# Negotiation and Aristotle's *Rhetoric*: Truth over interests?

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**Abstract**

*Negotiation research primarily focuses on negotiators' interests in order to understand negotiation and offer advice about the prospective outcome. Win-win outcomes, i.e., outcomes that serve the interests of all negotiating parties, have been established and promoted as the ultimate goal for any negotiation situation. We offer a perspective that draws on Aristotle's philosophical program and discuss how the outcome is not defined by the parties' interests, but by the intersubjective validity of claims, which can essentiallybe treated as representative of the ''truth.''*

## 1. Introduction

Negotiation theory is an interdisciplinary field that has been developed by economists, sociologists, and psychologists, and offers prescriptions for effective negotiating. Theorists often insist that negotiating parties should focus on their interests (Fisher, Ury, & Patton, 1991), and on finding ways to ''expand the pie'' and achieve win-win outcomes. The main rationale behind this type of advice is that people in reality focus on distributing the pie, rather than try to enlarge the pie before distributing it (Bazerman, Baron, & Shonk, 2001), and they thus engage in a sterile battle of positions. Negotiation has been approached as a ''problem'' with objective properties that draws from the parties' interests and, therefore, the outcome of which should be defined by the benefits it has to offer to the parties. The negotiation solution is sought in the structure of resources, utilities, and rewards, which the negotiating parties stand to gain from the negotiation. In other words, negotiation is typically regarded as the parties' effort to achieve a favorable outcome, and thus win-win outcomes have become the ultimate prescriptive desideratum of negotiation.

A somewhat contradictory approach to negotiation is offered by the field of discourse analysis, the analysis of communication between the parties and the power of argumentation, which does not necessarily take into account anything other than communication (Firth, 1995; Hamilton, 2000; Putnam, 2004, 2005). This latter analysis is influenced by the work of ancient Greek philosophers, especially within the field of rhetoric. Aristotle defined rhetoric as ''the faculty of discovering the possible means of persuasion in reference to any subject whatever'' (Rhet., trans. 1926/2000, I.2, 1355b, 25–26). Subjects could include war and peace, self-defense, imports and exports, and so on. Turning to Aristotle, we will attempt to uncover the

principles of persuasive arguments within negotiation and their relation to the parties'

benefits.

We will argue that the structure of preferences and resources is just one area

from which one can draw persuasive arguments. In fact, the principles that apply are

much broader and go beyond each party's individual gain, even beyond the subject of

a particular negotiation, to the intersubjective reason that is inherent in

communication itself. On the basis of Aristotle's work, we will argue against the view

that treats negotiation as a problem solving activity rather than a communicative

action procedure, a view that focuses on interest-satisfying, subject-centered motives

rather than intersubjective, communicative reason-based mechanisms. The latter

formulate the outcome on the basis of a quest for the ''truth,'' i.e., intersubjectively

validated reality.


## 2. Negotiation as ''Problem Solving''


Negotiation theory has been strongly influenced by the field of economics. This is

evident even in the ways the two fields are often defined. Economics has been defined

as ''the science which studies human behavior as a relationship between ends and

scarce means which have alternative uses'' (Robins, 1945, p. 16), whereas negotiation

has been defined as ''an interpersonal decision-making process by which two or more

people agree how to allocate scarce resources'' (Thompson, 2001, p. 2). The emphasis

is on how people use scarce resources in both cases. Even in the field of psychology,

the study of negotiation has been dominated by a focus on the decision-making

perspective (Bazerman, Curham, Moore, & Valley, 2000), which treats negotiation

as joint decision-making—a process during which rational parties try to allocate

resources. Therefore, both economics and psychology aim at understanding the process of negotiation, and offer advice to negotiators by building and completing the concept of the ''instrumentally rational negotiator''; i.e., the negotiator whose actions serve as means to achieve the end of accumulating utilities.

If we view negotiation as joint decision-making, it is the process that precedes the allocation of resources. Its only purpose and existence is intertwined with this result. Economics and the theory of decision-making might even ignore the process of negotiation itself, placing the emphasis on what people should decide in the end. It is characteristic that Nash's (1950) solution to the bargaining problem does not take into account the process of negotiation, but only the value of the prospective outcomes to the negotiating parties. According to this approach, people jointly decide to allocate resources based on their individual interests. The field of behavioral decision-making studies how people systematically deviate from this type of rational decision-making model, and offers a more complete picture of the rational decision-maker and, consequently, that of the rational negotiator. Although more and more issues, such as ethics, are being studied and incorporated in the literature, the main paradigm of negotiation theory is by far that of the instrumentally rational negotiator. The solution of the ''negotiation problem'' is still sought in the benefits parties will rationally gain in the negotiation. This type of perspective focuses on the individual as the starting point of analysis and often fails to capture the nature of the negotiating parties' interaction, which is broader and richer than the interdependent structure of individual interests and motives. A different perspective may emerge if we turn our attention to communication itself as a starting point.

