

ROBERT S. MARX LECTURE

RHETORIC*

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"All the world's a stage"¹

I.

What is the meaning of this ancient word? What sort of activity does it describe? To which field of human experience should we assign it?

At the beginning of Plato's *Gorgias*—the first philosophical examination of the subject—rhetoric is defined by Gorgias himself, a famous teacher of the art, as a craft of "persuasion."² This seems clear enough, and is in line with what many people might say today. Rhetoric is the art of persuading people to believe things, "the art of speaking or writing effectively," as the dictionary tells us,³ and wherever persuasion is needed, the art of rhetoric would seem to have a useful employment. This of course says nothing about the methods that rhetoric employs, or how it achieves its intended effects, but it does define, in a preliminary way, its field of operation.

On closer inspection, however, Gorgias's opening definition of rhetoric as a craft of persuasion proves overly broad in two respects. It ignores two distinctions that are crucial to Gorgias's own conception of his craft and to our understanding of the most important question that Plato's dialogue raises—the question of whether the art of rhetoric has a legitimate function and its own distinct field of operation, or lacks both, as Socrates argues. To understand this question, let alone attempt an answer to it, we must first sharpen our definition of rhetoric by limiting it to a narrower field than the bare concept of persuasion implies, a field intermediate between two others in which persuasion is prominent but rhetoric (as Gorgias conceived and practiced it) is missing.

An offhand remark that Socrates makes in his initial exchange with Gorgias suggests the first way in which the definition of rhetoric as an art

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1. WILLIAM SHAKESPEARE, *AS YOU LIKE IT*, act 2, sc. 7.
2. PLATO, *GORGAS* 453d (Terence Irwin trans., Clarendon Press 1979).
3. WEBSTER'S NINTH NEW COLLEGIATE DICTIONARY 1011 (1983).

of persuasion is too broad. Socrates professes to be puzzled by this definition and asks several questions that quickly cause Gorgias to agree that rhetoric must indeed be defined more narrowly, as "the craft of persuasion in jury-courts and in other mobs . . . and about the things which are just and unjust" (a statement that prompts Socrates to remark that this is what he suspected Gorgias was talking about all along).⁴ Among the questions Socrates asks is this one: Is an arithmetician, a person who practices the art of arithmetic, a craftsman of persuasion? Gorgias answers that he is, but then concedes—without explanation or argument—that the arithmetician is not a rhetorician, whose subject matter and field of operation must therefore be something other than "the things belonging to number."⁵

Let us examine this concession more closely. It seems clear that Gorgias is right to agree that arithmeticians (more generally, mathematicians) practice an art of persuasion. Recall the example of the slaveboy in the *Meno*, who "discovers," through Socrates's instruction, the proposition that a square constructed on the diagonal of a square has twice the area of the original figure.⁶ At first, the boy does not "see" what Socrates is driving at, but through a series of questions and answers Socrates unfolds a proof that brings the proposition "to light," so that the boy can see it for himself. Socrates's proof leads the boy from disbelief to conviction: it persuades. Indeed, that is the aim of every mathematical proof—to persuade by making perspicuous, to demonstrate, in the literal sense of pointing out.

Not all proofs do this with equal success. Often, the same proposition may be proved in different ways, but some or one of these proofs are superior to the others on account of their ability to bring out with greater lucidity and force the relationship between the assumptions and conclusion of the argument. They are more persuasive. This is what mathematicians mean when they describe a proof as elegant. They mean that it displays the relations among the elements of the proof with a compelling simplicity and power. The construction of an elegant proof is a real achievement. It demands art and the possession of a gift, one mathematicians value highly. In this sense, Gorgias is right to endorse Socrates's statement that arithmetic and the other branches of mathematics constitute an art of persuasion.

4. PLATO, *supra* note 2, at 454b. Compare PLATO, PHAEDRUS 260e-261d (James H. Nichols, Jr. trans., Cornell Univ. Press 1998) (discussing the definition of rhetoric as an art of persuasion in public proceedings).

5. PLATO, *supra* note 2, at 453e-454a.

6. See PLATO, MENO 82b-85b (G.M.A. Grube trans., Hackett Publ'g Co. 1976).

But the mathematician's art of persuasion differs, in two basic ways, from Gorgias's own, and these differences explain why he impliedly concedes that the mathematician is not a practitioner of rhetoric. First, the truths the mathematician persuades us to accept are immutable and indubitable. They are the same for everyone, at all times, and though they initially may be difficult to grasp, the truths of mathematics possess a unique self-evidence and transparency. By contrast, the sorts of truths that Gorgias persuades his audiences of jurymen and legislators to embrace are variable and contested. Regarding truths of this kind—those pertaining to “the things which are just and unjust”—disagreement is perpetual, and there is no prospect of ever reaching points of settled understanding comparable to those on which the science of mathematics rests. Furthermore, the truths for which Gorgias argues must be modified to fit the varying circumstances of human life. They must be trimmed and shaped to the conditions at hand: to the temperament of a people, the threat of the moment, the peculiarities of the litigants and their special dispute—unlike mathematical truths which display, and will allow, no variability of this sort. (Both in the *Gorgias* and elsewhere, Socrates challenges this distinction and defends a view of justice which holds that its truths too are transparent and eternal, like those of mathematics. But this is not Gorgias's view, the one we are exploring at the moment, and it compels us to accept the dramatic claim that neither politics as a field of activity, nor rhetoric as the art of persuasion appropriate to it, have any legitimate separate existence of their own. I shall return to Socrates's challenge shortly.)

Second, the art of persuasion that Gorgias practices in politics and law involves the arousal and deployment of various passions—anger, pride, contempt, shame, and love, among others—to establish belief in the correctness of the position he is advocating. Indeed, one might say that Gorgias's art consists, above all else, in the mobilization and direction of human passions toward this end. By contrast, the mathematician's art of persuasion does not engage—it does not need to engage—the passions in a similar way. A teacher of mathematics does not need to arouse feelings of anger or shame in his students in order to persuade them of the correctness of a proof. Far from being necessary to his task, the passions are for a teacher of mathematics a nuisance or interference that must be disengaged and put aside, at least temporarily, if his students are to be able to pay attention to the proof and see the truth that it discloses. Gorgias arouses his listeners; the passions are his allies and tools. The mathematician seeks to make his listener be still, and regards the passions as a bother that can only block and cloud the state of conviction his art of persuasion aims to achieve.

For these two reasons, it is understandable that Gorgias should distinguish the art of persuasion he calls rhetoric from the very different kind of persuasion that mathematicians practice. This distinction marks a first delimitation of the field of rhetoric. It establishes a boundary between politics and law, where the passions must be engaged for the sake of establishing belief in uncertain truths, and mathematics, where the passions need to be neutralized so that truths of perfect certainty may be discovered.

But there is a second boundary that must be drawn if we are to understand the intermediate nature of the field that Gorgias conceives, however inarticulately, to be the proper domain of his craft. This second boundary first comes to light in Socrates's exchange with Polus, Gorgias's younger disciple, who takes over the argument after Socrates has brought the good-natured Gorgias around to agreeing that a true rhetorician "is powerless to use his rhetoric unjustly, or to be willing to do injustice"⁷—a position plainly at odds with Gorgias's own experience, and with that of every lawyer and politician since.

Polus asks Socrates to tell the group listening to the conversation what kind of craft he thinks rhetoric is. Socrates answers that rhetoric is, in his view, a "certain knack" for producing "gratification and pleasure."⁸ He describes it as a form of "flattery"⁹ and analogizes rhetoric to cooking, another of the flattering arts. This is a deliberately insulting comparison, and to understand the insult we need to pause for a moment and explore the assumption on which it is based.

Cooking is an art that caters to our appetite for food. It seeks to satisfy that appetite, but also to stimulate it by producing new and pleasing sensations of taste. Some cooks even try to redirect our appetites, to cause us to enjoy dishes we did not like (or did not think we liked) before. Julia Child is such a cook. Over many years, she has not only introduced the American people to many new dishes, but has transformed our eating habits, our likes and dislikes in the realm of food.¹⁰

This is a significant achievement, one that requires great art as well as a natural gift for cooking. It may also be described as a kind of persuasion. Julia Child has persuaded us to change the way we eat. At a lesser level, every cook might be said to practice an art of persuasion. When I set a dish before my children, I hope they will be

7. PLATO, *supra* note 2, at 461a.

8. *Id.* at 462b.

9. *Id.* at 463b.

10. See Diane Johnson, *American Pie*, 44 N.Y. REV. OF BOOKS No. 20 (1997) (reviewing biography of Julia Child).

moved—persuaded—by the way it looks and smells and tastes, to eat it. If they reject it, I have failed in my effort to persuade them. A successful cook is one who knows how to practice this particular art of persuasion, and a great cook, like Julia Child, knows how to practice it not just with respect to individual dishes, but at the higher level of a whole cuisine.

