

## Five Facets of Phronesis in Rhetorical Reasoning

(This paper is derived from my doctoral dissertation, *Casuistry and the Quest for Rhetorical Reason* [U of Washington, 1993] and several works “parted out” from it.)

by

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Note to the reader: I consider this my highest achievement, but, ironically, it was never published. (It was originally submitted as a book chapter in a manuscript I was unable to get published. It dovetails nicely with my piece on casuistry in the *Oxford Encyclopedia of Rhetoric*: Oxford University Press (2001): 83-88.

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It may be more difficult in our time than in Aristotle's to make knowledge serve wisdom but this remains the central issue: How do we recover practical wisdom, or phronesis, in a technological age?

John Lyne (1985, 71.)

The recovery of practical wisdom and the restoration of rhetoric appear increasingly to be allied projects. Hollinger (1985) and Swearingen (1994) both rhetoricians, note how, in many quarters, phronesis is "on the rebound."<sup>1</sup> George Kennedy (1991) comments more on phronesis than earlier translators of Aristotle's Rhetorica. Hans-Georg Gadamer (1986), Barbara Warnick (1989), Joseph Dunne (1993) and Eugene Garver (1994) all conduct elaborate discussions of phronesis which, to varying degrees, relate phronesis to rhetoric. Warnick's (1989) "Judgment, Probability, and Aristotle's Rhetoric" is noteworthy for the manner in which it thematizes the relationship of rhetoric to phronesis. "Only when it reaches its fruition in phronesis," she asserts, "is rhetoric made effective" (Warnick, 305). That is so because phronesis is realized most assuredly in the realm of moral inquiry; public deliberations about how and why one is obligated to act. "In considering the merits of alternative courses of action, rhetoric plays a significant role" (Warnick, 306). Warnick discusses the common concern of rhetoric and phronesis with both the probable and the particular, and how, on Aristotle's account, they both aim at right action. However, Warnick there conducts only a gloss of the relationship between phronesis and rhetoric; her thesis commits her elsewhere. Her work does, however, raise an important question: Public deliberations are obviously impossible without rhetoric; is there an equally indispensable public role for phronesis? Phronesis has traditionally been viewed exclusively in terms of individual choice-making, so recasting phronesis along communal lines should contribute both to knowledge of ethics and to rhetorical theory. Following is a synopsis of how rhetoric and phronesis guide moral inquiry; one that seconds, and perhaps even extends upon, Warnick's insight.

Understood with precision, rhetorical reasoning guides and phronesis drives moral inquiry. The aim of moral inquiry is sound moral judgment, but judgment in hard cases is frustrated because the crux of the matter is hedged in by a potentially limitless parade of particulars. Rhetorical reason may be defined as the faculty of discovering the crux of the matter, endemic to rhetoric, that precedes argumentation (Tallmon 1993). Rhetorical reason manages particulars by systematically

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<sup>1</sup> See also Swearingen's "Pistis, Expression, and Belief: Prolegomenon for a Feminist Rhetoric of Motives" in Stephen Witte, et al. Eds, 1992.

determining the relevance of issues and identifying the stasis (which is the most relevant of the relevant issues). Now ascribing relevance, per se, is an act of phronesis (Tallmon 1993, 1994 & 1995). Hence, rhetorical reason is a modality of phronesis and also an antistrophe of dialectic. That is, it depends upon practical wisdom for its proper work, and, in that work, it resembles dialectical inference, only it is case-oriented as opposed to concerning itself with general propositions. Viewed as a method of moral inquiry (i.e., as a guide to resolving tough cases) rhetorical reason is constituted of topical logic (which guides inquiry by managing particulars); stasis (which guides inquiry toward the crux of the matter); sensitivity to maxims (which signal when the inquiry has taken a turn away from the instant case); dialectical inference (which helps clarify the issue at stake); and the entire enterprise is driven by phronesis. Rhetorical reason may operate within individual persons, but its excellence is realized in the public sphere. Each of these matters could sustain an extended inquiry. I have attempted to detail them on previous occasions (1994 & 1995). At this time, however, I wish to detail the prevalent and critical role of phronesis in rhetorical reason, because attending to salient features of phronesis-in-rhetorical reason should bolster our restorative efforts. What useful insights may one gain by studying the role of phronesis in rhetorical reason? I will first detail the role of phronesis in rhetorical reason and then discuss the significance of those findings viz. the work of the scholars mentioned above and others who are similarly concerned with the restoration of phronesis and/or rhetoric.

How does one approach the study of phronesis in rhetoric? In recent years I have been studying the reasoning processes implied in the talk of clinical ethical deliberations. A pool of four of those cases provides support for the ensuing discussion. Baby Anthony was an unfortunate neonate whose nursing team called an ethics consult because they thought he was suffering needlessly and that he should be allowed to die. The second case involves a 35 year old woman with a long history of juvenile onset diabetes who is ventilator dependent but has expressed a wish to be disconnected. One other case from neonatal intensive care (Baby Jerome) is consulted briefly, as is another case involving an elderly male, Charley Sperazza, who was ventilator dependent due to severe lung disease and heart failure. Following is not so much a study of the cases as a description of the various manifestations of phronesis encountered in them. Hence, the cases serve less as objects of study, than as support for my interpretation of discourse events.

Second, we will maintain resolute focus on the distinction between argumentation and discovery in rhetoric. That is so because rhetorical invention entails two aspects: a *techne* (of argument) and a *phronesis* (heuristic faculty). Rhetoric, understood in broadest terms, is a *techne* of argumentation, and in the *techne* of rhetoric *phronesis* plays but a small role. *Phronesis* flourishes in the faculty of discovering the crux of the matter (heuristic faculty), not in the *techne* of rhetoric. That is

to say, phronesis abides at the heart of rhetorical reason. So, for example, it is important to note how in every case studied herein the combative element is backgrounded, because the parties involved are engaged together in moral inquiry on behalf of patients. The players hold a common purpose and, though arguments are indeed advanced, the entire enterprise presupposes a search for the best solution, so that moral inquiry is more negotiation of particulars than argumentation about ethical principles. As was mentioned above, it is the clutter of particularity (and the ambiguities that it breeds) that frustrates resolution of hard cases. It is the work of rhetorical reasoning to manage that particularity, and phronesis makes this possible in five distinct ways: (1) by bringing to bear ethical principles where appropriate (the theoretic function), (2) by bringing to bear past clinical experience on present situations (the mnemetic function), (3) by generalizing from analogous cases to present ones (the kinetic function), (4) by working in tandem with special topics to guide inquiry by determining which issues are most relevant (the stasiastic function), and (5) by combining all four aspects above to bring together probabilities in their convergence in order to facilitate praxis (the illative function).

