

CORAX AND ANTICORAX: TO THE ORIGINS OF JUDICIAL RHETORIC

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ABSTRACT:

This paper aims to contribute to the discussion on corax, the first judicial argument that tradition attributes to two rhetoricians, Tisias and Corax. First, the paper addresses the historiographical questions about the identity of Tisias and Corax, accepting the interpretation of the existence of only one rhetorician, Tisias, called Corax. Subsequently, the study focuses on the argument ‘corax’ that Tisias developed which is based on verisimilitude, within the context of the birth and development of rhetoric. Although, in the critical literature, only one example of corax has been found in Antiphon’s *Tetralogy A*, this article argues that the same tetralogy also contains the answer to corax. This response called ‘anticorax’ provides the argumentative model by which a speaker can attempt to counter a corax. Argument and counterargument are inserted in the antilogical construction on which judicial debates are developed. This study proposes to deepen the origin of rhetoric, adding to its history the formulation of the ‘anticorax’.

KEY WORDS:

Corax, anticorax, Antiphon, history of rhetoric, judicial rhetoric.

CÓRAX Y ANTICÓRAX: A LOS ORÍGENES DE LA RETÓRICA JUDICIAL

RESUMEN:

Este artículo pretende contribuir a la discusión sobre córax, el primer argumento judicial que la tradición atribuye a dos oradores, Tisias y Córax. En primer lugar, el trabajo aborda las cuestiones historiográficas sobre la identidad de Tisias y Córax, aceptando la interpretación de la existencia de un solo orador, Tisias lla-

mado Córax. Posteriormente, el estudio se centra en el argumento desarrollado por Tisias, el córax, basado en la verosimilitud, en el contexto del nacimiento y desarrollo de la retórica. Aunque, en la literatura crítica, solo se ha encontrado un ejemplo de córax en la *Tetralogía A* de Antifonte, este artículo sostiene que la misma tetralogía contiene también la respuesta al córax. Esta respuesta, denominada ‘anticorax’, proporciona el modelo argumentativo mediante el cual un orador puede intentar contrarrestar un córax. El argumento y el contraargumento se insertan en la construcción antilógica sobre la que se desarrollan los debates judiciales. En este sentido, este estudio propone profundizar el origen de la retórica añadiendo a su historia la formulación del ‘anticorax’.

PALABRAS CLAVE:

Córax, anticórax, Antifonte, historia de la retórica, retórica judicial.

1. TISIAS AND THE BIRTH OF RHETORIC

Rhetoric as *technē*, i.e. a science for producing oral or written texts capable of persuading, was born in the 5th century BC in the Sicilian context thanks to two orators, Tisias and Corax. After them, again on Sicilian soil, Gorgias of Leontinoi, and perhaps his master Empedocles according to a small tradition¹, brought this art to a high level of refinement that made him one of the most celebrated rhetoricians of antiquity.

For the founding moment of this art, the sources are not as numerous as would be desirable: even of Tisias and Corax and their possible function as the systematizers of this knowledge, we know very little². The historiographical tradition on Tisias and Corax was later established in Byzantine times³: according to Velardi (2007), it arises from a mixed and uncertain reconstruction of the characters⁴. Nevertheless, we have some ancient information on Tisias and Corax from some Greek writers, firstly Plato. Socrates, in Plato’s dialogue *Phaedrus*, particularly in 273c, presents Tisias as the discoverer of rhetoric and the virtual interlocutor in the explanation of rhetoric and persuasion from his point of view:

¹ Diogenes Laertius (VIII, 57; IX, 5, 25) and Sextus Empiricus (*Adv. math.* VII, 6) claim that it was Aristotle in the *Sophist*, an early dialogue that has not survived, who said that Empedocles first discovered rhetoric.

² For a complete compilation of primary sources (and secondary sources up to the 1980s.) see Enos-Kantz (1983). See also Verrall (1880).

³ Regarding Neo-Platonic and Byzantine traditions, refer to Velardi (2007).

⁴ The body of ancient evidence analysis suggests that the Late Antique and Byzantine portrait of Corax is the result of an assemblage of heterogeneous elements, to which the most reliable sources refer in a different way or are persons other than him. See Velardi (2007, 267).

273 c: φεῦ, δεινῶς γ' εἴκειν ἀποκεκρυμμένην τέχνην ἀνευρεῖν ὁ Τεισίας ἢ ἄλλος ὅστις δὴ ποτ' ὦν τυγχάνει καὶ ὁπόθεν χαίρει ὀνομαζόμενος. ἀτάρ, ὦ ἑταῖρε, τοῦτο ἡμεῖς πότερον λέγωμεν ἢ μὴ—

Well, it certainly looks as though it was a wonderfully recondite profession that Tisias discovered—or whoever else it might have been, whatever he likes to be called after. (transl. Waterfield 2002).

No reference to corax is present here: it is just a generic quotation, but it is interesting to observe the attribution of the birth of rhetoric to Tisias. Plato wants to drive the point home that Tisias was the leader and the most relevant between the two.

Other sources show them as linked by a master-pupil relationship⁵. Hermias of Alexandria, a commentator of the platonic dialogue, in his *In Platonis Phaedrum Scholia*, peculiarly at *Ad. Fed.* 273c⁶ refers that Tisias was Corax's preceptor: their relationship was not equal, as the platonic *Phaedro* also seems to suggest, and it would arise from the fact that Hermias followed the platonic dictamen.

