient topical methodology has a multifaceted nature. It plays around a delicate

combination of logical and extra logical elements, which this study intends to underline in its fundamental characteristics. The present analysis will be based mainly on the texts of Aristotle and Cicero. These sources contain examples and theoretical considerations, which provide the basis for a general investigation of the complex phenomenon of *topoi* in the ancient world. In what follows, each meaning of *topos* will be explained through a selection of significant examples. As a way to unify the different meanings underlined, the article ends with a note on the etymology of the word *topos*.

2. *TOPOS* AS ‘SUBJECT-MATTER INDICATOR’

Leaving aside the occurrences where *topos* appears in handbooks of rhetoric with the meaning of ‘area’ or ‘position’,⁶ the term is used for guiding speakers’ thoughts in selecting material for their arguments. In particular, the term *topos* is used with reference to a subject-matter that orators might take into consideration for pleading their cases.

Topos with this meaning already appears in Isocrates. Thus in *Philip* 109, the author claims that the ‘good qualities of the soul’ of Heracles (the Greek ἀγαθὰ τῆς ψυχῆς) are an unworked *topos* that would be appropriate for praising the hero:

Περὶ τοίνυν Ἡρακλέους οἱ μὲν ἄλλοι τὴν ἀνδρείαν ὑμνοῦντες αὐτοῦ καὶ τοὺς ἄθλους ἀπαριθμοῦντες διατελοῦσιν, περὶ δὲ τῶν ἄλλων τῶν τῆ ψυχῆ προσόντων ἀγαθῶν οὐδεὶς οὔτε τῶν ποιητῶν οὔτε τῶν λογοποιῶν οὐδεμίαν.⁷ φανήσεται μνεῖαν πεποιημένος. Ἐγὼ δ’ ὀρώ μὲν τόπον ἴδιον καὶ παντάπασιν ἀδιεξέργαστον ...⁷

«Coming now to Heracles, all others who praise him harp endlessly on his valour or recount his labours; and not one, either of the poets or of the historians, will be found to have commemorated his other excellences – I mean those which pertain to the spirit. I, on the other hand, see here a subject matter peculiar to him and entirely unworked ...»⁸

In the Latin context, in Cicero’s *De inventione*, *topos* as subject-matter indicator is used mainly with reference to the *adtributa* (I, 34–44). The *adtributa* are explicitly said to be *loci* at the end of their description at I, 44. They represent a catalogue of topics and, in particular, of ‘attributes’ either of the person involved in the case, or of the fact under discussion, which can inspire orators in structuring their argumentative interventions. The *adtributa* advise orators on possible topics to be considered when designing arguments. The *adtributa* of

the person include, for example, his/her name, nature, manners of life and education, while those of the fact embrace, for example, the place where the act was performed, the time, its consequence, definition and similar or contrary acts.⁹

In book two of *De inventione* Cicero discusses in detail what *adtributa* orators have to examine according to the nature of the case they need to plead. Thus, for instance, whenever the case in question involves a conjectural issue – when the dispute is about the actual performance of a certain fact by the person accused –¹⁰ orators are advised to explore the attribute ‘cause’ (*causa*) that is the reason why a person would have committed a certain crime. As Cicero notes, this topic is what one might call the foundation or basis of this issue. For no one can be convinced that a deed has been done unless some reason is given why it was done.¹¹ Thus, the author continues:

Ergo accusator, cum impulsione aliquid factum esse dicet, illum impetum et quandam commotionem animi affectionemque verbis et sentiis amplificare debebit et ostendere quanta vis sit amoris, quanta animi perturbatio ex iracundia fiat aut ex aliqua causa earum, qua impulsus aliquem id fecisse dicet. (*De inventione* II, 19–20)

«Therefore the prosecutor when he says that something was done on impulse, will be under necessity of dilating upon that passion and, as it were, agitation and state of mind, with the full powers of his thought and expression, and of showing how great is the force of love, what powerful mental agitation arises from anger or from any of the causes by which he claims that the defendant was urged to commit this crime.»¹²

Again *topos* in the above sense is used by Aristotle to indicate the rhetorical *eidē* (the Greek εἰδη or ἴδιαι) discussed in *Rhetoric* A 4–14. As I have shown elsewhere, the *eidē* are propositions describing contents or subject matters that orators must have in readiness in order to construct their arguments.¹³ They relate to what Aristotle considers as the three main genera of rhetorical speeches, namely deliberative, judicial and epideictic rhetoric; therefore illustrating topics linked to the ends of these genera, such as the good, the just, the honorable and their contraries. Thus a speaker who wants to show that a certain person or a certain thing is good can find contents in support of his case by exploring the *eidē* that explain what the concept of ‘being good’ implies, in connection to the case at issue.¹⁴

3. *TOPOS* AS ‘SCHEME OF ARGUMENT’

Another sense of *topos* in ancient rhetoric is that of ‘scheme of argument’. More specifically, a *topos* indicates a procedure for establishing

or refuting propositions on which standpoints are adopted. In this perspective, a *topos* is essentially composed of a law, or general principle, with a probative function, and an instruction working as a searching formula.¹⁵ Often, a *topos* has also an introductory label, mainly in the 'from' form (as in the *topos* 'from opposites', the Greek ἐκ τῶν ἐναντίων),¹⁶ that highlights the focal concept at the basis of the argumentation scheme it proposes.¹⁷ Aristotle does not always state both the law and the instruction, but they are both implied by each *topos*.¹⁸ The law, in the more or less explicit form of an if-then proposition, bases or justifies the inferential process. Thus, for example, one of the laws concerning 'opposites' states that «if the contrary does not follow the contrary either directly or in reverse order, it is clear that neither does one of the terms in the statement follow the other».¹⁹ The law is applied through the instruction that, mainly in the form of a deontic sentence, gives indications on how to tackle the proposition under investigation in order to find appropriate premises. Thus, the instruction for applying the just mentioned law runs: «You must look with regard to contraries whether contrary follows upon contrary, either directly or in reverse order».²⁰

