

Cicero's Authority

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On a stray planet in an out-of-the-way corner of the universe live odd beings with patterns of behavior odder still. It can be frequently observed that one of them stands before another, moving its limbs or producing some sounds, and the other responds—apparently quite as the first expected. But why? Why should these feeble motions have such force?

This puzzle or wonder is presented to us conspicuously in the phenomenon we know as *authority*. Authority is exercised most starkly in transactions similar to the following:

The speaker says: "Do [or, believe] this."

Her auditor replies: "Why?"

And the speaker replies in turn: "Because I say so, that's why!"

—and that seems enough said. Police officers might thus address traffic violators; parents, children; expert paleobotanists, the ignorant; and senior colleagues, junior. In each case, the speaker's simply being who she is, and her saying something, is enough to justify or, indeed, compel the auditor's response. This transaction seems doubly odd. We find here mere sounds exerting significant social force. Moreover, we find the participants themselves wondering about this force: They question authority. Political philosophers, after all, have doubted the legitimacy of political authority, and logicians have declared the appeal to authority a fallacy. Police, parents, experts, seniors—and those subject to them—all may deny that the words exert, or ought to exert, force. So authority raises even more pointedly the basic question: Why, if at all, should one person's say-so force another to follow?

To answer this and similar questions must be a central task for rhetoric—at least when the mysterious arm waving or noise making occurs in a

civic setting. Social scientific investigations of authority have, of course, offered invaluable perspectives on the psychological, cultural, and social contexts that support or inhibit dialogues like the one above. To pursue a *rhetorical* inquiry into the subject means to begin within the transaction itself (Black 1978, 134). In this essay, I propose to develop a specifically rhetorical model of how one person brings her authority to bear on another. I will attempt to account for why her being who she is, and the fact that she says something, leads so expectably to her auditor's doing what she wants. To put this another way, I will attempt here to lay out the practical reasoning that accounts for this dyadic behavior: the reasons why the auditor of the appeal considers himself forced to follow and (correlatively) the reasons why the speaker of the appeal can expect just this response.

The general subject of the persuasive force of persons was originally opened in classical rhetorical theory under the heading of *ethos*. This very inclusive concept Aristotle proposed to cover all the sorts of proof arising from the character or identity of the speaker (*Rhet.* 1.2.4). But the philosopher did not carry his insight much further, and the textbooks of rhetoric after his pioneering work were even less clear on this important topic (Wisse 1989, chap. 2.5). It was, instead, in the actual practice of civic oratory that an understanding developed about the diverse strategies available for deploying the force of character—including the strategy we call authority. It is, therefore, to the record of this practice that I turn.

In particular, I draw the transactions that form the basis for this study from the authorities on authority: the ancient Romans. Indeed, it was, as Hannah Arendt has noted, among the Romans “that the word and concept of authority originally appeared” (1993, 121). In his magisterial survey of classical rhetoric, George Kennedy placed the appeal to authority among the defining features of all Roman oratory (1972, 100–101). Richard Leo Enos has gone on to demonstrate the intimate association of the Roman concept with all the other god-terms of Roman politics (Enos and Schnakenberg 1994, 203–4). And the work of James May (1988) has traced the appeal throughout the extensive corpus of forensic speeches surviving from the late republican orator, Marcus Tullius Cicero. In Cicero's discourse, we have rich evidence of Roman authority in action: his attempts as a “new man” in politics to avoid the authority of established leaders, as well as his attempts as a senior statesman to assert his own authority. So, to rephrase again the question driving this study: Why did Cicero and his citizen-auditors reasonably think bare words, when spoken by him, could compel judgment?

In the first two sections of this paper, I take up one particular Ciceronian transaction to reconstruct the practical reasoning that constitutes what I will call the authority of dignity. We may observe in this transaction the specific verbal moves through which authority is deployed and deflected; perhaps even more importantly, we can listen to the metadiscursive commentary as the participants in the transaction justify to each other why just these moves should or should not have force. From these two sources of evidence, and relying on our own sense of what, pragmatically, makes sense, we can unravel the complex reasoning that is occurring on both sides of the transaction. In the third section, I rearrange or represent this intricate practical reasoning, trying to capture what could loosely be called its shape and functionality in a general model of the authority transaction. In the fourth, I briefly consider whether authority thus modeled should count as a fallacy. And, finally, I close by considering extensions of the analysis developed here to political environments beyond that of Cicero's Rome.¹

1. Asserting and avoiding authority in ancient Rome: The core of the appeal

Thanks undoubtedly to his own propaganda efforts, we see 63 B.C.E. as the climax of Cicero's career. Serving as consul, the highest office in Rome, Cicero expeditiously and nonviolently (except for five executions of questionable legality) suppressed the "conspiracy of Catiline," which had threatened the overthrow of the republic. It seems surprising, therefore, that, less than a year later, Cicero defended one Publius Cornelius Sulla against charges arising out of the man's alleged participation in the plot. The allegations were not improbable: A rich profiteer and nephew of Rome's most recent revolutionary general, Sulla had previously been convicted of electoral bribery and stripped of his own consulship. He could thus be counted among the abandoned men with little to lose who Cicero generally thought were drawn to conspiracy. But even more surprising than Cicero's advocacy is the substance of Cicero's appeal.² He makes a gesture at defending Sulla, walking through the evidence against him, idealizing his character, and arousing his auditors' pity. The weight of the speech, however—the first and last appeal, constituting over a third of the address—is on what Cicero himself repeatedly calls his *auctoritas*, his own authority (2, 10, 33,

35, 80). Indeed, in what May has called a “too blatant” manner (1988, 78), Cicero claims right at the beginning of the speech that his authority is sufficient to support an acquittal. If he proves, he says, something of himself, he will prove as well the case for Sulla (2).