In all these respects, the art of cooking resembles that of consumer advertising. Like the cook, the advertiser aims to stimulate, to satisfy and even to transform the tastes of his audience. His goal is to please them, sometimes by gratifying the tastes they have and sometimes by awakening new tastes whose gratification is then provided. But these arts—those of the cook and the advertiser—differ from the art of the rhetorician in two crucial respects.

First, the idea of truth plays a much smaller role in cooking and advertising than it does in politics and law. In the latter fields, appeals to the truth are a familiar, indeed essential, feature of debate. The rhetorician insists it is true that his client is innocent, and true that Athens will be more secure if it builds a wall around its harbor. The rhetorician's aim is to establish belief in the truth of these propositions, and toward that end he arouses the passions of his audience and seeks to turn them in a certain direction. Everything the rhetorician does depends upon the intelligibility of truth claims of this sort, however difficult they may be to establish and however resistant to persuasion his audience remains.

By contrast, truth plays a far more limited role, if any at all, in the field of cooking. A cook may claim that one dish—or cuisine—is better than another. But this is either a nonsensical idea (some people just like kale more than cabbage, or Chinese food more than Italian), or it is simply a way of persuading someone to taste something new, in which case the relationship of truth and taste is the reverse of what it is in rhetoric, since the rhetorician shapes taste for the sake of promoting a belief concerning the truth, whereas the cook promotes a belief regarding the truth for the sake of shaping taste.

Second, the tastes the rhetorician shapes—the passions he awakens and deploys—are different from those a cook seeks to gratify. Anger, pride, contempt, shame, and love are all social passions. Each is a feeling that includes, as one of its components, a real or imagined relation to another person. Each is in this respect nascently political, which is why they may be directed toward political ends. The feelings that a cook aims to arouse and satisfy, by contrast, are essentially private in nature. I can experience them by myself, in isolation from others. Even Robinson Crusoe can enjoy a good burgundy (if one should wash up on his shore) and tell the difference between it and a poor one. To be sure, part of the normal pleasure of eating is eating with others.

Eating is for us a social activity—this is one of the things that distinguishes us from most other animals—and solitary dining is usually less satisfying than eating in the company of one's family and friends.¹¹ But even when the social pleasure of eating together is subtracted, the consumption of food yields a real if reduced pleasure of its own, in contrast, for example, to the pleasurable feeling of pride, which can never exist except in the actual or imagined company of others.

In these two ways, the art of cooking differs from that of rhetoric, and the point of Socrates's comparison of rhetoric with cooking is to suggest that this difference is unreal—that the rhetorician, like a cook, in reality produces only private pleasures unconnected to the truth “about the things which are just and unjust.” But this is not Gorgias's own view of his craft. On Gorgias's understanding of it, the art of rhetoric is as different from cooking as it is from mathematics. The craft that Gorgias knows and practices, and teaches to his students, occupies an intermediate position between these two other arts. Unlike mathematics, rhetoric is concerned with truths that are variable and obscure, and permanently subject to dispute, and it employs the passions as instruments of persuasion. Unlike cooking, it starts from the assumption that there are meaningful truths “about the things which are just and unjust,” and seeks to persuade others of these truths by means of passions that are social rather than private in nature. Gorgias's craft stands between mathematics and cooking, and can neither be elevated to the one nor demoted to the other.

The special domain of rhetoric, Gorgias tells us, is that of courts and legislative assemblies—the world of politics and law. This is where the art of rhetoric has its place and proper function. It is obvious that Gorgias understands the realm of politics and law to occupy an intermediate space between the passionless certitudes of mathematics, on the one hand, and the truthless pleasures of cooking on the other—just like the art of rhetoric itself, and for the very same reasons. Consequently, if the arguments of lawyers and politicians can be formulated with mathematical precision, or if these same arguments prove in reality to be no different from the tasty treats a cook prepares, then we must not only abandon the idea—Gorgias's idea—that the art of rhetoric occupies a separate space between the activities of counting and cooking, but we must also give up the belief that politics and law occupy a space of this sort as well. The first and most important question to ask about the art of rhetoric, therefore, is whether this

11. For an interesting discussion of the social dimension of eating, and of the employment of rhetoric to shape it, see NORBERT ELIAS, *THE CIVILIZING PROCESS* 70-129 (Edmund Jephcott trans., 1978).

intermediate space does in fact exist, as Gorgias assumes but fails to establish in his exchange with Socrates, for the answer to this question will determine the status not only of rhetoric but of politics and law themselves.

Broadly speaking, Aristotle's answer to this question is "yes," and the tradition of political thought that derives from his treatises on politics and rhetoric begins with this basic assumption.¹² But there are two competing traditions that answer the question in the negative. Each of these denies the independence and legitimacy of rhetoric, politics, and law as Gorgias conceives them, and the negative answers they give are already intimated in the opening pages of the *Gorgias*.

II.

The first of these traditions, which has had representatives in every age, starts from the claim that the basic questions of politics and law have answers that possess the same clarity and finality as the answers to mathematical questions, and can be arrived at by a process as free of passion as the process of mathematical reasoning itself. The perennial hope expressed by this view is plain enough: that politics and law, which seem doomed to endless contestation and strife, may be arranged in accordance with principles and procedures to which there is universal assent, that the rules of government can be rescued from the antagonism that surrounds them and permanently fixed with the same calm agreement as the rules of arithmetic and geometry.

In Plato's *Protagoras*, for example, Socrates argues, in an exchange with the most famous rhetorician of his youth, that the "salvation" of humanity lies in the application of "the art of measurement" to all problems of good and evil,¹³ which Socrates recharacterizes in terms of pleasure and pain. No one, Socrates says, knowingly does evil—a famous Socratic assertion. Those who do evil do so mistakenly. They are misled by appearances, taking something which appears good, but is actually evil, to be good in fact. The arts of measurement and counting, Socrates insists, are the best techniques that have ever been discovered for correcting errors of this kind, for counteracting the misleading impression of appearances, and we will only be saved from the bickering and disagreement that plague the subject of good and evil in human affairs, he concludes, when this subject, too, has been

12. The main elements of this tradition are well summarized in J.G.A. Pocock, *The Machiavellian Moment* pt. 1, at 3-80 (1975).

13. Plato, *Protagoras* 356d-e (C.C.W. Taylor trans., Oxford Univ. Press 1996).

reviewed and revised in accordance with the techniques of measurement and counting, when our political and legal arguments have been disciplined by mathematical methods. Socrates does not indicate in the *Protagoras* how hopeful he thinks we should be that this will happen, and in other, later dialogues,¹⁴ Plato puts words in his mouth that suggest a different conception of political argument, one closer to the view that Gorgias, Protagoras, and other rhetoricians of the time held (or might have held if they had developed their positions with Plato's philosophical acuity). But the mathematization of politics that Socrates recommends in the *Protagoras* has continued to have supporters through the present day.

At the start of the modern period, for example, Thomas Hobbes defends this view with a forcefulness that few, if any, have ever matched. Educated in the Renaissance humanist culture of late sixteenth century England, a culture that placed tremendous stress on the importance and value of rhetoric, Hobbes later formulated the ambition to construct a new account of politics and law *more geometrico*, having had an "epiphany" at the age of forty (so his biographer Aubrey tells us) while reading Euclid's *Elements*, and resolving to invent a political science that would possess the same demonstrative clarity as its mathematical counterpart.¹⁵

In *De Cive* and *The Elements* Hobbes energetically attacks all the principal assumptions on which the humanist respect for rhetoric was based: the assumption that the character of a speaker is relevant to the persuasiveness of his speech; that prudential wisdom based upon historical and personal experience is the highest form of wisdom to be found in the realm of law and politics; and that eloquence is a needed and useful instrument in political argument. In opposition to these claims, Hobbes argues that the validity of any proposition, including those of a political sort, must be established by the arguments supporting it and without reference to the character of its advocate. He asserts that a true science of politics can be constructed through the logical exposition of the meaning of words and of the relations among these meanings, and insists that a political science of this sort will exhibit a certainty and finality that no experiential knowledge can possess. And he argues that eloquence has no more place in the defense of a political scheme than it does in an astronomer's explanation of his view of celestial motion. In making these arguments, Hobbes is deliberately seeking to demote the art of rhetoric from the privileged position his humanist predecessors had assigned it, and to banish rhetoric from

14. See PLATO, PHAEDRUS, *supra* note 4, at 245a.

15. See QUENTIN SKINNER, REASON AND RHETORIC IN THE PHILOSOPHY OF HOBBS 250 (1996).

serious political debates, which henceforth must be settled, he claims, in the same way mathematical controversies are—without reliance on eloquence of expression or prudential arguments drawn from experience, and without reference to the personal traits of the advocates themselves.