Velardi (2007) notes that the Platonic source, especially the reading of Hermias, is at odds with the later tradition that identifies Corax as the teacher and Tisias as the pupil.

Cole (1991) offers the hypothesis that Corax was not the name of the mentor but Tisias' epithet: 'corax,' in fact, means 'raven,' and this attribute would have alluded to a characteristic of Tisias. Therefore, there is only one character at the origin of rhetoric: Tisias, known as Corax. Velardi (2007) complements Cole's study by reaching the same conclusion but looking at all the sources at our disposal⁷.

⁵ Sources recall the dispute between Corax and Tisias: Corax had agreed to pay the pupil for his teachings once he had won the first court case. Tisias did not want to pay the teacher and therefore Corax took him to court arguing that if Tisias lost the case he would pay by virtue of the ruling, and, if he won, he would pay by virtue of the agreement; see R4 in Rabe (1931); Velardi (2007, 274-275, in part. n. 46). The narrative is apocryphal and is also attributed to Protagoras and Euathlus (Aulus Gellius, *Attic Nights*, V, X). On the relationship between Corax, Protagoras and the Socratic peritrope (*Theaetetus* 169-171e), see Burnyeat (1976).

⁶ See Lucarini – Moreschini (2012).

⁷ For Velardi, the author of the first rhetorical treatise, Tisias, used the example of the strong and the weak (as we get from Plato's *Phaedrus*) to show the application of the plausibility to judiciary issues. Between the 5th and 4th centuries, authors such as Plato and Aristotle evaluated it as a 'bad argument,' they called it the 'raven argument' both because this animal characteristically abandons its young and then devours them, and because of the nickname of Tisias himself (since the raven is a talking bird). The Tisias treatise circulated under his name and nickname, see Velardi (2007, 280-281). For a different interpretation of the epithet corax concerning Greek culture and folklore, see Gencarella (2007).

It is not necessary here to return to the identification of who Tisias and Corax are: the analyses, first by Cole and then by Velardi, are so convincing and well-founded that, at present, it appears credible that Tisias and Corax were the same person. That is, Tisias was a rhetorician also called Corax.

More complex, however, is the ongoing debate concerning the type of rhetoric that Tisias seems to have originated. Critical writings have split into two strands, relying on, and emphasizing traditions from discordant sources. Wilcox (1943) argued that the idea that the rhetoric of Tisias and Corax (the scholar keeps the two names and characters distinct) was born for the deliberative context and that the transposition to the judicial one was the product of the authority of a tradition, that of Aristotle later filtered through Cicero in the *Brutus*. For the scholar, instead, what is present in the *Introductions to rhetoric and the prefaces to commentaries on Hermogenes* (*Prolegomena* presented in Walz, *Rhetores Graeci*, 1802-1857, and re-edited in Rabe, *Prolegomenon Sylloge*, 1931) had to be re-evaluated. The substantial difference between the two traditions would be precisely, in Wilcox's words (Wilcox 1943, 1-2), as follows: "Cicero quotes Aristotle's statement that private lawsuits gave rise to the earliest rhetorical theory, whereas the *Prolegomena* on uncertain authority declare that Corax wished to influence the people of Syracuse. Their words imply that the first teachings were deliberative rather than dicanic, and contradict Aristotle as preserved in Cicero". Wilcox⁸ noted that the rehabilitation of the *Prolegomena* would bring new light not only on the actual role and contribution made by Tisias and Corax to the birth of rhetoric, but it should also lead to a rethinking of the very nature of rhetoric at the time of its emergence as *technē*.

Cole (1991), on the other hand, noted how the emergence of Tisias' misunderstanding of rhetoric is an essentially post-Aristotelian product⁹. In fact, Plato seems to have operated an interpretative distortion by considering this argument one of political rhetoric: Plato himself would have 'invented' the term 'rhetoric' and would have given the definition of the art of persuasion according to verisimilitude: with these foundations from Plato, and until the perspective provided by the Byzantine authors, Corax and Tisias would have entered into this exact definition even if their production were dicanic¹⁰, that is, they would have been interested

⁸ See also Wilcox (1942).

⁹ Cole (1991, 74) wrote: "It is generally agreed that the transfer of the activity of Corax from the dicanic to the political sphere is a post-Aristotelian development in the tradition, and it is fairly easy to see why the transfer took place. Political rhetoric, in the view of Isocrates (*Antid.* 46, *Paneg.* 4), followed here by Aristotle (*Rhet.* 1. 1, 1354b17 ff.), is a higher, more significant form than dicanic; that it should replace dicanic rhetoric in the discipline's foundation myth was almost inevitable once the view of Isocrates became authoritative, and once rhetoric itself had ceased to be, as it often was for Plato and Aristotle, a suspect discipline whose claims were to be disputed or curtailed, and had become, along with philosophy, the central ingredient in higher education".

¹⁰ See Kennedy (1963, in part. Chapter 3: *Early Rhetorical Theory, Corax to Aristotle*, 52 ff.) is of the same idea.

in judicial oratory (Cole 1991, 74)¹¹. Thus, something must have happened, an inappropriate translation, because the two intellectuals had been taken out of the dicanic context and moved into the political one. Supporting this thesis is precisely the passage reported by Cicero in *Brutus* (12.46-47)¹², in which the orator said that, according to Aristotle, rhetoric was born in a specific historical context: in fact, the overthrow of the Sicilian tyrants (scil. after the fall of Thrasybulus of Syracuse) provoked the need for private citizens to assert their rights by resorting to the courts and lawsuits¹³. The passage pointed out that the Sicilians were sharp and refined people in regard to the conduct of disputes, but that the decoding of this knowledge came about precisely with the *technē rhētorikē* of Tisias (and Corax). In this sense, according to Cicero, Aristotle determined the context, and the necessity of stabilizing the content of the art of rhetoric was born.