What exactly is involved when Cicero appeals to his authority? The orator twice explicitly tells his auditors what he is going to do before actually going ahead and doing it. Early in the speech, he says what he is not yet saying in defense of Sulla:

Many were the things I heard while consul, about the crisis threatening the Republic; many I searched into, many I followed up. But no mention of Sulla ever came to me, no suggestion of his involvement, no incriminating letters, no suspicions. Such an utterance should (perhaps) have great force—the utterance of a man who while consul investigated judiciously, published candidly and suppressed courageously the threats against the Republic, when he says that he heard nothing of Publius Sulla, never suspected him. (14)

Later, in the course of defending the appeal he will be making, he again informs his auditors what that appeal is:

It seems to be offensive that he who investigated the conspiracy, who brought it to light, who suppressed it, whom the Senate recognized with unprecedented expressions, for whom alone as a civilian a [military] thanksgiving was decreed, that he should say in court: “I would not defend him, if he had conspired.” I do not mean to say anything offensive, I only mean to say what in these conspiracy cases I can take on myself not on my authority but only from my sense of self-respect: I, the very man who was the investigator of the conspiracy and its punisher, certainly I would not defend Sulla, if I thought he had conspired. (85)

And at last, immediately afterward, he turns to say what he had said he would. Calling the gods themselves to witness, he avows: “Nothing did I while consul discover about this man, nothing did I suspect of him, nothing did I even hear about him” (86).

Let us examine these key passages to see what Cicero thinks are the essential facts from which the force of his appeal arises. Note first the references to what I will call Cicero’s anti-Catilinarian project. Cicero in each passage takes care to characterize himself and picks out the same details to do so. He defines or presents himself as a consul—the consul, moreover, who took responsibility for (in roughly chronological order) discovering that there was a conspiracy, investigating it, revealing it publicly,

and taking action to suppress it. By the time of the trial, Roman public opinion had already begun to turn against Cicero's handling of the affair and, in particular, against the executions of several conspirators (Cicero, *Pro P. Sulla Oratio* 27). Lest there be any suspicion that he is now trying to disassociate himself from his former actions, Cicero elsewhere in the speech expressly reaffirms his responsibility for them (carefully avoiding, however, the question of to whom the executions should be ascribed). "At the top of my voice, so that all can hear, I say and will keep on saying" (33), Cicero proclaims, that he had risked his life to suppress the Catilinarians.

Cicero's efforts against the conspiracy had met with remarkable success; his project, in other words, represents a significant achievement (*res gestae*, 27) by him for the public good. Although he does not express this thought in the three key passages, he does elsewhere in the speech prompt his auditors to recollect the dire consequences avoided by his efforts: "burning of the city, slaughter of citizens, devastation of Italy and destruction of the Republic" (33); loss of empire, liberty, lives, homes, and temples (86). And because of his achievement, Cicero deserves appropriate acknowledgment from his fellow citizens generally. Indeed, as he notes in the second passage, two unique public honors had already been granted him as tokens of recognition for his services. Certainly, therefore, his immediate auditors owe him comparable respect.

And how does Cicero's desert relate to the present case? His defense of Sulla, Cicero stresses in each of the key passages, is part of the same anticonspiratorial project. The same investigation that uncovered and thwarted the conspiracy revealed nothing about Sulla. So, Cicero's judgment about Sulla deserves from his fellow citizens the same respect due to all his efforts. As he asks elsewhere, "If for the great services I rendered to the Republic I sought no other reward for myself from the Senate and People of Rome than an honorable retirement, who would not grant it? Others could keep their honors, their military commands, their provinces, their triumphs, all their other tokens of recognition; for my own part, I would be allowed to enjoy in peace and quiet the sight of this city I had saved." What if he does not ask even for this?—Cicero continues—but instead stands willing to continue labors in service of the Republic (26)? What reward does he deserve then? Cicero does not answer this rhetorical question, for the answer is clear: If he continues his project by defending Sulla, that defense continues to deserve respect.

To question Cicero's judgment openly would, therefore, be to show him conspicuous and unwarranted disrespect—indeed, it would be to in-

sult him. Cicero nowhere even hints that his auditors might treat him thus, but it is clear that that is what he thinks the prosecutor in the case has done. The young man had raised a series of challenges to Cicero's defense of Sulla. The specifics of these challenges I take up in the next section; for now, look only to Cicero's general response. Cicero treats the prosecution as an affront and replies indignantly. "No one has ever touched me with the slightest suspicion, which I did not utterly put down, utterly explode" (46), he exclaims. But, he continues with "patronizing condescension" (May 1988, 74); given the prosecutor's youth and ill temper and their long-standing friendship, he is enduring the injury done him and will keep—for now—his oratorical weapons sheathed (47). Cicero will respect the young man's judgment, for, he says, "I think that you have established for yourself what you consider must be done" (50), suggesting that the prosecutor owes Cicero the same consideration.

Cicero's auditors, in sum, can reason with themselves thus: Cicero's judgment regarding Sulla, as part of his ongoing anticonspiratorial project, deserves their respect. They may care to show this decision the respect it deserves, or they may at least want to avoid the consequences of showing disrespect, such as the indignation Cicero has shown the prosecutor or the disapproval the public in general might feel toward such impudent conduct. To show him respect, they must do nothing openly to go against Cicero's judgment in a matter connected with his project. But that is precisely what convicting Sulla would do. So this is the core of the appeal to authority: to show proper respect for Cicero, they must acquit the accused.

