



UNIVERSITÀ DEGLI STUDI DI TRENTO

Facoltà di Giurisprudenza

STUDIES ON ARGUMENTATION
& LEGAL PHILOSOPHY / 2

MULTIMODALITY AND REASONABLENESS
IN JUDICIAL RHETORIC

MAURIZIO MANZIN
FEDERICO PUPPO
SERENA TOMASI
(eds.)

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Maggio 2017

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an innocent man, or party, is surrounded, overpowered after a struggle and hauled before a legal tribunal. Innocency weeps; the judge pronounces a harsh sentence; sympathetic voices mingle in laments and denunciations. ... The magistrates are now scarcely able to quiet the wild tumult. The uprising is suppressed, but the people are not quieted; hope smiles cheerily and suddenly the voice of the people pronounces the decision in harmonious agreement (Gutmann 2013).

Formalist critics dismiss these kinds of analogies out of hand, refusing to describe the symphony in non-musical terms. William Mann compares it to abstract art, calling it

an argument in terms of music. ... It is about melodic shapes, tunes and vestiges of tunes, about harmony and the effect that a new chord can make and build up, about keys and the effect one key can have on another, about the relationship of wind to string to brass instruments (Gutmann 2013).

Formalist accounts of this sort successfully avoid extravagant comparisons that are difficult to judge, but it is hard to see how they explain the greatness of the Symphony and the reasons why it moves us. To a great extent, they simply narrow the scope of what words can say about the Seventh, abandoning the attempt to explain how and why it is a great aesthetic achievement. Instead of trying to say why, this is a circumstance in which one might instead attempt to show it – by performing the symphony rather than talking about it. Here we have another context in which Wittgensteinian showing may be a better alternative than saying.

In the case of legal reasoning the complications that arise for language in the realm of value further limits the adequacy of language, for legal reasoning is inherently tied to values, often in very complex and difficult circumstances. What is right and wrong, admirable and detestable, and excusable and inexcusable as it is reflected in love, war, beauty, victory, defeat, tragedy, art, spirituality, etc. is difficult to express in words. But it is still relevant to matters that come before the courts, and especially relevant to the most serious issues with which it deals. Given the limits of language's ability to convey what is important in such con-

texts, visual and multimodal presentation can be a way to show what can't be said.

When the prosecutors at the Nuremberg trials were faced with the task of demonstrating the enormity of the wrongs committed by the Nazis, one of the things they did so was by assembling an enormous collection of visual evidence. It included film and photographic records of atrocities that the Nazis compiled for their own uses, to record what they had accomplished. An example was the "Stroop Report", an album of photographs taken on the orders of SS and Police Leader Jürgen Stroop, who ordered his officers to document the murder of thousands of Jews in the suppression of the Warsaw ghetto uprising. Other visual documentation was compiled by the US Army Signal Corps, which documented Nazi atrocities and the realities of the Holocaust. A turning point in the trials occurred when the International Military Tribunal prosecution presented such material in an hour-long film they titled "The Nazi Concentration Camps". When the lights went on at the end of the official showing of the film during the Nuremberg proceedings the audience at the Justizpalast sat still in stunned silence.

One might cite many other cases in which visual images capture human situations in ways that words are unable to. The photographs that win Pulitzer prizes and World Press Photo awards are notable for the gripping ways in which they capture circumstances that are difficult to describe in words (because of the good, the evil, the joy, the tragedy, etc. they convey). In the trials of American military personnel carried out after the My Lai massacre in Vietnam and the torture and mistreatment of prisoners in Abu Ghraib prison in Iraq, visual evidence played a key role in convincing courts (and the world) of the reprehensible nature of their actions. In less extreme circumstances, in dealing with matters that relate to nuisance, civic law, obscenity and the environment, legal arguments may depend on aesthetic judgments which are inherently visual (Coletta 1987; Butler 2003). In contemporary lands claims cases in Australia, indigenous sand paintings, maps, songs and dances have been successfully used as evidence for connection to the land that can establish title (Schreiner 2013).

The inherently multimodal nature of key judgments of value can be seen in legal cases over political cartoons, which themselves function as

a multimodal way to publicly convey moral and political disdain. The images they employ are an essential – often, the most essential – component of their message. A full understanding of this message is rarely possible if one restricts one’s attention to the words that they contain. The now infamous Nazi newspaper *Der Stürmer* was famous for its anti-Semitic cartoons, which visually assigned Jews atrocious stereotypes (as short, fat, and ugly, with big hook noses, unshaven, drooling, and sexually perverted). *Stürmer*’s cartoonist, Fips (Philipp Rupprecht), was sentenced to six years of hard labour at the end of the war for anti-Semitic propaganda and his editor, Julius Streicher, was hanged for crimes against humanity.

Recent debates over the question when cartoon images are instances of hate speech have been fueled by the *Jyllands-Posten* Muhammad cartoons controversy in Denmark, and the anti-Islamic cartoons published by the now famous French satirical newspaper, *Charlie Hebdo*. The latter ultimately precipitated an attack against the newspaper’s offices that resulted in the murder of 11 people working for the paper in 2015. The essential role that visual depictions play in such controversies illustrate the point that issues of expression must increasingly be understood as multimodal issues that apply to all forms of multimodal meaning.

A final example of that illustrates the ineffable nature of the world of value is found in one of the most famous murder cases of all times. In 1966, Ian Brady and Myra Hindley were prosecuted for the moor murders – a series of murders they committed in Manchester, England. In his closing remarks at the trial, Mr Justice Atkinson described the murders as a “truly horrible case” and condemned the accused as “two sadistic killers of the utmost depravity” (Carmichael 2003, p. 2). Many aspects of the evidence given at the trial led to this conclusion, but one stood out. It was a 13 minute tape recording the accused made of one of their murder victims screaming and crying as they tortured her. The tape was a disturbing multimodal exhibit with screams, gurgles (from the choking), cries and pleas for help. Even when it recorded the 10 year old girl saying something, it was the sound of the voice, not the words she spoke, that most clearly expressed the horror of what was

happening. It is these sounds, not words, that most clearly communicated the horror and the wrongness of what was happening to her.

8. *Conclusion*

At the beginning of this essay I defined arguing as an attempt to convince an audience of some conclusion by providing evidence that supports it. In the real world of arguing, arguers pursue such attempts by presenting non-verbal as well as verbal evidence. This is a problem for traditional theories of argument, which have failed to recognize multimodal means of expression, resolutely assuming that words are the only proper vehicle for arguing. In the case of legal reasoning, the emphasis on verbal reasoning has been similarly pronounced. In view of it, the courts have struggled to find ways to accommodate and evaluate visual and multimodal evidence.