Rhetoric originated with the recording of its own rules. Technical skill transmitted orally through practice is necessarily consolidated when examples and models are put in writing as a unified whole. Tisias would have been the first to elaborate on this work and, in this sense, is the founder, the *protos heurètes* (the first discoverer) of rhetoric.

Before writing his *Rhetoric*, Aristotle produced two other works on the subject: the dialogue *Gryllus*¹⁴ and a *Compendium* (*Technōn Synagōgē*)¹⁵ of all the

¹¹ Goebel (1989) proposed integrating the Platonic with the much more theoretical and less historiographical Aristotelian speculation, particularly with *Rhet.* 1357a35-b1, where the Stagirite defines plausible: “For what is likely is what happens for the most part, but not in an unqualified sense as some define it; rather, it is that which is concerned with things that admit of being otherwise, the likely being related to that concerning which it is likely, as the universal is to the particular,” (trans. by Bartlett 2019). According to Goebel, both Plato and Aristotle provide information about the corax as an argument from the probable, and both positions are valid in reconstructing it.

¹² Cic. *Brut.* 12, [46] Itaque ait Aristoteles, cum sublatis in Sicilia tyrannis res privatae longo intervallo iudiciis repeterentur, tum primum, quod esset acuta illa gens et controversia ꝑ natura, artem et praecepta Siculos Coracem et Tisiam conscripsisse – nam antea neminem solitum via nec arte, sed accurate tamen et descripte plerosque dicere –; scriptas – que fuisse et paratas a Protagora rerum inlustrum disputationes, qui nunc communes appellantur loci; [47] quod idem fecisse Gorgiam, quem singularum rerum laudes vituperationesque conscripsisse, quod iudicaret hoc oratoris esse maxime proprium, rem augere posse laudando vituperandoque rursus affligere; huic Antiphontem Rhamnusium similia quaedam habuisse conscripta; quo neminem umquam melius ullam oravis capitis causam, cum se ipse defenderet, [se audiente] locuples auctor scripsit Thucydides.

¹³ Matelli (2012, 728) highlighted that: “La retorica prese gradualmente la fisionomia di un’arte che studiava situazioni reali di efficace successo oratorio per cominciare poi a elaborare (attraverso l’analogia) *exempla ficta* (tale è l’arte di retori come Corace e Tisia, Alcidas, Gorgia).” See also Navarre (1900, 9 ff.), and Schiappa (1990).

¹⁴ The sources are Diogenes Laertius (II, 6, 55) and Quintilian (*Inst.*, II, 17, 1; III, 1, 13).

¹⁵ Diogenes Laertius, V, 24, attested the work in two volumes, A and B; Cicero, in *de Orat.*, II, 38, 160 refers to only one *compendium* and Aristotle’s predecessors ([...] Atque inter hunc Aristotelem, cuius et illum legi librum, in quo exposuit dicendi artis – scil. artis rhetoricae – omnium superiorum, et illos, in quibus ipse sua quaedam de eadem arte dixit, et hos ger-

rhetorical treatises written before him. In *Sophistical Refutations* (183 b 29 ff.), Aristotle argues that the inventor is fundamental and does most of the work. However, the improvement often comes later: in this specific case, the Stagirite suggests that, in the context of rhetorical discourses, Tisias came after some other ‘firsts’ (*Tisias men meta tous prōtous*; and he gives no further clues as to who these firsts are), and then Thrasyarchus and Theodorus of Cyrene¹⁶, and those who dedicate themselves to adding partial elements (but then it would find its greatest exponent in Gorgias).

The anonymous author of the *Rhetorica ad Alexandrum*, in 1421 b, referring to treatises on rhetoric, mentions two: the first written by himself (for Theodectes) and a second by Corax. According to Quintilian, *Inst.* III, 1, 8, Tisias and Corax (Quintilian again distinguishes between the two characters) wrote a treatise on rhetoric, and later, still in the Sicilian milieu, Gorgias of Leontinoi supposedly made another one¹⁷. Sophistry made the writing of treatise a significant feature of rhetoric if one also considers other sophists and intellectuals such as Gorgias, Thrasyarchus, Theodore, Polos, and Lycimnius of Chios¹⁸.

These treatises have not come down to us as fully as the compendium assembled by Aristotle: also, by virtue of this, reconstructing Tisias’ art appears difficult, even if he seems well credited as the writer of the first treatise on rhetoric and initiator of rhetorical knowledge.

2. THE CORAX, ACCORDING TO ARISTOTLE

Having thus established that the sources lead us to consider Tisias as the author of an early treatise on rhetoric, it is now necessary to endeavor

manos huius artis magistros hoc mihi visum est interesse, quod ille eadem acie mentis, qua rerum omnium vim naturamque viderat, haec quoque aspexit, quae ad dicendi artem, quam ille despiciebat, pertinebant [...]); and in *Inv.* II, 2, 6 refers to a single collection beginning with the rhetoric of Tisias (Ac veteres quidem scriptores artis – scil. artis rhetoricae – usque a principe illo atque inventore Tisia repetitos unum in locum conduxit Aristoteles et nominatim cuiusque praecepta magna conquisita cura perspicue conscripsit atque enodata diligenter exposuit [...]).

