

## Utilitarianism and Morality of the Orator in Quintilian

Franz-Hubert Robling

Today scholars and students, who read Quintilian's book on the education of the orator, often are puzzled by phrases, which seem to contradict the ideas of good education not only in the view of our modern time, but also of antiquity. Quintilian states: "[Some critics] allege also that rhetoric makes use of vices, which no art does, in speaking falsehoods and exciting emotions. But neither of these is disgraceful when it is done for a good reason; therefore it is not a vice either." (*Inst.* 2.17.26-27). In spite of this justification of deception and excitement of passions Quintilian claims that the orator should be a *vir bonus* as pointed out by Cato the elder: "I am proposing the perfect orator, who cannot exist except in the person of a good man. We therefore demand of him not only exceptional powers of speech, but all the virtues of character as well." (*Inst.* 1.1. pro. 9). 'All the virtues of character': this is a high standard, and Quintilian does not hesitate to name the fields where the orator has to stand the test: the administration of the state, the public assemblies with their need for advice and the courts with the duties of accusation and defense (*Inst.* 1.1. pro. 10).

But does Quintilian really not see that his position is contradictory? That a virtuous orator should refrain from stirring up the emotions to seduce people – as Cicero warns in *De oratore*, when he looks back to the times of Tiberius and Gaius Gracchus?<sup>1</sup> And should a virtuous orator not refrain from

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<sup>1</sup> Cic. *De orat.* 1.38, cf. *Inv.* 1.3-5

using methods of fraud and deception in a speech like insinuation, palliation and dissimulation?<sup>2</sup> Modern scholarship has mostly ignored this problem. Every history of ancient rhetoric treats Quintilian's *Institutio oratoria* and mentions his ideal of the orator as a *vir bonus dicendi peritus*, but only a few recognize the ethical problems of his position<sup>3</sup>.

Let us see, how Quintilian defends himself. At first he points out that an orator has to respect the different shape of audiences and their different capacity of insight. "If we had wise men as judges and assemblies and councils of all kinds were made up of the wise, if hatred, influence, prejudice, and false witness had no power, then the scope for eloquence would be very small, confined more or less to giving pleasure. But as the feelings of audiences are fickle and the truth is exposed to so many evils, we must fight with the weapons of the art, and employ whatever means serve our purpose." (*Inst.* 2.17.28-29). That means: if the audience of assemblies or courts is mixed and the participating attendants are no saints, the orator – as Quintilian understands him – can simply not hope to reveal the truth. Different audiences need different rhetorical means: this is a consequence of the basic rule of *decorum*, which is – according to Cicero – the most important condition for persuasion<sup>4</sup>. And another rhetorical principle is closely connected with it: the truth must always be plausible, otherwise it will not be accepted. "Our statement of facts will have plausibility if it answers the requirements of the usual, the expected and the natural", says the *Auctor ad Herennium* (*Rhet. Her.*

<sup>2</sup> Quint. *Inst.* 4.1.42; 2. 1. 33; 6.4.14-17

<sup>3</sup> Kennedy (1969: 125 ff.) discusses the moral dilemma of the orator, but offers no solution. The problem is not mentioned in Kennedy 1972: 509 ff.; Winterbottom (1964: 90-97) tries to understand Quintilian's ideal of the good orator within the frame of imperial Rome; Seel (1987: 88) only states, that Quintilian has enough 'flexibility' to handle problems in conflict situations; Brinton (1983: 167-184) treats the concept of the *orator* as a *vir bonus* merely in the perspective of the history of ideas; Adamietz (1986: 2243-2245) points out that there is a discrepancy between Quintilian's ambitious concept and the political limits that the orator had to respect in the time of the emperors.