The force of the appeal arises from Cicero's desert—from the fact that he deserved a certain respect for his civic achievements. Latin had a term for this quality: *dignitas*, or "dignity" (from the large literature on this concept, see especially Hellegouarc'h 1963, 388–424; Pöschl 1989, 7–23). One of a rich vocabulary of recognition terms (including also *honos*, *gloria*, *fama*, and *laus*, or "praise"), dignity meant for the Romans, as for us, a person's worthiness to be recognized in the most basic sense. Aurel Kolnai comments:

It looks as if our response to Dignity is the purest "value response" (*Wertantwort*) as such: in particular, less stirring and less impregnated with delight than our aesthetic, less organically connected with approval and with any practical or deontic accent than our moral responses. If Dignity means "being worthy of . . .," the completion that most aptly suggests itself would seem to be "worthy of being appreciatively acknowledged *as* worthy to be thus acknowledged and appreciated, *sans plus*." (1976, 253)

Gaining and maintaining such civic recognition was the life goal of every Roman leader. The republican system of offices allowed these ambitious men scope to achieve great things for the republic, thus earning the respect of their fellow citizens. The republic also rewarded them with tokens of respect—further offices, triumphs, honorary decrees, statues, their names on everything from the year to the laws. Even the Roman family system was formed so as to allow dignity to accumulate, as memorabilia of past achievements were passed down from father to son. And as was recognized by the Romans themselves (Cicero, *Inv.* 2.166), and confirmed by contemporary scholarship (Enos and Schnakenberg 1994; Hellegouarc’h 1963, 404; Pöschl 1989, 15), in the appeal to authority this most characteristically Roman resource was put to persuasive use.

We ourselves are not unfamiliar with the force of dignity. We hesitate openly to go against those worthy of respect; instead, we defer to their judgment—perhaps feeling rather old fashioned in doing so. For example, when a senior scholar speaks, someone whose achievements have formed the current state of a field, those present will avoid contradicting her. Even her mistakes will likely go uncorrected (to her face). It would be impudent to challenge such a person, although, of course, it is possible to launch a career on impudence.

We also may be familiar with the authority of dignity as original appeal *ad verecundiam*—“to shame” or “modesty”—isolated by John Locke (Goodwin 1998, 274–75). According to Locke, this *argumentum*

is to allege the Opinions of Men, whose Parts, Learning, Eminency, Power, or some other cause has gained a name, and settled their Reputation in the common esteem with some kind of Authority. When Men are established in any kind of Dignity, 'tis thought a breach of Modesty for others to derogate any way from it, and question the Authority of Men, who are in possession of it. . . . Whoever backs his Tenets with such Authorities, thinks he ought thereby to carry the Cause, and is ready to style it Impudence in any one, who shall stand out against them. (1975, 4.17)

Locke, of course, thought this form of appeal flawed—a topic to which I will return in the central section of this paper. Of interest here are the details of the appeal Locke discusses: a form of authority based on public recognition, that is, “Dignity,” which it would be “Impudence” to disrespect.

When we humor our seniors, though, we seem to be doing something less than following their authority. So, this discussion has captured

part, but not the full force of, the appeal to what we may now with justification call the authority of dignity. In the next section, I turn to tracing how Cicero develops his core appeal into one that has the compulsive force we associate with authority.

2. Asserting and avoiding authority in ancient Rome: Designing the appeal

If we sense that authority should not have force, we share that intuition with the Romans themselves. To help refine our own understanding of the potential weakness of the appeal, we can look for the specific objections to Cicero's authority that are preserved in Cicero's speech itself. We can presume that the prosecutor, a reasonably competent speaker with much invested in his speech, will have discovered and pressed the key difficulties in what Cicero was trying to do. Moreover, we can presume that Cicero would choose to answer the most damaging of the prosecutor's attacks. Look, then, to the salient weaknesses of authority as revealed by the speech itself.

The prosecutor's first move is to charge Cicero with *inconstancy*. Cicero had suppressed the Catilinarian conspiracy and had helped with the mopping-up by testifying against the surviving participants. Why, then, is he appearing now to defend another accessory to the crime? "You shouldn't be defending anyone charged with conspiracy" (48), Cicero represents the prosecutor as claiming. Cicero's conduct thus shows him to be a man inconstant and changeable (*inconstans et levis*, 10). Now, inconstancy, like any negative character trait, would serve to lessen Cicero's dignity or worthiness-of-respect and thus lessen his authority; in that sense, the accusation of inconstancy here might be interchangeable with any of the other insults commonplace at Rome (sexual impropriety, public drunkenness, interest in philosophy, dancing). The force of this particular vice, however, would seem to be a bit more pointed. Cicero's appeal depends on his judgment for Sulla being taken as part of the same project that made him worthy of respect. To say that Cicero is being inconstant is to say that his defense of Sulla is not part of that project, has likely not received the same care as that project, and does not therefore deserve any special deference from his auditors.

The initial charge of inconstancy opens a second line of attack. If Cicero's judgment about Sulla is not arising out of his project, then what is he doing demanding respect for it? He must be putting the worthiness he rightfully earned to use for an unworthy, merely personal, goal; he must be *abusing* his authority. The Romans had a special vocabulary for such abuse. As Cicero reports the prosecutor saying, "it is *regnum* ['kingly rule,' 'tyranny'] to speak against whoever you want and to defend whoever you want" (48; also 21, 22, 25, 27)—expecting, one supposes, others to defer to your arbitrary choice. As D. H. Berry notes, making the opponent's authority out to be tyranny seems to have been a commonplace technique in Rome (Cicero, *Pro P. Sulla Oratio* 177–78); Cicero himself used the ploy when as a young advocate he confronted authority against him, and he faced the same charge repeatedly when as a senior orator he tried to deploy his own. The bite of the allegation harked back (at least in legend) to the pre-republican times during which Rome was subject to the unconstrained power of hated kings. To be a tyrant is not just to exercise power; it is to exercise an illegitimate and unconstrained power. If Cicero's judgment about Sulla is just his arbitrary—perhaps even purchased—choice, and is not based in his ongoing anticonspiratorial project, then his demand for respect would be just this sort of tyrannical abuse of power.