¹⁶ On this, see Hinks’ (1940) analysis; he leaves the question open, unable to attribute a specific role to Theodorus.

¹⁷ *Inst.* III.1.8 : “The most ancient authors of technical manuals (artes) [scil. of rhetoric] were the Sicilians Corax and Tisias, who were followed by a man from the same island, Gorgias of Leontini [...]” (trans. Laks – Most 2016). According to Quintilian (*Inst.* III.1.8), Tisias and Corax (Quintilian again distinguishes between the two characters) are said to have written a treatise on rhetoric, and after them, still in the Sicilian milieu, one is said to have been produced by Gorgias of Leontini.

¹⁸ In *Sophistical Refutations*, 183b30 ff, Aristotle denounces their lack of theoretical foundation, saying that they do not teach art but the products of art. For the contribution to the rhetoric of Lycimnius and Polos see Plato, *Phaedrus* 267 b-c.

a reconstruction. Aristotle, in his *Rhetoric*, argues that Tisias' art consisted of corax and that it was an argument based on plausibility, or verisimilitude (εἰκός, *eikos*). When in the description of the apparent enthymemes developed from a change between the absolute and the non-absolute sense of an assumption, Aristotle proceeds to overcome the plausible (*eikos*) with another plausible (*eikos*):

Rhet. II. 24.11 (1402a17-28)

ἔστι δ' ἐκ τούτου τοῦ τρόπου ἡ Κόρακος τέχνη συγκειμένη: “ἂν τε γὰρ μὴ ἔνοχος ᾖ τῇ αἰτίᾳ, οἷον ἀσθενὴς ὧν αἰκίας φεύγει (οὐ γὰρ εἰκός), κἂν ἔνοχος ᾖ, οἷον ἰσχυρὸς ὧν (οὐ γὰρ εἰκός, ὅτι εἰκὸς ἔμελλε δόξειν)”. ὁμοίως δὲ καὶ ἐπὶ τῶν ἄλλων: ἢ γὰρ ἔνοχον ἀνάγκη ἢ μὴ ἔνοχον εἶναι τῇ αἰτίᾳ: φαίνεται μὲν οὖν ἀμφοτέρω εἰκότα, ἔστι δὲ τὸ μὲν εἰκός, τὸ δὲ οὐχ ἀπλῶς ἀλλ' ὥσπερ εἴρηται: καὶ τὸ τὸν ἥττω δὲ λόγον κρείττω ποιεῖν τοῦτ' ἔστιν. καὶ ἐντεῦθεν δικαίως ἐδυσχέρανον οἱ ἄνθρωποι τὸ Πρωταγόρου ἐπάγγελμα: ψευδὸς τε γὰρ ἔστιν, καὶ οὐκ ἀληθὲς ἀλλὰ φαινόμενον εἰκός, καὶ ἐν οὐδεμιᾷ τέχνῃ ἀλλ' ἢ ἐν ῥητορικῇ καὶ ἐριστικῇ.

It is on the basis of this topic that Corax's Art has been composed. For if someone is not liable to being blamed for something— for example, if someone weak is accused of assault— [then he can say that] it is not likely [that he did it]. And if he is liable because, for example, he is strong, [then in that case] it is not likely [that he is guilty], since it is likely that he would seem to be guilty. And similarly also in the other cases. For it is necessary that one be either liable to being blamed for something or not liable. Both alternatives appear likely, then, the one really being likely, the other not simply so but in the way stated. “Making the weaker argument the stronger” also amounts to this, and hence human beings were justly disgusted by what Protagoras professed, since it is both a falsehood and not a true, but only an apparent, likelihood, and it is found in no art except rhetoric and eristics. (transl. by Bartlett 2019).

It is necessary to dwell briefly on the first statement, namely that the treatment of verisimilitude and its corresponding argument was the content of Tisias' *technē*.

As noted by Zanatta (2006), the verb used by Aristotle (συγκειμένη, *sunkeimenē*) is a technical term that indicates the composition of a text: so this could be a direct reference to the treatise written by him, but the analogy with the rest of the work written by Aristotle excludes this hypothesis: for this reason, he preferred to translate art in a more generic sense and not use it with a capital letter (Zanatta 2006, 308, n. 214). The interpretative hypothesis by Zanatta would account for the information that follows in the text: the art of Corax would find its fundamental treatise in the argument of plausibility (*eikos*). While it is difficult to think that a manual could be based on only one art, it must be considered

that Aristotle, in three other instances, seems to attest to this kind of unique treatment: *Rhet.* II 23, 1399a 15-19 (Callippus), 1400a 4-5 (Callippus and Pamphilus), and 1400b 14-17 (Theodore)¹⁹.

Aristotle, therefore, effectively identifies Tisias' art of rhetoric with the production of this new argument, the corax, and immediately presents its structure and content, proposing two cases in which verisimilitude can be called into question.