## 3. Negotiation as a Communicative Action Procedure

In the study of negotiation, special emphasis is given to the cognitive processes of the individual and the instrumental use of the resources that are on the bargaining table. Reason is found in the criteria that govern the relationship of the self to the resources that are the object of negotiation, which means that reason mainly revolves around the self and the potentially useful outcome of the negotiation. It is therefore understandable that most prescriptive theory focuses on how people can accumulate the most resources possible. The use of prescriptions that are based on this subject-centered reason, however, neglects the communicative reason that governs the negotiation. Habermas argues in favor of communicative reason that ''finds its criteria in the argumentative procedures for directly or indirectly redeeming claims to propositional truth, normative rightness, subjective truthfulness, and aesthetic harmony'' (Habermas, 1987b, p. 314; see also Alexy, 1991). Instead of focusing on the subject and its relation to the world, Habermas puts the emphasis on the relationship between subjects and the intersubjective recognition of claims that, besides the cognitive-instrumental dimension, ''integrates the moral-practical as well as theaesthetic-expressive domains'' (Habermas, 1987b, p. 315; see Habermas, 1985, 1987a, for detailed analysis). And as long as negotiation is approached through the lens of the instrumentally rational actor, the intersubjective argumentation and validation of claims, which is the essence of negotiation, will be neglected. Rhetoric, as Aristotle visualizes it, attempts a holistic approach of this type of communicative reason, which governs parties' attempts to persuade each other. Aristotle argues that:

That which is persuasive is persuasive in reference to someone, and is

persuasive and convincing either at once and in and by itself, or because it

appears to be proved by propositions that are convincing . . . . Rhetoric

will not consider what seems probable in each individual case, for

instance to Socrates or Hippias, but that which seems probable to this or

that class of persons [emphasis added]. (Rhet. I.2, 1356b, 28–35)

He clearly places great value on communication itself, and recognizes that persuasiveness of a statement is intertwined with the person that is persuaded. On the other hand, Aristotle also points out that the purpose of rhetoric is not to examine the persuasiveness of statements toward one person alone, but to people of a particular kind or audience (''class of persons''). Rhetoric, therefore, focuses on statements that have the ability to persuade a broader class of people and provides a tool-kit with possible remedies just as medicine provides possible cures for broader types of people rather than an individual alone. It does not focus on the interests of one person but on broader types of convincing arguments that appeal to a class of people. Persuasiveness lies beyond one person and his/her interests; it lies within the communication that can hypothetically take place among a broader class of people. At this juncture Aristotle also feels the need to draw a parallel with Dialectic, which like Rhetoric does not base its conclusions upon any random premises, but takes its material ''from subjects which demand reasoned discussion [emphasis added], as Rhetoric does from those which are common subjects of deliberation'' (Rhet. I.2, 1356b, 35–37; see also 1357a, 1–2). In this element of reasoned discussion, which permeates both rhetoric and dialectic, there resides a communicative reason able to secure or enhance the persuasiveness of the statements being made within a

communication procedure.

**4. The Truth of Rhetoric**

Beyond any doubt, Aristotle was right in discerning that his predecessors (Corax and Tisias, and the numerous sophists as well) made no attempt to open a systematic discussion over or to promote the idea of truth through rhetoric. They were chiefly concerned with teaching an art of merely convincing others (ad persuadendum), whatever the final result or purpose of the speech was. The definition delivered by Corax offers a powerful proof: according to him, rhetoric is merely ''the artificer of persuasion'' (Freese, 1926/2000, p. xiii).