In earlier centuries, technological factors like the invention and development of the printing press reinforced the focus on words. As we enter a very different world in which our ability to produce images and other non-verbal representations has fundamentally altered the ways that we communicate, multimodal arguing is ascendant. Argumentation theory has begun to deal with this reality by developing a multimodal theory. In the case of reasoning in law, it is time to recognize something similar – that the theory of arguing that should inform our understanding and analysis of legal reasoning must be multimodal. By moving in this direction, we can overcome the shortcomings that accompany language and words – shortcomings that have been too often overlooked within the realm of argument.

A fully satisfactory multimodal theory of argument is not yet available. It will require much more study which will provide a much more detailed account of the best ways to analyse and assessment multimodal reasoning. We are fortunate to be living at a time when this project is well underway. Though they remain controversial in some quarters, the first promising steps in the development of a multimodal theory of argument arguing have already been taken. In Plato's time, it was his worry that sophistry would undermine our confidence in arguing with

words that led him to warn us of *misologia*. In our own time, in circumstances in which non-verbal modes of arguing are increasingly important in the real world of arguing, we need to move beyond the constraints that he himself imposed on arguing. It is time to move in the opposite direction and recognize the importance of multimodal arguing that is not constrained by the limits of language. In law and more broadly, it is a time to be wary of the prejudices that are *logophilia*.

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PROCESSING MULTIMODAL LEGAL DISCOURSE; THE CASE OF STANLEY ‘TOOKIE’ WILLIAMS

Paul van den Hoven & Gabrijela Kišiček

Abstract

We focus on a striking difference between this prototypical legal discourse format and a complex multimodal discourse format: the role of the mediating narrator. In prototypical verbal legal discourse, the narrator concurs with one clearly identifiable top-voice. The narration is close to ‘monotone’; the top-voice organizes the polyphony. The sources of information are limited and rather conventionally related, in case of an oral presentation and even more in case of written discourse. This is essentially different in multimodal formats. The ‘narrator’, defined as the organizing principle, can be highly abstract, not concurring with one specific discourse voice. Obviously, the agent who presents the discourse has to take responsibility for the way the discourse is narrated, but this responsibility is not ‘embodied’ in this agent acting. The sources of information that are organized by the narrator are many, diverse, and relate to each other in complex ways.

1. Introduction

To analyze the impact of legal arguments presented by means of multimodal discourse, one needs to understand the semiotics of these discourse formats (Bateman & Wildfeuer 2014; Van den Hoven 2015). Scholars claim that multimodal discourse as a means to argue in a legal discussion functions differently from mono-modal verbal argumentative discourse, due to differences in semiotic structure (Bateman & Wildfeuer 2014; Birdsell & Groarke 2007; Blair 1986, 2015; Dove 2012, 2013; Gilbert 1994, 1997; Groarke 2009, 2015; Kišiček 2015;

Kjeldsen 2012, 2015; Roque 2012; Van den Hoven 2012, 2015; Van den Hoven & Yang 2013). In this paper, we investigate a stronger claim, namely whether one can identify argumentatively relevant information that is uniquely conveyed by means of multimodal discourse. Our research question is:

What opportunities, if any, do multimodal discourse formats offer to discussants to defend a standpoint on reasonable grounds that a monomodal written verbal format cannot offer?

We consider argumentatively relevant information all information that must be considered in a serious and deliberate assessment of the reasonableness of a standpoint.

Theoretically, multimodal semiotic resources may not offer any unique opportunities to convey argumentatively relevant information (compared to discourse that solely employs written verbal semiotics resources). In that case, from an argumentative perspective, a multimodal discourse format should be considered a mere presentational choice. That choice may be rhetorically relevant in terms of strategic maneuvering (Van Eemeren 2010), in terms of efficiency (for example, graphics efficiently summarize lengthy verbal enumerations). But from the argumentative perspective, it is a mere presentational choice as long as mono-verbal written formats can convey an equivalent appeal to reason.

Dove (2013) has convincingly refuted that opting for multimodal formats is always a presentational variation. He showed for example how some graphic-based arguments seem irreplaceable by verbal counterparts (unless on a meta-level on which a precise description is given of how to produce these graphics). In this paper we take a more assailable approach. Instead of searching for specific discourses that serve as examples of multimodal argumentative discourse for which there are hardly, if any, equivalent verbal formats, we analyze the semiotics of multimodal legal discourse that has actually been presented; this enables us to investigate whether we can identify non-verbal semiotics resources conveying argumentatively relevant information that have no equivalent verbal counterpart. Is the choice for multimodality justified

by the fact that this discourse actually includes an appeal to reason that cannot be conveyed by mono-modal, top-voice dominated verbal discourse?

Prototypically legal discourse is still verbally conveyed; multimodal formats are sometimes under suspicion for trying to appeal to irrational, non-argumentative forces. However, the core of legal discourse being argumentative, it may very well be so that multimodality offers opportunities to convey relevant information that verbal resources lack (Van den Hoven 2013). A detailed account of the argumentative relevance of the multiple semiotics resources helps to further the discussion on (legal) argumentation and multimodality.

2. Method

To investigate whether multimodal discourse formats can offer legal discussants unique opportunities to defend a standpoint on reasonable grounds, we perform three steps. First, we identify chunks of information that are predominantly conveyed by non-verbal signs. These include: prosody, gesture and appearance of speaking characters; graphic designs of written text; images of specific situations; camera-movement in registering some materials; editing/montage. Second, we determine the argumentative relevancy of this information for the acceptability of the (sub)standpoint presented in the information. If the information is found relevant, as a third step of the analysis, we determine which verbal expressions might convey functionally equivalent information, if any. We then evaluate similarities and differences between the modes.

To discover information we refer to accepted theories about specific types of signs, such as prosodic features of speech, editing, and camera-movement. To articulate the function of the information, we depart from the unitary source assumption (Jiang & Van den Hoven 2011). The interpreter of multimodal inputs makes an early assessment of the degree to which the total input agrees. The modes are interpreted as congruent by default; one organizing principle (we call the narrator) deliberately organizes all modalities into a unity. Therefore we assume

principles of immediate relevance and continuously hypothesizing coherence, accepting the interpretation that is maximally relevant for the issue at hand on the moment of the presentation (immediate relevance) and maximally coherent with the information thus far (continuous coherence) (compare also Bateman & Wildfeuer 2014).