The seriousness of the twin charges of inconstancy and abuse of power is suggested by the restrained and careful way in which Cicero deploys his authority in defending Sulla. When he announces his opinion, he acknowledges that what he says may be offensive (80, 85). When he defends his dignity, he excuses his numerous self-references by claiming that the prosecutor has forced him thus to defend himself (2, 10, 35, 80). And when he says he will rely on his authority, he admits he will do it only hesitantly and with restraint (10, 80). All this suggests that Cicero was conscious of the difficulties and, as Berry put it, that "he knew exactly how far to go" (Cicero, *Pro P. Sulla Oratio* 294). But it does not yet show how he resolved the problems. If his appeal to authority was successful in this case (and we do know that Sulla was acquitted), and if, moreover, the appeal was routinely successful enough to justify being given a name in ordinary Latin, then we can presume that there were means available to speakers to meet the objections. In the following paragraphs, I tell a story that, although it may not represent the process by which this or any other speech was actually designed, provides an account of how the design features of the complete appeal to authority work to assure auditors that the speaker is neither inconstant nor abusing his power.

Let us start with a baseline case: a rhetorical transaction that proceeds with no design features, no speech at all. It is, in fact, possible for authority to be effective even in silence. If it is common knowledge what a man of great dignity wants in a particular case, his auditors will have reason to show him respect by deferring to his judgment. (After all, this is how the *exempla* of the honored dead could be thought to exercise *auctoritas* [Hellegouarc'h 1963, 303].) In this situation, does the authority give the auditors any security that his opinion deserves that respect? The answer is clearly no. The silent man of dignity is under no pressure to use his dignity with care, for if it later turns out that he was wrong, he can simply deny that he ever even tried to exercise, much less abuse, his authority. In an early speech, we find Cicero crafting just such a denial for a senior statesman. Cicero was defending a man most of his auditors thought already convicted in the judgment of (by chance) his later client's uncle, Lucius Sulla Felix, the just-retired but still leading man in Rome. But the senior Sulla, Cicero carefully explains, was far too busy with his general project of running public affairs to concern himself with this minor matter (*Rosc. Am.* 21, 130–31); moreover, the facts were being concealed from him by a wicked henchman (25–26). Cicero's account of the senior Sulla's position may or may not have been accurate. Given the man's silence, however, the claim is at least colorable. So, the authority can be reasonably assured of evading blame for inconstancy—with a sloppy, or ill-informed, or even corrupt judgment on the case—because he never gave an undeniable sign of his involvement.

The deniability of such silent authority should be enough to raise the auditors' suspicions that authority is being abused and thus give them reason to resist deference. Note, however, that the same denial that is available to the speaker in such a transaction is also available to the auditors. Should they openly go against the authority and find themselves blamed (by him or by the onlookers generally), they will be able to claim that they were not showing him disrespect, for they did not know that he was involved at all. The auditors can be reasonably assured of avoiding any appearance of insulting a silent authority; thus, what I have called the core force of the appeal is here substantially diluted.

There is, of course, an easy solution to limit these mutual denials: the authority must design an action to indicate his involvement conspicuously. The Roman court system allowed a convenient way to do this. By convention, those supporting one side at a trial would join the advocates on the benches arrayed before the jury. (Other signals could suffice in other

contexts, as, for example, those going first in a deliberative assembly could exercise *auctoritas* by their votes [Hellegouarc'h 1963, 303].) Throughout his speech for the younger Sulla, Cicero points out to his auditors the eminent men who had thrown in their lot with his client: "these leading men and most illustrious citizens, whose commitment and dignity make the court crowded, the case notable and the innocence of this man protected. For laying things out in an oration is not the only mode for a defense; all who are present, who trouble themselves, who wish him safe come to his defense by their conspicuous adherence and authority" (4). Does an authority's mere presence or other conspicuous sign suffice to assure his auditors that he is not being inconstant? The authority cannot, in this case, deny that he is involved. But he still has an excuse and will thus be able to avoid blame. There are many reasons for joining the accused on the bench; one might be present in pursuit of a civic project or, with equal legitimacy, one might be present for friendship or for pity. Cicero is forced to suggest just such an excuse on behalf of those who joined his client on the bench, for they had, alas, also appeared with the arch-conspirator, Catiline (81). Indeed, Cicero jibes, the prosecutor's own father has to excuse himself for once appearing on that villain's behalf:

He as consul represented Catiline in a bribery case—Catiline, a scoundrel, but a suppliant; perhaps abandoned, but once a friend. When he was lending him a hand, after that first conspiracy was reported to him, he indicated that he had heard something of the matter, but had not believed it. . . . But if your father even when he had an inkling of his own peril was led by his kindness to honor the defense of this most wicked man with the pomp and circumstance of his person and office, why should the former consuls [sitting here] who were also involved be criticized? (81)

If presence (or other sign) is thus open to interpretation, the speaker signaling his involvement will later be able to avoid blame if it turns out he was trying to act abusively. His auditors still have been given no reason for trusting his constancy.