What must be stressed is that these *topoi* focus on the process of inference, and not simply on possible subject-matters of the argument. They enable speakers to find propositions that hold a relation with a certain standpoint in terms of premises/conclusion. By means of the instruction speakers construct propositions that, if they are implied by the intended conclusion, work as premises for its establishment; if they are in contradiction, they lead to its refutation.²¹ As it is acknowledged by an influent part of the literature, a *topos* functions as an external inference principle that, in the outcome, lead to arguments of *modus ponens/modus tollens* form.²²

According to the nature of the laws found in these *topoi*, there are at least three ways in which a *topos* is an argumentation scheme. There are instances where a *topos* is a scheme based either (3.1) on the nature of the logical predicates contained in the propositions to establish or refute, or (3.2) on comparison between logical predicates, terms belonging to the same ontological series (the coordinates and inflected forms of the words), facts or phenomena mainly in terms of more/less, similar/different, cause/effect. In other passages, (3.3) the name *topos* is given to a pattern of argumentation based on linguistic usages, or interpersonal and emotional endoxical factors that have normative force in human communication.²³

3.1 The first kind of *topoi* as 'scheme of argument' is the main subject of Aristotle's *Topics*, and some of these *topoi* are also found in Aristotle's *Rhetoric* B23. In what follows I shall limit myself to a description of those characteristics that distinguish these strategies

from the others I analyse in this work. A more detailed analysis is to be found in the recent scholarship on the subject that, from the sixties onwards, has advanced our understanding of the subject considerably.²⁴

In pioneering the field of informal logic in the *Topics*,²⁵ Aristotle approached argumentation by focusing on the predicates contained in the propositions to be established or refuted. Thus, he pointed out that in each proposition where a predicate P is said to belong/not to belong to a subject S, the predicate may state: the *definition* of the subject, e.g. man (S) is a rational being (P); its *property*, e.g. man (S) is capable of laughing (P); its *genus*, e.g. the cat (S) is an animal (P); one of its *accidents*, e.g. Socrates (S) is sitting (P).²⁶

Definition, genus, property and accident are traditionally called the four ‘predicables’. They result from a reflection on what the predicates of propositions represent from a logical point of view.²⁷ Each predicable is defined by Aristotle as follows:

Λεκτέον δὲ τί ὄρος, τί ἴδιον, τί γένος, τί συμβεβηκός. Ἔστι δ' ὄρος μὲν λόγος ὃ τὸ τί ἦν εἶναι σημαίνων... Ἴδιον δ' ἐστὶν ὃ μὴ δηλοῖ μὲν τὸ τί ἦν εἶναι, μόνῳ δ' ὑπάρχει καὶ ἀντικατηγορεῖται τοῦ πράγματος ... Γένος δ' ἐστὶ τὸ κατὰ πλείονων καὶ διαφερόντων τῷ εἶδει ἐν τῷ τί ἐστὶ κατηγορούμενον ... Συμβεβηκός δὲ ἐστὶν ὃ μὴδὲν μὲν τούτων ἐστί, μήτε ὄρος μήτε ἴδιον μήτε γένος, ὑπάρχει δὲ τῷ πράγματι καὶ ὃ ἐνδέχεται ὑπάρχειν ὁπωσοῦν ἐνὶ καὶ τῷ ἀπὸ τῷ καὶ μὴ ὑπάρχειν ... (*Topics* 101b 37 – 102b 7)²⁸

«We must next say what definition, property, genus and accident are. A *definition* is a phrase indicating the essence of something ... A *property* is something which does not show the essence of a thing but belongs to it alone and is predicated convertibly with it ... A *genus* is that which is predicated in the category of essence of several things which differ in kind ... An *accident* is that which is none of these things – neither a definition, nor property, nor genus – but still belongs to the thing. Also it is something which can belong and not belong to any one particular thing».²⁹

Aristotle’s investigation into the nature of the four predicables represents the core of the method of argumentation that he set up in the *Topics*. By focusing on the predicables, is it possible both to establish propositions – and thus show that the predicates contained fulfil their logical requirements – and refute propositions whose predicates are stated in contradiction to their logical nature. Precisely for this purpose, Aristotle in the *Topics* articulated a set of laws, which derive from the definition of the predicables. He then provided speakers with instructions on how to apply the laws in an argumentative context.

We are here dealing with a formal approach to argumentation that as such does not provide speakers with the material contents of their argument. Following *Topics* 105a 20ff. speakers themselves must have a previous knowledge of the subject they want to discuss.³⁰ However, an acquired ability to investigate the logical aspects of propositions favours speakers in finding out arguments in any field, regardless of its specific subject-matter. Indeed, as Aristotle himself stresses in *Rhetoric* 1358a 12–14, this kind of *topoi* is applicable in common (*koinêi*) in all different fields.

To quote an example of this kind of strategies, in presenting one of the *topoi from the definition* Aristotle states the principle that for a definition to be correctly attributed to a subject, it must belong to all the sub-species of the subject (e.g. the definition of human being must apply to all the individual human beings). One of the *topoi* suggests, as the instruction, that speakers construct an argument by verifying whether a proposed definition does or does not belong to all the sub-species of the subject. If it does not belong to all the sub-species, then the proposition at stake should be refuted. The text where Aristotle explains this *topos* reads:

Ἔτι εἴ τι τῶν ἐν τῷ λόγῳ μὴ πᾶσιν ὑπάρχει τοῖς ὑπὸ ταῦτο εἶδος· ...
 ἐκείνως μὲν γάρ, ἂν ὁ λοιπὸς ἴδιος ἢ λόγος, καὶ ὁ πᾶς ἴδιος ἔσται· ἀπλῶς
 γὰρ πρὸς τὸ ἴδιον ὀνομαζόμενος προστεθέντος ἀληθοῦς ὅλος ἴδιος γίνεται. εἰ δέ
 τι τῶν ἐν τῷ λόγῳ μὴ πᾶσιν ὑπάρχει τοῖς ὑπὸ ταῦτο εἶδος, ἀδύνατον ὅλον
 τὸν λόγον ἴδιον εἶναι· οὐ γὰρ ἀντικατηγορηθήσεται τοῦ πράγματος. οἷον τὸ
 ζῶον πεζὸν δίπουν τετράπηχον· ὁ γὰρ τοιοῦτος λόγος οὐκ ἀντικατηγορεῖται
 τοῦ πράγματος διὰ τὸ μὴ πᾶσιν ὑπάρχειν τοῖς ὑπὸ ταῦτόν εἶδος τὸ
 τετράπηχον. (*Topics* 140b 16-26)

«Moreover, you must see whether anything in the description fails to belong to everything which falls under the same species ... For, in that case, if the rest of the description is peculiar to the subject, the whole definition too will be peculiar; for, without exception, if anything at all which is true is added to what is peculiar, the whole become peculiar. If, on the other hand, anything in the description does not belong to everything, which falls under the same species, the description as a whole cannot be peculiar; for it will not be predicated convertibly with the subject. Take, for example, the definition “pedestrian biped animal four cubits high”; such a description is not predicated convertibly with the subject, because “four cubits high” does not belong to everything which falls under the same species.»

Again, in dealing with questions of accident in the *Rhetoric*, Aristotle suggests that speakers could argue by looking at the logical

relationship of opposites terms: 1397a 7–19:

ἔστι δὲ εἷς μὲν τόπος τῶν δεικτικῶν ἐκ τῶν ἐναντίων· δεῖ γὰρ σκοπεῖν εἰ τῷ ἐναντίῳ τὸ ἐναντίον ὑπάρχει, ἀναιροῦντα μὲν εἰ μὴ ὑπάρχει, κατασκευάζοντα δὲ εἰ ὑπάρχει, οἷον ὅτι τὸ σωφρονεῖν ἀγαθόν· τὸ γὰρ ἀκολασταίνειν βλαβερόν.³¹ (*Rhetoric* 1397a 7-11)

«One *topos* of demonstrative [enthymemes] is that from opposites ...; for one should look to see if the opposite [predicate] is true of the opposite [subject], [thus] refuting the argument if it is not, confirming it if it is, for example [saying] that to be temperate is a good thing, for to lack self-control is harmful.»³²

The above *topos* instructs orators in establishing or refuting the attribution of a predicate to a subject, by showing that the contrary of the predicate in question belongs or does not belong to the contrary of the subject under investigation. The strategy is based on the logical law stating that ‘contraries follow contraries either directly or in reverse order’.³³ Thus, Aristotle claims that ‘to be temperate is good’ (τὸ σωφρονεῖν ἀγαθόν) because, he believes, the contrary of the predicate ‘to be good’, i.e. ‘to be bad’, belongs to the contrary of the subject ‘to be temperate’, i.e. ‘to be licentious’, (τὸ γὰρ ἀκολασταίνειν βλαβερόν).

Examples of these strategies are also found in Latin treatises of rhetoric. In the *Topica*, dated 44 B.C, Cicero attempts to teach the lawyer Trebatius a theory of argumentation. There, he presents an argumentative devise that closely resemble the above Aristotelian *topos*. Cicero does not make explicit the law or the instruction of this *topos*. He simply gives its name and shows an example. Yet, from the example he poses it is clear that he considers this *topos* as a scheme of argument that work similarly to the *topos from opposites*:

Ex contrario autem sic: Non debet ea mulier cui vir bonorum suorum usum fructum legavit cellis vinariis et oleariis plenis relictis putare id ad se pertinere. Usus enim, non abusus, legatus est (ea sunt inter se contraria).³⁴ (*Topica* 17)

«From the opposite an argument is derived as follows: The woman to whom the man bequeathed the usufruct of ‘all his goods’ should not believe that, if the oil and wine cellars were left filled, their content belonged to her. For it is use (*usus*), not its consumption (*abusus*) which was granted (the two are opposite to one another).»³⁵

The above *locus ex contrario* is applied to argue that the usufruct of full wine and oil cellars left by a husband was not bequeathed to his wife (*Non debet ea mulier ...cellis vinariis et oleariis plenis relictis*,

putare id ad se pertinere) or, in logical terms, that the predicate ‘to be bequeathed’ does not belong to the subject ‘usufruct of oil and wine cellars’. Although the Roman laws on usufruct in Cicero’s time are not known with certainty, the above argument seems to imply that the usufructuary was not allowed to destroy or change the character of things. The *abusus* (i.e. the use of perishable things) was consequently not permitted, and it was considered by law as the contrary of the *usus*.³⁶ It is clear that the use of oil and wine would be an *abusus*. Thus, since the reason is that the husband bequeathed the *usus* of his property (in logical terms, that the predicate ‘to be bequeathed’ belongs to the subject ‘*usus*’), it follows that the contrary predicate, i.e. ‘not to be bequeathed’, belongs to the contrary subject, that is ‘*abusus*’ (in particular, the *abusus* of oil and wine).

3.2 The ancient texts testify another way in which a *topos* can be a scheme of argument, namely it is a scheme based on comparisons among logical predicates, terms, facts or phenomena. Here it is important to distinguish this meaning of the term from **3.1**. As shown above, the *topoi* explained in **3.1** work by focusing primarily on the logical nature of the predicates contained in the propositions under investigation. Aristotle, however, also presents some *topoi* that, although they can be applied to any subject independently from the specificity of its content, do not imply a consideration for the logical asset of propositions. These *topoi* are applied by exploring relationships among terminological and factual entities in terms of more/less, similar/different and cause/effect parameters. An example of this category of *topoi* is the process of reasoning by analogy, as found in *Rhetoric* 1399a 32–1399b1:

ἄλλος ἐκ τοῦ ἀνάλογον ταῦτα συμβαίνειν· οἶον ὁ Ἴφικράτης τὸν υἱὸν αὐτοῦ νεώτερον ὄντα τῆς ἡλικίας, ὅτι μέγας ἦν, λειτουργεῖν ἀναγκάζοντων, εἶπεν ὅτι εἰ τοὺς μεγάλους τῶν παίδων ἄνδρας νομίζουσι, τοὺς μικροὺς τῶν ἀνδρῶν παῖδας εἶναι ψηφιοῦνται.