Aristotle does not reject the latter function of rhetoric. However, at the same time he discerns in it a moral element, showing thus that his analysis also bears a teleological trait: ''for one ought not to persuade people to do what is wrong'' (Rhet. I.1, 1355a, 31–32; see also 1355b, 17–22). Unlike the sophists, Aristotle is not advocating rhetoric only as a means of professional success, but also as a more advanced, well-articulated technical device that is able to promote the qualities of the character of the orator, as well as to serve a moral or political end (Engberg-Pedersen, 1996; Patsioti, 2003; Rorty, 1992; Wo¨rner, 1990). Moreover, Aristotle believes that what is true or just may be proven or may persuade more easily than its contrary. In other words, the persuasive power of a true or just argument is, in principle, higher than that of an untrue or unjust one, and thus the true argument may more easily produce intersubjective consensus. In his own words: ''men have a sufficient natural capacity for the truth and indeed in most cases attain to it'' (Rhet. I.1, 1355a, 15–17); ''rhetoric is useful, because the true and the just are naturally superior to their

opposites'' (Rhet. I.1, 1355a, 21–22); ''that which is true and better is naturally always easier to prove and more likely to persuade'' (Rhet. I.1, 1355a, 36–38; see also I.2, 1356a, 18–20). Therefore, it is easy to guess that an orator who defends the truth has more chances of success (Berti, 2003; Engberg-Pedersen, 1996; Kalan, 2003; Patsioti, 2003; Rorty, 1992, 1996; Wardy, 1996).

In view of the above, the power of persuasion for Aristotle mainly lies in producing a true and just argument, because the true and the just exhibit superior properties than their opposites. In essence, Aristotle believes in the natural prevalence of the truth, which dictates that we are naturally prone to be persuaded of the truth (Burnyeat, 1996; Engberg-Pedersen, 1996; Wardy, 1996). On the whole, Aristotle was strongly interested in serving or discovering the truth of the case (''Wahrheitsfindung,'' or ''conquest of truth,'' according to Wörner, 1990), and not in promoting the ''old,'' unethical kind of rhetoric that he manifestly disliked (Poster, 1997). This Aristotelian conviction runs, above all, against the relativistic belief of Protagoras, according to which ''man is the measure of all things'' (Plato, trans. 1997, 152a). That is, there is no such thing as absolute truth, but things are such as they appear to one who perceives them (see also Haft, 2007). In some ways, Aristotle is arguing that rhetoric should not be a instrument that is malleable by the individual's interests and intentions, but a useful technique that is guided by the truth. After all, he rightly points out that the objection that rhetoric might sometimes become dangerous, due to abuse, is applicable to everything that is good and useful, i.e, to all crafts and sciences (see also Rorty, 1992, 1996).

In current negotiation theory there is already a primary defense of the ''truth,'' which argues against the use of lies and deception since they may affect negotiators' reputation and generally lead to poorer outcomes (Boles, Croson, & Murnighan,

2000). Therefore, there is an instrumentally rational reason that is offered for not using lies and deception. However, Aristotle's Rhetoric is not only about speaking the truth and avoiding deception; it is about using arguments to uncover the truth which goes beyond the parties' outcomes, and the individuals themselves. The ''truth,'' of course, is something elusive in philosophy, and its identity will not be uncovered in this short essay. For the purposes of this essay, we treat truth as the intersubjective agreement on reality, an objective property that transcends the interests of the individual into the reality of society as a whole; this truth can be uncovered through rhetoric. In this way, it is the truth that is validated by the agreement of the negotiating parties.

How can this truth be approached? Can it be something entirely subjective and limited to a two-person communication, validated by two people alone but completely refuted by the rest of the world? Aristotle's Rhetoric focuses on the persuasiveness of statements toward broader classes of people, rather than a single individual. It is therefore understandable that the object of agreement that is achieved through the art of rhetoric can be visualized as part of a greater consensus, one that a broader class of people would endorse, and which can be thought of in terms of Perelman's ''universal audience,'' i.e., a hypothetical broad audience that, in a sense, could even encompass ''all reasonable people'' (Perelman & Olbrechts-Tyteca, 1958).

This is the reason why Rhetoric and Dialectic are so closely linked, and why Aristotle often refers to Dialectic in order to make his points on rhetoric clearer and more understandable. Dialectic, just as rhetoric, pertains to matters of common knowledge; its main purpose is to draw up a system of furnishing convincing arguments upon any given subject whatsoever, based upon two modes of argument,

''syllogism'' and ''induction.'' These directly relate to the so-called ''enthymeme'' and ''example,'' which are their equivalents in Rhetoric (Rhet. I.2, 1356b, 2–3). For an enthymeme is a rhetorical syllogism, and an example a rhetorical induction (Rhet. I.2, 1356b, 4–5). This is, in short, why Aristotle views Rhetoric as a counterpart or a sort of likeness of Dialectic.