## 5 Facets of Phronesis in Rhetorical Reason

### The Theoretic Function

The beauty of practical wisdom is how it applies theoretical knowledge to the particular case. The first order of business is, then, to examine how phronesis works to bring principles to bear on a particular case. Baby Anthony was born after 26 weeks' gestation, with a birthweight of 709 grams, to a mother with a history of illicit drug use, no prenatal care, and unfulfilled intentions early in pregnancy to have an abortion. He had severe infant respiratory distress syndrome, a disease associated with surfactant insufficiency and lung immaturity common at his age and was not responding to treatment. The Infant Intensive Care nursing team called an ethics consult because they thought Anthony was suffering needlessly--that his case was futile and that he should be allowed to die. In attendance were: the attending physician, some interns, the medical director, various nurses, an ethicist, a social worker and the author. The author recorded and transcribed the entire deliberation. That transcript yields an example of the theoretic function of phronesis at the point where the medical director raises a question about justice (or equity):

MD Um, to clarify what your definition of futile is, what if everything other than this child's estimated survival chances were very positive: He has a great family who really wanted this child; he was not very premature and had essentially no additional risk of mortality or any handicapping conditions, but this had what I would call a near-fatal outcome for one organ, say the lungs. Now, if and if the morbidity of survivors is pretty high

in this situation, I'd argue that all that other stuff is irrelevant and that this still would be benefited by termination of life support now and not just sort of day after day after day after day putting it off.

Eth Well the only thing I think that's relevant there is the "day after day after day after day." That if you could, you could spend uh, spend a lifetime taking care of several babies, so you've got to call "futility" probably sometime. But I'd say that it would be fairly clear that people would be working a lot harder on a baby that was good in every other category.

The medical director takes a philosophical turn when he introduces questions involving the rule of justice. Note how the medical director builds a hypothetical in order to develop his point ("what if . . ."). The hypothetical represents a philosophical turn in the sense that it abstracts from the circumstances of the instant case. When the ethicist responds to the medical director by challenging the practicality of the latter's application of the rule of justice ("you could spend a lifetime"), he is motivated by a desire to stay close to the case; to avoid philosophizing and stick to what is relevant to Anthony's case, but he does respond in kind with his own hypothetical point followed by a generalization. The medical director obliges him:

MD Well that-that concept bothers a lot of people. It doesn't bother me as much as those who find it reprehensible that we would take two babies, side-by-side, one of them has a good family and the other one doesn't, and they have identical illnesses, and we would say "Life" for this one and "Death" for the other.

The attending physician, guided by phronesis, brings the principle of justice to bear on the particular case:

Att I would agree with Dan on that, I find that inappropriate as well. I mean I think that, um for me the issue hinges on this elusive uh determination of what's in Anthony's best interest, if he could tell us, and he can't tell us so we have to make some inferences. And I think that should be independent of his uh social situation; although that bothers me immensely. It's hard to justify applying resources in one case but not in another if the conditions are essentially identical, um, simply because there's a different social environment in which that person will survive.

The above underscores the wisdom in practical wisdom. The notion of justice is discussed for a time, but, in the final analysis, is determined to be more relevant to an examination of professional standards. That line of inquiry is prompted by the need to determine the relevance of Anthony's social setting, it takes a philosophical turn, until the attending physician brings the discussion back to the case at hand by proposing what justice means in Anthony's case.

We are presently concerned primarily with the practical dimension of phronesis, so let the above example suffice to illustrate the theoretic facet of phronesis. I do not wish to slight theoretical concerns but rather to focus on particularity in

practical judgments, for, as Nussbaum (1990) has noted, “rules, general and/or universal, seen as normative for correctness of judgment, fail in their very nature to measure up to the challenge of practical choice” (73). This emphasis is congruent with present purposes; the priority of the particular is of special interest to rhetoricians, so we will take up this theme in a moment.

### The Mnemonic Function

Μνηµε is the Greek word for memory, so the mnemonic function of phronesis has to do with bringing to bear past experiences upon a particular judgment. Memory recalls the experience; phronesis brings the recollection to bear on the instant case at the appropriate time. At one point in Anthony’s case, for example, the medical director and the attending physician generalize from clinical experience to the present case.

- MD But from clinical experience, um, we know that there’s not a whole lot of difference in condition in 3 week and 4 week babies. The kids who’re disasters at three weeks are still going to be disasters at four weeks. Nothing miraculous happens between three and four weeks.
- Att You could probably make that assumption at a week.
- MD I would say I’ve seen strange things happen at a week of age. You’re still in the acute phase of the illness...
- Att I’ve also seen some kids, say like Anthony, a week ago he got steroids, and they’ve gotten weaned off and came off the ventilator. As well, so. I think what I’m reacting to is the sort of rush to terminate his care based on today, and I grant you it’s pretty grim and I think we’re pretty close to the end.

The general appeal to experience exemplifies the mnemonic function of phronesis. In the above instance the ethics committee tests an assumption about the likelihood of Anthony recovering by recollecting past experiences. The mnemonic function of phronesis is no more complicated than that; further elaboration at this point would introduce undue tedium, so let us turn instead to the kinetic function and then complete the treatment of the former by juxtaposing the two.

### The Kinetic Function

In Greek thought, kinesis (perpetual motion) is understood in contradistinction to stasis (perpetual motion at rest).<sup>2</sup> The latter was appropriated by the Peripatetics for use in forensic training; the motion of the plaintiff and the motion of the defendant may be viewed as checking one another. Hence, the question at issue in a legal case, where arguments come into

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<sup>2</sup> This doctrine is as familiar to rhetoricians as any (see Dieter [1950]).

direct clash, became known as the stasis. Kinesis is checked when the claims of the defendant counter the claims of the plaintiff.