To determine the argumentative relevancy of the information, we depart from a maximal argumentative analysis (Van Eemeren, 1987; Van Eemeren & Grootendorst 2004). Even though chunks of information may serve other functions, in legal contexts, it is justified to assume that the addressee will assess the standpoint on reasonable grounds. Therefore he or she will first assess information with respect to its argumentative relevance, if any. This assumption is even more justified because we interpret an example of a discourse that is addressed to a professional decision-maker. Our rhetor knows and will anticipate that this decision-maker gets information from different participants in a thorough discussion. The decision-maker has sufficient time and motivation to consider the issue in great detail. This is the standard situation in a legal debate. Conceivably, it is difficult to determine in any intersubjective way which information is not argumentatively relevant. It is hard, if not impossible, to draw a line between information that is argumentatively relevant yet unpersuasive or even fallacious, and information that is argumentatively irrelevant yet convincing beyond mere appeal to reason.

The most assailable task is to determine which verbal expressions might convey functionally equivalent information. To develop a clearer view on what the semiotics of multimodality mean for the argumentative possibilities of multimodal discourse, one can try to contrast multimodal formats with an imaginary mono-modal, top-voice dominated verbal counterpart (Van den Hoven 2012). Although the number of legal arguments presented by means of multimodal discourse increases, a prototypical legal argumentation still generally consists of sets of verbal expressions that employ an explicit quasi-logical structure. Most argument theories also consider this verbal format prototypical to perform the speech-act argumentation. Admittedly, in practice, argumentative discourse often deviates from this prototypical format. However, it is assumed that the actual argumentative appeal to reason can be – and

according to normative approaches, should be (Van Eemeren & Grootendorst 2004, Govier 2010) – reconstructed in a format that meets the verbal prototype. From this it follows that these theories assume that a mono-modal verbal presentation of the argumentation is always an option, roughly resembling the verbal paraphrase in this reconstruction. According to these theories, multimodal formats are therefore considered a presentational choice. The verbal equivalent will not account for all information in the multimodal format (compare Bateman & Wildfeuer 2014: 192), but is supposed to cover all argumentatively relevant information.

To determine which verbal expressions might convey functionally equivalent information, we test this theoretical assumption. We search for ‘as good as it gets’ equivalent verbal expression(s), to be uttered by a top-most-voice of a mono-modal verbal written discourse. We evaluate similarities and differences between the modes, the most extreme difference being that we are not able to propose any equivalent verbal expression with the same appeal to reason. In that case, the multimodal format offers a unique opportunity to convey argumentatively relevant information.

3. Materials

In this paper we analyze one example of multimodal discourse that is meant to be predominantly argumentative. It addresses a legal issue, in which the authority has to make a legal decision. We will analyze a video clip that is said to be produced as part of a 2005 campaign to urge governor Arnold Schwarzenegger to grant clemency to Stanley Williams. This video can be found on the Internet: <https://www.youtube.com/watch?v=KhFoeJPP6HE>.

Stanley Williams was a former gang-leader, sentenced to death in 1979. The standpoint defended in this discourse is clear: Williams should not be executed. The campaign failed, however, and Williams was executed by the State of California on December 13, 2005. We have chosen this example because it presents a complexity of embedded voices, incorporates many materials, and shows elaborate editing.

In other words, its semiotic structure, compared to monomodal verbal discourse conveyed by one voice, is significantly different. Still, the discourse is recognizable as legally contextualized, showing awareness of the prototypical format as a reference point. In prototypical verbal legal discourse, the narrator concurs with one clearly identifiable topvoice, to be identified with the agent who presents the discourse; the narration is close to ‘monotone’; the top-voice organizes and controls polyphony.

Our example opens with a voice-over who, at least for a while, coincides with the (personified) narrator organizing the discourse, orally (though invisibly) delivering an argumentation that can be understood independently from any information from other modalities. As we will see later, prosodically this voice-over also intends to fulfill the role of a detached, almost unaffected presenter of the argument. This helps to identify the argumentative relevance of other information as we have a structure to depart from.

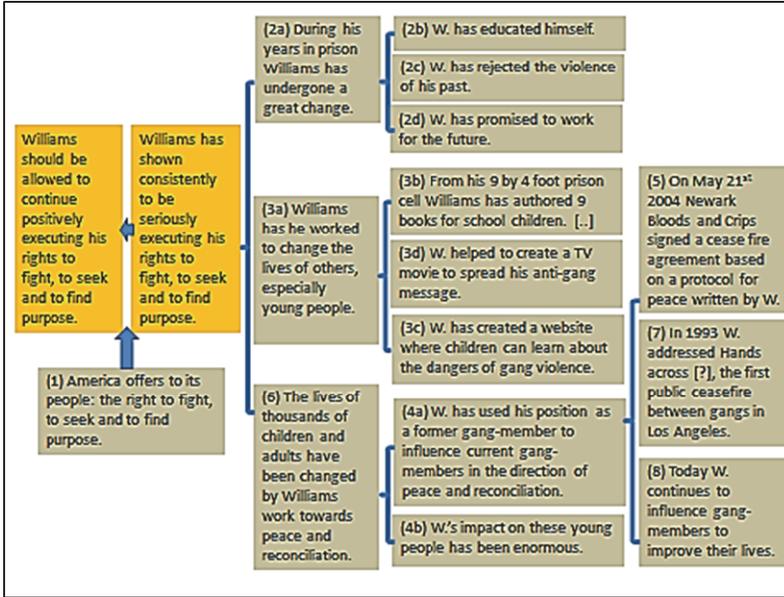
We transcribe the text of the voice-over. We use a new number if the voice-over has been silent for a while, the discourse developing in other modes. Behind brackets we indicate where the utterances occur in the 10.30 minutes clip.