In effect, assuming that an individual X is accused of having performed a certain action for which he is to be tried, verisimilitude applies in two ways:

- i. In the first case, X individual does not possess the characteristics (in the Aristotelian case, physical appearance is contemplated, but by extension one must include all characteristics that indicate the individual as the probable author of the action) that would make it plausible to accuse him as the guilty party;
- ii. In the second case, X individual possesses such characteristics, and then one must argue using the corax, i.e., stating that it is too plausible that he performed the act with which he is being charged. The accusation cannot stand on this basis because of this excess of verisimilitude. In this case, Aristotle shows that the concept of verisimilitude is not pure but is apparent because it runs into the idea that another factor has intervened in demolishing verisimilitude. The technique of the corax is precisely to diminish verisimilitude by showing its induced aspects: the over-verisimilitude would be the product of the prosecution's excess of will.

In other words, if the accusation is based on verisimilitude, once it has been established that it is too plausible, the idea must be induced that this verisimilitude is created *ad hoc* with an external element making it too evident and manifest. Insinuating such doubt allows the verisimilitude to be attacked as a tool for accusing an individual.

Aristotle offers a very significant description of the corax under the aspect of its formulation. According to Aristotle, the art of producing a corax would consist in proposing an apparent argument based only on plausibility and developing a real sophism instead, that is, a fallacious argument.

Despite Aristotle's negative assessment, a definition of corax might look like this: if an argument is too plausible, then it is implausible; if a guilty person were too plausibly guilty, he would declare himself innocent from the moment when, after the fact, his guilt would appear as the first and most plausible hypothesis.

¹⁹ See Cole (1986, 13, n. 18).

The corax plays on the plane of *eikos*, which is verisimilitude. Tisias moves in the realm of the plausible and not the probable²⁰: using the terminology of probability distances the argumentative purpose of these early rhetoricians²¹.

The corax, as proposed by Aristotle, proves to be a basic and, at the same time, highly utilized argument in judicial or pseudo-judicial discourse and has found wide use and significant success both in concrete and real judicial life as well as in literary transpositions. Concerning the latter aspect, one only has to consider that, for example, in literature, where, due to varying circumstances, the person accused is the first to person who was thought of as culpable, and even if throughout the development of the narrative they do seem to be guilty, in the end they are proven innocent. This is what happens in deductive detective stories (*whodunit*)²², in which the initial clues in the search for the culprit leads to the identification of an individual who could easily have committed the crime but did not. Indeed, he or she cannot be guilty because the resolution is too simple, and no culprit would put themselves in a position to be discovered immediately or too easily. This one-way ‘simplicity’ is precisely the factor on which the corax acts.

3. THE FIRST EXEMPLUM OF CORAX: THE *TETRALOGY A* BY ANTIPHON

In literature, we have only an example of corax, which is in fact from Antiphon in his *Tetralogy A*.

²⁰ On transitioning from the ancient corax to contemporary rhetoric and logic, see Kraus (2010). The term *eikos* is precisely the verisimilitude, the plausibility. Goebel (1989) prefers to translate it as probable and undertakes his reading of the concept of probability from antiquity. However, the translation is artificial because the concept of probability is later and carries with it a load of logical-mathematical knowledge that does not fit a thinker from the 5th century BC. One should also consider that, among thinkers of the time, the truth-plausibility dichotomy was the subject of extensive debates and interpretations, so the idea of probability would distort precisely that debate of a philosophical nature. See also Murphy – Katula (2003), who speak of the “doctrine of general probability”.

²¹ See Walton (2001, 104-105): “One of the most important concepts used by the Sophists was the so-called argument from *eikos*, from plausibility, from what ‘seems likely.’ Traditionally, this type of argument has been translated into English via Latin as ‘argument from probability’, a choice of words that, in light of the modern statistical meaning given to probability is too easily misleading. Plausible or so-called *eikotic* arguments are based on a person’s subjective understanding of how something can normally be expected to go in a familiar situation. Plausibility is based on something we would nowadays call “empathy,” the ability to put oneself into a familiar situation in a story or account in which the actions of some protagonist are described. In modern thinking, the concept of plausibility is typically seen as ‘subjective’ and therefore not something upon which logical reasoning can be based. But there is plenty of evidence that when logic was originally developed as science or art of reasoning, before the advent of the syllogism, plausibility was seen as a fundamental part of it.” See also Schmitz (2000).

²² See, e.g., Herbert (2003).

The *Tetralogies* by Antiphon are antilogical works consisting of three sets of four judicial discourses²³. Each set includes an initial prosecution speech to which a first defense speech responds. A second prosecution speech and a second defense speech follow. These are real debates modeled on those declaimed in courts. Trials in the Attic law of the classical era were precisely like this: each of the two parties involved, prosecution and defense, had two speeches at their disposal in the debate, in what is called an antilogical debate structure, i.e., the speeches, logically opposed, for the same fact or event, support opposing theses²⁴.

Tetralogy A deals with a case of the murder of a rich man and his slave in the street at night in Athens. It is a case in which, by circumstantial evidence, an old enemy of the rich man ends up being accused. There had been a history of conflict and a previous trial, so the enmity is fully attested.

The prosecution is based on circumstantial evidence: prosecution and defense base their thesis on what is plausible or not, on what can be accepted by the jury as valid from a logical point of view. Through various argumentative and logical possibilities, it becomes clear from the speeches that the two positions are equivalent, i.e., the antilogical structure is respected, whereby, although two speeches are contrary, they are both valid.