«Another [*topos*] is from consequences by analogy ... For example, when they tried to force his son who was under age to perform public services because he was tall, Iphicrates³⁷ said that if they deem large boys men, they should vote that small men are boys.»

In the above passage, the analogy is based on the qualitative relationship “tall boys: men” and “short men: boys”. The conclusion put forward by Iphicrates is of course ironical, but the classical tradition shows cases where this process of assessing similarities functions as a powerful tool of argumentation. Thus in the legal context of Cicero’s *Topica* analogy, included in the *locus* from similarity

(the Latin *ex similitudine*),³⁸ is presented as a way to extend the authority of a law so as to cover cases that are not directly contemplated by the law itself. In the following passage, Cicero uses analogy to discuss the usufruct of houses: while, in fact, there is no evidence that in Cicero's time the heir was bound to repair or rebuild a house, there was instead a law for the usufruct of slaves, stating that in the case of a slave's death the heir was not bound to replace him:

A similitudine hoc modo: Si aedes eae corruerunt vitiumve faciunt quarum usus fructus legatus est, heres restituere non debet nec reficere, non magis quam servum restituere, si is cuius usus fructus legatus esset deperisset. (*Topica* 15)

«From similarity an argument is derived as follows: If a house whose usufruct has been bequeathed collapses or sustains damage, the heir need not rebuild or repair it, no more than to replace a slave if one of whom the usufruct had been bequeathed had died.»

To quote another example, the *topos from the more and the less* also follows within this group of strategies.

ἄλλος ἐκ τοῦ μᾶλλον καὶ ἥττον, οἷον 'εἰ μὴδ' οἱ θεοὶ πάντα ἴσασι,
σχολῆ γ' οἱ ἄνθρωποι.' τοῦτο γὰρ ἐστίν, εἰ ᾧ μᾶλλον ἂν ὑπάρχοι μὴ
ὑπάρχει, δῆλον ὅτι οὐδ' ᾧ ἥττον. τὸ δ' ὅτι τοὺς πλησίον τύπτει ὅς γε
καὶ τὸν πατέρα, ἐκ τοῦ, εἰ τὸ ἥττον ὑπάρχει, καὶ τὸ μᾶλλον ὑπάρχει ...
τοὺς γὰρ πατέρας ἥττον τύπτουσιν ἢ τοὺς πλησίον. (*Rhetoric* 1397b 12-
17²)

«Another is from the more and less ... for example, 'If not even the gods know everything, human beings can hardly do so.' For this is equivalent [to saying,] 'If something is not the fact in a case where it would be more [expected], it is clear that it is not a fact where it would be less'. Also, [the argument] that 'a person who has beaten his father has also beaten his neighbours' follows from [the proposition that] if the lesser thing is true, the greater is also; for people strike their fathers less than their neighbours.»

This *topos* is useful for dealing with cases where a predicate belongs to two subjects in a different degree. More specifically, it suggests that speakers should either refute the attribution of a predicate to a subject by showing that the predicate does not belong to another subject to which there is the greater likelihood of its belonging; or to establish the attribution of a predicate to a subject, by showing that it belongs to that to which it is less likely to belong. This is by virtue of the logical laws, which state that 'if a predicate does not belong to a subject

to which there is the greater likelihood of its belonging, it does not belong either to the one to which it is less likely to belong'; and 'if a predicate belongs to that to which it is less likely to belong, it belongs also to that to which it is more likely to belong'. Thus, in the examples of the *Rhetoric*, Aristotle applies the *topos from the more and the less* to refute the attribution of the predicate 'to be omniscient' to the subject 'men' by showing that the accident does not belong to a subject to which there is a greater likelihood of it belonging, that is 'gods'. In the second case, Aristotle arrives at the conclusion that 'a man who was capable of striking his father would also strike his neighbours', by arguing that, since the act of striking one's father is less usual than one's neighbour, if a man could be guilty of the former, he is much more likely to commit the latter.

3.3 Finally, a *topos* can be a pattern which leads speakers to focus on interpersonal, emotional and linguistic aspects surrounding the production of arguments, including ways of tailoring certain contents according to the audience, the impact of the contents on the public and/or factors related to the psychology of the speakers and their interlocutors. These *topoi* differ from the two preceding kinds of inferential strategies mainly for their applicability. Indeed, they can be utilized effectively only in juridical, deliberative and epideictic contexts where the character of the speakers and the emotions of the audience are driving forces to consider when designing an argument.

An example of these *topoi* is found in Aristotle's *Rhetoric* 1399b 30–1400a 4:

ἄλλος κοινὸς καὶ τοῖς ἀμφισβητοῦσι καὶ τοῖς συμβουλευούουσι, σκοπεῖν τὰ προτρέποντα καὶ ἀποτρέποντα, καὶ ὧν ἕνεκα καὶ πράττουσι καὶ φεύγουσιν· ταῦτα γὰρ ἔστιν ἅ, ἐὰν μὲν ὑπάρχη, δεῖ πράττειν, <ἐὰν δὲ μὴ ὑπάρχη, μὴ πράττειν> οἷον εἰ δυνατὸν καὶ ῥάδιον καὶ ὠφέλιμον ἢ αὐτῷ ἢ φίλοις ἢ βλαβερὸν ἐχθροῖς, κἄν ἐπιζήμιον ἦ, ἐλάττων ἢ ζημία τοῦ πράγματος. [καὶ προτρέποντα δ' ἐκ τούτων καὶ ἀποτρέπονται ἐκ τῶν ἐναντίων.] ἐκ δὲ τῶν αὐτῶν τούτων καὶ κατηγοροῦσι καὶ ἀπολογοῦνται· ἐκ μὲν τῶν ἀποτρεπόντων ἀπολογοῦνται, ἐκ δὲ τῶν προτρεπόντων κατηγοροῦσιν.