Examples are either (a) statements of things that have actually happened before; or (b) invented by the speaker, consisting of comparisons and fables (Rhet. II.20). On the other hand, enthymemes play a more important role in Aristotle's Rhetoric, since they constitute ''the body of proof'' (Rhet. I.1, 1354a, 15), and are ''the strongest of rhetorical proofs'' (Rhet. I.1, 1355a, 8; see also Burnyeat, 1996; Kalan, 2003; McAdon, 2003). Even though the discussion of materials of enthymemes is, admittedly, exceptionally confusing (McAdon, 2003), enthymemes, according to Aristotle, are mainly formed from ''probabilities'' and ''signs,'' the probable being defined as ''a thing which most commonly occurs or seems to occur'' (Rhet. I.2, 1357a, 31; see also II.25, 1402b, 13). Enthymemes do not draw only from the absolute truth, but also from apparent, even, one might say, probabilistic truths. The truth of rhetoric is, therefore, that which people will generally accept as true, even if this is based on probabilities.

Even though Aristotle focused on different routes to persuasion, such as the ethical and the emotional route, he placed greater value and emphasis on logical proofs, which demonstrate directly a real or apparent truth. The above systematic approach, which certainly reflects Aristotle's wider scientific beliefs, puts aside other forms of persuasion based upon more or less ''irrational'' factors, such as love, hate or other emotions. These are in principle opposed to reason and thus prevent people from ''discerning the truth adequately [emphasis added], their judgment being

obscured [emphasis added] by their own pleasure or pain'' (Rhet. I.1, 1354b, 10–12).

For Aristotle, therefore, a clear and unbiased state of mind enables us to better discern

the truth, which constitutes in his eyes a permanent desideratum. To put it differently

and in wider terms, Aristotle did not confine himself—as his predecessors did—

mainly to appeals to the emotions and things irrelevant to the matter in hand. He

attacked the subject from the point of view of a systematic philosopher and

psychologist, not from that of the mere rhetorician (Freese, 1926/2000).


**5. The Location of Truth in Negotiation**


Aristotle analyzed three possible routes of persuasion: (a) an ethical one, derived

from the moral character of the speaker, which renders him worthy of confidence

and thus persuasive; (b) an emotional one, the object of which is to put the hearer

into a certain frame of mind that may facilitate the acceptance of an argument; and

(c) a logical one, contained in the speech itself when a real or apparent truth is

demonstrated (Freese, 1926/2000). And as expected from Aristotle's greater

philosophical program, emphasis was especially placed on the logical proof which

consists of two special kinds: (i) of the deductive one, i.e. the enthymeme; and (ii) of

the inductive one, i.e., the example.

      According to Aristotle, enthymemes are based on propositions that are true,

''either universally or in most cases'', whereas the same trait is not attributed to

examples (Rhet. I.2 1356b, 16–19). By referring to ''true'' propositions, Aristotle

speaks of propositions that are necessarily true (corresponding to ''signs'') or

propositions that are generally true (corresponding to ''probabilities''). Although it is

the case that both may be refutable, these types of propositions claim to possess an

element of truth that validates claims based on them. Enthymemes are built around this type of truth. This should not be interpreted as the example being untrue: a mere instance can be true, and by virtue of similarity, a claim on the negotiating table can be validated through the use of an example. The example, however, is not as forcible and effective against contradiction as the syllogism is (Topics, trans. 2004, I 105a, 15–19). Enthymemes, i.e., rhetorical syllogisms, build on already accepted ''truths,'' intersubjectively accepted propositions that challenge any probable confrontation coming from other negotiating parties. In order to understand how arguments can represent this type of already accepted truth, one that is more forcible and persuasive, we will focus on the ways in which enthymemes are structured.

Enthymemes are split in two kinds: (a) those deduced either from common ''topoi''—i.e., commonplaces or generally accepted truths—and (b) those deduced from specific ones. The topoi (the singular of which is ''topos'') are defined in Rhetoric, whereas, surprisingly enough, no relevant definition is offered in Topics (Brunschwig, 1996; McAdon, 2003; Kalan, 2003). The common or universal topoi do not deal with a particular subject, as the specific topoi do. Therefore, the source of a persuasive argument that also generalizes across all subjects of negotiation is the common topoi, which are considered as the real center of Aristotle's Rhetoric and are useful in treating many different subject matters in all kinds of rhetoric—or in many negotiation situations. Arguably, the common topoi can be thought of as the location of truth in a negotiation. As Kalan (2003) summarizes it, the topoi, together with the enthymeme and the example (i.e., the inductive logical proof), constitute what we could call the rationality of rhetoric, which should be distinguished from the instrumental rationality that pervades negotiation theory.