In the first defense speech, one can find the formulation of the corax in A.II.6:

[...] τοὺς δὲ μὴ πολὺ ᾗσσον ἐμοῦ μισοῦντας αὐτόν—ᾗσαν δὲ πολλοί—πῶς οὐκ εἰκὸς ᾗν ἐμοῦ μᾶλλον διαφθεῖραι αὐτόν; ἐκείνοις μὲν γὰρ φανερά ᾗν ἡ ὑποψία εἰς ἐμὲ ἰοῦσα, ἐγὼ δὲ ὑπὲρ ἐκείνων ὑπαίτιος ἐσόμενος σαφῶς ᾗδῃ.

[...] There are also many others who hated him almost as much as I did; surely one of these is more likely to have killed him. It was clear to them that I would be suspected, and I was quite certain I would be blamed instead of them. (trans. Gagarin 1998).

The accused is defending himself by stating that many people hated the murdered man, his known enemy, at least as much as he himself did, and that

²³ These are cases of a criminal nature: *Tetralogy B* concerns the death of a young man in the gymnasium because of a fatal blow received from a javelin dropped after a fellow student threw it. *Tetralogy Γ* concerns the case of the death of an older man a few days after he had a bare-knuckle brawl with a younger man. The *Tetralogies* are exercises and argumentative models that the sophist presents as exemplary cases because they are so challenging to accuse or defend and are therefore an opportunity for Antiphon to show off his rhetorical writing skills. Antiphon also wrote speeches pronounced in court, of which three remain, again of a penal nature: *Against the Stepmother for Poisoning*, *On the Murder of Herodes*, and *On the Choreutes*.

²⁴ On the logical structure of an antilogy, refer to Giombini-Marcacci (2010, 2012 and 2017). On the structure of the Attic trial in the classical period, see, e.g., Bearzot (2008, 66-70). For an annotated bibliography on the subject, see Maffi (2007).

necessarily the offender must be sought among them. The argument put forward by the accused is that this possible enmity was clear to him as well and he would be the prime suspect based on the plausibility of this accusation: he was a historical enemy—he had been wronged in a previous trial by the murdered man—, and therefore he was the first person accused and the most likely culprit. Because of this verisimilitude, it would have been unprofitable for him to kill the man, while it would have been entirely advantageous for the other enemies.

Gagarin highlighted very well that this kind of argument implies the idea of an ‘obvious suspect’ that is not an accessory but constitutive²⁵.

This aspect, often not contemplated, is decisive because the corax has the function not only of casting doubt on the accusation by undermining the very concept of verisimilitude but also of introducing the idea of a conspiracy from an outsider (the accused or a third party). Therefore, the defensive line established by the corax moves along two lines: the first is to question the concept (the verisimilar), and the second to make a clear, logical inference in search of the person who has transformed reality (the evidence) in order to identify a culprit (the accused, but who is actually the object of a plot). *Tetralogy A* is an exemplary case of these mechanisms: the accused is guilty by verisimilitude, and therefore he can defend himself *in primis* by delegitimizing this criterion (through the corax) and, on the other hand, by pointing out that he is the victim of a machination to his detriment.

Reboul (1996) dealt quite briefly with the corax, relying substantially on the analyses already proposed by Perelman and Olbrechts-Tyteca (1973) in their *The New Rhetoric: A Treatise on Argumentation* (thereafter: TA). TA quotes parts of two passages from A.II.3 and A.II.6; Reboul limits himself to a passage in A.II.6. In the first, A.II.3, reference is made precisely to the conspiracy which the defendant suffered and, had he been aware of the fact, it would have been thwarted precisely because he knew that suspicion would fall on him, due to the plausibility of the accusation. The defense goes on to assume two arguments. If he had been guilty, he should have foreseen that he would have been likely to be accused: in fact, the accusation would have fallen on him precisely because it was likely. The murderous action is inadvisable precisely because it points to him as guilty, in terms of verisimilitude. At the same time, if the accused had been aware that someone was plotting against him, he would have tried to prevent such a plot: unfortunately, he did not foresee this, and that is why he is facing trial. The intention of the defense seems very clear: prove how the verisimilitude that accompanies his accusation arises from a deliberate machination of those who want to make him be the guilty party. The verisimilitude thus takes on a character contrary to the one it typically has: it comes, as it were, to demonstrate the ina-

²⁵ See Gagarin (2011, 21, n. 6), in which he named the corax ‘reverse-*eikos*.’ See also Gagarin (2014).

appropriateness of itself; it demonstrates that it is an induced verisimilitude and therefore false. In the second passage, A.II.6, as we have seen, there is a reference to the verisimilitude of suspicion, which concerns not only itself but also the multiple enemies of the murdered man himself.

Reboul has exemplified this logical dynamic through a schematic summary:

- i. Basis of argument: [scil. the accused] Has all appearances against him;
- ii. Corax 1: In fact, he knew that he would be the first to be suspected and, therefore, could not plausibly commit the crime.

This reconstruction of the corax example in Antiphon is in line with what Aristotle envisages in the case of apparent verisimilitude in his *Rhetoric*. In this sense, Antiphon is an obvious example of corax, i.e. how to prove that the verisimilitude used in argumentation is invalid, unsatisfactory and apparent.

The corax, therefore, fits into this situation:

- i. The prosecution relies on the probable to support the defendant's guilt;
- ii. The defense, applying corax, rejects the verisimilitude of the accusation because it is too plausible and too simple: the datum implies deception; the accused is the victim of a machination.