Moral force is transferred from case to case in moral reasoning in a fashion somewhat analogous to the way a moving billiard ball imparts motion to the stationary one it hits. Albert Jonsen posits that, in casuistry (and the point applies as well to rhetorical reasoning,) “the motion is a shift in moral judgment between paradigm and analogous cases, so that one might say of the paradigm, ‘this is clearly wrong,’ and of an analogous case, ‘but, in this case, what was done was justified, or excusable” (1991, 303).

A cogent example of the kinetic function of phronesis is provided by an anecdotal account of an ethics consult I attended in an Infant Intensive Care Unit: the case of baby Jerome.<sup>3</sup> Jerome was a newborn with a large diaphragmatic hernia (a hole in the diaphragm) and very little lung tissue, a tragic combination. Baby Jerome had to be kept alive on a ventilator until it was determined whether or not he could withstand treatment for the hernia, yet his lungs were underdeveloped and, hence, not handling the ventilation well. Put simply, the careteam was faced with the prospect of “burning out” the baby’s lungs in order to keep him alive long enough to undergo an operation the benefits of which were unclear. In their attempt to estimate his chances for meaningful recovery the team rehearsed all 14 cases of diaphragmatic hernia they had treated the past two years. During their review of analogous cases the ethics committee attempted to situate Jerome’s case relative to the others, paying particular attention to the diagnoses of the survivors, generating a continuum from those who died to those who lived a short while to those who are living relatively normal lives. Situating Jerome’s case on that continuum gave the committee some guidance because, if Jerome’s situation more closely resembled that of the babies who died than the survivors, the group would have grounds to discontinue. They decided that they needed to have some intensive communication with the family to let them know how Jerome compared to their previous cases, what it would be like if he survived, and what his chances of living a reasonably normal life would be like if he were to survive the operation. In other words, the ethics committee thought that the family needed to consider the possibility that they may save this baby only to have him die after six to twelve months of agony. At the time of the discussion it was felt that the family’s conception of “long

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<sup>3</sup> The account is based on my handwritten notes from a discussion I attended in late December, 1992 at a hospital in Washington State.

term care” meant one month in the hospital. That was unrealistic. The ethics committee’s judgment in Jerome’s case relies directly for its ethical grounding on the transference of moral force from analogous cases.

The above illustrates how the kinetic function differs from the mnemetic function in that the mnemetic function constitutes simple recollection of personal experience, operant primarily in the heuristic stage of inquiry. That is, the mnemetic function operates more to clarify issues than to resolve disputes and, therefore requires no transference of moral force. So, in baby Jerome’s case, memory serves to establish a taxonomy of specific cases in order to establish a certitude about survival chances which would, in turn, provide ethical grounds for discontinuing treatment (which is the central issue). In the previous example, the careteam generalizes from past experiences roughly related to the case at hand.

In its kinetic function phronesis may utilize paradigmatic standards from any authoritative source, and these sources are the common coin of professional discourse. Interestingly, moral force may even be derived from a hypothetical. This is interesting because such a move is counter intuitive: Surely one ought to avoid the hypothetical while attempting to secure moral judgments?

In Anthony’s case we find the attending physician developing a reductio ad absurdum in precisely that fashion. That is, his reductio utilizes a hypothetical to establish a paradigm. In an attempt to ascertain the baby’s prospects for future quality of life, the ethicist broaches a most unpleasant topic: the capability of the family to provide the level of care called for by the baby’s condition. This issue is problematic for the attending physician because it raises the spectre of making decisions about whether babies live or die “depend upon what kind of a world they’re going to enter after their survival,” which would require some kind of means test (like the one employed in heart transplants--i.e., that “someone cannot just walk in and get one without demonstrating the capability of the family to deal with the chronic illness if the child survives”). The attending physician runs with the analogy:

Att      Well then I think we’re looking at this from the wrong end. Um, that should be applied before they’re even admitted to the unit. If you’re going to use the cardiac transplant analogy, before the transplant is done, these things are determined. Before this kid went on the oscillator, um maybe that assessment should’ve been made.

The ethicist responds with an argument from genus:

Eth      But it seems to me that neonatology has always had this problem to some extent, given the population from which a lot of babies--um, but, um--the objective of a neonatologist is to send as strong a baby out into any

environment, if possible. And to send a baby out, that has major compromises, um doesn't do that baby any favors.

The doctor's rejoinder to the ethicist's view of the objective of neonatology is a singular episode in that discussion; it generated palpable moral certitude: if neonatology's goal were to ensure strong babies, "then we should just close the unit. Because it would be 'survival of the strongest.' And anybody who had any life-threatening illness at all would perish and we'd have ... uh I'm being facetious, I belabor the point . . . ." Given that the room was filled with those committed to saving the lives of severely compromised neonates, the attending's suggestion is clearly absurd; clearly wrong. His reductio has the ethical potency of a reference to the Holocaust. Once the allusion is made, there is no need to continue the line of inquiry, or, perhaps more to our point, to continue would have shown a lack of prudence. The moral force derived from the paradigm brings an appropriate finitude to the inquiry.

It is important to note that, had the attending merely asserted his reductio, the above would not be, strictly speaking, an example of kinesis in phronesis because the moral force would not have been brought to bear on the particular judgment. But it was:

"... but uh, to me, it's back to the issue, I'm very uncomfortable on the data that we have, saying that on a baby two weeks old our measures are futile." The moral force, derived from the hypothetical, builds the rhetorical potency of the attending's argument that they ought not rush a futility judgment just because Anthony seems hopeless: their job is to salvage the babies that would otherwise perish. Appreciated in light of its rhetorical subtlety then, the attending physician's argument illustrates how a hypothetical (couched in a reductio!) provides moral grounding for the instant judgment by means of analogical reasoning. Hence, a hypothetical, if it is clearly analogous to the instant case, may carry as much moral force as cases of record. The kinetic function of phronesis in rhetorical reason is a wonderfully complex mental operation, one that is particularly crucial insofar as it guides shared moral inquiry. The act of distinguishing between more and less relevant issues is itself a complex and subtle operation.