And again, the excuses are mutual, not only raising the auditors' suspicions, but also weakening the authority's force. The auditors, for their part, will be able to avoid blame for the potential insult of going against the authority by claiming that they themselves were mistaken—they thought the man of dignity was just present as a friend, ignorant of the defendant's crimes. But if they can thus go against the man of dignity without insulting him, the force of his authority will have been diluted.

To limit, finally, this symmetrical weakness in the appeal, the authority must design what he does in a way limiting the possible interpretations of his conduct—not only signaling that he is involved, but also making evident *why* he is doing so. And this is what the authority's say-so accomplishes. In defending Sulla, Cicero puts great weight on the three expressions of opinion quoted at the beginning of this analysis; they are highly figured passages (Berry finds in the first a “tricolon, tetracolon, anaphora, homoeoteleuton and polyptoton” [Cicero, *Pro P. Sulla Oratio* 160]) that Cicero expressly marks off as his “utterances” (*vox*, 14) or signals with an illocutionary force indicating device, that is, saying that he is saying (*dico*, 85; *testor*, 86). In all three, he both states his judgment of Sulla's innocence and explicitly claims this judgment as part of his ongoing project. And by this explicit say-so, he at last gives his auditors some assurance of his constancy. If it is later discovered that Cicero did not take care in making this judgment, he has now put himself in a position to be held accountable for abusing his authority. As Berry says, Cicero's defense of Sulla put him “at great personal risk,” for his “reputation is here in jeopardy as in no other speech” (Cicero, *Pro P. Sulla Oratio* 42, 62). Knowing this, Cicero has strong reasons not to abuse his authority, but instead to exercise the same care in judging Sulla that had been so successful in the rest of his anticonspiratorial project. The orator himself explains this to the jury: “When my highest honor is at stake, the unique glory of my achievements—when the memory of the salvation won through me is renewed each time someone is convicted of conspiracy—would I be so mad, would I allow it to appear that everything that I achieved for the safety of all I accomplished more by accident and chance than by virtue and good judgment?” (83; see also 10). No, his auditors can believe, he would not thus risk his dignity except for a good cause. So, from his say-so they have reason to trust that he is using the same judgment now as before, and thus that he is not abusing his authority.

And we find a final mutuality here as well. The same say-so that eliminates Cicero's excuses also eliminates his auditors'.³ If they now go against his judgment, they will not be able to claim ignorance or mistake; they will unavoidably be showing him disrespect. By expressly speaking his judgment and claiming it for his project, therefore, Cicero imposes on his auditors the full force of his dignity.

There may remain further weaknesses in the appeal to authority. For example, Cicero's auditors may think that he still could offer excuses should new evidence later show his opinion to have been wrong. These excuses,

too, he might want to disavow in advance, perhaps by further crafting his appeal to assert that he left no relevant source unconsulted. But the complex story I have told suggests that, with his explicit say-so, Cicero has said enough to resolve at least the most salient general objections against his appeal to authority. I step back now from reconstructing this particular rhetorical transaction to consider a more general model.

3. Toward a more general theory

At the core of Cicero's appeal to authority we found a basic transaction: to avoid insulting a man of great dignity, his auditors must not openly oppose him. In order to secure this basic transaction, Cicero must design what he says both to put his auditors in a situation such that the insult will be inevitable and simultaneously to give them assurances that his judgment is trustworthy. To rephrase this more generally—that is, to sketch a general model of authority—the speaker exercising authority proceeds by “blackmail” and by offering a “bond.” I will take up these two aspects in turn.

Cicero, in defending Sulla, gives the jury some reasons for thinking his client uninvolved in the conspiracy and spends some time refuting the reasons offered by the prosecutor. However, as has been noted by theorists as otherwise diverse as Arendt (1993, 93) and Robert Paul Wolff (1970, 6), authority must be distinguished from such persuasive argumentation. When exercising authority, the speaker does not *give* reasons so much as *create* them. That is, she directly modifies the world in such a way that she changes the courses available to her auditor. After she speaks, if her auditor does not follow her judgment, he will be showing conspicuous and inexcusable disrespect for her dignity. In a society that values respect for dignity, the speaker can presume that her auditor will not so insult her; the speaker relies on the auditor's sense of shame to prompt him to give a worthy person her due, or at least on his fear of the consequences of open disrespect—most notably, the consequence that he will appear conspicuously impudent. Thus, the speaker's say-so serves as a way to back her auditor into a corner where he will have only one reasonable choice—hers. The appeal to authority can be analogized to pulling a gun, or, somewhat more civilly, to blackmail. The blackmailer threatens to do something to make life unpleasant for her victim if he does not do as she wishes, often by revealing publicly something disreputable about him. She changes the futures her victim

faces, thus forcing his decision in the direction she desires. In appealing to authority, the speaker creates a situation that is similarly portentous.

This seemingly sordid transaction actually is of some significance for theory—meaning here the theory of argumentation now being pursued by several disciplines. As Ralph Johnson (2000) has recently noted, argumentation theorists have tended to identify the mental process of inferring with the social process of arguing: the reasoning within a person with that between persons. According to this assumption, the reasons we give others will look more or less the same as the reasons they would use if we left them to themselves (and if they were thinking straight, of course). The force of such reasons is independent of their being spoken. But the appeal to authority seems to work quite otherwise. In this case, arguing (loosely) and thinking are deeply asymmetrical. Unless the speaker says something—indeed, something rather particular—her auditor will find it easy to avoid her authority. So the appeal to authority is what we could call a specifically *rhetorical* form of argument: one whose full force depends upon its being uttered.