In his brilliant analysis of Hobbes's assault on the art of rhetoric, Quintin Skinner points out that in the *Leviathan*, written twenty-six years after *De Cive*, Hobbes not only offers a revised and significantly more favorable account of rhetoric, but himself employs its classical techniques to persuade his readers. Skinner speculates that Hobbes's disappointment at having failed to prevent a civil war in England by logical arguments alone caused him to revalue the art of rhetoric, and in particular to set a higher value on both prudence and eloquence, returning, in this way, to an outlook closer to that of the humanist culture in which he was raised.¹⁶ But whatever one makes of the shift from *De Cive* to *Leviathan*, or of Skinner's explanation for it, Hobbes's early attempt to build a science of politics rivaling that of nature in its precision and finality remains a magnificent expression of the wish to rid the realm of politics of the passions and uncertainties that are the preconditions of rhetorical argument and the foundation of its claim to be a separate and legitimate art.

Two centuries later, we find Jeremy Bentham working in this same anti-rhetorical tradition. In the Preface to *An Introduction to the Principles of Morals and Legislation*, Bentham writes that the "truths that form the basis of political and moral science are not to be discovered but by investigations as severe as mathematical ones,"¹⁷ a remark that seems especially apt in light of his repeated characterization of all moral and political problems as problems of counting. According to Bentham, the aim of every legislator ought to be the greatest happiness of the greatest number, a political ideal expressed in mathematical terms and requiring the application of mathematical methods. The apparent variety of pleasures and pains can easily suggest that the qualitative differences among them makes their quantitative comparison impossible, and hence rules out the politics of measurement that Bentham recommends. But Bentham insists that this conclusion is mistaken and warns that if we accept it, the most important political debates will remain incapable of clear resolution.

If the discipline of legislation is ever to achieve the same scientific stature as mathematics, he argues, we must avoid careless psychological

16. See *id.* at 426-38.

17. JEREMY BENTHAM, *An Introduction to the Principles of Morals and Legislation*, in *A BENTHAM READER* 85 (Mary Peter Mack ed., 1969).

assumptions and the careless definitions that correspond to them. Above all else, he says, we need clarity and simplicity in our conception of the human will and in our use of words to describe it. Otherwise we will be lost in a thicket of confusions, where fallacies and fictions abound. These are the instruments of those who cannot reason clearly, the devices of men who are misled by superficial appearances and corrupted by a belief in authority. They are the instruments of rhetoric, which Bentham attacks with evangelical intensity, especially in the common law, where the techniques of rhetoric have, he claims, their most pernicious employment.

Like the Socrates of the *Protagoras*, Bentham insists that mankind will be delivered from its ceaseless arguments about good and evil, justice and injustice, only when the legislator becomes a calculator, carefully summing the pains and pleasures of different policies, and guarding his reason against the confused images of the rhetorician's emotionally arousing appeals. Only then, Bentham argues, will our minds be clear enough to recognize the confusion and suffering these appeals have caused, and calm enough to reject the rhetorician's guileful craft as an enormous impediment to the rational advancement of human happiness on earth. John Rawls's great book, *A Theory of Justice*, is an important contemporary expression of this same anti-rhetorical view. At the center of Rawls's argument is a rhetorical device—the image of a “veil of ignorance” and of the “original position” from which we are to imagine ourselves choosing a basic structure for society.¹⁸ The main function of this device is to rule out appeals to self-interest, to specific conceptions of the good, and to the demands of our actual historical situation, by depriving us of the knowledge on which such appeals are based. Behind the veil of ignorance, knowing nothing about our interests or conceptions of the good or location in historical time, we can neither advance nor respond to arguments based on any of these considerations.

But all rhetorical arguments start from one or another of these premises, and so the effect of embracing the constraints on argument imposed by the veil of ignorance is to eliminate the space within which rhetoric exists. That is of course the intended effect of Rawls's rhetorical device: to prepare the way for a politics of reason whose first principles are ones every rational person embraces and which neither depend upon nor are vulnerable to the passionate appeals of the rhetorician. The influence of Rawls's book makes plain how powerful this ancient, anti-rhetorical ambition remains today.

18. JOHN RAWLS, *A THEORY OF JUSTICE* 136-42 (1971).

The tradition to which Hobbes, Bentham, and Rawls belong, however, is only one of two that challenge the legitimacy of rhetoric as Gorgias conceives it. On Gorgias's view, rhetoric is a discipline for mobilizing the social passions for the sake of belief in a contestable truth whose validity can never be demonstrated with mathematical finality. The tradition of thought represented by the Socrates of the *Protagoras*, and by all his intellectual descendants, maintains that it is realistic to hope for a finality of just this sort in political debate, and possible—indeed, only possible—to achieve it by repudiating the art of rhetoric with its inflammatory images and techniques. To accept this view is to deny the premise on which Gorgias's conception of his craft is based.

But one can undermine this conception in an opposite way, by denying that there are any moral or political truths, even contestable ones, for the sake of belief in which the passions need to be mobilized. If no such truths exist, then whatever the rhetorician says about his craft, it can never be anything but a species of flattery, the embellishment and promotion of interests, an instrument of power, pure and simple, whose appeals to the truth must themselves be understood as an exercise of power or an attempt to acquire power, not in the service of truth but for the sake of power alone. If no moral or political truths exist, then Gorgias and his students must either be lying or confused when they say that their arguments are meant to persuade us to a belief in the truth, even a contestable truth of the kind that politics and law appear to permit.

Hobbes attempts to abolish the art of rhetoric by lifting the truths of politics up into a higher realm, where the rhetorician's art is unneeded, indeed destructive. But rhetoric can be abolished in a second way, by demoting the contestable truths of politics to the level of mere interests, of appetites and powers, where the art of rhetoric may still have a useful employment, but not the one that Gorgias claims for it—an employment whose usefulness in fact demands either ignorance or dishonesty on the part of the rhetorician.

III.

This second line of thought, equally hostile to Gorgias and his art, has also had defenders in every age, beginning with Callicles, the first great philosopher of power, who midway through Plato's *Gorgias* enters the argument to claim that "right" and "law" and "justice"—the rhetorician's stock in trade—are nothing but the tools used by weak men, who form the majority in every community, to constrain the few naturally strong ones among them and to prevent them from exercising their

superior powers.¹⁹ Callicles ridicules the powerlessness of philosophers like Socrates, who live “whispering with three or four boys in a corner,”²⁰ and are utterly unable to defend themselves when attacked in the law courts and assemblies. A real man—“a free man, great and powerful”²¹—knows how to fight back. He knows how to use the idiom of the law, the vocabulary of right and law and justice, to protect himself against the many, who seek to overcome their natural weakness through the artificial power of the law. A lawsuit is, on Callicles’s view, nothing but a power struggle, and the art of rhetoric, which the many use against the few and the few must learn to use defensively against the many, is nothing but an ensemble of techniques for achieving victory in this power struggle.

In response, Socrates attempts to persuade Callicles (without much success) that a philosophical life, which aims at the truth and a proper arrangement of the soul, and abjures the techniques of rhetoric and the pandering these involve, is the best of all possible lives, even if the person living it lacks the power to defend himself in court and is put to death by his fellows. In the exchange between them, Socrates’s repudiation of the art of rhetoric is explicit. But Callicles’s own endorsement of the art constitutes a repudiation as well, at least if we conceive the art as Gorgias does, for the reduction of rhetoric to a means of promoting one’s power eliminates the very thing that gives the craft its dignity and honor on Gorgias’s view—the rhetorician’s responsibility to use his skills for the sake of justice.

“[T]he rhetor is powerful at speaking against anyone about anything,” Gorgias says, “so as to be more persuasive among masses of people about, in short, whatever he wants; but that is no more reason why he should steal their reputation either from the doctors, just because he has the power to do that, or from the other craftsmen, but he should use rhetoric justly as well”²² From Callicles’s perspective, this is a ridiculously naive statement—either that, or a cynical attempt to enhance the power of rhetoric through a pretended commitment to justice. In either case, on Callicles’s view, the appeal that Gorgias makes to the idea of justice cannot be understood in its own terms, nor can the art of rhetoric itself, for the demotion of the idea of justice to a mere instrument of power deprives the art of rhetoric of the very thing that gives it moral and political legitimacy in the eyes of its practitioners. If anything, Callicles holds Gorgias in even greater contempt than

19. See PLATO, *supra* note 2, at 483a-484a.

20. *Id.* at 485c.

21. *Id.*

22. *Id.* at 457a-b.

Socrates does, and Gorgias—if he understands his own position rightly—has even stronger reasons for rejecting Callicles's nihilism than he does for resisting Socrates's invitation to abandon the art of rhetoric in favor of philosophy.