«Another *topos* that is common both to litigant and deliberative speakers is to look at what turns the mind in favour and what turns the mind against something ... and for what reasons people both act and avoid action. For these are factors that if present, impel action [but if not present, deter action]; for example, [consider] if [an action was] possible and easy and advantageous to a person or friend or harmful to enemies and, if punishable, [consider whether] the punishment is less than the reward of the action. People are urged on for these reasons and dissuaded by their

opposites, and they use the same arguments in accusation and defence: they defend themselves by drawing on those that encourage.»

The above *topos* suggests that orators can argue by reasoning on the motives for actions and things that in general encourage, or deter men from acting, and present them in support of their pleading. This strategy is particularly useful in forensic rhetoric, where speakers must take into consideration the incentives and deterrents that could have led the accused to commit or not a certain crime. In *De inventione* II, 16, where Cicero illustrates the strategies of argumentation that can be applied in a *coniecturalis controversia*, i.e. when the dispute is about a fact,³⁹ he explains how the prosecution and defence may apply this *locus*. The prosecutor has to stress for what advantage, or to avoid what disadvantage the defendant did the deed:

Cum autem non impulsione, verum ratiocinatione aliquem commisisse quid dicet, quid commodi sit secutus aut quid incommodi fugerit demonstrabit et id augebit quam maxime poterit, ut, quod eius fieri possit, idonea quam maxime causa ad peccandum hortata videatur. Si gloriae causa, quantam gloriam consecuturam existimavit; item si dominationis, si pecuniae, si amicitiae, si inimicitiarum, et omnino quicquid erit quod causae fuisse dicet id summe augere debet. (*De inventione* II, 20)

«When, on the other hand, the prosecutor says that the defendant did the deed not from impulse, but deliberately, he will show what advantage was sought or what disadvantage avoided and will amplify this point to the best of his ability, so that, as far as in him lies, it may be shown that a perfectly sufficient motive prompted the crime. If it was for glory, how great the glory he expected to win; likewise if for power or wealth, because of friendship or enmity, and in short whatever he says the cause was, the prosecutor must enlarge upon it most emphatically.»

The counsel for defence will however show that there was little or no gain for the defendant:

Ratiocinationis autem suspiciones infirmabit, si aut commodum nullum esse aut paruum aut aliis maius esse aut nihilo sibi maius quam aliis aut incommodum sibi maius quam commodum dicet, ut nequaquam fuerit illius commodi quod expetitur dicatur magnitudo aut cum eo incommodo quod acciderit, aut cum illo periculo quod subeatur comparanda...(*De inventione* II, 26)

«He will weaken the suspicion of premeditation if he says that there was little or no gain for the defendant, or greater gain for others, or no greater for him than for others, or that the loss was greater than the gain so that in no way was the size of the gain which he is said to have sought to be compared with the loss which he incurred, or with the danger which he faced.»

Another interesting example of this kind of *topoi* is found in Aristotle's *Rhetoric* 1399a 28–32:

ἄλλος, ἐπειδὴ οὐ ταῦτὰ φανερώς ἐπαινοῦσι καὶ ἀφανῶς, ἀλλὰ φανερώς
 μὲν τὰ δίκαια καὶ τὰ καλὰ ἐπαινοῦσι μάλιστα, ἰδίᾳ δὲ τὰ συμφέροντα
 μᾶλλον βούλοντα, ἐκ τούτων πειρᾶσθαι συνάγειν θάτερον· τῶν γὰρ
 παραδόξων οἷτος ὁ τόπος κυριώτατός ἐστιν.

«Another [*topos* is employed] when [one's opponents] do not praise the same things openly as they do secretly ..., but to a great extent praise the just and beautiful while privately they wish rather for what is to their advantage. [The thing to do is] to try to draw the other conclusion from what they say; for this is the most effective topic in dealing with paradoxes.»

This *topoi* is based on the tendency that men have of hiding their real opinions about good and bad things in order to show that they have noble feelings of high morality. In the case when an opponent has used some commonplace about justice and the beautiful (that is, virtues and so forth), the strategy suggests that orators appeal to his secret feelings. In so doing they can show the contradictory nature of the opponent, and thus undermine his position.

4. *TOPOS* AS 'ARGUMENT'

Possibly as a metonymic development of the above use of *topos* as scheme of argument, the Latin term *locus* is attested in handbooks of rhetoric with the meaning of *argument*. An example is found in *Rhetorica ad Herennium* I, 4, where the author explains that the *confutatio* is the refutation of the arguments (*locorum*) of the adversaries:

Confirmatio est nostrorum argumentorum expositio ... Confutatio est contrariorum locorum dissolutio.⁴⁰

«Proof is the presentation of our arguments ... Refutation is the destruction of our adversaries' arguments »⁴¹

There is no evidence of this usage of *locus* in Greek rhetoric.