#### The Stasiastic Function

The stasiastic function of phronesis is important because the path that leads to the crux of the matter must be negotiated amongst the clutter of potentially relevant issues. Topics form lines of inquiry that guide discussion toward stases by, working in tandem with phronesis, determining degrees of relevancy for particular issues. In other words, topics guide the

inquiry, questions at issue are the destination, and phronesis provides the movement, as it were (Tallmon, 1994). Once the crux of the matter is clearly established (i.e., when the most relevant of the relevant issues is identified,) then all that remains is to act in accordance with the issue or issues at stake. This is how rhetorical reason realizes its ergon (reaches fruition) in praxis, through phronesis.

Let us consider, for example, how, in the case of a 35 year old woman requesting withdrawal of ventilator support, recommendations follow from the group's view of the crux of the matter. The woman in that case (discussed in the Morbidity and Mortality Group [M & M] in the University of Washington's Department of Obstetrics and Gynecology) was admitted to the ICU for complications from juvenile onset diabetes (JODM), was ventilator dependent (due to phrenic nerve paralysis), and had recently begun renal dialysis.<sup>4</sup> She had one child with her husband and one adoptive child. One evening, after a brief visit with her husband, and after four months in the hospital, and three weeks of dialysis, she asked that the ventilator be withdrawn. Up to that time the patient had expressed a desire to continue with aggressive treatment, and the nurses noted that, after her husband's visit, she seemed agitated. The nursing staff called the consult to resolve whether or not to comply with her wish.

The practical actions suggested by the convergence of the judgments rendered are presented for validation by various group members. It is especially illuminating to note the relation between the issues, the heart of the matter and the actions deemed appropriate given the crux of the matter as the group discursively negotiates what is the right thing to do in this case. Practitioners must not act arbitrarily, and rhetorical reasoning plays an important role in avoiding arbitrariness.

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<sup>4</sup> The phrenic nerve comes out of the spinal cord high in the back, and is associated with proper lung function. The exact cause of the phrenic nerve paralysis in this case was unknown, but that paralysis led to ventilator dependency. JODM frequently leads to diminished sight and/or circulation (which can lead to a need for amputation). (This discussion was post facto; it was held after the incident actually occurred, and was conducted as a means of teaching residents ethical decision making. Still, the discussion was conducted as if it were actually happening, and it is useful for present purposes for the way it illustrates so clearly the point now under scrutiny.)

After fifteen or twenty minutes of inquiry regarding the facts of the case, the patient's request, and attempting to identify points at issue, the OB/GYN Professor feels that the group is poised at the moment of decision, but that they require a nudge. She obliges them:

- OB     So, I'm kind of sitting here waiting for what you suggest I do. We've got to go talk to her now. What am I going to say?
- Res 7   I think one thing you may have to talk about all the issues that we've talked about quality of life.
- Res 2   I would tell her that that, in in time we will be willing to respect her decision, but we need time and more discussion to be convinced that it is her decision and that it's an informed decision and that she wasn't coerced to make it.
- OB     But what am I going to do to do that?
- Res 2   Talk to her. Just talk to her, and if she still feels this way in a week with different people talking to her ...
- Res 4   See, right now we're not convinced it's not coercion, so we can't make a recommendation. If I was convinced that she wasn't being coerced and she really wants this, then I would abide by her wishes. But I'm not convinced, so ....
- Res 6   It may be helpful to ask her if she would be willing to have a discussion with her husband present and, um to invite her mother to specifically ask her to come rather than to just tell her that she's considering this decision. But to specifically ask her mother to be there.
- OB     I can't ask her mother to come if she says she won't see her.
- Res 1   Well, I think that, I think that could be discussed um and if she absolutely refuses, you can't do anything about that, but it seems like one of the issues is trying to broaden the number of people that she will allow into the decision, or even allow into her life right now. And her husband obviously, or at least some people think, is turning her in, or is coercing her ....
- OB     Is anyone talking to the husband here?
- Res 3   What are his secondary goals? What could--you know--what could happen, how does he look upon this?
- OB     We don't really know.
- Res 7   Everybody's making him out to be non-supportive, but maybe he really loves her and just doesn't like it that she's in that position and is equally depressed about the fact that she has a very limited um quality of life.

The coercion issue is a key element of this case; the appearance of coercion motivated the nurses to call the consult.

However, after some discussion, the group seems less rather than more convinced that the patient has been coerced. Doubt arises in the course of searching out grounds for moral certitude. That doubt is a combination of a sense that they lacked

adequate information to make such a determination (“... we need time and more discussion to be convinced ...”) coupled with a consensus that something was possibly askew (“Everybody’s making him out to be non-supportive, but maybe ...”).

Dialogically speaking, this is an important event; one that warrants a second pass.

As I recall, as the inquiry progressed, there was a mounting sense in the room that perhaps they had jumped to an unwarranted conclusion about the husband’s conduct. After allowing the novices to flounder sufficiently, the OB/GYN Professor discloses that, the careteam had in fact realized that more information was needed, and the results of that follow up discussion changed the complexion of the case entirely: “the husband’s first wife was in a terrible car accident, and he had to make the decision to stop the ventilator when she was in a persistent vegetative state. So this whole thing is a real issue for him and that’s why he hasn’t been around much.” At the time of the actual consult, the nurses were somewhat embarrassed to discover that they had drawn hasty conclusions about his role in the affair. In the M & M group then, consensus regarding the need for more information emerged gradually, and tacitly.

This line of inquiry epitomizes informal inference.

Nobody asked outright, “Do we need to seek more information?” It was, rather, a mounting awareness, established enthymematically, that, though the husband’s actions were at issue, more needed to be known about his motives. During the course of the inquiry this awareness built to the point that the OB/GYN professor’s question, “Is anyone talking to the husband here?” transformed what the group was collectively feeling from a sense that something was lacking to a certitude that they needed to know more about the husband’s actions. Their suspicion was disconfirmed by means of shared moral inquiry. One might say that they came to hold a certitude regarding their doubt. That is why the professor’s nudge was not met with a direct “No,” but rather with suggestions for approaching the husband. The answer was by then too obvious to prompt a direct response; to reply would have been an act of pedantry. That more information was necessary was presumptively granted, so the group followed the dictate of prudence: they began formulating a solution. A second important lesson from the illustrative example is that the consensus that something was being overlooked emerged during the course of exploring issues in a topical fashion. Lines of inquiry, guided by special topics, configure issues in proximity to one another such that their combined weight moves the group toward a consensus based upon a tacit cognition. This is not the ordinary view of the heuristic function of special topics. The ethicist later explicates for the group that tacit process.