The topoi might present themselves as ''argument forms'' or ''locations for

arguments'' (McAdon, 2003, p. 232), but in essence can be treated as commonplaces, as common reasoning lines that people generally accept. Such common starting points aim at capturing the evaluation of something as big or small, as possible or impossible, or at establishing whether a thing has happened or will happen in the future. In a nutshell, they aim at offering plausible arguments, which, at least prima facie, hardly can be denied or refuted. These arguments can specifically take the form of analogy, contradiction, cause-effect or ''argumentum a fortiori,'' to name a few. Consider the use of analogy: ''since I offer discounts when the economic situation is bad, why can't I raise the prices when the economic situation is very good?'' Consider the use of contradiction: ''if you say that my product is so bad, why are you in my store?'' Consider the use of cause-effect: ''you think that my greed caused the particular use of materials, but I have to tell you that this material is more expensive than the ones you suggest!'' Consider the use of argumentum a fortiori: ''if you were earlier willing to accept an apartment without sea-view for $200,000, why don't you accept now for the same price this similar apartment that has sea-view?'' Arguments can focus on any particular subject, but in essence aim at drawing parallels between that particular subject and established reality. In other words, common topoi are the bridge between the particular negotiation and the accepted, valid reality. In all previous cases, the analogy, the contradiction, and the cause-effect or argumentum a fortiori, topoi are reasoning points of reference that draw upon the current negotiation situation and a socially accepted fact. ''Solution'' of the negotiation rests upon the parties' acknowledgment of the validity of arguments, which is dictated by social reality.

The fact that one should use valid arguments is also evident in Aristotle's general advice that, if a rhetorician or negotiator wishes to make good use of those locations for arguments and thus persuade her audience, she should, above all, be well acquainted with the facts (''huparchonta'') relevant to the matter in hand, in order to be able to draw from them the most suitable arguments. In this thought one may, once more, detect Aristotle's emphasis on truth, i.e., on the factual basis of a certain case. This emphasis on the specific knowledge of a particular subject matter is to be considered not only as part of the rhetorician's responsibilities, but also, in the Aristotelian scheme of things, as the province of one who demonstrates and thus persuades (McAdon, 2003).

When comparing current literature on negotiation strategies with Aristotle's work, one may observe similarities and differences. One important topos is that of ''expanding the pie,'' which appears to be familiar to Aristotle, since he states that ''of two goods the greater is that which, added to one and the same, makes the whole greater [emphasis added]'' (Rhet. I.7, 1365b, 13–14). This view is consistent with negotiation theory's current focus on increasing the benefits for all parties involved, thus finding a way that leads to a mutually acceptable outcome. Under the scope of Aristotle's work, expanding the pie is one of different common starting points. It is, however, overly stressed in current negotiation theory, which argues against tactics that may avert parties from focusing on their interests, even if they are based on different common starting points. Such emphasis on expanding the pie could easily, for example, be swayed by a focus on the past, which is often discouraged by current negotiation theory due to the possibility of detrimental consequences that are measured in terms of resources, interests and utilities. The idea behind this discouragement is that parties will engage in a sterile battle about past events and

neglect future possible gains. Still, Aristotle points to the importance of the precedent as a sound topos: ''another topic is that from a previous judgment in regard to the same or a similar or contrary matter, if possible when the judgment was unanimous or the same at all times'' (Rhet. II.23, 1398b, 21–22). For Aristotle, it can be persuasive to refer to past judgments once they appear reliable and indicative of the truth.

In the end, all topoi, i.e., all common reasoning lines, are ways in which a person can approach the truth. The one who knows how to use topoi in a timely fashion fits into the ideal of the good rhetorician—and the good negotiator as well—and may create consensus over his argumentation. Overuse of one topos over another could easily lead to the misinterpretation of the truth, the use of biased arguments, and possibly the failure to reach consensus. This, of course, means that one form of argumentation is not better than the other, but timely use of each can lead the negotiation to its ''solution,'' i.e., to an outcome mutually acceptable from all sides. And timely use of the topoi presupposes that the rhetorician, before entering her battlefield, has an overview over the most important aspects of the subject matter, for which she should have prepared the proper topoi.

All in all, the above mentioned logical proofs (enthymemes, topoi, etc.) clearly aim at producing an intersubjective consensus, and thus at persuading the other side or a group of people. They are not techniques meant to deceive the hearer, but instead they tend to form a rational discourse process, whose results might have a general validity or credibility, being accepted by all participants. And acceptance of a negotiation outcome, on the basis of commonly acknowledged arguments or criteria, is often the exact purpose of negotiation.