It is precisely the conspiracy that underlies the application of corax for demolishing the verisimilitude-based accusatory structure. The introduction of the conspiracy, as a response to the application of the accusation by verisimilitude, makes sense and fits precisely in the context of a circumstantial trial in which neither side can produce definite evidence and testimony²⁶. It is, therefore, no coincidence that, in A.II.8, the theme of verisimilitude is united with that of machination:

A.II.8: Εἰ δέ τις τὰ εἰκότα ἀληθέσιν ἴσα ἡγεῖται καταμαρτυρῆσαί μου, τοῦτ' αὖ ἀντιλογισάσθω ὅτι με εἰκότερον ἦν τὴν ἀσφάλειαν τῆς ἐπιβουλῆς τηροῦντα φυλάσσασθαι καὶ μὴ παραγενέσθαι τῷ ἔργῳ μᾶλλον ἢ τοῦτον σφαζόμενον ὀρθῶς γινῶναι.

If anyone thinks arguments from likelihood carry as much weight against me as the truth, by the same reasoning he should consider it more likely that in planning I would watch out for my own safety and would take care not to be present at the crime rather than let this man recognize me as he was being killed. (trans. Gagarin 1998).

²⁶ Not surprisingly, the defense also casts doubt on the prosecution's mere attempt to use the testimony of the slave, who died with his master because of the murderous attack: the defence cannot credit the testimony of the slave and slaves in general, even denying the efficacy of the *basanos*, the torture of slaves to obtain valid testimony. See Gatt (2021). In A.IV.8, the defense refers to other possible witnesses, the slaves of the accused, who could testify to his presence at home at the time of the crime. Nevertheless, these witnesses are not presented, and the speech is not followed up. See, e.g., Giombini (2021, 113).

The defendant rejects verisimilitude as a criterion: it cannot prove helpful in place of truth. However, assuming such verisimilitude, in an attempt of *reductio ad absurdum*, the defense invites reasoning that if he had plotted the murderous act, knowing that he would be the prime suspect, he would have found it more convenient not to participate in the murderous act so as not to be pinpointed.

4. THE ANTICORAX: HOW TO COUNTERACT A CORAX

In Antiphon's text, however, the corax is supplemented in respect to Aristotle's formulation. The accuser in the tetralogy must respond to the corax if he is to eliminate suspicion from the judges' minds and thus render the defensive set-up weak and ineffective. We move to the other side of the debate, i.e., to the side of the accuser, who at this point must try to render ineffective the corax that the defense has used for itself. As we saw, TA and Reboul recognized the first example of corax²⁷, but they did not notice that, in the same *Tetralogy*, Antiphon also provides a possible counterargument that we may name anticorax. The second accusatory speech (the third of *Tetralogy A*) contains a way to respond to a corax:

[A.III.7] Ἀξιῶν δὲ διὰ τὸ φανεράν εἶναι τὴν ὑποψίαν αὐτῷ μὴ καταδοκεῖσθαι ὕφ' ὕμῶν, οὐκ ὀρθῶς ἀξιοῖ. Εἰ γὰρ τοῦτον ἐν τοῖς μεγίστοις κινδύνοις ὄντα ἱκανὴ ἦν ἡ ὑποψία ἀποτρέψαι τῆς ἐπιθέσεως, οὐδεὶς γ' ἂν ἐπεβούλευσεν αὐτῷ· πᾶς γὰρ ἂν τις τῶν ἡσσαν κινδυνεύοντων, τὴν ὑποψίαν μᾶλλον τοῦ κινδύνου φοβούμενος, ἡσσον ἢ οὗτος ἐπέθετο αὐτῷ.

[A.III.8] Αἱ δ' εἰσφοραὶ καὶ χορηγίαι εὐδαιμονίας μὲν ἱκανὸν σημεῖον ἐστι, τοῦ δὲ μὴ ἀποκτείναι τάναντία· περὶ γὰρ αὐτῆς τῆς εὐδαιμονίας τρέμων μὴ ἀποστερηθῇ, εἰκότως μὲν ἀνοσίως δὲ ἀπέκτεινε τὸν ἄνδρα. Φάσκων δὲ οὐ τοῦς εἰκότως ἀλλὰ τοὺς ἀποκτείναντας φονέας εἶναι, περὶ μὲν τῶν ἀποκτεινάντων ὀρθῶς λέγει, εἴπερ ἐγένετο φανερόν ἡμῖν τίνες ἦσαν οἱ ἀποκτείναντες αὐτόν· μὴ δεδηλωμένων δὲ τῶν ἀποκτεινάντων, ὑπὸ τῶν εἰκότων ἐλεγχόμενος οὗτος ἂν καὶ οὐδεὶς ἕτερος <ὁ> ἀποκτείνας αὐτόν εἴη. Οὐ γὰρ ἐπὶ μαρτύρων ἀλλὰ κρυπτόμενα πράσσεται τὰ τοιαῦτα.

[7] If he thinks you should not suspect him because he's the obvious suspect, he is wrong. If the risk of suspicion was enough to deter this man from attacking when he faced the gravest danger, then no one would have planned the murder; anyone in less danger would be even less likely than he to attempt the crime, since the fear of incurring suspicion would still outweigh the danger he was facing.

²⁷ Reboul (1996, 30). Reboul then adds, in an intuitive way, how corax can be used in reverse, and to the identification of Corax 1, he adds the possible counterpart, but not based on Antiphon's text: "Corax 2: on the contrary, he could have carried out the crime, for the same reason, knowing that he would not be suspected in this way".