Even as she corners her auditor, the authority also gives him reason to trust her judgment, and this, as Arendt (1993, 93) and Wolff (1970, 4) point out, distinguishes authority from violence or power. By the same say-so that makes her auditor's noncompliance a conspicuous insult, the speaker stakes her dignity on the correctness of what she says. To the same extent that she eliminates her auditor's wiggle room, she eliminates her own. If things turn out badly, the speaker has put herself in a position to be held responsible for that outcome. Indeed, her punishment will be swift and sure. For even as dignity is granted by the recognition of her fellow citizens—that is, the very people she is addressing—it can be taken away by them; each has in his hands the power both to judge the ultimate correctness of her judgment and to penalize her with open disrespect if she is wrong. In a society that values maintaining dignity, the auditor can presume that the speaker will want to avoid this result, either because she cares about her dignity for itself or, at least, because she values what she can do with it. In sum, in appealing to authority, the speaker offers her dignity as a hostage for her judgment, wagers it on her judgment, or, to use another analogy, posts it as a bond guaranteeing the correctness of her judgment (“guarantor” is one technical meaning for *auctor* [Heinze 1925, 351; compare Kauffeld 1998, 33; Hellegouarc’h 1963, 296]).

Again, this aspect of transaction is of some interest for theory. It is a very general problem for every speaker that her talk is cheap. She knows

her auditor will recognize that her appeals are directed to induce him to respond in some way beneficial to *her*. But why should she expect him to think that responding in that way will benefit *him*? Quite the contrary: a prudent auditor can be expected to waste no time even considering another's attempt to influence him.⁴ Because of this, the speaker needs strategies to *earn* attention (or other responses)—strategies to make talk *costly* for her. In his "Presumption, Speaker Responsibilities, and the Efficacy of Communicative Acts" (1998) Frederick J. Kauffeld has followed Dennis Stampe (1967) and H. P. Grice in arguing that precisely such a strategy is what constitutes the basic speech act of saying something. In saying something seriously, the speaker openly takes responsibility for the truth of what she says; she puts herself in a position to be held accountable if it turns out it is false. This licenses her auditor to presume that she is speaking veraciously and thus to take what she says as true, since he can reason that she would not leave herself open to criticism unless she had reasonably investigated the matter, was speaking truthfully, and so on. The appeal to authority would seem to be a development from this basic strategy. When she deploys her authority, the speaker openly puts her dignity at risk; in a society that values dignity, this will generate a correspondingly strong presumption that what she says is true.

In the appeal to authority, blackmail is linked with bond: the speaker stands to lose the very resource—dignity—that gave her the power to corner her auditor. This means that the speaker's say-so prompts both parties to the transaction to make interlocking calculations about each other's calculations about dignity. The authority can safely risk her dignity, because she can expect her auditor to follow, because she knows that he will want to avoid risking insult to her dignity and that he will be able to trust her judgment, because he (the auditor) can expect her (the authority) to take the trouble to get the judgment right, because he knows that she will want to avoid serious risk to her dignity. Where dignity is great, the penalties both sides face are substantial and each will find the other's behavior highly predictable. There is only one happy way out: for the speaker to judge well, for the auditor to follow.

The theoretically interesting point here would be to see how much of the persuasive force of civic hand waving and sound making can be accounted for by such interlocking calculations about others' calculations—by what the game theorists have termed *strategic rationality*. I leave that large topic to other occasions.

If this general model is accurate, then any transaction with the blackmail-and-bond shape should be recognizable as form of authority. Consider, for example, what could be called the “authority of manifest strength” (or, “of fear”). In his maiden deliberative address, Cicero argues that the Roman general Pompey should be given command of a particularly troubling police action on the Roman frontier. One reason Cicero offers for the appointment is Pompey’s great *auctoritas* (*Leg. Man.* 43–46; see Heinze 1925, 355). Given the man’s reputation for success and the impressive army with which he will be equipped, he will not find it necessary to fight; the enemy will simply give in after he is appointed. Why can these capacities be called *authority*? A man (or country, or alliance) of manifest strength can reasonably expect a small country to roll over once he has committed himself to a certain course. For the threatened country should legitimately fear being crushed, knowing that after trying to throw his weight around, the man (or country, or alliance) of manifest strength will be forced to exert that strength—and possibly to reveal its weakness—in order to preserve the appearance of strength—a transaction with which we ourselves are familiar.⁵

There are, of course, yet further forms of authority; in particular, the authorities exercised by experts and by those with a power to command (Goodwin 1998, 272–73). It would be an interesting test of the blackmail-and-bond model to see if it could provide an account of the transactions through which these familiar authorities are exercised—interesting, but not one that I will attempt here. Instead, I want to raise the unavoidable question: Is the authority of dignity, as the best authorities have long held it, a fallacy?

4. Is the authority of dignity a fallacy?

As Joseph Raz notes, philosophers and social theorists have typically claimed that following authority is unreasoning—that it involves some sort of surrender of judgment (1985, 6–8). The model developed here should put that idea to rest. Everyone in an authority transaction is reasoning, reasoning quite complexly. We can still ask, nevertheless, whether their reasoning is in some way flawed. After listing the authority of dignity as the first of his *argumenta ad*, Locke goes on to conclude that “it argues not another man’s opinion to be right, because I, out of respect, or any other

consideration but that of conviction, will not contradict him” (1975, 4.17). To apply this to the transaction we have been considering, we might say that the fact that Cicero is a man of great dignity, and the fact that he says Sulla was not a conspirator, do not support the conclusion that Sulla was indeed not a conspirator.

But this seems an overstatement. As we have seen, the authority has indeed given her auditor good reason to presume that what she says is the case. In appealing to authority, the speaker stakes her dignity on her opinion. This licenses her auditor to infer that, to avoid losing dignity, she has exercised care to secure her beliefs. Unless we are to exclude presumptions from our inventory of allowable inferences—which would be unhappy (Kauffeld 1998, 1–3)—this sort of bond does “argue,” to some extent, the speaker’s “opinion to be right.”