But the last remark leads us up to another crucial point of Aristotle's general

philosophical program, namely to the so-called ''endoxa,'' which constitute the very

basis of Aristotle's dialectic, and are strongly related to the topoi (Berti, 2003;

Canaris, 1983; Most, 1994; Viehweg, 1974). In the Topics one may find Aristotle's

most well-known definition of the endoxa: the latter are defined as those opinions

(''ta dokounta'') ''which are accepted by everyone or by the majority or by the

wise—i.e., by all, or by the majority, or by the most notable and reputable of them''

(Top. I 1, 100b, 21–23). Those ''generally accepted opinions'' (Kriele, 1976, p. 135)

are able to produce consensus between thinking individuals and build a basis, not only

of mutual understanding, but also of normative rules of conduct (Coing, 1993).

Therefore, Aristotle appears to be the early founder of the theory of intersubjective

consensualism, relating the normative validity of an argument, rule or claim to its

acceptance by a certain group of people—e.g., the society as a whole, the community

of legal scholars (''communis opinio doctorum,'' or in German, ''Rechtsstab''; see

Weber, 1960), the community of economists, and so forth. And it is not surprising at

all that especially jurists often refer to endoxa, such as, above all, the so-called

''prevailing view'' on a certain legal matter, which is nothing more than a generally

accepted opinion in case-law or within the community of legal scholars.

Undoubtedly, this view carries a strong normative validity, but on the other hand

it always awaits its future refutation, which comes when a different consensus basis is

built (Kriele, 1976).

The above mentioned consensualistic approach may bring a certain degree of

moral relativism into our judgment over the normative validity of an argument or

rule. But it also certainly explains the normative power of many arguments or rules,

which have been established in social relationships and are being accepted—by

everyone, or by the majority, or by the ''wise''—as valid (Cohen, 1933; Jellinek, 1920). It is interesting to note here that this Aristotelian type of valid argumentation finds its modern development in, among others, Perelman's discourse theory, which is best known as ''new rhetoric.'' The theory mainly focuses on the value of reasoned argumentation meant to produce communicative consensus, and thus persuade Perelman's ''universal audience'' (Perelman & Olbrechts-Tyteca, 1958; see also Alexy, 1991; Coing, 1993). In essence, Perelman proclaims a communicative consensualism, which actually serves as criterion for the truthfulness of certain propositions or arguments; and at this crucial juncture, the Belgian philosopher meets many other philosophers, and above all Aristotle.

All the above mentioned Aristotelian premises (topoi, endoxa, etc.) apply to all particular kinds of so-called ''practical discourse,'' which in its simplest form consists of two people, who are contesting over whether A should be done or not, or whether A is good or not (Alexy, 1991). One characteristic type of practical discourse is, of course, the negotiation process. However, the aforementioned type of argumentation on the basis of common topoi or endoxa may not be that easily applied to special discourse types, such as the legal discourse/process, even though one of the basic objectives of this process is typically to uncover the truth. The legal process relies upon a restricted freedom of choice in useable means of persuasion; the freedom of choice is being here significantly restricted through law, precedent, legal doctrines and, in case of a trial, through various procedural provisions (Alexy, 1991). Therefore, common topoi or endoxa may find here only limited access. Nevertheless, in an effort to create objective ways to approach the truth, the legal system has indeed incorporated over the course of time some topoi, such as ''lex posterior derogat legi priori'' (''the subsequent law abolishes the earlier dealing with the same matter''),

''impossibilium nulla est obligatio'' (''no one shall be forced to perform something impossible''), ''audiatur et altera pars'' (''we must hear both sides''), and so on (Alexy, 1991; Struck, 1971). However, the problem here remains, since the above mentioned ''differentia specifica'' of the legal process can exclude the use of other topoi and fail to approach a subject through all possible angles. This reveals a considerable comparative advantage on the part of the negotiation process. It also evidently gives the conflicting parties an important incentive to try to seek the solution to their dispute through negotiation—when resorting to the legal system is an option—precisely because of the opportunity it offers to approach the truth in a more complete way.