In our own age, the proposition that appeals to truth and justice must be understood as disguised displays of power is most closely associated with the philosophy of Friedrich Nietzsche, to whom the great classicist E.R. Dodds compared Callicles in a thoughtful essay forty years ago.²³ Nietzsche's own philosophy of power is subtle and complex, and at points, perhaps, even self-contradictory. But one idea stands out clearly in his attempted "revaluation of all values."²⁴

Nietzsche insists that the ideals of truth and justice to which moralists and judges appeal are inventions whose purpose is to intimidate the naturally strong into ceding their power and accepting the peaceable constraints of the law—that the function of law and morality is to tame the lion and turn him into a child.²⁵ "Truth" and "justice" are in reality, Nietzsche says, the weapons of the poor, of the ordinary mass of men who have only these subversive ideas to counter the beauty and vitality and cleverness of the gifted few. They are the weapons with which the slave revolt in morality²⁶ is accomplished—instruments of power that plebeian thinkers like Socrates and Jesus use to crush a once-dominant aristocracy of valor, beauty, and brains. Of course, these plebeian weapons work only because the naturally well-endowed themselves embrace the ideas of truth and justice, with their leveling implications (that truth is the same for everyone, and justice a norm of equality). Why the well-off—the brave and beautiful and clever few—should accept the authority of these ideas, offered up by the ungifted many, and why they should in the end be willing to sacrifice their own spectacular advantages for the sake of fidelity to these ideas, is a mystery that Nietzsche never entirely solves. But he insists that we genealogists, "we finders of knowledge,"²⁷ must not accept these ideas ourselves if we are to see them for what they are—instruments for the management of life in a world that threatens to squash us, and for the consolidation of power, especially by the many against the few.

23. See PLATO, *GORGIAS* app. 387-91 (E.R. Dodds ed., Oxford Univ. Press 1959).

24. See FRIEDRICH NIETZSCHE, *Twilight of the Idols*, in *THE PORTABLE NIETZSCHE* 465 (Walter Kaufman ed. & trans., Viking Press 1954) (emphasis omitted).

25. See FRIEDRICH NIETZSCHE, *Thus Spoke Zarathustra* pt. 1, in *THE PORTABLE NIETZSCHE* 137-40 (Walter Kaufman ed. & trans., Viking Press 1954).

26. See FRIEDRICH NIETZSCHE, *THE GENEALOGY OF MORALS* 34 (Horace B. Samuel trans., T.N. Foulis 1913).

27. See *id.* at 5.

Lawyers and judges invoke the idea of justice, and politicians appeal to the truth. But we must understand their words and actions in the perspective of power, as an expression of the will to power that constitutes the very being of beings, on Nietzsche's final, grand, metaphysical conception of it. To see the realm of rhetoric in this perspective, however, is to reject Gorgias's own view of rhetoric as either hopelessly naive or deliberately dishonest, and in either case not what he claims it to be. No philosopher has had a deeper appreciation of rhetoric than Nietzsche, and none has been a greater practitioner of the art. But no philosopher has ever offered a view of the world more hostile to Gorgias's own naive conception of his craft, an hostility which in Nietzsche's case rises to a metaphysical level.

Michel Foucault's work, whose influence has been enormous, continues in this same line of thought. Foucault is interested in the shaping influence—the constitutive force—of ideas and systems of ideas, of ideologies and patterns of thinking. He is interested in the relationship of “words” (idioms, vocabularies, images, disciplines of thought) to “things” (objects, institutions, practices, the world in general). A fundamental premise of Foucault's work is that “words” shape “things,” that our ways of speaking, our habits of expression and the modes of thought they express, constitute the order of things, that they determine the organization of the world by establishing and validating its division into various disciplines, authorities, jurisdictions and the like.²⁸

Put differently, the world, for Foucault, is a rhetorical structure. It possesses no antecedent order of its own, but acquires one only through the constitutive organizing power of “words.” But a second and equally fundamental premise of Foucault's work is that the “words” which give the world its shape are themselves the infinitely varied manifestation of a single basis drive—of the drive to control, which expresses itself, at different times, as the drive to arrange, subdue, classify, explain, direct, discipline, and even (paradoxically) to sacrifice.²⁹ For Foucault, the world is a rhetorical structure and rhetoric the expression of a universal, primordial will to power—a view that compels us to reimagine every contest of ideas, every conflict between competing claims of truth and justice, as a contest of power in which victory is determined not by the moral or epistemic soundness of their views, but by the contestants'

28. See generally MICHEL FOUCAULT, *THE ARCHAEOLOGY OF KNOWLEDGE* (A.M. Sheridan Smith trans., Tavistock Publications 1972); MICHEL FOUCAULT, *THE ORDER OF THINGS: AN ARCHAEOLOGY OF THE HUMAN SCIENCES* (R.D. Laing ed., Pantheon Books 1970).

29. See generally MICHEL FOUCAULT, *DISCIPLINE AND PUNISH: THE BIRTH OF THE PRISON* (Alan Sheridan ed., Pantheon Books 1977).

relative strength (their endurance, charisma, commitment, influence and the like).

In one sense, Foucault elevates rhetoric to a position of supreme importance. The world, he says, is constituted by our words and the way we use them. But in another sense, Foucault abolishes the craft of rhetoric as Gorgias—and the lawyers and politicians who are his descendants—understand it, for on Foucault's view the rhetorician's appeal to truth and justice can only be an exercise of power in disguise, something Gorgias cannot concede without abandoning his claim to be the practitioner of a craft whose usefulness and legitimacy depend upon its having a real relation to these ideals. In this second sense, Foucault extends and amplifies the attack on rhetoric that Callicles begins, and gives it more contemporary appeal. But it is the same line of argument, as devastating to Gorgias as Callicles's own much simpler formulation of it, and to accept it (as many today do) is to abolish the craft of rhetoric from below.

IV.

Gorgias makes only a brief appearance at the start of the Platonic dialogue named after him. He quickly leaves the stage and is followed by his student Polus, and then by Callicles, with whom Socrates has much longer exchanges. Gorgias himself does not offer a developed account of the art of rhetoric, nor does he seem able to defend the dignity and importance of his craft against the two attacks on it that are mounted in the *Gorgias* and which have long subsequent histories down to the present day.

The first of these, the attack from above, argues for a politics of reason whose indisputable truths can only be obscured by the rhetorician's passionate appeals. This is the position that Socrates defends. The second, the attack from below, insists that the rhetorician's invocation of truth and justice is a sham, a technique for gaining power whose success requires that its practitioners either fail to understand what they are doing or deliberately conceal it. This is the line of attack forcefully pressed by Callicles, one of the most magnificent and disturbing figures in all of Plato's dialogues. Gorgias stands between these two, between Socrates and Callicles, and the question is, does he have any ground on which to stand? Does the craft of rhetoric have a separate and legitimate place in human life, in between pure reason and pure power? Or does Gorgias's belief that rhetoric is a distinct art with a valuable function of its own rest upon a mistake, as both Socrates and Callicles (whose views are otherwise so sharply opposed) contend?

This is not a small question, for more is involved than the status of rhetoric itself, understood as a specialized set of techniques for persuasion in political and legal disputes. The status of politics and law is also at stake. If our political and legal affairs can be arranged, as Socrates claims, on the basis of an understanding as certain as our knowledge of "the things belonging to number," then politics and law must be absorbed into the superior enterprise of philosophy. If politics and law are just modalities of power, as Callicles argues, then their practitioners, who are constantly invoking the ideas of truth and justice, are either liars or fools, and the whole realm of political and legal action must be absorbed into in a more encompassing, indeed universal, will to power. On either view of law and politics—the Socratic or the Calliclean—these pursuits lose their distinctness and legitimacy, for the very same reason that the art of rhetoric loses its.

The question of whether Gorgias has any ground on which to stand, between the expansionary realms of reason and power, is thus indistinguishable from the question of whether politics and law can themselves be shown to occupy a defensible space between these two domains. The questions are the same, and any argument which supports Gorgias's belief that the art of rhetoric has a distinct and valuable function of its own will therefore also provide support for the view that law and politics constitute an intermediate domain sufficiently distinct to withstand the imperial claims of both reason and power. To defend Gorgias's conception of rhetoric against Socrates's and Callicles's attacks on it is at the same time to defend the independence of politics and law against the two-sided threat of abolition from above and below.

Let us recall, in a bit more detail, the view of rhetoric that Gorgias holds. Gorgias himself never develops his own ideas fully; he never is given the chance. But the following account captures the essence of his view, which most practicing lawyers and politicians still hold today.

The rhetorician defends various positions in legislative and judicial debates. In the course of defending them, he makes claims about their truth and justice. These claims are an essential part of his defense. But they are also always contestable. Others can always challenge them and defend competing claims of their own. It may be that a particular claim seems, at a given moment, either obvious or absurd, but no argument pertaining to the truth or justice of a legal or political position can ever be proved or disproved with the finality that mathematical arguments can.

Furthermore, in political and legal disputes, unlike mathematical ones, the passions must be mobilized for the sake of persuasion. Only if the passions are aroused and directed toward the end of securing belief in the truth or justice of one's claim, can a belief of this kind be

produced and made strong enough to withstand attack. In this sense, the passions play a necessary role in political and legal persuasion, and the rhetorician's art includes a knowledge of how to engage and direct them.