5. *TOPOS* AS 'READY-MADE ARGUMENT' (*LOCUS COMMUNIS*)

Last, but not least, the expression *locus communis* is used by Latin rhetoricians to indicate a ready-made argument. Much has been written on the concept of *locus communis*.⁴² Yet, it is important to investigate its specific function further so as to make it clear in what

ways it differs from the other uses of *locus* discussed above. Cicero's own definition of the term prepares the ground for the investigation

Omni autem in causa pars argumentorum est adiuncta ei causae solum quae dicitur, et ex ipsa ita ducta ut ab ea separatim in omnes eiusdem generis causas transferri non satis commode possit; pars autem peruagatior et aut in omnes eiusdem generis aut in plerasque causas accommodata. Haec ergo argumenta quae transferri in multas causas possunt, locos communes nominamus. Nam locus communis aut certae rei quandam continet amplificationem, ut si quis hoc velit ostendere eum qui parentem necarit maximo supplicio esse dignum ... aut dubiae quae ex contrario quoque habeat probabiles rationes argumentandi, ut suspicionibus credi oportere, et contra, suspicionibus credi non oportere. (*De inventione* II, 47–48)

«In every case some of the arguments are related only to the case that is being pleaded, and are so dependent on it that they cannot advantageously be separated from it and transferred to other cases, while others are of a more general nature, and adaptable to all or most cases of the same kind. These arguments, which can be transferred to many cases, we call common topics. A common topic either contains an amplification of an undisputed statement – for example, if one should wish to show that a man who has murdered his father or mother deserves the extreme penalty ... or of a doubtful statement against which there are also plausible lines of argument; for example, it is right to put confidence in suspicions, and on the other hand, it is not right.»

A *locus communis* is a ready-made argument that, as Cicero correctly remarks, may be transferable (*argumenta quae transferri ... possunt*) to several similar cases. Thus, the adjective *communis* refers precisely to the extensive applicability of this kind of arguments that, however, is not to be equated to the universal applicability of the *topoi* explained in 3.1 and 3.2. The latter are 'subjectless',⁴³ while the formers are formulated and work on a much more specific level: as the *topoi* in 3.3, they have argumentative strength mainly in juridical, deliberative and epideictic contexts.

As for its functioning, a *locus communis* does not prove anything specific to the case being examined. It contains an amplification either of a statement whose truth is generally recognised by the majority of people (thus, in the above passage, 'a man who has murdered his father or mother deserves the extreme penalty'), or of a statement that can be argued from different and opposite perspectives (in the above passage, 'it is right to put confidence in suspicions, and it is not right'). In this light, the *loci communes* do not add any factual information to the line pursued by the speakers. Yet, they are used to put the audience in a favourable frame of mind by presenting evaluations and interpretations of the facts at issue.

The idea of *locus communis* was known in Greek rhetoric long before Cicero, although there is no evidence that the terms *topos* or

topos koinos (the Greek τόπος κοινός) were used to designate it. In dealing with the proofs that exist independently from orators' invention (the non-artistic proof, the Greek ἀτεχναι πίστεις),⁴⁴ Aristotle presents a series of ready-made arguments that are very similar to some of the *loci communes* discussed by the author of *Rhetorica ad Herennium* in II, 9–10. To quote an example:

αἱ δὲ βάσανοι μαρτυρίαί τινές εἰσιν, ἔχειν δὲ δοκοῦσι τὸ πιστόν, ὅτι ἀνάγκη τις πρόσσεστιν. οὐκ οὖν χαλεπὸν οὐδὲ περὶ τούτων ἰδεῖν τὰ ἐνδεχόμενα, ἐξ ὧν ἕαν τε ὑπάρχουσιν οἰκεῖται αὖξιν ἔστιν, ὅτι ἀληθεῖς μόναι τῶν μαρτυριῶν εἰσιν αἰτιαι· ἕαν τε ὑπεναντία ᾧσι καὶ μετὰ τοῦ ἀμφισβητοῦντος, διαλύοι ἂν τις [τάληθῆ] λέγων καθ' ὅλου τοῦ γένους τῶν βασάνων· οὐδὲν γὰρ ἦτρον ἀναγκαζόμενοι τὰ ψευδῆ λέγουσιν [ἢ τάληθῆ], καὶ διακατεροῦντες μὴ λέγειν τάληθῆ, καὶ βραδίως καταψευδόμενοι ὡς παυσόμενοι θάττον. δεῖ δ' ἔχειν ἐπαναφέρειν ἐπὶ τοιαῦτα γεγενημένα παραδείγματα ἃ ἴσασιν οἱ κρίνοντες. (*Rhetoric* 1376b 31- 1377a 7)

«Tortures ... are a kind of testimony and seem to have credibility because some necessity ... is involved. It is thus not difficult about them either to see the available [means of persuasion] from which it is possible to provide amplification if they are in favor [of the speaker], [saying] that this form of testimony is the only true one. But if they are against him and favour his opponent, one could refute them by speaking [first] about the whole concept of torture; for [slaves] do not lie any less when under compulsion, neither [those who] harden themselves not to tell the truth nor [those who] lie easily to stop the pain more quickly. There is [also] need to cite examples that the judges know, which have [actually] happened.»

Communes loci sunt cum accusatoris tum defensoris, ... A quaestionibus dicemus cum demonstrabimus maiores veri inveniendi causa tormentis et cruciatu uoluisse quaeri et summo dolore homines cogi ut quicquid sciant dicant... contra quaestiones hoc modo dicemus ...deinde dolori credi non oportere, quod alius alio recentior sit in dolore, quod ingeniosior ad eminiscendum, quod denique saepe scire aut suspicari possit quid quaesitor velit audire; quod cum dixerit, intellegat sibi finem doloris futurum. (*Rhetorica ad Herennium* II, 9)

«The common topics are those which are used now by the defence, and now by the prosecution, depending on the case ...We shall speak in favour of the testimony given under torture when we show that it was in order to discover the truth that our ancestors wished investigations to make use of torture and the rack, and that men are compelled by violent pain to tell all they know ... Against testimony given under torture we shall speak as follows ...We then shall say that pain ought not be relied upon, because one person is less exhausted by pain, or more resourceful in

fabrication, than another, and also because it is often possible to know or divine what the presiding justice wishes to hear, the witness knows that when he has said this his pain will be at an end. »

In the above passage of the *Rhetoric* Aristotle does not use either the word *topoi* or the expression *topoi koinoi*. Indeed, the combination *locus communis* was not yet fixed in the rhetorical terminology of Cicero's time. Passages of *De inventione* show in fact that Cicero often refers to *loci communes* by calling them simply *loci*.⁴⁵