## 6. Truth Versus Ethics

Proclaiming that negotiation argumentation is mainly guided by the truth rather than interests might come across as wishful thinking, similar to Aristotle's effort to refute the sophists. The truth definitely relates to morality and morality often takes the form of ethical rules. However, any argument in favor of one ethical rule over the other could be guided by individual self-interest rather than interest for the truth (Kronzon & Darley, 1999), while deception can increase as incentives increase (Tenbrunsel, 1998). Any argument can therefore be motivated and formed on the basis of the interests that it serves, even if it is ''disguised'' as an ethical rule. In this case, individuals' self-interest could interfere with the process of discovering the true and moral. Not only does individual self-interest often conflict with the pursuit of the true and moral, but it is one of utilitarianism's basic tenets that morality should be guided by individual self-interest. In other words, pursuing one's own interests could

oppose the moral, but can also appear as moral. Under this perspective, negotiation comes in terms with the utilitarian approach, according to which all that counts morally is the well-being of individuals. Therefore, the basis of moral appraisal is the goal of maximizing the sum of individual well-being (Scanlon, 2009). In view of that, questions such as the following seem to be inevitable: how can truth be reached through a process that is often distorted by individual interest pursuit? How does the truth relate to ethical rules and individual self-interest?

The presentation of any type of allocation rule within a negotiation can be guided by a wealth of motives. The truth, however, does not lie in the negotiators' individual motivations or interests but in the intersubjective recognition of claims. When an argument is accepted as valid by all parties involved, this is representative of a true argument. Consensus, however, could very well be the product of deception or a lie or, further, of a mutual acceptance of false propositions. The presentation of a seemingly ethical argument does not necessarily correspond to the truth. The only real safeguard of the truth are again the common topoi. It is these basic, commonly accepted reasoning lines that the truth rests upon. By the use of the topoi, negotiators challenge the validity of any type of argument. The greater and more holistic the use of topoi is, the greater are the chances that the result of the negotiation will reach the truth that a universal audience would accept. The truth may even reside in a self-interest based argument of the sort: ''if you are trying to achieve the lowest price possible, am I not also allowed to pursue a profit as a business woman? Should I be ashamed?'' It is not the guise of ethics that makes an argument true, and it is not self-interest that makes an argument untrue; what makes an argument true is the intersubjective acceptance of its validity.

Irrespective of whether negotiation manages to uncover the truth, its mechanics are really based on this exchange of arguments and an effort to validate claims. We are not arguing that truth is the teleological purpose of negotiation; we are simply arguing that negotiation constitutes a process during which parties try to validate claims, and this is more easily achieved when they are derived from the truth. The solution of the negotiation rests on the successful validation of claims, and not necessarily in the satisfaction of interests. Although the two are often interconnected, the mechanics of negotiation, irrespective of whether they help uncover the truth, are definitely guided by the truth, more so than anything else. This type of approach is descriptive as much as it is prescriptive; it helps us understand how a negotiation works, as well as offering normative advice to negotiators as to how they should pursue their goals during the negotiation process.

In essence, the negotiation process is a practical discourse process that offers the negotiating parties the crucial possibility of exchanging arguments and counter-arguments. It thus paves the way for the truth, since, in wider philosophical terms, the finding of truth comes only through ''diversity of opinion'' and, more particularly, through ''the rough process of a struggle between combatants fighting under hostile banners'' (Mill, 1859/1998, p. 54). Moreover, the intersubjective consensus that may be formed by means of plausible and true arguments constitutes the legitimacy basis of the negotiation outcome, which carries in it a truth presumption and may be thus accepted as ''objectively''' persuasive. And in this respect, at least between the negotiating parties the so-reached outcome develops a normative validity, a type of intersubjective objectivity or rightness, which binds by its reason the parties and forces them to respect it in the future.

## 7. Advice Toward Negotiators

As mentioned above, negotiators could use biased arguments, focus on the use of one type of argument form, or even resort to the use of lies in order to accomplish their goals. The use of ethically ambiguous tactics is often acceptable (Lewicki & Robinson,1998) and might admittedly prove effective on the bargaining table.

But let us see things in more practical terms: an argument of the sort, ''I have already received a better offer, so, I know you can make a better offer too.'' This type of argument, which draws from the common topos of analogy and implies that there are viable and more profitable alternatives to the current negotiation, can always prove effective and lead to a more favorable agreement. Even if it is a lie, this type of argument could persuade the other side to make concessions. However, an argument such as: ''if you do have a better offer, why are you here talking with me?'' which draws from the common topos of contradiction, could challenge or even diminish the validity of the previous argument. Although the first argument might prove useful, it could lead to the breakdown of the whole negotiation process if it is untrue, since it would evidently cause a serious breach of confidence and thus generate an irreparable feeling of deep mistrust. Negotiators could have all sorts of different intentions and motivations, but the process itself has a life of its own. Its mechanics aim at testing the validity of claims, and sometimes at punishing the parties who do not play or act fairly. Although ''fair play'' might not be necessarily considered as a fundamental rule of the negotiation game, it certainly raises the chances of reaching a mutually acceptable outcome based on true premises.