But this same knowledge also enables the practitioner of rhetoric to mobilize the passions for the sake of belief in claims that are false or unjust. There can be no secure belief in what is true and just unless and until the passions are engaged, but their engagement does not guarantee that persuasion will lead in this direction. It may lead in the opposite direction, toward falsehood and injustice. The rhetorician, who is a master of motivation, also controls its direction, and thus has a duty to use his craft for proper ends, for the promotion of truth and justice, though in an arena where the meaning of these ideas remains unclear and will forever be contested.

These are the main elements of Gorgias's conception of rhetoric, and they express the unreflective view of their craft that most lawyers and politicians have always held. Can these elements be brought together in a philosophical defense of rhetoric that preserves its independence and legitimacy from the two lines of attack I have described? The first step in constructing such a defense is to ask what must be true about us, as human beings, if the craft of rhetoric is to possess the distinctness and dignity Gorgias assigns it. What must our condition be if the appeals that rhetoricians make to a real though contested truth and justice—appeals that transcend mere interest and power, like the arguments of mathematicians, but unlike them, can never definitively be resolved—are to be possible at all? And what must the human condition be if the securing of our beliefs regarding truth and justice in the middle realm of politics and law is to depend upon an artful mobilization of the passions that is always also capable of producing the opposite result?

I have given these questions what philosophers call a transcendental form. A transcendental question asks about the conditions *necessary* for the *possibility* of something else—in this case, the possibility of rhetoric, politics, and law. More specifically, I have framed my questions as ones of transcendental anthropology, as questions about human nature and not (as Kant did) about rational beings in general, or beings capable of experience³⁰ (a category that certainly includes us, but is wider than the human category).

30. See IMMANUEL KANT, *CRITIQUE OF PURE REASON* A95-96 (Norman Kemp Smith trans., 1929). But see EDMUND HUSSERL, *THE CRISIS OF EUROPEAN SCIENCES AND TRANSCENDENTAL PHENOMENOLOGY* ¶¶ 25-33 (John Wild et al. eds., Northwestern Univ. Press 1970).

To establish the transcendental conditions of rhetoric is not to show that rhetoric is alive and well today, or even to describe the broad circumstances in which it can flourish. It is not to sketch—it is not even to begin to sketch—a system of rhetoric that outlines and arranges different methods of persuasion. It most certainly is not to evaluate the performance of different politicians and lawyers. All of these tasks belong to the domain of rhetoric. They are part of its internal life. The transcendental questions I have posed aim only to establish the possibility of such a domain in the first place, to secure its claim to a legitimate existence of its own.

I say “only to establish,” but in a logical sense, of course, that must be the first order of business. For until the domain of rhetoric has been secured against the assaults of reason and power which threaten to destroy it from above and below, all of these other tasks remain suspended in mid-air, and may, for all we know, lack a foundation of any kind. Only transcendental anthropology—or, if that phrase seems too imposing, only an account of human nature—can provide the ground on which to stand. What does an inspection of our human nature tell us about the possibility of rhetoric, understood in the naive but widely accepted and even honorable way that Gorgias views it?

V.

We live in a state of longing. We begin to long the moment we are born and do not stop until we die. At first, we long for food and freedom from pain, then for affection, recognition and approval. Later, we long for wealth, fame, knowledge, salvation, and love. For brief periods we may experience a suspension of longing, for example, at moments of sexual or contemplative bliss. But always we return to a state of longing, from which there can be no permanent escape so long as we live.

The forms and objects of human longing are varied. Indeed, they appear to be without limit. We seem capable of longing for anything, and in every possible way. The plasticity of human longing is one of the characteristics that distinguishes it most sharply from the canalized desires of other living creatures, whose yearnings, however intense, generally follow a fixed routine.

Yet despite their protean variety, human longings can be gathered into different groups or classes with distinct, if overlapping, traits. They can be arranged in various classifications and schemes. One of the earliest and most suggestive typologies of human longing is to be found in Plato's *Symposium*, in the famous speech of the priestess Diotima, from

whom Socrates, who repeats the speech, claims to have learned everything he knows about love.³¹

Diotima associates longing with mortality, the condition of living in time. All mortal creatures, she says, exist in a state of longing. Being mortal, they are vulnerable and incomplete, and hence always in need of security and support. They are always struggling to escape their predicament of neediness and risk. They are always searching for fulfillment. But within the horizon of mortal life, true and lasting fulfillment is unattainable; that is precisely what mortality means. Hence, to the extent that mortal beings long for fulfillment, they long for something beyond the bounds of mortality itself. They long for immortality, and every mortal longing is at bottom, Diotima says, a longing for just this. In the case of human beings, the longing for immortality assumes three basic forms. First, there is the sexual longing for physical union. The satisfaction of this longing produces a momentary calm that anticipates, as Freud observed, the permanent peace of death.³² For an instant, at least, it relieves us of the nervous neediness of mortal life, and the natural consequence of sexual union (in the case of men and women) is the procreation of children, who—as the blurred images of their parents—enable them to go on living, in a fashion, after they have died.

Second, there is the longing to share in the building and improvement of cities. Diotima does not give this longing a name, but we might call it the political longing. It is the longing to be associated with, and have some role in, the ongoing business of civic life—of lawmaking and adjudication, of deliberation about the just and the unjust—that constitutes the continuing thread which links one generation of citizens to the next. By enacting laws that outlive them, their authors leave an image of themselves behind, and achieve a kind of life after death, just as the parents of a child do, though the image that citizens leave is a spiritual one—a rule, an idea, a commitment—rather than the physical image of a face.

Finally, there is the longing for knowledge or wisdom—philosophy, in the literal sense. Here, on earth, Diotima says, we are constantly buffeted by different impressions and feelings. The mortal realm in which we live is a great theater of sights and sounds, of tumultuous comings and goings, and in it we must somehow find our way amidst the confusing clash of fleeting appearances. We long to do this, to find the

31. See PLATO, SYMPOSIUM 201d-212c (Alexander Nehamas & Paul Woodruff trans., Hackett Publ'g Co. 1989).

32. See SIGMUND FREUD, BEYOND THE PLEASURE PRINCIPLE 56-58 (James Strachey ed. & trans., 1961).

secret of true knowledge that will release us from the mistakes and misunderstandings to which, as finite beings, we are subject. But this secret cannot be discovered within the realm of time. True knowledge must be changeless, and can only be of what is changeless. True knowledge is the apprehension of an immortal idea by an immortal mind—or more precisely, in our case, by the deathless power of thought that is joined with other, mortal elements in the composite human soul. Philosophy is the preparation for, and active pursuit of, true knowledge of this kind. It is the pursuit of a changeless benchmark by which to judge the everchanging spectacle of time, and its energy comes, like that of sex and politics, from the longing for immortality that Diotima describes as the most basic fact of human life.

In her speech, Diotima not only identifies three forms of human longing, she ranks them as well. Sex is the lowest priority, politics next, and philosophy belongs at the top. The reason for the ranking is clear. If every human longing is a longing for immortality, then different longings may be ranked according to their prospects of fulfilling the one desire of which they are all expressions, and that in turn depends upon the relative immunity of their objects to the effects of time. Sex is fleeting, children survive a bit longer, and cities longer still. But only the truth lasts forever, only truth is perfectly invulnerable to the shifting fortunes of time. Only the possession of truth, therefore, can completely satisfy the longing for immortality, a longing that sex and politics also gratify but in less lasting ways.

One might challenge this ranking, which expresses in a forceful way what Nietzsche called the “prejudices of philosophers.”³³ But I shall not do so. I want instead to examine more closely the second of Diotima’s three forms of human longing, the one I have called political longing. This is the longing that gives rise to the world that Gorgias inhabits, the world of courts and assemblies, and like Gorgias himself, who stands between the higher philosophical plane represented by Socrates and the lower appetitive one that Calicles so unashamedly defends, the political longing that occupies the middle position in Diotima’s scheme also stands between a higher order of philosophy and a lower one of appetite. This structural parallel is more than a curiosity. It suggests a means of approach to the question of how the independence of politics and law, and of the craft of rhetoric, can be explained and defended. I shall outline the argument briefly and then develop it in more detail. The argument rests on four connected claims.

33. FRIEDRICH NIETZSCHE, *BEYOND GOOD AND EVIL* pt. 1, at 5 (Helen Zimmern trans., George Allen & Unwin LTD 1923) (1907).

First, longing is an essential fact of human life. A life without longing is incomprehensible to us. If we subtract longing from our lives, we are left with something unrecognizably different from the lives we have.

Second, whatever the direction or object of human longing, it always assumes a distinctly human form. Our sexual longings, for example, have an imaginative component that distinguishes them from the instinctual sex drives of other living creatures. Sex, for us, is always fantasy and role play. The human longing for knowledge likewise possesses a special character. Because we have bodies, our perceptions are clouded, our beliefs are unstable and the effort to think is constantly being interrupted by the demands of bodily need.³⁴ Sex begins in the body, but human sex is imaginative, and to that extent unbound by the iron constraints of physical life. Philosophy begins in the imagination—in the power to see one thing as an image of another, the source of all abstraction³⁵—but the philosophy that human beings practice is subject to the limits of bodily existence, and is always distracted. Generalizing, we might say that the human condition is one of embodied imagination.³⁶ This is a condition unique to us, and it gives every branch of human longing a singular form. When we try to imagine what human life would be like if our longings had a different form—if our sex were more like that of animals or our thinking more like that of gods—we arrive at a blank, at an incomprehensible emptiness, that can only be filled by secretly importing back the very features of human longing we have subtracted, the ones that give our longings their uniquely human shape.