<sup>4</sup> Cic. *Orat.* 70-72, cf. Quint. *Inst.* 11.1.1

1.16). Most of you know the classical example for this from Plato's <Phaedrus>. There Socrates illustrates the difference between truth and probability by the trial of a strong, but cowardly man against a weak, but courageous man, who has knocked down the strong one. The latter will have difficulties to affirm his innocence towards the judges: it is the evidence that is against him<sup>5</sup>. The orator has a similar task: he must produce evidence for his matter according to the understanding of different audiences to persuade them<sup>6</sup>. Then he will be successful. However the striving for evidence and accommodation does not solve the ethical problem. Therefore Quintilian justifies the use of fraud and deception by giving some examples of difficult judicial cases, where the usage of those means seems to be acceptable. They either refer to crimes of family members and friends or to the needs of public interests and community welfare, so that the orator must postpone an honest behavior to achieve higher ethical demands. One of the classic cases is – for example – a trial against one's father or brother. Pity and the honor of the family compel the orator to take on the defense in court. He knows that from the viewpoint of justice the accused should be condemned, but the good orator will mobilize all his rhetorical skills including ruses and lies to get an acquittal: "I am not talking about the defence of a father or a brother or a friend who is at risk [...] although in these cases there can be ample ground for hesitation, because justice is seen to be on one side and loyalty on the other." (*Inst.* 12.1.40 f.). Another case deals with an honorable general, who is in court because of obvious offences against the law, but whose excellent strategical abilities make him indispensable for the survival of the state: "[...] will not the common good call our orator to his side?", asks Quintilian (*Inst.* 12.1.43). In these and similar cases the orator has to choose between values of near equal ranking, namely his honesty or his success. Quintilian himself sometimes votes for an alternative that would not be acceptable in our eyes. We need to ask: what is the reason behind this discrepancy?

<sup>5</sup> Cf. Plato, *Phaedrus* 272d

<sup>6</sup> A modern concept of the different types of audiences provide Perelman and Olbrechts-Tyteca 1970<sup>2</sup>: §§ 3-7. Cf. also the actual German translation edited by Kopferschmidt 2004: *ibid.*

The first plausible motive is based on a social-ethical institution of the Roman empire, that we do not know anymore: the role of the *patronus* for oratory. Roman society was characterized by the opposition of noblemen and ordinary people, the plebeians. The nobleman had more privileges than the common man, especially if the latter was dependent on him and lived on his property. On the other hand the nobleman was responsible for his dependents: for their income and for their welfare. Thus a relationship between the patron and his clients was established in Rome, that also comprised a duty for the patron to speak for their benefit in the political assemblies and to defend them in court. *Patronus* and *orator* were nearly synonymous words in classical Latin<sup>7</sup>, and it is the noble patron who is the idol behind the *orator* as a *vir bonus dicendi peritus* that Cato the elder was thinking of<sup>8</sup>. In this concept of the orator the engagement for the political and social welfare is the main issue as opposed to the ideal of individual morality, which should not be denied, but does not appear in the fore. This is especially true for the public area in the times of republican Rome. Only later, under the influence of Stoic moral philosophy (Seneca) and of Christianity (Augustine) the moral aspect of the *vir bonus* began to prevail<sup>9</sup>.

<sup>7</sup> Cf. Neuhauser 1958.

<sup>8</sup> Cf. Robling 2000: 67-80. Socrates seems to be the first prominent figure in the history of philosophy, which challenged utilitarianism in favor of morality. (Cf. Hegel 1971: 441-516). Therefore the Stoics regarded him as a model for the figure of the sage. Quintilian also describes Socrates as one who "speak[s] well" (*bene dicendi finem in oratore servandum*, *Inst.* 11.1.11; cf. 1.9-11), what is surely understood in a moral and stylistic sense here, considered from the aspect of *decorum*. Yet Quintilian does not notice that this contradicts his claim to apply also fraud and deception in a speech, because Socrates refused to make use of lies. Obviously Quintilian is not systematically thinking theorist like a philosopher, but a rhetorician, who is primarily interested in practical action. Socrates attracted him as a trustworthy orator – not so much as a philosopher, whose convictions could deny the rhetorical principles he (Quintilian) pointed out in his education manual.