Furthermore, we need to read Locke carefully. By appealing to authority, the speaker is not trying to persuade her auditor that her “opinion [is] right.” Instead, she is trying to persuade him to a certain action: the action of *following* her authority, which in this case means, as Locke puts it, “not contradict[ing]” her. The auditor of the appeal can still believe whatever he thinks justified; the appeal only forces him to act in a certain way—and that, only in public. Deferring to the authority’s face is not incompatible with laughing at her behind her back, or worse. Erving Goffman, always a fine observer of transactions, notes just this shadow side of authority in contemporary life:

The central example in Anglo-American society, practiced primarily by children, consists of sticking out the tongue or putting thumb to nose after someone whose authority has had to be accepted turns from the encounter in which the authority was expressed. I believe these two conventionalized acts give children not merely a device by which to vent their feelings against authorities, but also, and perhaps mainly, an opportunity to practice what will be a life-long circumstance of social activity—an ecological division between what can be seen about oneself and must therefore embody certain standards of propriety, respect, etc., and what is shielded and therefore relatively free. (1971, 153)

Now, as Richard Whately once pointed out, an authority might still face criticism if she attempted to deceive her auditor—tried to make it appear that her dignity justified not deference to her, but acceptance of her proposition (1975, 193). Or, as Whately argued elsewhere, she might be acting wrongly if she tried to take advantage of the penumbra of her dignity, say

by drawing on her auditor's deferential feelings or habits without fully committing her dignity to the outcome (1963, 118–24). But as long as she proceeds “plainly, and *avowedly*” (1975, 193), her say-so does seem to provide sound practical reasons for her auditor to defer.

Our doubts about the appeal to authority do not seem to arise from the reasons that constitute it. Questions about the epistemic soundness of the reasoning resolve instead into questions about the normative or ethical soundness of the authority transaction (see similarly Walton 1998; van Eemeren and Grootendorst 1992).

There does seem to be something awry about deploying authority. We might feel the appeal to be coercive, constraining, a form of duress. We might feel the authority herself intrusive, interfering, overbearing. The ancient Roman teacher of rhetoric, Quintilian, captures this sentiment: “Another form of arrogance is displayed by those who declare that they have judged the case for themselves, which they would not otherwise have undertaken. For the jurors give but a reluctant hearing to such as presume to take over their function, and the orator cannot hope that his opponents will regard his *ipse dixit* with the veneration accorded by the Pythagoreans to that of their master” (*Inst.* 11.1.27; trans. modified). Something like this uneasiness is what made the charge of tyranny plausible at Rome and makes the analogy to blackmail attractive now. But as we have seen, the appeal to authority contains an answer to the tyranny objection, and the analogy to blackmail turns out inadequate on precisely this ground. Blackmail involves threatening something *wrongful*—something perhaps legal, but still criticizable on some moral grounds (Katz 1996, 157–63). In appealing to authority, however, the person of dignity has done nothing wrong. She has done only what she has a right to do, that is, to state her opinion on a matter of concern to her (“within her project”). It is not her fault if her auditor feels forced to respect her. Indeed, respect is what she *deserves*. Thus, when the prosecutor charged, “it is tyranny to speak against whoever you want and to defend whoever you want,” Cicero replied, “[o]n the contrary: it is slavery not to speak for or against as you choose” (48; see also 21, 25).

I am conscious that I have done no more than survey some of the issues here. But I hope it is enough to suggest that the appeal to the authority of dignity is, at least, not conspicuously unsound, epistemically or ethically, that it is not a fallacy.

5. Extensions

If there are no ethical problems—at least in general⁶—with the authority transaction, our concern, instead, might be with distribution of the resource, dignity, which grants to some more than others the opportunity to demand respect. (As, for example, even if such exploitation is not strictly speaking coercive, we might still criticize the overall distribution of wealth that allows sweatshop owners to do what is their right and offer sweatshop wages to desperate workers; see Wertheimer (1987, esp. chap. 13) for this sort of argument.) To take up this challenge requires a shift from the relatively “universal” and specifically rhetorical perspective from which I began, considering instead the sort of local psychological, cultural, and social conditions within which the authority of dignity may flourish or decay. At the risk of showing myself “badly brought up, overbearing, or suffering from some other human failing” (Aristotle, *Rhet.* 1.2.7), I close by speculating about the political environments for this rhetorical transaction.

The institutions we maintain to provide contexts for our transactions indeed suggest that we are concerned to restrict the authority of dignity. Our use of the secret ballot, for example, can be viewed as an attempt to limit the power of dignity (and other influences, such as bribery) in civic decision making; as Cicero complained, it allows deciders to keep their “faces open, thoughts hidden” before their betters (*Planc.* 16; see also *Leg.* 3.33–9). Modern courts have also tried to limit the persuasive force of persons by adopting a rule prohibiting advocates from personally endorsing the guilt or innocence of the accused.⁷

These and other institutional arrangements may indicate that we share something like Locke’s doubts, writ large. Allowing to the dignified a greater role in civic life than to the undignified seems both unfair and unlikely to produce good decisions. On the contrary, we now try to maintain what Michael Walzer has called “the society of misters” (1983, 258) or what Charles Taylor has described as the regime of “citizen dignity” (1992, 27), in which everyone has an equal, but only an equal, claim to respect. Within such a system, no one is able to accumulate sufficient civic standing to demand extra deference. Let us take the persons out of politics, we seem to be telling ourselves; let our decisions be based on substance, not social context; let us distinguish between who a person is and what she says; let her enter the public sphere simply as one, equal citizen.