Third, imaginative sex and distracted philosophy—the most potent forms of human longing—can exist only within a frame of worldly institutions that provide constraints for the one and continuity for the other. Together, these institutions comprise the realm of human

34. Jacob Klein repeats the following story about Aristotle, told by Diogenes Laertius: When he went to bed, so the story goes, he used to hold in his hand a sphere of bronze—the sphere representing the whole world, I presume—while on the floor, close to the bed, beneath his extended hand, lay a pan. As soon as Aristotle would fall asleep, the sphere would slip out of his hand, fall on that pan, and the ensuing noise would awaken him. This procedure was apparently repeated over and over again. Aristotle could hardly have survived such an ordeal for any length of time. But no story could more aptly relate his claim to immortality.

Jacob Klein, *Aristotle: An Introduction*, in ANCIENTS AND MODERNS 68 (Joseph Cropsey ed., 1964). Or, we might add, no story could better illustrate the distracted character of all human philosophizing.

35. See PLATO, REPUBLIC 510a-511e (Richard W. Sterling & William C. Scott trans., Norton & Co. 1985). See also JACOB KLEIN, A COMMENTARY ON PLATO'S MENO 112-25 (1965). Compare KANT, *supra* note 30, at A140-42/B179-83 (discussing the transcendental schema of the imagination).

36. See generally MAURICE MERLEAU-PONTY, PHENOMENOLOGY OF PERCEPTION (Colin Smith trans., Routledge & Kegan Paul 1962).

civilization, and though both sex and philosophy point away from this realm toward an ecstasy that lies beyond its borders, each can assume a human form only within the supportive frame of civilized life. Each is anchored in a middle world of durable but impermanent institutions whose rhythms and requirements are less ecstatic than the longings for sex and knowledge. These institutions create the space within which the pursuit of ecstasy—the goal of gods and animals too—first appears in its uniquely human form.

More lasting than the human beings who live within them, though subject to the same forces of decay, the institutions of civilization provide the stage on which humanity appears, and outside their sheltering space there can be no expression or recognition of the special being we possess. There can be no human life. The love of lawmaking must therefore be thought of not merely as an intermediate step in the evolution of human longing from its lowest to its highest form. It must also be understood as the love of humanity itself, whose distinctive character only comes to light in the middle realm of laws and institutions where we alone are able to show off and see the special sort of being we possess, thereby satisfying the urge to self-display that every living creature feels. Aristotle's famous remark that man is "by nature an animal intended to live in a polis" should be interpreted in this light.³⁷

Fourth, the existence of a realm of laws and institutions, however necessary to the exhibition of our human nature, is itself an artificial achievement. For this world to come into being, and to endure for a meaningful time, the natural drive toward self-preservation must be contained and redirected. The passion we all feel for our selves must be fastened onto a different and larger object. Self-love must be transformed into patriotic valor, the willingness to sacrifice oneself for the sake of one's city. This necessary transformation is possible because the passion of self-love, which every animal feels, includes, in the case of human beings, a longing for recognition and respect, from which the civic passions of pride, shame, glory and the like all take their start.³⁸

The public world of laws and institutions toward which these passions are directed resembles its individual human inhabitants in one important respect. Like them, it too exists in time and is subject to decay. No law or institution lasts forever, and the public space that any system of laws creates can be kept open only through constant maintenance and repair, like a garden whose order can be preserved only by constantly

37. ARISTOTLE, *THE POLITICS* 1253a 2 (Stephen Everson ed., Cambridge Univ. Press 1988).

38. G.W.F. HEGEL, *PHENOMENOLOGY OF SPIRIT* pt. B.IV.A, at 111-19 (A.V. Miller trans., Oxford Univ. Press 1977).

rechanneling the forces of nature that surround it and flow through it. The mortality of laws and institutions, like that of men and women, is a consequence of the fact that they too possess what Aristotle called a "composite" being, one part of which is always an idea (of justice or virtue or truth), and the other an embodiment of this idea in perishable practices and living (hence dying) human beings.³⁹

But if the composite being of laws and institutions—of political regimes, in Aristotle's sense—means that they too must eventually perish, their lifespan is potentially longer than that of individual men and women, and indeed has no fixed limit at all. Every regime must fail at some point, but there is no telling how long it can survive. Laws and institutions, mortal though they be, possess an indefinite durability because they are embodied in practices that are transmissible from one generation to the next, and because their composite existence does not depend upon the identity of the individual human beings who happen at any given moment to be their carriers (in contrast to the composite being of a single man, which always dissolves when his body dies).

For a public world of laws and institutions to exist at all, the natural passion of individual self-preservation must be artificially redirected toward a larger and more lasting object. This is possible because the human passion of self-preservation is nascently political, including, as it does, a longing for respect as well as life; and because the different character of their composition gives political regimes a duration that exceeds, potentially at least, the lifespan of individual human beings. Because every regime possesses this potential durability, an appeal to its good is always an appeal to something that transcends the individual good of its members, whose self-interest can last no longer than they do. This is a logical and not merely factual feature of all such appeals, even those that are made to individuals who for accidental reasons happen to outlive the regimes to which they belong. The transcendence of self-interest, narrowly understood, is built into the very structure of political argument, which thus cannot be reduced to a form of flattery that caters to self-interest alone.

But because laws and institutions are mortal composites, existing in time and subject like every other finite being to the forces of decay, their good can never be as clear or perfect as the good of things that exist outside of time, like the objects of mathematics. Because every regime is an embodied idea, its values must always have some local coloration. They must always have an element of particularity, of historicity, associated with the peculiar circumstances of their career in time. Like

39. See ARISTOTLE, *supra* note 37, at 1274b 40.

bodies of other sorts, moreover, the body politic can only be viewed from a perspective, so that judgments about its good must always be perspectival and hence controversial (in contrast to judgments about mathematical objects, which are not viewed perspectively at all). This is the source of the error and deception that accompany political debate, of the mistakes we make about the good of regimes, and the fraud that is sometimes practiced on us. For with the perspectivity and hence partiality of political judgment comes, inevitably, the risk of mistaking a part for the whole and of deliberately being misled into errors of perception and judgment. It is a risk that comes with the territory.

Our humanity comes to light only within the horizon of the public world. Only here can we show and see the special being we possess. But the public world must be built and then guarded. This requires an appeal to the impressively durable but still finite good of laws and institutions—a good which transcends that of our separate selves but always retains a local flavor, is subject to permanent debate, and about which we may be mistaken and even deceived. Building on the nascently political longing for respect, appeals of this sort seek by artificial means to convert our natural passion of self-preservation into the spirit of citizenship, on which the survival of the public world depends. More than a flatterer but less than a mathematician, a molder of passions with the power to cheat and dissemble, the practitioner of this art is the builder of the middle realm in which our humanity first comes to light. Never complete and always dangerous, his work is essential to the construction of a public world and hence to the display of our human being. This is the work of rhetoric, and Gorgias—who stands between Socrates and Calicles—is the representative of all who perform it.

VI.

Every step in this argument needs further support. Indeed, one might object that the argument I have sketched is not really an argument at all, but merely an argument-form: a description of the form an argument in defense of the dignity of rhetoric might take, were such an argument to be constructed. This is a serious objection, and I shall try to make a few of the claims on which my argument is based clearer and more convincing.

I have claimed that the lives of human beings, like those of other animals, are lived in a state of longing, but that the longings we experience—the highest as well as the lowest—always assume a special human form. This is true, I have said, of the longings for both sex and

knowledge, each of which, in a different way, seeks a consummation beyond the routines of everyday life. Consider human sexuality first.

Sexual fulfillment is transporting. It is literally out of this world. The human longing for sexual fulfillment is a longing for ecstasy, in the original sense of the word. In this respect, it is no different from the sexual longing that other living beings experience. It is merely one expression of the desire for ecstasy that powers the species-life of every living thing on earth. But in our case, the longing for sexual fulfillment always possesses an imaginative component which, so far as we can tell, is missing from the sex lives of other animals. It is always—to borrow an expression of Jonathan Lear's—a “minded” longing shaped by fantasies of one sort or another.⁴⁰

Early in the development of his psychoanalytic theory, Freud remarked that he was getting used to the idea that every sex act between human beings always has at least four partners.⁴¹ His point was that sex, for us, is never a thoughtless thing. It is always a drama, an inventive play with characters and a narrative line, as the artistry of our dream lives reveals. Freud is sometimes accused of lowering the dignity of mind by reducing it to a sexual drive. The truth is that he raised the dignity of sex—of human sex—by showing it is always minded.

