

Logocratic Method and the Modes of Common Law Argument

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(i) Notes for Class Members on our course so far

(ii) Central Concepts of the Logocratic Method

Notes to Class Members on our course so far

(i) Below is a list of the central concepts of the Logocratic Method. In our first two classes I have introduced you to most of these concepts and offered illustrations from the *Monge* case. Note that I have posted for Class 1 a version of the *Monge* Supreme Court opinions (majority and dissent) that have the Logocratic analysis written into the opinion. Please review this document, *Logocratic Analysis of Monge for LMMCLA, Konstanz (posted).pdf*, to help strengthen your understanding of what we have discussed in Class 1 and Class 2.

So far, I have shown you the *mode-specific virtues* (we also refer to these as *characteristic virtues* – for example, the characteristic virtue of deduction is validity) of the *four modes of logical inference* (deduction, induction, abduction, analogy) only in summary. Our detailed examination of the mode specific virtues will be as follows (this is an adjustment of the posted syllabus):

Class 3: Deduction (first 2/3 of this long class; the readings are those posted for Class 2) and Induction (final 1/3 of this long class; the readings are those posted for Class 3).

Class 4: Analogy (readings as posted for Class 4)

Class 5: Abduction, including especially legal abduction (readings as posted for Class 5; add to those Brewer, *Interactive Virtue and Vice in Systems of Arguments, A Logocratic Analysis* (draft June 2019)," pages 11 - 18)

Class 6: Practice with the Logocratic Method; discussion of exam (readings as posted for Class 6)

I will also be illustrating the three mode-independent virtues (internal/inferential/epistemic strength, dialectical strength, rhetorical strength) as we discuss each assigned case (the way we have done with *Monge*)

(ii) As we progress through the class you should become more and more comfortable with these concepts and gain a *working mastery* of the concepts, by which I mean being able to

identify instances of each concept in a text that you read, for example, in a judicial opinion or lawyer's brief.

(ii) Readings: You should of course do the readings assigned for each class, before the class, if you can manage, so that you are reinforcing your understanding of the particular topics discussed during the class meeting, rather than acquiring that understanding for the first time. (On the other hand, if you do not read materials before class, please come to class anyway; better to hear it in class for the first time than not to come to class.)

The most useful *overall* readings are:

- (a) The summary material on this handout, below.
- (b) The whole of Brewer, *From Enthymeme to Argument: Logocratic Method and the Virtues and Vices of Arguments*, parts of which I've assigned for different classes, and which is posted for Class 1 and Class 5 (same reading, with filename, *Brewer_Logocratic_Method_and_VVA.pdf*)
- (c) An additional reading which will be posted for Class 3, Brewer, *Interactive Virtue and Vice in Systems of Arguments, A Logocratic Analysis* (draft June 2019). **For Class 3, please read pages 1-11.** (The remaining part of this article is assigned for Class 5.)

Central Concepts of the Logocratic Method

Argument (abstract): set of premises that can be or is offered *as evidence for* a set of conclusions

Proposition (abstract): A proposition is what is expressed in uttering-vocally, or in writing, or in some other way-a declarative sentence on a particular occasion of discourse.

Enthymeme: a rule or argument whose logical form is not explicit in its original mode of presentation (e.g., in a statute or judicial opinion or regulation)

rule-enthymeme

counterpart: "rulification," give a fair formal representation of the rule-enthymeme

argument-enthymeme

counterpart: "argufication," give a fair formal representation of the argument-enthymeme

Evidential conception of logic: logic is the study of the evidential relation between the premises and conclusions of arguments; an argument's premises provide evidence for its conclusions

Logical form or mode of logical inference: the evidential relation between the argument's premises and its conclusion. There are exactly four modes of logical inference (logical forms): **deduction, induction, analogy, abduction**

Virtue: a functional excellence, the property of some object x that makes it a good x – e.g., sharpness is a virtue of a knife

Virtues of arguments:

mode-dependent virtues: virtues specific to one or another of the four modes of logical inference; for example, validity is the mode-dependent virtue of a deductive argument

mode-independent virtues: virtues of arguments that are independent of an argument's mode of logical inference; there are in principle an indefinite number of mode-independent virtues (just as there are in principle an indefinite number of virtues, functional excellences, of any object – an hammer can be a good paper-weight). The Logocratic Method focusses on three virtues (functional excellences) of arguments that are of particular interest to arguers in many settings: inferential (also, internal or epistemic) virtue (the virtue of having the premises provide inferential, internal, or epistemic support for the conclusions); dialectical virtue (the virtue of an argument in competition with another argument where the aim is to win the competition); rhetorical virtue (the virtue of persuading some target audience to accept new propositions or to accept new reasons for existing propositions)