1. This petition is in a way about what America is and what it offers to its people: the right to fight, to seek and to find purpose. [0.09-0.18]
2. (a) During his years in prison Williams has undergone a great change. (b) He has educated himself, (c) he has rejected the violence of his past and (d) he has promised to work for the future. [0.36-0.47]
3. (a) As Williams’ life has changed, so has he worked to change the lives of others, especially young people. (b) From his 9 by 4 foot prison cell, Williams has authored 9 books for school children. They warn about the perils of gangs and violence, gangs and drugs, gangs and self-esteem and about the harsh realities of life in prison. (c) He has created a website where children can learn about the dangers of gang violence and (d) he helped to create a TV movie to spread his anti-gang message. [0.56-1.30]
4. (a) Williams has used his position as a former gang-member to influence current gang-members in the direction of peace and reconciliation. (b) His impact on these young people has been enormous. [1.34-1.44]

5. On May 21st 2004 Newark Bloods and Crips signed a cease fire agreement based on a protocol for peace written by Williams. [2.41-2.48]
6. The lives of thousands of children and adults have been changed by Williams work towards peace and reconciliation.[4.05-4.12]
7. In 1993 Williams addressed Hands across [?], the first public cease-fire between gangs in Los Angeles. [4.32-4.39]
8. And today Williams continues to influence gang-members to improve their lives. [4.56-5.01]
9. Williams' dedication has been recognized internationally in the form of nominations for the Nobel prizes in literature and peace. [6.07-6.16]
10. Educators and parents seek out Williams' advice about how to keep their children safe from gangs. [6.30-6.37]
11. Everyday students and young people across the nation look to Williams for inspiration. [7.15-7.20]

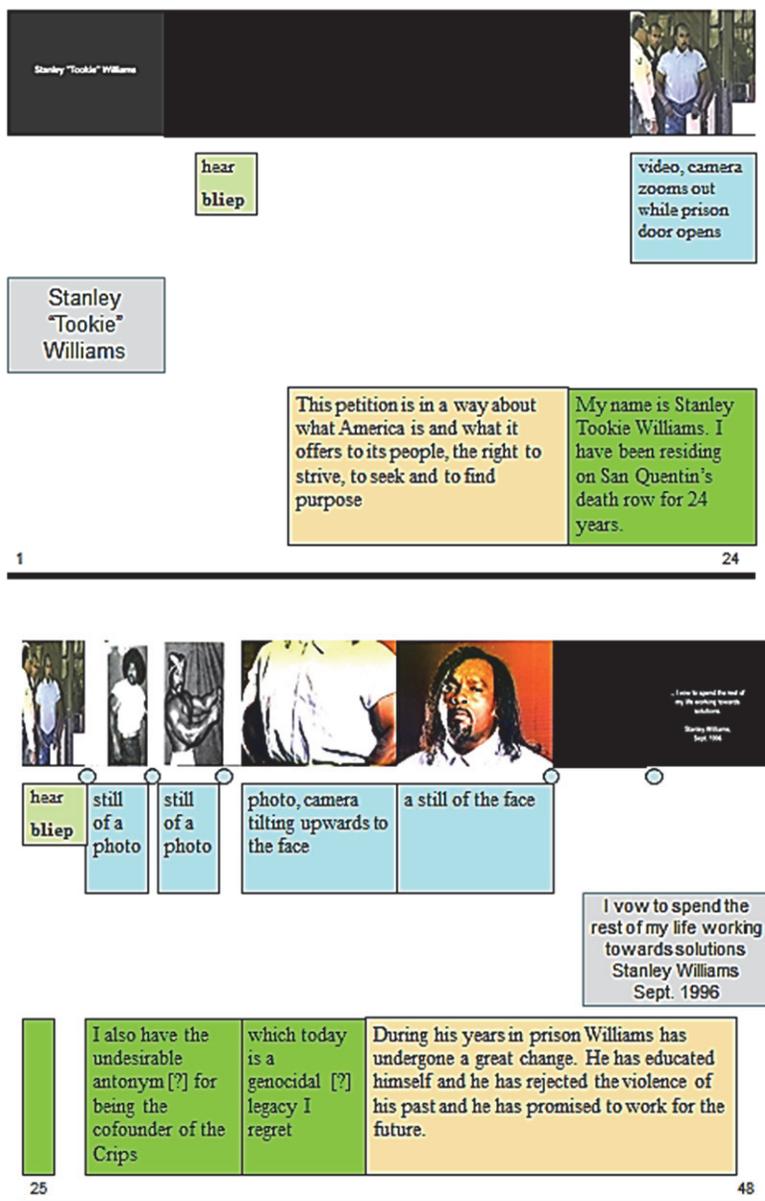
We then make an argumentative reconstruction of this argumentation. To connect expression (1) with the other expressions, we had to add two expressions (see Figure 1). The actual standpoint is not formulated by the voice-over. From about 9.05 minutes on this is done and repeated several times by high school children in a project writing letters to the governor. Finally, in a peroration, the standpoint is repeated by Kevin Tate, a gang member telling us to be inspired by Williams to work against gang violence.

Figure 1: the verbal argumentation of the voice-over



A ‘score’ of the first 1,5 minutes gives an impression of the large amount of information conveyed in the complex multimodal format (Figure 2). In the top row we show stills from each shot (sometimes distorted to fit them on the timeline); second row indicates the kind of materials; third row presents the transcript of projected text; fourth row displays the spoken text; fifth row shows the timeline.

Figure 2: score of the first 90 seconds



... I vow that as long as I have the fortitude, the breath, and my timeless faith, I will work with you and others to reverse this cycle of madness.
Stanley Williams, June 2005

still of a photo

photo, camera tilts slowly upwards

still of a photo

still of a photo

I vow that as long as I have the fortitude, the breath, and my timeless faith, I will work with you and others to reverse this cycle of madness
Stanley Williams June, 2005

As Williams his life has changed, so has he worked to change the lives of others, especially young people

From his 9 by 5 foot prison cell

Williams has authored 9 books for schoolchildren that warn about the perils of gangs and violence

49

72

still of a photo

still of a photo

still of a photo

website, camera slowly zooms in

video, cuffed hands through bars

video, close up, Jamie Fox talking to camera

establishing shot, moving 1 sec, frozen 2 sec

About Tookie
the beginning ...
growth

gangs and drugs, gangs and self esteem and about the harsh

reality of life in prison. He has created

a website where children can learn about the dangers of violence

and he helped to create a TV movie to spread his anti gang message

I used to be the king of the Crips.

Look at my kingdom now.

Williams has used his position as a former

73

96

At 1.36, the voice-over starts sequence (4) that lasts until 1.44, while the screen remains black. Then we get a long sequence of Kevin Tate, telling how Williams influenced his life. Tate speaks into the camera. Written text on the black screen informs the audience about his credentials. When he tells how he lost a close friend, we see a medical personnel of an ambulance declare a person dead. “So I decided to go another way”. While Tate speaks about Williams, we see images of Williams’ website and a book. Talking about a peace agreement, we see the text that Williams has drafted.