How our fantasy lives begin and what forces shape their development are immensely difficult questions. Freud devoted a lifetime of genius to them, and one certainly may quarrel with many of his answers. But the great point he established beyond dispute is that the imaginative dimension of our sexuality accounts for all its most distinctive features: its susceptibility to neurotic distortion, its expression in traits of character, and its hopeful, if problematic, relation to love. These make human sexuality interesting. They make it human. If our longing for sexual fulfillment were a mindless longing, as it is for other animals, these features would disappear and our sex lives no longer be recognizably human. But that is something we cannot even conceive, any more than we can really conceive (except in the form of a fantasy that itself is the product of imagination) the sex life of a dog.⁴²

Sexual longing is a ubiquitous feature of human life. So too is the longing for knowledge from which science and philosophy take their start. Aristotle begins his treatise on metaphysics by observing that “[a]ll

40. See JONATHAN LEAR, *OPEN MINDED: WORKING OUT THE LOGIC OF THE SOUL* (1998); see also EDMUND BURKE, *A PHILOSOPHICAL ENQUIRY INTO THE ORIGIN OF OUR IDEAS OF THE SUBLIME AND BEAUTIFUL* 29 (Adam Phillips ed., Oxford Univ. Press 1990).

41. See generally, FREUD, *supra* note 32.

42. See Thomas Nagel, *What Is It Like to Be a Bat?*, 83 *THE PHIL. REV.* No. 4 at 435-50 (1974); see also BURKE, *supra* note 40, at 29.

men by nature desire understanding," and as evidence of this points to the fact that we enjoy looking at things not just because it is useful to do so, but also because the visual apprehension of the world is a pleasure in itself—a sensual pleasure that anticipates the joy of knowledge.⁴³ The longing for this joy is not something only a few intellectuals experience. It is a drive that every man and woman feels. Each of us is curious about the world and our place in it, and this universal curiosity, which begins at birth, can be satisfied only by knowledge. Curiosity is the longing for knowledge, for the joyful release from ignorance that knowledge brings, and like the longing for sexual union it is with us the whole of our lives.

It is also a longing with a distinctive human form. Here the appropriate contrast is not (as in the case of sex) downward to other animals, but rather upward to God. We imagine God's existence to be one of absolute bliss, the bliss of perfect and continuous knowledge. The joy we imagine God experiencing is the joy of errorless, endless knowing. This is the picture of divine experience that both Plato and Aristotle present, and that later Christian writers endorse as well.⁴⁴ Our human thinking, unlike God's, sometimes leads to wrong results. It is also always subject to interruption. Every human inquiry runs the risk of mistake, and no train of thought can be sustained indefinitely by any single person: death stops each of us from inquiring further, and while we live our bodily needs with their urgent demands constantly interrupt the process of thinking. Human thought is always distracted, and the idea of a divine mode of thinking unburdened by error, hunger and sleep is as incomprehensible to us as the idea of sex without fantasies. The idea of divine thought does not describe an experience we can imagine. It defines the limits of the experience of thinking we actually have and it reminds us—in the same way the idea of animal sex does—of the distinctiveness of human longing and human life. The special forms which the longings for sex and knowledge assume in our lives define the distinctive kind of being we possess—our human being, which we display within a space whose horizons are marked by the idea of God, on the one hand, and that of mindless sex on the other.

We can no more escape these forms than we can jump over our shadows. But the very qualities that give our human longings for sexual and intellectual joy their distinctive shape also condition the pursuit of these ecstatic states on a world of stabilizing institutions. This world

43. ARISTOTLE, *METAPHYSICS* 980a 20 (Hippocrates G. Apostle trans., Ind. Univ. Press 1966).

44. See, e.g., PLATO, *TIMAEUS AND CRITIAS* 47b-c (A.E. Taylor trans., Methuen & Co. Ltd. 1929); ARISTOTLE, *supra* note 43, at 1074b 15-1075a 5; SAINT THOMAS AQUINAS, *The Summa Theologica*, in 17 GREAT BOOKS OF THE WORLD, Aquinas 1, Q. 14, art. 1, at 75-76 (Mortimer J. Adler ed., 1990) (1952).

provides a guard against the destructive power of the first pursuit and the possibility of collaboration and continuity in the second. Without the conventions of civilized life, our longing for sexual fulfillment would destroy us and our desire for knowledge could never take root. Together these conventions comprise the world of law and culture, whose existence is necessary to the survival of our deepest longings in their distinctive human form—and hence to the survival of our humanity itself.

The fantasies that give human sexual longing its “minded” character themselves presuppose, of course, a complex system of legal and cultural arrangements. The Oedipus complex is a family drama, and the family is a legal and cultural institution. If the fantasy projections of the Oedipus complex, and their many permutations, are not thinkable outside of family life, then they are not thinkable outside the realm of civilization. Civilization is thus not only a source of “discontent”—of repression and neurosis.⁴⁵ It is also the source of the mindedness that gives human sexuality its distinctive form in the first place.

But the point I want to emphasize concerns not the origins of our minded sexuality, but its uniquely destructive power. There is something destructive in every sexual longing. Every act of sexual gratification involves the overcoming of an other's resistance. Sex always involves a conquest, even when each party is both conqueror and conquered. But the mindlessness of animal sex puts a limit to its destructive force. There is only so much damage the sexual longings of animals can do. In our case, however, the natural longing for sexual fulfillment, which we share with other animals, is amplified by fantasies that give it a greater, indeed potentially limitless, field. It is amplified by mind, and the destructiveness that belongs to sex is amplified with it: to the point where the sexual longing of a single human being—of an Adolf Hitler, for example—may be capable of fulfillment only by the destruction of every other person on earth. The imaginativeness of our sexual longings—the very thing that makes them human—thus unchains a power of destruction which threatens to destroy humanity itself. Only civilization can save us from this power. Only law and the habit of obeying it can protect us against the destructiveness of sex when it is freed from all natural limits by the liberating power of mind. Only the organized use of force in defense of law can make the world safe for human sex by creating a protected space in which it is possible for fantasies to flourish without killing us all.

45. SIGMUND FREUD, CIVILIZATION AND ITS DISCONTENTS 86-98 (Joan Riviere trans., 1958).

The civilizing world of law and culture is necessary to the flourishing of our longing for knowledge as well. In this case, the necessity is dictated not by the destructive force of the desire but by its weakness instead. We want to understand the world—we have a natural curiosity about it—but our efforts to satisfy this curiosity are subject to error and interruption. We all make mistakes of perception and judgment, and constantly are distracted from the pursuit of knowledge by our bodily needs. We also all die, and when we do, our individual inquiries into the world end with us.

But we have discovered a means of overcoming these limitations. By comparing our judgments with those of others we can avoid mistakes and by linking our separate efforts to understand the world we are able to sustain the pursuit of knowledge without interruption by sleep or death. Philosophy seeks to discover the truth about the world. It begins (as Socrates observes) by distinguishing between truth and opinion—between the true order of things, and what people say about it when they talk. But (as Socrates also observes) philosophy itself is a conversational activity, one we pursue in collaboration with others.⁴⁶ This collaboration provides the best means we have of checking our judgments and distinguishing truth from opinion. It is a collaboration, moreover, that is not limited to those who are living. Aristotle devotes the first Book of the *Metaphysics* to a review of the theories held by earlier thinkers, predecessors in a tradition of inquiry that remains alive even today.⁴⁷ Those who work in this tradition are not historians. They do not seek merely to understand the history of their discipline. They want to know the timeless truth about the world. But their pursuit of the truth is itself an historical enterprise, sustained over many generations, with a cumulative record of discoveries and disputes, and by participating in it we escape the temporal limits to which our individual pursuit of the truth would otherwise be subject.

Philosophy and science are social activities involving a collaboration among the living and the dead. They are conversations that go on without interruption and that possess a power of self-correction greater than any one person's. If such conversations were impossible, or if their results could not be recorded and preserved, the human longing for knowledge would be shut up within limits so narrow that it could never achieve satisfaction. Indeed, it is difficult to imagine how, under these circumstances, our longing for knowledge could find any expression at all.

46. See PLATO, *supra* note 2, at 487c.

47. See ARISTOTLE, *supra* note 43, at 983 b-993 a.

If it is to flourish, this longing must be anchored in a collaborative conversation, and the very existence of this conversation demands a wide range of civilizing institutions—books, schools, and other means of communication, as well as the leisure time to use them. The human longing to understand the world is plagued by deficiencies and distractions. These can be overcome only through a collective effort of criticism and memory, which in turn requires an apparatus of communication and conservation, and a durable frame of laws and institutions to support it. Outside this frame there can be no philosophy or science, and outside philosophy and science the human longing for knowledge—for the joy of understanding—remains stillborn.