Eth [W]hat made the nurses angry was they thought that she was being coerced. So the issue is really a very properly ethical question: Coercion--“Is there coercion taking place?” The reason why that’s an important

question is fairly obvious, isn't it? We now take it for granted that a competent patient can refuse all forms of care--even life-sustaining. That'll be taken for granted. But the issue is a competent patient, and competence means, not merely understanding--which the depression issue would go to--but also freely deciding. Is she making a free decision? And there were people involved in her care who thought she wasn't. So that she doesn't fall under the category of "competent patient, freely deciding." And that, therefore needs further exploration.

As the ethicist says, the presumption that a properly autonomous wish is constituted of "a competent person, freely deciding," is fairly obvious, but, at the risk of sounding pedantic, and ceasing the pedagogical moment, he underscores the phronetic reasoning implied in their determination.

The ethicist's aside is germane because it clearly illustrates how the determination is actually twofold: They first recognize that coercion is relevant, and second and almost automatically, they apprehend that they have inadequate information regarding this issue. This second realization is noteworthy because, if that apprehension is challenged, the likely response would be, "Well, we just need more information." If one pressed the matter ("How much information is enough?") one would most likely be met with blank stares. Account-giving has come to an end. One simply knows such things, and, as a matter of fact, when, a moment later, the group leader shared with the group that the husband had had to discontinue life support on his first wife, the group dropped the coercion issue cold. Again, without flogging a dead horse, why were they so easily satisfied? How could only one further piece of information satisfy the need for more information? Because they now understood his motive for conducting himself the way he had, and that information entails an intuitive grasp of the moral duty to empathize with the husband. To further press the issue, without first talking to both the husband and wife, would be insensitive; of this need they now held a certitude. That certitude was not consciously deduced but discursively discovered and intuitively warranted.

#### The Phronesis/Nous Connection

Phronesis enables the M & M group to grasp the question at stake; the apprehension is itself a matter of nous (intuition). I assume here a familiarity with Martha Nussbaum's project and Paul Ricoeur's explication of the Aristotelian "dianoetic virtues" adequate to permit here only a gloss of the relation between phronesis and nous.<sup>5</sup> Aristotle's sketch of intellectual virtues (Nicomachean Ethics 1141<sup>a</sup>4-7 and Posterior Analytics 89<sup>b</sup>6) distinguishes phronesis from scientific

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<sup>5</sup> For additional commentary on the relationship between phronesis and nous in Aristotle see Dunne (1993) pages 295-304.

knowledge (episteme) by virtue of the concern of the former with right action in the contingent realm (i.e., “what is done in action admits of being otherwise”) and the latter with knowledge of the necessary (either of causal or of logical necessity). Phronesis is then differentiated from both wisdom (sophia) and intuition (nous). Sophia entails knowledge of necessary first principles; nous is the intuitive grasp of the origins of those first principles. In other words, there is, in the final [final] analysis, an end to rational account-giving about the origins of first principles; we intuit them. Aristotle indicates then that, since it is concerned with right action and action is about particulars, phronesis “must possess both [the universal and the particular knowledge] or the [particular] more [than the universal]” (NE, 1141<sup>b</sup> 15-23).<sup>6</sup> Moral inquiry is indebted to phronesis for its proper function to the extent that it entails treatment of particulars, and that is a large extent indeed. More importantly, according to Aristotle, knowledge of both universals and of particulars involves intuition. That is, like phronesis, nous is concerned alike with universal and local knowledge. Aristotle puts it quite succinctly: “We must, then, have perception of these particulars, and this perception is [nous]” (NE 1143<sup>b</sup> 5). To illustrate how Aristotle’s point squares with ordinary experience one need only return briefly to the M & M case.

On a very fundamental (implicit or tacit) level, imagine how exactly it occurs that the ICU nurses, out of the long parade of circumstances that hedge in the M & M case, determine that it was irrelevant to discuss the fact that (for example) the patient’s adoptive child was an Asian and female? How does one decide that one’s narrative of the case need not include that particular detail? The obvious answer is that, in colloquial terms, “common sense” tells one that that particular detail has no bearing on the crux of the case. But how does “common sense” allow the group to so conclude? Was it a deduction? or did they even think about the issue in a conscious way?

Aristotle says that it was a nous--that, where we perceive particulars as clearly relevant or clearly irrelevant, where their relevance is not in question, we intuitively grasp their standing relative to the crux of the matter. The illustration adequately substantiates Aristotle’s conception of how nous functions, in relation to phronesis, and as a mode of reasoning. The defining characteristic of hard cases is, of course, that the issue at stake is difficult to apprehend; it is clouded. It is precisely the function of topical inquiry to clarify stases by establishing relevance among particulars, which results in moral certitude.

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<sup>6</sup> See Nussbaum’s treatment of this key component of Aristotle’s project in “Priority of the Particular,” *Love’s Knowledge* 67 ff.

Hans-Georg Gadamer observed that phronesis, on Aristotle's account, is a kind of knowledge that "is directed towards the concrete situation. Thus it must grasp the 'circumstances' in their infinite variety" (1986, 21). Herein lies a bone of contention between the academician and the practitioner. Academicians (or, at least a good many rhetoricians!) embrace ambiguity and, therefore, are sceptical of all who pretend to arrive at a certitude regarding moral questions. But the practitioner must act, and she may not act arbitrarily. At the end of the day, the practitioner must be able to say (under oath, if necessary,) "I believe I did the right thing." "Exquisite" moral dilemmas are thus not to be savored, they are to be resolved. If there is any hope of resolution, the practitioner must bring into focus the question at stake by backgrounding certain particulars and foregrounding others.<sup>7</sup> Let the above stand as an explanation for how the ascription of relevance is itself, in the final analysis, an act of intuition; an act that is perhaps only slightly more amenable to conscious reflection than is ocular focus. Intuition is, of course, the end of the intellectual road: we have arrived at the culdesac of unanalyzability. Along the way, however, we have staked out, as it were, the subtle manner in which nous and phronesis combine to determine the relevance of issues in shared moral inquiry. This is how particulars are managed in moral inquiry, and, if one does not manage the particulars that cloud the issue, there can be no resolution.