<sup>9</sup> Stoic influences may already be thought of in Cato the elder's concept of the *orator* as a *vir bonus* (Kennedy 1972: 56 f.), but there seems to be a greater impact of the

The second reason deals with the structure of ethics in rhetoric and with its different interpretations in history. Basically, there are two ethical principles guiding the action of the orator: the pursuit of his own interests and the respect for the interests and rights of other people. In his speech the orator must look either for his own advantage or for the one of his client he is pleading for. Aristotle has realized this in his *Rhetoric* and called it the "usefulness" of the *genus deliberativum*<sup>10</sup>, but it is also true for the other *genera*. This is what we call the utilitarian aspect of rhetoric. It is always connected with the partial and subjective view of the orator on things, as pointed out by the Sophists, for example by Protagoras or the anonymous author of the *Dissoi λόγοι*<sup>11</sup>. On the other hand the orator should not deny the demands and rights of other people, who belong to the same society as he himself. There is a set of norms and rules, which establish a limit against personal goals, that should be followed also by a responsible type of oratory. This is what we call the moral aspect of rhetoric. It has been developed by the critics of rhetoric, initially by Socrates and Plato. The two types of ethics in rhetoric reflect two types of ethics in philosophy: the "striving one" and the "demanding one", as has been pointed out by Hans Krämer, a well-known ethicist and Platonscholar, in his book *Integrative Ethik*<sup>12</sup>. In the history of philosophical ethics these two models can be related on the one hand to Aristotle, whose *Nicomachean Ethics* are primarily based on striving principles, and on the other hand to Immanuel Kant, whose *Grundlegung zur Metaphysik der Sitten* is first and foremost based on demanding principles. Closely connected to the utilitarian aspect of rhetoric is oratorical prudence. It enables to pursue one's own interests and yet to be aware of all those circumstances of an action that promote or hamper the accomplishment of one's goals. Prudent behavior is

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ideal of the good patron. The same seems to be true for Stoic influences in Quintilian. Cf. Walzer 2003.

<sup>10</sup> Arist. *Rhet.* 1358 b 20.

<sup>11</sup> Cf. for a more detailed interpretation Robling 2005: 40 f.; 42 f. Utilitarianism in rhetorical ethics is not the same as in philosophical ethics, because in philosophy it is a moral principle that defines the basic rule of common welfare as normative standard.

<sup>12</sup> Krämer 1995.

therefore the most characteristic feature of a skilled orator since the time of Homer, who made Athena, the goddess of prudence, the assistant of eloquent Ulysses in all the difficult situations that he had to undergo. Aristotle points out that prudence is not only the guide to individual profit but also a condition of the common welfare of the society<sup>13</sup>. So Quintilian states "the art of speaking" can only be attained by "profound wisdom and unfailing strategic sense", apart from much study and many exercises, notably<sup>14</sup>.

It is important to notice that in ethical explanations of rhetorical authors the utilitarian and the moral aspect are always linked together<sup>15</sup>. Both aspects must be valued in their ethical claims as such; the problems only come up in their interplay. So I surely do not agree with Michelle Zerba, who in her essay "The Frauds of Humanism: Cicero, Machiavelli and the Rhetoric of Imposture" criticizes the utilitarian aspect of antique and humanist rhetoric from a moral perspective only and does not concede its necessity for oratory.<sup>16</sup> At this point I do not really want to defend Machiavelli, who is a historian and a politician, but I certainly must defend Cicero, who is one of the most eminent theorists of rhetoric. The reason will become apparent, when I turn back now to Quintilian.

If we evaluate one more time the option of an orator in family trials or in the case against the general, who is so useful for the defense of the community, we will find that Quintilian according to the ideal of the good patron always votes for the utilitarian view of things in individual or social matters.

<sup>13</sup> Arist. *N.E.* 6.8. But rhetorical and ethical quality of prudence are according to Aristotle not the same thing, though they have a certain relation. Cf. Rapp 2002: 410-411.