The voice-over starts sequence (5) [2.41-2.48], immediately followed by a historical registration of the signing of a cease-fire between gangs in which we see and hear Tate again, together with someone representing the other gang, on a stage, in front of an audience. With image, Tate’s contemporary voice takes over again: “We saved a lot of lives”. He is briefly visible in front of the camera; then we cut to the historical signing with the applaud of an audience, and back to Tate speaking in front of the camera. While he is speaking, three newspaper pages are displayed to tell about the agreement. Returning to Tate, he says: “If he can do it, I can do it”. He speaks further as we see once more a photo of the gang leaders with the signed treaty.

The voice-over starts sequence (6) [4.05-4.12] while we see children read in Williams’ books. Before the voice-over starts sequence (7) [4.32-4.39], we see and hear two male school-children in a class tell about the importance of Williams in their eyes. During sequence (7) we see images of another meeting going on; in the frame is inserted: 1993. Then we hear and see part of Williams’ address to the LA summit (15 seconds), in full-color middle shot, the credentials inserted in the frame, and as Williams looks into the camera. Halfway his talking, this image is replaced by a black-and-white photo of Williams in 1993, and then by a color photo of Williams in 2004, grey-haired and with glasses. The photo stays visible during sequence (8) [4.56-5.01]. Credentials appear under the photo: “Williams’ message to San Quentin inmates, 2005”. This is the longest sequence spoken by Williams (25 seconds), clearly through a pay-phone.

Without any announcement, we return to the a person signing the first peace agreement, giving his opinion about its importance. In the

frame, we get his name and the name of his gang. We see the (ethnically-mixed) audience and hear the applaud again. While still seeing him, we hear a female voice we hear a female voice expressing gratitude. After 2 seconds, we see her, Sr. Helen Prejean, speaking to an interviewer who stays out of frame, with a lot of background noise. During the last 2 seconds of her 10 seconds turn, we see the subheading of a newspaper that reads, “He is proof that someone can change the direction of his life”; the paper then introduces the next issue: the Nobel prize nominations. The voice-over, after having been silent for more than one minute, starts sequence (9) [6.07-6.16] in which we see two other newspaper pages. A Belgian professor named Gasper Ph.D., in middle shot, explains Williams’ nomination for the Nobel prize. During the last 4 seconds of his 13 seconds turn, we see another newspaper page with the announcement of the nomination.

During sequence (10) [6.30-6.37], we see a gathering of principals. Inserted text tells they have a conference call with Williams. We hear a question posed and an answer given by Williams, while we see the audience’s positive responses.

Sequence (11) [7.15-7.20] is spoken while the screen is black. Then we see a classroom, with the teacher directly addressing governor Schwarzenegger, announcing a project of writing letters. Subsequently, we see a number of these letters as a voice (possibly Williams) says that who wants can raise his voice. The screen turns black while another voice-over formally declares that all children made available their appearance on video. Then, from 8.04 on until 9.54, we see seven high school children – male and female, and with different ethnicities – speak to the camera, all but one speaking in brief turns in the same classroom; they all address the governor, giving a positive judgment about Williams’ development, delivering a standpoint that his life should be spared.

At last, we see the photo of Williams in 2004 while we hear Tate in the background. After some seconds, we fade into the frame of Tate speaking into the camera, repeating some of the arguments made in favor of William’s clemency. He ends with, “If he can do it, we can do it. We can change too.” The photo of Williams appears again, then fades slowly to black.

4.1. Analysis step 1: Information added to the 'top' voice-over

We identify five types of information that supplement the verbal utterances of the voice-over by means of (predominantly) multimodal semiotic resources.

- a. Embedded voices spoken while the speaker is visible including gesture, prosody and sometimes contextualization by means of *mise-en-scene*.
- b. Voices that are audible only, once to assure the consent of the children to be shown on video, and another time, presumably by Williams, to encourage children to raise their voice, thus including prosody.
- c. Materials in the frame when referred to by one of the voices (books, websites, newspapers, documents).
- d. Registrations of events and meetings, including a scene from a TV movie and including contacts (telephone and/or video-conferencing) between Williams and specific groups, always combining visuals with diegetic sound, again including gesture, prosody and contextualization by means of *mise-en-scene*.
- e. Information added by means of camera-positioning and movement, and information added by means of editing, exploiting the immediate relevance and continuous coherence.

4.2. Analysis step 2: Argumentative function of the multimodal information

First we discuss evidence added to the argument as presented by the voice-over (4.2.1). Then we focus on the multimodal presentation of the final standpoint (4.2.2). We discuss the function of prosodic features, illustrated with an analysis of the prosodic profile of Stanley Williams' voice and of the voice-over (4.2.3). Finally we look at information conveyed by means of editing, illustrated with an analysis of Williams' photos (4.2.4).

4.2.1. *The argumentative function of additional 'evidence'*

Even scholars who are sceptic about the possibility of nonverbal discourse to convey argumentation do admit that evidence supporting verbally-expressed truth claims is often multimodal. We consider information evidential if its function is to show the correctness of what is verbalized by the voice-over. Including this information resembles delivering exhibits during a court session. We consider the presentation of evidence as an important part of an appeal to reason and therefore as part of the argumentation.

Most information in category (c) and (d) is immediately connected to a reference in the verbal statement of the voice-over, to support its plausibility. Argument 3b, for example, refers to nine books for children; simultaneously we are shown, in the pictorial mode, covers of these books. The same happens while referring to a website and a TV movie. Argument 5 refers to a protocol; simultaneously we see images of this protocol and successively we see fragments of a video-registration of the reconciliation meeting.

Similar to the function of exhibits is the function of witnesses. Some of the information in category (a) is 'witnesses' speaking, although certainly many of them would not have been admitted to a real hearing. Still, Tate as well as Sr. Helen Prejean and professor Gasper Ph.D. directly support statements of the voice-over.