In summary, the discourse sample drawn from the M & M group illustrates how phronesis facilitates the move from complex judgment to correct action. When a person suggests a line of action to remedy a given problem, how does he know that his suggestion is appropriate? It is suggested by the view of the crux of the matter negotiated by the group. How is that view constructed? One issue at a time. How are those issues identified as relevant features of the crux of the matter? They are presented by topical examination/inquiry; their relevance is grasped through phronesis informed by nous. Once the crux of the matter is in view, the right thing to do (e.g., talking further with all interested parties) follows, as if by necessity, from that view. (Previous comments regarding apprehension of the obvious apply here as well.)<sup>8</sup> The stasiastic movement then culminates in judgment.

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<sup>7</sup> Pun intended.

<sup>8</sup> I wish to here make clear that my intention is not to have these reflections stand as an exhaustive treatment of the nature of phronesis, and especially of the relation of phronesis to sophia and episteme. Maintaining a narrowly rhetorical focus (on particularity) may imply that phronesis is reducible to a sterile instrumentality. Phronesis is not merely a reasoning process, it is an intellectual

## The Illative Function

Following John Henry Cardinal Newman's lead, I call the illative function of phronesis the point at which moral inquiry culminates in judgment.<sup>9</sup> In his Grammar of Assent Newman coins the term "illative sense" to represent the faculty of mind that brings together probabilities in their convergence. Newman's illative sense is an inference-making sense that carries one over the gap from probability to moral certitude. Correct judgment is featured ordinarily in studies of phronesis, so this final movement of the analysis will serve only to underscore two aspects of this facet of phronesis: (1) That correct judgment in hard cases entails viewing together circumstances and probabilities in their convergence, and (2) While phronesis is traditionally discussed exclusively in terms of individual choice-making, it also functions as a guide to correct judgment in communal settings. That is, the rhetorical view promotes a conception of phronesis as a guide to public deliberations as well as to private.

The ethics committee's action on behalf of Baby Anthony may be taken as representative of the treatment of futility judgments generally (to the extent that futility judgments always involve a complex of probabilities and circumstances which are viewed in their convergence). We return to Baby Anthony's case precisely where we left off (with the attending physician's *reductio ad absurdum*): "... uh I'm being facetious, I belabor the point, but uh, to me, it's back to the issue, I'm very uncomfortable on the data that we have, saying that on a baby two weeks old our measures are futile." The only data they had regarding babies with Anthony's problems were all compiled at one month of age, and Anthony's weight (700 grams) was borderline relative to babies who survived and those who did not. The data only heightened doubt.

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virtue and, according to Aristotle, it does not reach fruition in the individual life without virtue (NE 1144<sup>a</sup> 31). The discussion regarding the relation of phronesis to rhetorical reason (which is a rather instrumental element of rhetoric) has gone on at some length, so now seems an appropriate time to reassure the reader that I am viewing phronesis in very narrow terms. (For more on phronesis as arete see Dunne [1993] pages 265-74 & chpt. 9; Garver [1994] chpt. 7.)

<sup>9</sup> See Dunne's (1993) chapter 1 for a thorough treatment of phronesis in Cardinal Newman's Grammar of Assent and Tallmon (1995) for an exhaustive treatment of the contribution of the same to the conceptualization of rhetorical reason.

Furthermore, that there is no “clean” point at which to make the futility decision is an issue that looms large in Anthony’s case. The right thing to do in his case is a day-to-day proposition because his condition changes daily. As a result, the one most prominent point of stasis that emerges is the issue of timing: How long ought one continue treating, and trying alternative courses of treatment, before saying, “It is enough . . . he’s suffered enough. This case is futile.” When the group combines their suspicion that Anthony will probably die no matter what they do, with their sense of duty to operate in his best interest, they face a dilemma. The horns of the dilemma are: Are we prolonging Anthony’s life? or Are we only prolonging his death? There is a point in any such futility case when the practitioners begin to realize that they may, in fact, serve their patient’s interests better by allowing him or her to die. Such a realization constitutes a frontal assault on the moral sensibilities of those sworn to uphold the sanctity of life; it is profoundly counter intuitive. Practical wisdom generally works in harmony with intuition, but, in moral dilemmas like this one, practical wisdom can counter it. Whether it counters or confirms an intuition, the moral certitude that phronesis provides is the result of the confluence of probabilities.

The attending physician and the medical director explore the timing issue by reflecting on personal experience and conduct a very interesting inquiry regarding the degree of certainty one must have to conclude futility (i.e., 100% or 90%, etc.?). After concluding that 90% is probably sufficient in most cases (but that hard cases do not admit of such statistical certainty) the attending physician grants (with reservation) that Anthony is close to the point of futility: “I’m not suggesting that he has this continue month after month, even if it was possible. I’m just, I’m arguing that to say that we’ve reached futility when he’s three weeks of age is a little premature. And I would grant you that, I mean I think we probably are at that point, . . .” Notice how much the attending physician leaves unspoken. His tacit agreement with the appraisal of others in the room is qualified by means of the word “probably.”

Upon the attending physician’s admission, the committee arrives at a consensus regarding the following: Anthony will very probably die; if he somehow lives he will almost certainly be severely and multiply handicapped; and placing him in the same social setting would probably not be in Anthony’s best interest, ergo, they are reasonably certain that Anthony’s case is futile. How many factors must the ethics committee take into account to reach this consensus? His entire medical record, plus speculations about Anthony’s future quality of life, the family setting, the degree of pain he feels, the timing issue, along with a number of lesser considerations, are productive of a moral certitude. These issues are viewed, not in the abstract, but in a particular light: the light generated by this ensemble of minds.