6. A NOTE ON THE WORD τόπος

In concluding the present investigation, a word should be said on the origin of the term *topos* in the argumentative context explored above. Although the lack of evidence can only lead to speculative investigations of the issue, it is at least important to challenge the origin that is often given by the current literature. On the basis of *Topics* 163b 22–33, scholars tend to link the rhetorical usage of *topos* to the ancient mnemonics. The passage reads as follows:

Πρός τε τὰ πλειστάκις ἐμπίπτοντα τῶν προβλημάτων ἐξεπίστασθαι δεῖ λόγους, καὶ μάλιστα περὶ τῶν πρώτων θέσεων· ἐν τούτοις γὰρ ἀποδυσπετοῦσιν οἱ ἀποκρινόμενοι πολλάκις, ἔτι τε ὄρων εὐπορεῖν δεῖ, καὶ τῶν ἐνδόξων τε καὶ τῶν πρώτων ἔχειν προχείρους· διὰ γὰρ τούτων οἱ συλλογισμοὶ γίνονται. πειρατέον δὲ καὶ εἰς ἃ πλειστάκις ἐμπίπτουσιν οἱ ἄλλοι λόγοι κατέχειν. ὡσπερ γὰρ ἐν γεωμετρίᾳ πρὸ ἔργου τὸ περὶ τὰ στοιχεῖα γεγυμνάσθαι, καὶ ἐν ἀριθμοῖς τὸ περὶ τοὺς κεφαλισμοὺς προχείρως ἔχειν μέγα διαφέρει πρὸς τὸ καὶ τὸν ἄλλον ἀριθμὸν γινώσκειν πολλαπλασιούμενον, ὁμοίως καὶ ἐν τοῖς λόγοις τὸ πρόχειρον εἶναι περὶ τὰς ἀρχάς, καὶ τὰς προτάσεις ἀπὸ στόματος ἐξεπίστασθαι. καθάπερ γὰρ ἐν τῷ μνημονικῷ μόνον οἱ τόποι τεθέντες εὐθὺς ποιοῦσιν αὐτὰ μνημονεύειν, καὶ ταῦτα ποιήσει συλλογιστικώτερον διὰ τὸ πρὸς ὀρισμένας αὐτὰς βλέπειν κατ' ἀριθμὸν, πρότασίν τε κοινήν μᾶλλον ἢ λόγον εἰς μνήμην θετέον· ἀρχῆς γὰρ καὶ ὑποθέσεως εὐπορήσαι μετρίως χαλεπόν.

«You ought thoroughly to learn arguments dealing with questions of frequent occurrence and especially primary propositions; for answerers often become

discouraged in dealing with these. Moreover, you should have a good supply of definitions and have those of familiar and primary ideas ready to hand: for it is by means of these that reasonings are carried on. You should also try and grasp the categories into which the other arguments most often fall. For just as in geometry it is useful to have been trained in the elements, and in arithmetic to have a ready knowledge of the multiplication table up to ten times helps much to the recognition of other numbers which are the result of multiplication, so too in arguments it is important to be prompt about first principles and to know your premises by heart. For just as to a trained memory the mere reference to the places in which they occur causes the things themselves to be remembered, so the above rules will make a man a better reasoner, because he sees the premises defined and numbered. A premise of general application should be committed to memory rather than an argument, since it is pretty difficult to have a first principle or hypothesis ready to hand.»

According to Slomkowski, who has recently re-emphasised the general interpretation of this passage, here Aristotle compares the *topoi* of mnemonics with elements in geometry, the multiplication table up to ten in arithmetic and, more importantly, with the first principles and premises of arguments. Since in Slomkowski's interpretation a *topos* is a principle and a general premise, he concludes that the *topoi* of the *Topics* work as those of the mnemonics from which they also borrow the name.⁴⁶

Two important considerations weaken Slomkowski's argument. Firstly, on a more philological ground, in the above passage Aristotle does not speak about the argumentative *topoi*. The passage occurs in book VIII of the *Topics*, where Aristotle discusses the nature of the propositions of which arguments are made, and how to use and present them. This is clearly indicated at the beginning of the book where he specifically says that he has finished with *topoi*:

Τοὺς μὲν οὖν τόπους ὅθεν δεῖ λαμβάνειν, εἴρηται πρότερον· περὶ τάξεως δὲ
καὶ τοῦ ἐρωτηματίσαι λεκτέον διελόμενον τὰς προτάσεις, ὅσαι ληπτέαι
παρὰ τὰς ἀναγκαίαις· (*Topics* 155b 17-20)

«The *topoi* from which the commonplaces should be derived have already been stated. We must now deal with the arrangement and the framing of questions after having first distinguished the premises which have to be obtained, other than those which are necessary. »

In the context of book VIII, what Aristotle points out in 163b 22--33 is that speakers should memorise definitions, general propositions and principles (the fundamental contents of specific disciplines) which, precisely because of their generality, may be useful for discussing a wider number of cases.

Secondly, most of the *topoi* that Aristotle discusses in the *Topics* cannot easily be memorised. These *topoi* have to be understood, and a lot of training is required in order to be able to use them. They require an analysis of the logical properties of the proposition to be established and refuted, and it is hard to see what exercise based on mnemonics could help speakers apply them.

In this respect, it is worth drawing attention to an interesting detail that Ritoòk presents in his article (1975, p. 112). Ritoòk notes that *topos* in the fourth century BC was used in military terminology to indicate “einen Ort ‘von dem aus man eine bestimmte Macht entfalten, eine Wirksamkeit entwickeln kan’”. Since the *topoi*, in all the meanings underlined in this paper, are ultimately strategies or devices presented at different levels of abstraction for gaining the upper hand and producing successful speeches, it seems plausible to suggest that the term originally derived as a metaphor from this usage. The passage of Isocrates analyzed in the beginning of this work shows that *topos* was already used with a technical meaning in pre-Aristotelian rhetoric. This would explain the reasons why Aristotle seems to have taken the term for granted and, as all scholars interested in the subject complain (!), never gave a definition of it.