So, is the authority of dignity of only archeological interest? No. Dignity and the transactions informed by dignity continued after Cicero to

find a home within the loose cluster of political commitments known as the civic republican tradition. Carrying forward specifically Roman conceptions of politics (Skinner 1990, 126–33; Pettit 1997, 19–20), this tradition long held a system of unequal dignity not entirely unattractive. Republican thinkers endorsed the first invisible hand theory, claiming to harness the desire for recognition in service to the public good (Pocock 1976, 517–19; Hirschman 1977, 9–12; Pettit 1997, 223–29). As Douglass Adair put it, “[T]he love of fame is a noble passion because it can transform ambition and self-interest into dedicated effort for the community, because it can spur individuals to spend themselves to provide for the common defense, or to promote the general welfare, or even on occasion to establish justice in a world where justice is extremely rare” (1974, 12). Now, a system that encourages the pursuit of glory must occasionally pay off, granting the ardent few an extra measure of public regard—and, we must think, the extra authority that goes with it. But again, this is not entirely unattractive. Such a system entrusts the instruments of persuasive force to those who have proven conspicuously successful at civic affairs, constraining them meanwhile to act with care and putting them in a position to be held responsible should things go wrong—just the sort of political force that Philip Pettit has recently argued is appropriate within a republican regime (1997, esp. chap. 7).

There may, further, be room for something like Cicero’s authority even under conditions of equal dignity. An insistence on *equal* dignity both constrains and enables: While no one may have more, everyone must have the due measure. In what Taylor (1992) has called the contemporary “politics of recognition,” individuals and groups lay claim to receive this due. A demand for respect of equal dignity may be experienced as just as forceful as Cicero’s demand for respect of preeminence, and the design of the demand may require as much cunning and elegance as the old orator brought to bear. In the lunch counter sit-ins or voter registration attempts typical of the struggle for civil rights in the United States, for example, the protesters presented themselves bodily in an ordinary social situation. They put the onlookers in a position such that, if they failed to accord the protesters basic respect, they would be acting conspicuously badly. At the same time, they put their own dignity on the line: If they lost self-discipline, they would lose their claim for respect—thus the protesters’ commitment to what they called nonviolence.

In pointing to a contemporary transaction with recognizably the same shape as the authority of dignity, I have no interest in diagnosing our poli-

tics as “civic republican” as opposed to “Lockean/liberal.” Instead, it is my hope only that further and close attention to our rhetorical transactions—especially those dependent on dignity—may help us to continue to articulate concerns our political theories have rendered mute.⁸

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Notes

1. When discussing Cicero and ancient Roman practice, I will employ, accurately, the masculine pronoun; in developing a more general model, I will use the feminine to refer to the speaker, the masculine to the auditor.

2. I rely throughout on Berry’s fine edition and commentary (1996) of the *Pro P. Sulla Oratio*. References to the speech identify the standard section numbers. Translations are my own; I have attempted to preserve Cicero’s word choice and sentence structure at the cost of English elegance. The reader may also consult the complete translation by MacDonald (1989) in the Loeb series.

3. Berry suggests that Cicero’s argument is circular: that he tries to prove his client’s innocence by his authority, his authority by his integrity, and his integrity by his client’s innocence (Cicero, *Pro P. Sulla Oratio* 293). The analysis here suggests that it would be better to say that, as finally designed, Cicero’s say-so accomplishes two things simultaneously. As Cicero himself puts it, he employs his express utterance both to defend his constancy and to bring his authority to bear (*utor hac voce*, 14).

4. As, in fact, we do ignore much advertising. I oversimplify; for recent and relatively plain language reviews of the capacities and incapacities of “cheap talk,” see the articles by Farrell and Rabin (1996) and Austen-Smith (1992).

5. In the debate—taking place as this paper was written—surrounding NATO’s bombing of Serbia for “ethnic cleansing” of Kosovo, it is most commonly being argued that continued military action is (or is not) required to secure NATO’s “credibility”—a perspective that tends to emphasize the (respectable) “bond” over the (unappealing) “blackmail” aspect of the transaction. Yet, it is still possible to say, for example: “The Serbs’ bloodlust appears to have increased in direct proportion to the air strikes. But the answer, as problematic as it might appear, is not to halt the air strikes. That would make a hero out of Slobodan Milosevic, at least in the eyes of his minions. More importantly, it would vastly undermine NATO’s integrity, *authority* and power” (“Now Justice” 1999; emphasis added).

6. There are special situations in which the ethical problems still need to be sorted out. For example, even if the appeal is not criticizably coercive in the basic two-person case, it may become suspect when a third party’s rights are involved. Cicero deserves respect from his immediate auditors, but they as jurors have further obligations (perhaps to the public in general, to the prosecutor, or to the accused). In that case, it may be that Cicero, by appealing to his authority, is indirectly treating these third parties unfairly, or it may just be that the jurors have conflicting reasons for action that they will need to deal with somehow.

7. “A lawyer shall not . . . in trial, allude to any matter that the lawyer does not reasonably believe is relevant or that will not be supported by admissible evidence, assert personal knowledge of facts in issue except when testifying as a witness, or state a personal opinion as to the justness of a cause, the credibility of a witness, the culpability of a civil litigant or the guilt or innocence of an accused” (American Bar Association 3.4[e]). Also see Frier’s paper (1997) on the relationship of classical ethos to this contemporary “rule against vouching.”

8. I thank Fred Kauffeld, Steve Wildman, Tom Goodnight, and an anonymous reviewer for their substantial help in developing this work.

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