Another illustrative example may be drawn from Frederick Wiseman's video of terminal cases, "Near Death." Charley Sperazza, a retired laborer, had heart disease and was ventilator dependent for terminal lung disease. His wife and son were concerned about the severity of Charley's condition because two previous attempts to wean him from the respirator had failed, and one triggered a heart attack. While they did not wish to put him through that again, it was established that death was imminent and they thought that he would prefer to live out his days fully alert rather than in the drug induced stupor caused by the need to relieve the discomfort of the vent tube stuck down his throat. On the one hand, the respirator could briefly prolong his life, but he fought the ventilator tube so much that he had to be drugged into semi-consciousness; on the other, his lungs could not function without the aid of the ventilator. At a critical juncture in the case (after his heart was stabilized), the personal physician speaks with Mrs. Sperazza and her son about whether or not they wished to put Charley back on the respirator if attempts to wean him fail. The number of issues raised in their dialogue (listed below), and the manner in which those issues combine, is noteworthy. Rather than analyze the (rather lengthy) dialogue, if I may be permitted, I will simply present for the reader's consideration the issues discussed:

recent stability

the tube aggravates Charley

the tube needs to be removed

Mrs. Sperazza wouldn't want to see him sedated again ("He's not all there.")

If he gets off the tube it may go well or it may not

If it does not go well, would we want to subject him to the tube a third time?

Charley's past history

extent of damage to vital organs

likelihood of meaningful recovery

concurrence of other doctors

Charley's doctor, son and wife are gathered together, attempting to ascertain what is in Charley's best interest. The inquiry here is reducible to one question: How bad is he? The answer to that single question will determine whether or not it is desirable to reinsert the tube if Charley cannot be weaned. In other words, the wife and son need to know what his survival

chances are before they can make such a decision. Though one might expect such a judgment to be rendered entirely in terms of medical facts, the determination is guided by phronesis rather than episteme. The judgment centres around both Charley's present diagnosis and his (future) prognosis, his character, and especially what he would want if he could express it. Very speculative; the most compelling decisions I have studied have to do with predictions of future outcomes. (The careteam removed his tube the next day; Charley died one week later.)

Newman's elucidation of his so-called illative sense serves to describe the role of public phronesis implied in the examples above: "It is by the strength . . . of premisses, which are only probable, not by invincible syllogisms,--by objections overcome, by adverse theories neutralized, by difficulties gradually clearing up, . . . that the practiced and experienced mind is able to make a sure divination that a conclusion is inevitable, of which his lines of reasoning do not actually put him in possession" (1979, 254). The nuances of Newman's construction notwithstanding, the above observation resonates fully with the foregoing analyses of group discussions. Newman conceives of the illative sense as the active mind, habituated to operate in the realm of informal inference, "brooding" over relevant aspects of a concrete case, identifying and discriminating between the issues at stake; considering various combinations of facts and probabilities; assenting to some, rejecting others, and, in due season, arriving at a number of "indefectible" certitudes. The present study suggests that phronesis may entail an ensemble of minds, so it extends Newman's conception from individual moral growth to shared moral inquiry (or "public phronesis" if you please).

The restoration of rhetorical reason (which entails, at its core, public phronesis) is imperative because the ambiguities of modernity intensify the need for shared moral inquiry as a means of resolving moral dilemmas. Unless we hope for tough cases to be resolved *deus ex machina*, it behooves us to work out a practically useful method for so doing. Hence, rhetorical scholars are uniquely situated to contribute not only to the theoretical understanding of, but also to general appreciation for the practical utility of, rhetorical reason. That appreciation will result in part from our accounting for the role of phronesis in rhetorical reason; that it: brings to bear on the instant case universal principles and general rules, past experience, the moral force transferred from analogous cases, works in tandem with special topics to identify the crux of the matter, and, finally, brings together all the relevant features of the case in order to facilitate sound judgment.

## Some Theoretical Implications

Nussbaum argues that Aristotle makes a strong case against any “general algorithm for correct choice” (1990, 73). Phronesis is, of course the alternative to such algorithms, but the impossibility of reducing phronesis to an algorithm should not preclude attempts to detail its method. One need not worry that phronesis will ever be rendered formulaic; its subtle nature defies such reductionism. Recent attempts to analyze it attest to that difficulty. Richard Sorabji’s “Aristotle on the Role of Intellect in Virtue” (in Rorty 1980) for instance, attempts containment through compaction. That is, every point Sorabji raises is followed by a number of references to the works of Aristotle, and, if each reference were elucidated in the text, his twenty page essay would expand by diffusion to an unwieldy mass. Barbara Warnick’s (1989) “Judgment, Probability, and Aristotle’s Rhetoric” features the role of phronesis relative to rhetoric, and she contains it by maintaining a very tight focus on the role of phronesis within the context of Aristotle’s view of human judgment. Paul Ricoeur’s means of containment resembles Warnick’s. Phronesis is central to Ricoeur’s (1992) Oneself As Another, but Ricoeur contains it by relating it to his thesis in very narrow terms (pp. 173-80). Ricoeur seems to suggest that he fears that phronesis has nearly got the best of him when he writes, “Here, phronesis gives rise to an exceedingly complex deliberation, in which the phronimos is no less at issue than the phronesis” ( 178). Hans-Georg Gadamer, on the other hand, simply unleashes phronesis in Truth and Method (1986 see, for example, 20-22, 312, and 541). He practices non-containment and produces a tome. Joseph Dunne (1993) notes that Gadamer had to publish a further series of essays just to clarify what he was trying to get at regarding phronesis in Truth and Method, a work of nearly 600 pages (Dunne, 106 n. 7)! Jonsen and Toulmin (1988) manage phronesis by examining its importance to casuistry from a variety of viewpoints: relative to episteme (58-74); with respect to generalizations (258-9); in practical philosophy (71-2) and relative to circumstances (130-32). Martha Nussbaum uncorked phronesis and has thus far published three treatises (1986, 1990, 1994).

In order to contain this examination of phronesis I conducted a practical investigation of the topic which focused on four cases of ordinary discourse which constitute shared moral inquiry, and featured inquiry over argumentation in rhetorical invention. Those cases, viewed from that perspective, illustrate how rhetorical reason may be viewed as a modality of phronesis, which, in turn, helps us better appreciate Warnick’s claim that rhetoric “reaches its fruition in phronesis.” This trajectory puts rhetorical theory “right in the thick of things,” as it were. In other words, contemplation of these matters contributes to the work of those committed to the restoration, not only of phronesis and rhetoric, but of *communitas*. We may

even be poised to make a rare contribution to Aristotelian thought. Following are some concluding thoughts about how viewing phronesis in rhetoric, in terms of the five facets detailed above, augments Aristotle's treatment of that relationship.