Other materials are included with little evidentiary power. This is the case with the images that illustrate Tate's story about his dying friend; they do not look authentic. Arguments 2c and 2d, which state that Williams has rejected the violence of his past and has promised to work for the future, are followed by 'evidence' supporting these arguments: printed statements of Williams, in quotation marks, with a date and place. This 'evidence' is constructed by the narrator and does not originate from the reality the discourse is about. The authentic documentary multimodal elements, however, are argumentatively relevant. Nonetheless, there are essential differences between real exhibits and those included in the multimodal discourse, and even more so between real witnesses and the shots of 'witnesses'. Exhibits cannot be examined directly and witnesses cannot be cross-examined. All information

remains entirely under control of the narrator. This feature is enhanced in the digital era as technology facilitates alteration, and in fact, production of any image. In other words, all information is ‘narrator-mediated’ discourse. A top-voice could therefore verbally describe the materials and could quote the ‘witness’-statements as indirect speech.

Can such replacements be considered functionally equivalent, or do they alter the appeal to reason? To answer this question, two issues are relevant. The first is: does a verbal description necessarily lack relevant information that multimodal displays convey? We think it does, in particular, prosodic information (compare 4.2.3). The second is: does showing, mediated by a narrator, support rational assessment in a way that telling cannot? We think it does, though our ideas on this are nuanced and two-sided (compare 4.2.4).

4.2.2. The argumentative function of the children and Kevin Tate

Multimodal resources make it possible that the actual standpoint is not expressed by the top-voice but by children and by Kevin Tate, all speaking in front of the camera. This information could be replaced by the top-voice either formulating the final standpoint or reporting that the children as well as Kevin Tate hold this standpoint. To evaluate the equivalence of such replacements we again encounter the issues mentioned. The replacements delete all information included in gesture and prosody (4.2.3) and change the kind of narrator’s mediation involved (4.2.4).

Kevin Tate, the gang leader, has the longest speaking time in the clip (2,5 minute). Most significant for building the argument is that he formulates the final standpoint in a peroration. During the clip Tate has been developed as a ‘round’ character with the specific identity of someone who claims (and in the discourse world, illustrates) that his life and future have been changed due to the efforts of Williams. The issue is whether the illustrated biography and personality of Tate as shown does contribute to the appeal of reasonableness. We think it does. Relevant construction of his ethos supports a rational assessment of the argumentation as far as elements of it are confirmed or supported by Tate.

4.2.3. *The argumentative function of the prosodic features*

Audible and visible voices embedded in the multimodal format can be replaced by (written) indirect speech expressed by the top-voice. However, one of the semiotic resources that is lost is the information conveyed by prosody. Unique information is in the prosodic features of the voices of coreagents in the discussion or in the topic the discussion is about. The literature on the communicative and persuasive relevance of this source of information is substantive. We need to determine whether this dimension also conveys argumentatively relevant information.

Prosodic features are pitch, pitch range, voice quality, intonation, tempo, loudness, emphasis, accentuation, and (non-)fluencies of the speaker. We are interested in determining whether they can be regarded as argumentatively relevant in the case of Stanley Williams clemency campaign. The role of prosodic features in the multimodal argumentative discourse has been of interest in recent research (Kišiček 2015) while their communicative role in general has been confirmed by empirical research in the field of nonverbal communication (Hickson, Stacks & Moore 2004; Knapp & Hall 2002), communication studies (Surawski & Ossoff 2006), psychology (Neumann & Strack 2000) and rhetoric (Fahenstock 2011).

The role of prosodic features is most readily associated with the expression of emotions (Davitz 1964; Neuman & Strack 2000; Scherer 1972; Vroomen, Collier & Mozziconacci 1993). Recent reviews have shown that vocal expressions of specific emotions (anger, fear, happiness, sadness) are generally recognized with above-chance-accuracy, cross-culturally, and with relatively distinct acoustic characteristics (Juslin & Laukka 2003; Laukka 2008). Besides the correlation between prosody and emotions, prosodic features are also connected to the perception of a speaker's personality, credibility, and ethos (Berry 1991, 1992; Hickson, Stacks & Moore 2004; Kimble & Seidel 1991; Kramer 1964, 1978; Zuckerman & Miyake 1993; Zuckerman & Sinicropi 2011). Past research has particularly highlighted that, among other elements of nonverbal behavior, prosodic features are associated with the

persuasiveness of the speaker and the audience's change of attitudes (Burgoon, Birk & Pfau 1990; Knapp 2002).

Prosodic features are also connected with the perception of the speaker's personality in general. Attractive voices are generally more favorably perceived by others and research showed that the effects of vocal attractiveness are comparable to those of physical attractiveness (Berry 1991, 1992; Zuckerman, Hodgins & Miyake 1990). Face and voice are important because they represent two critical cues to form a first impression, and thus present a rich source of socially-relevant information. In addition, research shows that people believe vocalic characteristics convey information about the character of the speaker (Adlington 1968).

In the field of rhetoric, prosodic features have been explored by Fahenstock as a part of rhetorical style and the delivery of speech:

Certain features of oral communication have always been difficult to capture in writing, such as the changes in dynamics from loud to soft, the variations in pitch from high to deep, the manipulations in duration from prolonged to rushed, and the pauses of different lengths. Altogether, these features can be lumped together under the term prosody. Together with paralinguistic features like facial gestures and body language, these performance qualities were given the attention of an entire canon of rhetoric, that of delivery (2011: 255).

Further, Fahenstock (2011, p. 271) writes: "The ancients understood that the cadences produced by stress patterns and the variations in pitch, pace, and pauses across a passage create rhythms in sound that can support an argument".

Although prosody is important in speech delivery, we are specifically interested in determining how prosody contributes to an argumentative appeal to reason. Do prosodic features directly or indirectly support or elaborate argumentation presented in Figure 1? By 'indirect', we mean that prosodic features are important for the personality perception, emotional state and persuasiveness of the main characters in a way that is relevant for a reasonable assessment of the standpoint. In an attempt to answer this question we analyze the prosodic features of Williams' voice and of the voice-over.

Stanley ‘Tookie’ Williams’. The voice quality, tempo and intensity together with emphasis and intonation turn out to be highly informative. Williams’ voice is significantly higher than average. His fundamental frequency is 149 Hz; according to Hollien (2002), male voices with frequency higher than 140 Hz are considered to be high-pitched voices. In addition, Williams speaks in slow tempo and low intensity, in other words, very quietly with a ‘soft’ voice. Studies on pitch, speech rate and volume confirm that these features have influence on the perception of the speaker’s character.

Lippa (1998) suggests that high male voices correlate with the perception of gentleness, weakness, and even submissiveness, connected to a lack of masculinity. Kimble and Seidel (1991) show that people who speak faster and louder are perceived as more confident, while slower speech rate and lower volume contribute to the perception of low self-esteem, lack of determination and confidence. Lippa (1998) and Siegman (1987, conducted specifically on American speakers) show that William’s prosodic profile suggests an introvert character type. Knapp and Hall (2002: 388) show that aggressive character is connected with fast speaking tempo, changes in tempo, staccato rhythm, and a loud voice, all prosodic features that are opposite to the profile of Williams.