The desire to know, like the desire for sexual union, innately is within us. But neither desire can be fully or permanently satisfied within the limits of human existence. It is our fate to long for joys that are sustainable only outside the bounds of human nature—the same nature that causes us to long for these joys in the first place. We long for ecstasy, for a release from loneliness and ignorance, for a consummation that lies beyond the world, as it is given to us in experience. But we are always disappointed in this longing, and our disappointment is as much a part of human nature as the longing itself. That is the first paradox of our condition.

A second paradox is the dependence of our ecstatic longings for knowledge and sex, which aim at a rapturous fulfillment beyond the world, on worldly institutions. These longings are themselves indifferent to the claims of politics and law. The care of this world is not their aim. Indeed, nothing could be further from the pursuit of bliss, sexual or philosophical, than the tedious business of keeping a political regime in good repair. The first aims at something absolute and timeless; the second is concerned with what is temporary and imperfect. For a person seeking ecstasy, the quotidian concerns of the lawyer or politician—so compromised and transient by comparison with what he wants—are at best an irrelevance and at worst an obstacle to be overcome or broken down. Yet the ecstatic longings for sex and knowledge, which are antithetical to the workaday spirit of politics and law, are by another paradox of our nature dependent upon them, for without the frame of ordered durability that politics and law provide, neither longing can be sustained in a human form—the first because of its destructiveness, which law resists, and the second on account of its deficiencies, for which the institutions of civilized life (made possible by law and politics) provide the only remedy we possess.

We long, with disappointment, for joys beyond the world. These longings make us human. But they are also sustainable only in a frame of worldly institutions to which our yearnings for ecstasy are indifferent

and sometimes hostile. The lawyers and politicians who, with all their petty concerns and trivial ambitions, make it their business to preserve these institutions, are the keepers of the space in which our humanity finds room for expression. They are the custodians of the realm in which our humanity endures. Our humanity is something wonderful and strange—a mixture of ambition and limitation that produces a permanent state of disappointment from which every distinctive human suffering and achievement derives. We can never be sufficiently detached from our humanity to judge it good or bad.⁴⁸ We can never pass sentence on it from beyond, much as we sometimes seem to want to. We can only enact or display it, and like other living things, we have a passion for self-display. We enjoy showing off as much as we enjoy the pleasure of sight. We are performers as well as spectators, exhibitionists as well as voyeurs, and the pleasure of looking—from which all science and philosophy derive—is matched, for us, by the pleasure of being seen, to which every demand for recognition, of whatever degree of refinement, must ultimately be traced.⁴⁹ Those who guard the world of laws and institutions—the lawyers and the politicians—create a theater for this spectacle of self-display and give us the space we need to show all the amazing sides of what Sophocles rightly calls us—the strangest and most wonderful creature on earth.⁵⁰

About the work of lawyers and politicians I shall make only two concluding observations. The first concerns their use of speech.

The most urgent task of lawyers and politicians is to nurture a loyalty to the public good. Patriotism is a condition of political life. A political regime can endure only in case some of its members put the regime's existence ahead of their own—only in case they are willing to die for it. But patriotism is an artificial sentiment that must be cultivated through a process of transference: by causing the natural attachment we feel to ourselves to be transferred to the abstraction of the state. This is accomplished by means of emotional appeals which take advantage of the fact that many of our most primitive feelings of self-regard (anger

48. See NIETZSCHE, *supra* note 24, at 474.

Judgments, judgments of value, concerning life, for or against it, can, in the end, never be true: they have value only as symptoms, they are worthy of consideration only as symptoms; in themselves such judgments are stupidities. One must by all means stretch out one's fingers and make the attempt to grasp this amazing finesse, *that the value of life cannot be estimated*. Not by the living, for they are an interested party, even a bone of contention, and not judges; not by the dead, for a different reason.

Id. (emphasis in original).

49. 1 HANNAH ARENDT, *THE LIFE OF THE MIND: THINKING* 19-23 (Harcourt Brace Jovanovich 1978) (1971).

50. SOPHOCLES, *Antigone in ANTIGONE OF SOPHOCLES* 29-30 (F. Kinchin Smith trans., Sidgwick & Jackson Ltd. 1950).

and pride, for example) have a built-in reference to the beliefs and attitudes of other people and are therefore nascently political, so that the anger a man feels, say, toward his personal enemies can serve as a model and inspiration for the anger an orator wishes to arouse in him toward an enemy of the state.

All of this I have said before. What I want to emphasize now is the role that speech plays in this process of emotional transference. Lawyers and politicians work by means of words. Their art is above all an art of speech. Often, of course, they use speech as an instrument of reason—to clarify ideas, evaluate arguments, and keep emotions at a distance. Often the words that lawyers and politicians use are meant to cool our feelings, not to enflame them. But sometimes they are intended to arouse our emotions rather than to educate our minds, and the most effective legal and political arguments always do both at once.

This would be impossible if words could not arouse us, if mere words could not make us angry or proud. But they can, and frequently do. A dog cannot be insulted or flattered, but we are able to change a person's mood merely by speaking certain words to him. A single word can cause a man to lose his mind. Speech is the highway of philosophy and science, but it is also an instrument of passion, with the power both to express and to change our feelings. In its role as a tool of reason, speech provides the means for rational deliberation in politics and law. In its role as an agent of feeling, it promotes the emotional transference on which all political loyalties, and hence all politics, depend. Every political regime subscribes to some conception of justice and at the same time demands a certain degree of emotional commitment from its citizens. Speech is the flexible medium in which lawyers and politicians reason about the one and cultivate the other. It connects our hearts and minds, and the art of making this connection is the art of rhetoric.

Second, only a real system of laws and institutions can create the worldly space we need to display our humanity. An imaginary regime, no matter how perfect, is incapable of doing this. Ideal systems of law and government lack the power to constrain the extravagant destructiveness of human sexuality; for this, real violence is needed. And they lack the capacity to sustain the apparatus of civilized life, for which real means of preservation are required. Law and politics can meet these needs only when they come down to earth, out of the heaven of ideas, and assume a concrete form. An ideal regime, like the system of perfect justice that Socrates and his companions construct in the *Republic*, is powerless to perform these functions.

Of course, every real political system contains ideal elements. Every actual system of law and government is oriented toward some conception of justice or goodness or beauty. But what makes it an actual

system, as opposed to a merely ideal one, is the mixture of this conception with other elements of a contingent and corruptible kind. These give the ideal a worldly shape that enables the laws and institutions based upon it to become a real force in the lives of men and women. But existing political regimes, which acquire the power to provide a stable home for human beings only through this mixture of accidental elements, are compromised by these elements themselves, whose introduction touches every actual regime with the possibility of decay and clouds the judgment of its defenders, exposing them to risks of misperception and mistake which the inventors of ideal regimes, uncontaminated by accidents of any kind, never encounter.

Those who choose politics as a vocation are exposed to very great risks. There is the risk they may be mistaken about important matters of fact, or fail to see how their ideals can best be advanced under the murky circumstances in which they are compelled to go forward. There is the risk that, in pursuit of their ideals, they may do great harm to other people. There is the risk they may be corrupted by material advantage and cease to care about their ideals at all. There is the risk that political realities will make them hardhearted, and immune to human suffering. And there is the risk that, after years of conscientious service, the regime to which they have devoted their lives may be destroyed or dissolved, forcing them to conclude that their lives have been wasted. Any of these things can happen to the person who makes politics his career, and they can happen because real laws and institutions are a composite of ideals, on the one hand, and contingent factors on the other, whose presence clouds the mind, corrupts the heart and places every regime under a suspended sentence of death.

This is why some flee from politics, into the riskless realm of philosophy, or the immediacy of erotic love. In each it is possible to feel, momentarily at least, transported beyond the world of everyday political life, with its humdrum preoccupations and silly distractions and endless opportunities for mistake and deception. The otherworldly satisfactions of philosophy and love can seem attractive by comparison, and it is reasonable to assume that so long as there are human beings on earth, some at least will prefer the pursuit of ecstasy to the work of politics, which Max Weber described as "a slow boring of hard boards."⁵¹

But I have argued that this pursuit itself can be sustained only in a frame of worldly institutions that provides a home on earth for our ecstatic longings. We long for joy, for a consummating union that

51. Max Weber, *Politics As a Vocation*, in FROM MAX WEBER 128 (H.H. Gerth & C. Wright Mills trans., Oxford Univ. Press 1946).

transcends everything familiar and worldly. But by a strange paradox of our nature this longing demands the very thing it abjures: a world of laws and institutions sturdy enough to provide a stage for its display. Those who build this stage have a risky assignment. They are always at risk for their souls. Theirs is a dirty business, full of danger and subversion. But if we reflect on the gift they give us—the creation of a space to show and see ourselves—may we not agree that in this dirty business there is something to be admired? May we not conclude that there is something for which to be thankful? Should we not concede that the rhetorician, mocked by the champions of both thought and power, has a respectable craft of his own, one that makes its own essential contribution to humanity? Can we not even see in the stumbling and inarticulate figure of Gorgias a hero of sorts, worthy of praise from all lovers of joy, who dwell in the house that he builds?

A new and more sympathetic study of rhetoric might begin at this point.