Dunne (1993) posits that Aristotle's Rhetoric presents "more a philosophy of human life as determined by speech than a technical doctrine about the art of speaking," and, therefore, despite its title (Techne Rhetorike), is itself a modality of practical philosophy (162). Dunne's claim here certainly squares with Garver's project (1994) to read Aristotle's Rhetoric as an art of civic virtue. However, one must beware here, to not read too much into Aristotle's treatise on rhetoric. I suspect that Garver and Dunne are both heavily influenced by Alisdair MacIntyre, and, in their attempts to participate in that erstwhile project, have overlooked a move that is left to rhetoricians to develop.

MacIntyre's much celebrated After Virtue (1984) suggests that the restoration of community, made necessary by the failure of the Enlightenment project to replace Aristotelian rationality, must entail, in part, the restoration of Aristotelian phronesis (see pp. 39ff; 117; 150-55 & 161). Whose Justice? Which Rationality? (1989) may be read as an overview of the relation between tradition, community and phronesis, while Three Rival Versions of Moral Enquiry (1990) completes the project by demonstrating the need to recover the Thomistic tradition of practical rationality grounded in Aristotelian phronesis (see especially pp. 130-39). I think Dunne, in particular, is motivated by a desire to reintegrate rhetoric, ethics and civic virtue. He attempts to account for "one of the most notorious conundrums facing Aristotelian scholars," that Aristotle clearly places a higher value on the exercise of the theoretic faculty than on the exercise of phronesis, but nonetheless portrays phronesis as the ordering agency of the polis.

A life of uninterrupted contemplation that is not inconvenienced even by having to secure the conditions of its own continued existence is a life for a god but not for a human being. For a human being, even if we accept that the highest happiness consists in contemplation and (a different proposition) that all our striving should ultimately be toward this height, still, to order one's life in such a way that the height can be properly enjoyed, or to maintain a polis in which it will be reliably provided for and prized, this is something that falls not to theoretic reason itself but rather to phronesis (241-2).

Which mental operation is, in fact more rigorous? Practical or demonstrative reason? Having, over the past half-century, set aside our rationalistic bias, we can now face the truth that choosing well in tough situations is more exacting and requires a more rigorous instrument than does formal logic.

Martha Nussbaum (1990) gestures in the same direction in “Priority of the Particular” when she writes that “Aristotle’s defense of the priority of ‘perception,’ together with his insistence that practical wisdom cannot be a systematic science concerned throughout with universal and general principles, is evidently a defense of the priority of concrete situational judgments of a more informal and intuitive kind to any such system” (66). Aristotle apparently understood what we are only now on the verge of remembering. These are very important observations about Aristotle’s treatment of phronesis as a dianoetic virtue; observations that should interest students of rhetoric a great deal. Society will not reap the benefit of the above insights without the aid of a revitalized practical rhetoric. Life in postmodernity demands it. So, Dunne’s move makes perfect sense, and even receives Aristotle’s tacit approval; he does, after all, begin The Rhetoric by noting that rhetoric is an offshoot of ethics/politics. Furthermore, I agree that, to the extent that one integrates Aristotle’s practical and political philosophy with his Rhetoric, one may infer such a robust conception of phronesis. However, such a conception is neither explicated nor implied in Rhetoric, and neither, on the other hand, is rhetoric associated with phronesis in the Nicomachean Ethics. The Rhetoric is a *techne*. Aristotle there posits that, in order to persuade, one must exude *ethos* (good character) because persons are more likely to be persuaded by those whom they trust.<sup>10</sup> At the beginning of Book II he further divides *ethos* into *phronesis*, *arete*, and *eunoia* because, in order to establish credibility, the rhetor must appear to possess practical wisdom, virtue, and good sense.<sup>11</sup> It is important to note that the taxonomy is developed wholly in terms of the *techne* of rhetoric.<sup>12</sup> This is unfortunate because Aristotle’s treatment of the role of *phronesis* in rhetoric does not fully exploit the ramifications of his own definition of rhetoric. The “faculty of discovery” endemic to rhetoric implicates *phronesis* much more deeply in the rhetorical enterprise than simply as a mode of *ethos*. Yet Aristotle seems content to leave it at that. On the other hand, this is no surprise: Aristotle would never have designed a polis as diverse as the Western World. Homogeneity is the

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<sup>10</sup> “We believe good men more fully and more readily than others: this is true generally whatever the question is, and absolutely true where exact certainty is impossible and opinions are divided” (1356<sup>a</sup>6).

<sup>11</sup> Rhetoric, II.1.5.

<sup>12</sup> Eugene Garver (1994) elucidates about as fully as one can Aristotle’s use of *phronesis* in Rhetoric II.1 (see chpt. 4).

hallmark of Aristotle's polis. Conceptualizing a faculty of discovery (grounded in phronesis) is much more important where there is a breakdown in consensus.

The foregoing analysis contributes to such a conceptualization insofar as it promotes a more precise and less conventional understanding of rhetoric. It is more precise (or, rather, less generalized) than Aristotle's account because the five facets identified and illustrated above shed new light on the relation of phronesis to rhetoric. These are very practical lines of analysis that aim specifically at informing the practice of moral inquiry. It is less conventional for two reasons: it emphasizes the heuristic aspect of rhetorical invention and it underscores the public role of phronesis. Rhetorical invention as a guide to practical inquiry is a view of rhetoric that has not been featured for at least two hundred years (Bitzer and Black 1971, 236). The notion of public phronesis is itself an unconventional view, for, as was stated earlier, phronesis is traditionally discussed only in terms of individual moral development. Public phronesis is a communal expression of practical wisdom, one which entails a synergism produced by an ensemble of minds.

Medical professionals (and others, I suspect) lack education in moral reasoning and are, therefore, in need of a guide to moral judgment in cases that are not resolvable by scientific means. Hence, it is incumbent upon those of us who wish to enrich the grounds of public decision, to "have a part in the recovery of practical wisdom in a technological age," to both stake out and fully develop other facets of phronesis in rhetorical reasoning.

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