Evidently, Williams is not trying to sound as a strong, confident, and determined person. By speaking slowly and quietly, with a high pitch voice and narrow pitch range, he presents himself (and is presented by the narrator to the audience) as a peaceful, calm, non-aggressive person who may even be submissive and humble.

The argumentative relevance of this information is first of all that it adds a subordinate argument to argument (2a): During his years in prison Williams has undergone a great change. As demonstrated in Figure 1, this argument is supported by (2b), (2c) and (2d), which provides historical facts about what Williams did. The argument scheme utilized is argumentation based on a sign. The prosodic information now adds an argument of the same type, but with very different data. This argument is not based on facts reported by the voice-over, but on an observable relation between the speech performance and the character of Williams: the aggressive gang leader has changed into a peaceful, calm, non-aggressive person. The data about his speech performance are reg-

istered on different moments, showing consistency. Replacement by a top-voice reporting verbal expressions implies a loss of this information.

As mentioned previously, it is hard if not impossible to draw a line between elements that are argumentatively relevant though weak or even fallacious and persuasive elements that are not to be considered part of the appeal to reason. Here, however, the prosodic profile clearly seems to be part of the argumentation. We admit though that compared to a real life hearing of Williams, his speech performance in the video may be considered a weak support. Indeed, Williams can fake this change in his personality. More important is that the information is mediated by the editing narrator. Perhaps there are numerous frames that show a very different Williams, losing his temper, speaking loudly and fast, but these frames are strategically excluded from the video. The semiotic resource of editing we discuss in section 4.2.4.

Besides the general prosodic profile of the elder Williams, the emphasis pattern in Williams' speech draws attention. Emphasis in spoken language (Fahenstock, 2011, p. 203) has a rhetorical function and is usually connected to the dramatic effect of speech. Speakers emphasize specific parts of the utterance to make a point, especially in combination with pauses. Speakers can pause before making a significant point, the length of which varies to suggest nuances of reluctance, doubt, anger, and so on. Williams says:

Working together | | we can put an end | to this | psycho | that creates deep pain | in the hearts of our mothers, | | our fathers | | and our people | | who have lost | loved ones to this senseless violence.

He emphasizes words: together, end, psycho, deep pain. Word emphasis reinforces the verbal message: the need to stop the violence because it creates pain. In addition, speech pauses are important cues to understanding the main message. Pause length has a stylistic function. The longer pause after "together" emphasizes that Williams does not represent himself as the one person who can make the change; he is just a person who gives his best to make a difference but that we need to

work together to stop the violence. This again characterizes him as a modest, unpretentious person.

Voice-over. In case of the voice-over the audience has only the content of his speech and the prosody. The voice-over can be identified as the creator of the video. He is not visible and his identity is unknown (unlike all the other participants in the argumentative discourse). While the information conveyed by the prosodic features of Stanley Williams demonstrate his change of personality, present him as a certain type of person (calm, tender, non-aggressive), which then supports the argument of his successful rehabilitation from a gang leader to a peaceful, law-abiding person, the information conveyed by the prosodic profile of the voice-over depicts an objective intermediary who presents a case without strong emotional involvement.

Prosodic features which influence perceived impartiality are: intonation, pitch range, rhythm, and tempo. Neutrality is connected with a lack of variation in prosodic features. Absence of variation in tempo, loudness, and pitch correlates with the neutral emotional state according to Scherer (1972). Rosenthal et al. (1979) conducted a research based on tests of Profile of Nonverbal Sensitivity to recognize emotions displayed through prosodic features. Results suggest that universally across cultures, pitch, tempo and loudness are most important for the perception and recognition of emotional states. Pitch range without variations is connected with neutrality and emotional disengagement. Lack of variations in tempo, loudness, and oxytone rhythm (emphasis on the last word in intonation phrase) is perceived as neutral. Similarly, lack of changes in frequency contour indicates neutral emotions.

Analyzing the speech of the voice-over we can see that there are no changes in tempo, volume, or intonation contour. The voice-over is characterized with modal voice quality type and average pitch (fundamental frequency is 120 Hz). Based on these prosodic features, he is presented as neutral, in contrast to Williams, Kevin Tate, and all other participants in the video who are in one way or another affected by Williams and therefore subjective in their assessments of Williams. This contrasting impartiality of the voice-over should render him trustworthy.

Depending on the theoretical position, one may consider the effect of prosody a part of reasonable assessment of the standpoint and therefore as argumentatively relevant. Important to notice here is that this information is unique due to the multimodality. It cannot be replaced by a written verbal format.

This is the difference between spoken argumentative discourse and written argumentative discourse.

4.2.4. The argumentative function of information conveyed by means of editing

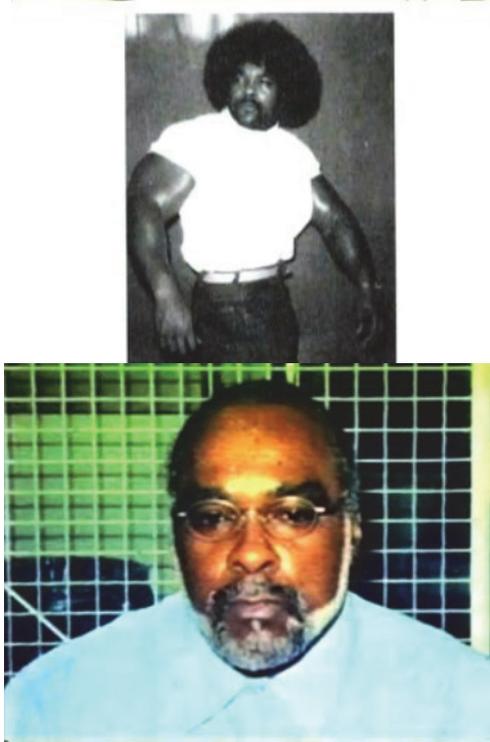
The mediating role of the narrator is a semiotic source that reduces the argumentative force of information conveyed by multimodality. A narrator can construct a discourse world, claiming that it correctly reflects elements of the reality the discourse is about, without this actually being the case. We need to relate discourse world to reality in a more complex way than simply in terms of true or false correspondence (Van den Hoven & Yang 2013; Van den Hoven 2015a). A mediating narrator is influential in particular visual and prosodic semiotic resources because these resources employ, in Peircean terms, not symbolic signs (as language predominantly does) but iconic signs and most often claim such signs to be indexical; an event is iconically represented and claims to indicate the existence of a direct equivalent event in reality. Taking the single shot as a unit, this indexical value is mediated by camera positioning and movement that determine the selectivity of the frame (what is visible in the frame and what is out of frame), how visible elements are put into perspective (choice of the focus length of the lens) and the fore or background elements (in or out of focus, camera zooming in, and so on). Editing has an even stronger influence. It is obvious that the narrator determines what is included in building the discourse world and what is not (Van den Hoven 2015a: 309-319). Together this makes a mediated multimodal format considerably weaker than a direct unmediated presentation.