<sup>14</sup> Quint. *Inst.* 2.13.15

<sup>15</sup> Augustine may serve here as an example. In *De doctrina Christiana* he identifies the *orator christianus* as a man, who has to defend the faith by means of rhetoric against calumny and at the same time must observe the rules of moral living. Cf. *Doctrina* IV, II. 3.4.5.

<sup>16</sup> Zerba 2004: 215-240. Zerba resumes: "Deception, to put it simply, is an acknowledged and vital element in civic humanism long before 'The Prince'". (215, cf. 219) 'Differences' between Machiavelli and Cicero are now merely 'stylistic', not any more distinctions of thoughts, disciplines, functions in the humanist movement.

Notably, it is also true for supporting the good and defeating the bad by using the appropriate rhetorical means of the speech. This seems to be characteristic for the ethical position of rhetoricians of Quintilian's time, and undoubtedly it dates back to the era of the early Sophists. It was certainly not accepted by all his contemporaries, as proved by numerous arguments he used to defend his position. The philosopher Seneca, who lived at the same time as Quintilian, clearly would not have shared his opinion. And I believe, in these days we too can not accept all his decisions concerning the position of the orator, say lawyer, in the trials that he mentions. The reason is, we are under the influence of the age of enlightenment that sharpened the feeling for moral standards. In philosophy it was the thinking of scholars like the French or English moralists and of Kant, which brought a change. In rhetoric the distinction between persuasive and convincing speech came up, and Quintilian was criticized by scholars like Gesner and Thomasius for his permissiveness<sup>17</sup>. In jurisprudence the legal procedure was strengthened and the use of rhetorical 'tricks' condemned<sup>18</sup>.

Yet in spite of this criticism, we should judge theoretical positions in rhetoric not only from a dogmatic point of view, that distinguishes good and bad. Our argumentation should also be based on a historical perspective, which reflects our own standards of research and endeavors to understand mental, cultural and social differences in former times. Today we can learn one thing from Quintilian concerning ethical questions of rhetoric. Its utilitarian motive is also of ethical dignity, not only the moral one. Rhetoric is not just a tactic of manipulation, but also a technique of legitimate impact.

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<sup>17</sup> Cf. Gesner 1715: § 5; Thomasius 1729<sup>2</sup>: 179

<sup>18</sup> Cf. Zachariä 1810: 22

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*Nec diu nos moretur quaestio quae rhetorices origo sit: perché si può ancora essere d'accordo con Quintiliano\**

Luigi Spina

"La retorica è tanto antica quanto i monti. Già in Omero, notate che cito sempre Omero, avete un bellissimo asindeto come *aphrétor, athémistos, anéstios* (*Iliade* 9,63). Nel V secolo Tisia e Corace, siciliani, furono gli 'inventori' della retorica, *invenerunt verba*: chiamavano 'spada' la spada, senza perifrasi"<sup>1</sup>.

Ἐν ἀρχῇ ἡ ῥητορικὴ: all'inizio era la retorica. Se fosse stato questo l'*incipit* del Vangelo di Giovanni, una buona parte dell'umanità non si sarebbe più interrogata sulle origini della retorica. Un inizio così perentorio, l'inizio degli inizi si potrebbe dire, avrebbe costituito un punto di partenza saldo ed indiscutibile. Che poi all'inizio ci fosse il *logos*, comunque si voglia tradurre il termine greco nella propria lingua moderna (verbo, parola, azione), sappiamo bene che questo non può in alcun modo spingerci a farne una questione di discorsi persuasivi. La parola divina che squarcia le tenebre, il silenzio del nulla – *in principio Dio disse: Sia la luce* (*Genesi* 1,3) –, non rientra nell'ambito della tecnica che ancora oggi chiamiamo retorica, o almeno non siamo autorizzati a pensarlo. Al massimo, potremmo individuare un primo

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<sup>1</sup> Eduard Fraenkel, in Roncali 1994: 123 (a proposito di Petronio, *Sat.* 2,3: *nondum iuvenes declamationibus continebantur cum Sophocles aut Euripides invenerunt verba quibus ... deberent loqui*).