How should people deal with the mechanics of negotiation? Consider a similar example from the business world: during a two-party negotiation about the sale of

a company, the seller falsely claims that she has a viable ''Best Alternative to a Negotiated Agreement'' (BATNA; see Fisher, Ury, & Patton, 1991). More particularly, she states that she is already considering the offer of an interested buyer, who is willing to buy the company for $600,000. Therefore, she argues that the prospective buyer's current offer should increase in order to reach an agreement. Although negotiation theory is often against revealing the BATNA (Thompson, 2001) it might sometimes prove as one of the most effective means of persuasion. If the buyer manages to successfully challenge the truthfulness of the argument made by the seller, the latter will definitely be unable to validate her claim and push the price of the company up. However, the negotiation runs the risk of coming to a halt if the buyer chooses to simply expose the seller, because of the apparent breakdown of trust between the negotiating parties. This is why negotiation theory might advise the buyer against the outright exposure of a lie and in favor of a more strategic challenging of its underpinnings (Malhotra & Bazerman, 2007). For it is evident that negotiation operates by the principles of truth and has a structure that dictates its course; interests alone do not dictate the course of a negotiation, the outcome of which is defined by the successful validation of claims. Thus, negotiation theory often helps people understand how they should behave in order to satisfy their interests and fulfill their goals, and this can only be achieved through the proper understanding of the ways in which negotiation actually works. Negotiation, as a dialectic process with a clear ''truth direction,'' has to be managed extremely carefully by the negotiating parties. Whatever the parties' interests or objectives are, the negotiation is guided by the truth and it is to this reality that the parties should adopt and behave accordingly.

Although negotiators' objectives may not include the achievement of a true

outcome, negotiation is a process of trying to validate claims—even if it is accomplished through the biased use of arguments. Effective negotiators might indeed use deception to achieve their goals. Aristotle has called rhetoric an art and not a science, implying that the path to persuasion does not have clear-cut, scientific rules. After all, what might convince one person may not convince another, and Aristotle was well aware of the fact that this is a human condition that cannot be altered by any doctrinal device whatsoever. However, and again according to Aristotle, it would be easier to validate an argument that draws from the truth than an argument that intentionally aims to deceive. Moreover, we must keep in mind that the avoidance of deception or misrepresentation, and the conscious presentation of true assumptions, guarantees the validity and the non-disputable nature of the negotiation outcome. For if reality distortion slips into the factual basis of the agreement, then the outcome will be open to doubt and soon thereafter the relationship of the parties will be at stake. In the world of business, even ''legal niceties,'' with all of their possible ramifications, may come into play. Put very simply, if you are able to convince a universal audience, you will also probably be able to convince a local or specific audience and achieve a sustainable negotiation outcome. In the end, the more effective the use of argumentation is, the closer to the truth the negotiation outcome will be. Although negotiators may not initially aim for the truth, understanding what the process essentially entails will help them devise proper negotiation tactics and avoid pitfalls. It is not necessary that negotiators should always tell the truth and pursue the truth. What is necessary is that the path to achieving any type of goal has to pass the ''validity test'' of the negotiation process; and this test mainly rests upon true assumptions and plausible arguments.

## 8. Conclusion

Aristotle's Rhetoric goes a step beyond the utilitarian approach that permeates negotiation theory, putting emphasis on the argument from truth, and the moral end that rhetoric serves (Patsioti, 2003; Poster, 1997; Rorty, 1992; Wörner, 1990). For in Aristotle's philosophy, ''one ought not to persuade people to do what is wrong'' (Rhet. I.1, 1355a, 31–32) and, more than this, ''truth must prevail over the 'useful''' (Politics, trans. 2005, 1338b, 3–4), a statement which perfectly summarizes a more general and fundamental demand of Greek philosophy.

It is more than evident that this approach runs counter to the utilitarian beliefs of economists, which have made their way into psychology. It is more aligned with the above mentioned ''intersubjective recognition of claims'' of Habermas, which goes beyond individual instrumental rationality—or, further, with the communicative consensualism of Perelman. The production of intersubjective consensus within a framework of proofs, endoxa, and logical reasoning is not merely a prescriptive desideratum, but also a descriptive approach showing how a negotiation may in practice come across. And under this perspective, it is rather obvious that negotiation exhibits the primary attributes of any discourse process. Regardless of whether it takes place within a negotiation or in the public assembly—as Aristotle would imagine it to happen—discourse remains the primary control instance for the validity of arguments or, further, of propositions that initially seem true.

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