[8] The special levies and choral productions are a good indication of his prosperity but not of his innocence. On the contrary, fear of losing this prosperity makes it likely that he committed this unholy murder. And when he says that murderers are not those who are likely to have killed but those who actually did kill, he is correct about those who killed, if it were clear to us who his actual killers were. But if the actual killers have not been revealed, then since his guilt is proven by the arguments from likelihood, this man and no other would be the killer; for such things are not done in the presence of witnesses but secretly. (trans. Gagarin 1998).

In par. 7, albeit in an unstructured manner, there is an anticipation of anticorax: if the possibility of being suspected causes one to desist from the action, then one who was under lesser suspicion would also have desisted. However, if that is the case: those under suspicion would have desisted, and those who were not would have had no reason to act. The response structure of the anticorax is as developed in par. 8. The prosecution challenges the defendant's praise of himself and his social role: indeed, it argues that the fact that the accused financed the choral productions and offered contributions has no bearing on the crime and cannot be considered evidence in his favor. On the contrary, they would testify that he might have been afraid of losing his affluence: therefore, his economic status and his position as a citizen cannot be considered valid arguments for his innocence. The prosecution then points out a further shortcoming of the defense: the accused claims that he is not the culprit; even if he seems to be the 'plausible' one, plausibility cannot be the criterion for finding someone guilty. However, if it were so, if those who appear likely to be guilty are, in fact, not guilty, then a criterion for attributing guilt would be dropped, and no guilty person would ever be found guilty. The defense's argument is thus overturned: seeming guilty does not make him any less truly guilty: here, Antiphon twists the corax; in fact, he creates the response to make it non-functional.

The anticorax shows how its application not only does not constitute a value argument but rather it applies to several individuals (potentially all possible individuals); it shows the impossibility of identifying any perpetrators. The reasoning is that if we reject the value of plausibility as an argument for prosecution, then all those who appear guilty by plausibility are innocent, and therefore no one would be charged. In fact, on the one hand, those who appear guilty by plausibility would be dismissed, and, on the other hand, those who do not appear guilty even by plausibility would be dismissed too. Therefore, extending Reboul's scheme:

- i. Basis of argument: [scil. the accused] has all indications against him;
- ii. Corax 1: In fact, he knew that he would be the first to be suspected and, therefore, could not plausibly commit the crime;

the anticorax is:

- i. If the value of verisimilitude is rejected: No one can be accused by verisimilitude, and no one can be accused by non-verisimilitude; therefore: no one can be accused of a crime;
- ii. But verisimilitude is valid: As long as there is no flagrancy of the crime, and there are no 'real' murderers;
- iii. Therefore: The accusation is still based on plausibility.

The prosecution notes that the attack on verisimilitude could be accepted if the culprit had been identified with certainty: but this was not the case. Thus, the criterion the defense wants to undertake is unsuccessful, whereas the criterion of verisimilitude can still be applied.

The strength of Antiphon's testimony lies precisely in the fact that the corax, applied in an antilogical text, is developed according to the two positions (defense and accusation as argumentation and counter-argumentation), giving us a complex idea of the corax, which is also more clearly defined than in Aristotle's presentation of it in the *Rhetoric*. This fact is even more significant considering the idea that Corax's argument was weak according to Plato and Aristotle and the tradition that followed (see Velardi 2007, 269 ff.). Nevertheless, it is like with Antiphon that when used reversely, the 'raven' argument proves to lose its effectiveness. He realizes how the argument can be countered and thus how it is implicitly weak, or at least ambivalent.

5. CONCLUSIONS

The presence of corax and anticorax in Antiphon's judicial oration authorizes us to make a few reflections. The debate about the nature of rhetoric at its inception would seem to go in the exact direction of judicial rhetoric. However, creating a clear separation between deliberative and dicanic is perhaps unfruitful. The division structured and offered by the Stagirite in his *Rhetoric* does not necessarily conform to pre-Aristotelian rhetoric: it is possible that the first rhetoricians did not want to deal with a single kind of rhetoric that had a precise purpose, rather they produced arguments and mechanisms to arrive at the persuasion that is needed both in deliberative and in judicial dynamics. Judicial and deliberative can coexist if we see them as antilogical disputes—something that aligns with the agonistic Greek culture that manifests itself at every level of the arts and social dimension.

It seems evident that Antiphon uses the argumentative tools made available by the rhetorical knowledge of the time at his disposal, among which Tisias' corax stands out. Consequently, there is a question to consider: whether Antiphon wants to show in simple and technical terms how this argument can be used

or countered or whether he wants to critique Tisias' argument, highlighting its ambivalence of use and thus its relative frailty. The question is difficult to answer because it concerns the author's intentions. In fact, we can state with a certain ease of mind that corax and anticorax are instrumental to the antilogical construction: one part employs it, one part counteracts it, and uses it in reverse. The lack of sources on this matter does not help us; furthermore, Antiphon's possible polemical and critical purpose would be in the author's intentions, which we cannot decode from his texts.

What really turns out to be relevant is that, thanks to Antiphon, we can dispose of the first example of corax and anticorax: the example fits into a judicial context, within the debate, and thus the antilogical construction of discourses. This turns out to be a valuable piece of information for us, a fundamental testimony for the reconstruction of the history of rhetoric.

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