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NOTES

¹ For reasons of terminological uniformity, in the present article I will mainly use the terms *topos/topoi* for both the Greek and Latin context.

² An attempt is found in Pernot (1986, pp. 253–84). Pernot, however, does not seem to have fully exploited the natures of those *topoi* that are schemes of argument of the kind discussed in 3.1 of the main text, and of the material propositions (the *eidè*, see paragraph 2 in the main text). This leads him to identify kinds of *topoi* which do not seem to exist, thereby making his general discussion difficult to follow. On this, see in particular Rubinelli (2003).

³ On this approach see Leff (1983, pp. 23–25).

⁴ Thus, for example, Huby (1989, p. 64) confuses *topos* as subject-matter indicator (see paragraph 2 in main text) and *topos* as *locus communis* (see paragraph 5 in main text). Pernot (1986) confuses *topos* as scheme of argument (see paragraph 3.1 in main text) and *topos* as subject-matter indicator (see paragraph 2 in main text). Similarly, Grimaldi (1958), De Pater (1965, p. 125) and Cazzola-Gastaldi (1976, pp. 3–10) consider all the *topoi* that Aristotle discusses in *Rhetoric* B23 as schemes of argument of the same kind, without noting that they works on different principles. On this last point see Rubinelli (2002, esp. pp. 399–407), Braet (2005) and paragraph 3.1 in main text.

⁵ See, in particular, Braet (2004 and 2005 with further references). I should remark that in this paper I will not focus on the historical relationship among the different meaning of *topoi* underlined. This would lead to an analysis that surely exceeds the limits of an article. I have, however, considered this matter at length in my doctoral dissertation (University of Leeds, 2002) and I am currently preparing a monographic study based on its main results.

⁶ Thus, for example, Aristotle's *Rhetoric* 1372a 32 and Cicero's *De inventione* I, 38.

⁷ Text after Mathieu (1924).

⁸ Translation by Norlin (1969).

⁹ See *De inventione* I, 34–36 and 38–42. On the *attributa*, its link to Hermagoras's doctrine and on the inferential principles implied by some of them see, in particular, Leff (1983).

¹⁰ See *De inventione* I, 10.

¹¹ See *De inventione* II, 19.

¹² Latin text after Achard (1994), translation by Hubbell (1976).

¹³ On this see more in Rubinelli (2003).

¹⁴ See Aristotle's *Rhetoric* A6.

¹⁵ On the two basic functions of this kind of *topoi* see, in particular, de Pater (1965, pp. 140–148).

¹⁶ See, for example, *Rhetoric* B23 1397a 7.

¹⁷ Presumably, the famous characterisation of *topoi* as *sedes argumenti* (see, for instance, Cicero's *Topica* II, 8) derived by reflecting on the functioning of the introductory labels.

¹⁸ In the post-Aristotelian tradition, Theophrastus seems to have associated the term *topos* only with the 'law' (Reinhardt, 2003). In modern literature, Stump (1978, pp. 166–170) that the term *topos* only applies to the instruction. For a discussion of this point see De Pater (1965, pp. 115–117) and (1968, pp. 164–6); Brunschwig (1967, XL–XLI); Pelletier (1985); Primavesi (1996, pp. 96–99).

¹⁹ *Topics* 113b 27–29.

²⁰ *Topics* 114a 3–5.

²¹ Thus Brunschwig's interpretation of a *topos* as «une machine à faire des prémisses à partir d'une conclusion donnée» (1967, XXXIX and XXXIX–XLV).

²² See more on this in Brunschwig (1958), Primavesi (1996), Reinhardt (2003) and Braet (2005) with further references.

²³ For a different taxonomy of schemes of arguments that integrates the Aristotelian and Medieval traditions with contemporary semantic theories see Rigotti (2006). See also Braet (2005).

²⁴ Thus see De Pater (1965), Brunschwig (1967), Primavesi (1996) and Slomkowski (1997). De Pater's basic assumptions on *topoi*, in particular, have been accepted in much of the recent literature on this issue. See, for example, Stump (1978, p. 166), Green-Padersen (1984, p. 31) and Kienpointner (1992, pp. 178–179).

²⁵ See Walton and Brinton (1997).

²⁶ See *Topics* 101b 11–36.

²⁷ On the concept of predicable see Brunschwig (1967, XLV–L) and Slomkowski (1997, Chapter three).

²⁸ Text after Brunschwig (1967). For quotations from books V to VIII of the *Topics* the text is after Ross (1958).

²⁹ Translation by Foster (1960).

- ³⁰ I have dealt with this aspect at length in Rubinelli (2003).
³¹ Text after Kassel (1976).
³² Translation by Kennedy (1991).
³³ See Aristotle's *Topics* 113b 27–114a 6.
³⁴ Text after Reinhardt (2003). A similar *topos* is also found in the list of *loci* that Cicero discusses in *De oratore* 2, 169–170.
³⁵ Translation by Reinhardt (2003).
³⁶ See more specifically Reinhardt (2003, pp. 226–227).
³⁷ Iphicrates was a general who defeated a Spartan hoplite force at Lachaeum in 392 B.C.
³⁸ See also *De oratore* 2, 168–169.
³⁹ *De inventione* I, 10.
⁴⁰ Text after Achard (1989).
⁴¹ Translation by Caplan (1954).
⁴² See especially Lausberg (1960, pp. 224–7), Kennedy (1963, pp. 52–8) and Pernot (1986, pp. 271–4 with further references).
⁴³ Braet (2005, p. 69).
⁴⁴ See in particular Aristotle's *Rhetoric* 1376b 31–1377a 10.
⁴⁵ See *De inventione* II, 51.
⁴⁶ Slomkowski (1997, p. 47). See also Solmsen (1929, p. 173) and Sprute (1982).

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