At the same time camera movement and editing are semiotic sources that add new information. This is illustrated by the visual introduction of Williams in the first minute of the video clip (see Figure 2). Most

significant for the cross-modal integration is the temporal congruence constructed between the speech mode and the visual mode. The voice-over is silent – perhaps silenced – when the written statements of Williams are ‘spoken’ or when Williams speaks in a telephone statement. The obvious temporal cross-modal coordination during Williams’s telephone statement seems out of hands of the anonymous voice-over. In addition, the camera movement is significant. The camera tilts in a way that is coordinated with the structure of the voices, strongly emphasizing the brutal face of the young Williams, thereby creating a maximum contrast with the statements of the elder Williams.

Even more informative is the editing in the first scene that the repeated image of the elder Williams appears. The unitary source assumption (Jiang & Van den Hoven 2011) licenses the assumption of immediate cross-modal pairing of the perceptions created by different modes, resulting in strong cross-modal connectivity in which the visual mode influences the verbal mode(s). Focusing on the speech mode only, the semantics of ‘Williams’ change’ are restricted to a mental and social change. Integration with the visual mode however broadens the semantics in a spectacular way to his physical appearance (Figure 3).

Figure 3: two shots of Williams, connected by editing



Those that doubt whether such a drastic mental change as claimed is possible are confronted with an undeniable parallel in his physical change.

Although one can imagine that the information about Williams' physical change that is uniquely conveyed by visual means can be replaced by verbal descriptions of the topvoice, it is hard to imagine that the parallelism between information about this mental change and his physical change as conveyed using editorial semiotic resources has an adequate verbal counterpart. Is this specific supplement then relevant

for a rational assessment of the standpoint or, on the contrary, merely constitutive of a pathetic irrational persuasive device? We judge it unwise to try to decide this issue and take a more principled stand: the issue needs further elaboration in the context of multimodal argument theory. Take for example the multimodal presentation of an implicit dialogue, which responds to someone who denies the effects of global warming. The speaker presents this person's verbal statements alongside graphs of rising global mean surface temperature and increasing density of greenhouse gasses, in an attempt to contrast his or her statement and the evidence. In other words, he is using multimodality to overcome the enforced linearity of the verbal discourse format, intending to present information that need to be copresented in a rational assessment. This simultaneity has to be considered additionally relevant when it supports the assessment; but it has to be considered a presentational choice when it merely facilitates the assessment. It depends on a discourse information theory how this is to be conceptualized.

4.3. Analysis step 3: Verbal expressions conveying functionally equivalent information

We identified information that is conveyed by multimodal semiotic resources and which we consider argumentatively relevant. The last step in our method is to investigate whether equivalent information can be conveyed in a top-voice-dominated verbal format. We have partially answered this question above.

The first issue is: does telling necessarily lack relevant information that multimodal showing conveys? We think it sometimes does, in particular some evidential information, some prosodic information and some information conveyed by parallel presentation. That means much of the argumentatively relevant information can, in principle, also be conveyed verbally.

This leaves open to what extent such verbal equivalence is possible in practice. If we look at our example specifically, it would require lengthy descriptions of complicated nature. Theoretically this is interesting. We depart in our research from a very strict criterion: if multimodal semiotic resources do not offer any unique opportunities to con-

vey argumentatively relevant information, opting for a multimodal discourse format should be considered a mere presentational choice. It may be that this criterion is too strict if one takes practical circumstances in consideration. If our protagonist is granted 10.30 minutes time, an argumentation of the current complexity cannot be delivered verbally by one topvoice.

The second issue is: does showing, mediated by a narrator, support rational assessment in a way that telling cannot? This issue challenges the notion of equivalency. Clearly telling cannot replace the indexical value of showing. However, we argue that narratormediated showing cannot replace non-mediated showing. Here the weakness of our heuristic method becomes manifest: are the differences between verbal and multimodal format in this respect still meaningful in the light of the apparent differences between any form of mediated discourse and unmediated showing? Again, multimodal argumentation raises fundamental theoretical issues.

5. Conclusion

We selected one video clip that evidently intends to appeal to reason. We approached this clip with the question: what opportunities, if any, does a multimodal discourse format offer to defend a standpoint on reasonable grounds that a mono-modal written verbal format does not offer? In trying to find an answer, we encountered two major methodological problems.

- We consider argumentatively relevant information all information that needs to be taken into consideration in a serious and deliberate assessment of the reasonableness of a standpoint. This raises the problem as to how to draw a line between information that is argumentatively relevant though possibly fallacious, and information that is argumentatively irrelevant yet convincing beyond mere appeal to reason
- Contrasting multimodal formats with an imaginary mono-modal verbal counterpart raises the problem of how to determine which verbal expressions might convey functionally equivalent information, if

any, and how to determine to what extent such equivalency renders the modal choice indeed a mere presentational choice?

These problems expectedly arise when analyzing multimodal discourse. In this study, we dealt with them in a very pragmatic way. We used the principle of maximal argumentativeness (Van Eemeren 1987) to deal with the first problem and an interpretative approach to determine functional equivalency as good as it gets (Van den Hoven 2012). However, these problems indicate the need for argument theory to develop articulated ideas about the relations between multimodality and argumentativeness as pursued in this study. This also implies that argument theory needs to ‘incorporate’ elements of multimodal semiotics, as well as elements of theories on prosody and on for example relations between embodiment, narrativity, emotion and reasonableness.

We conclude that indeed our case shows a number of moves in a reasonable discussion that depend uniquely on semiotic resources that: 1) combine modalities other than verbal modes; and 2) that cannot be replaced by functionally equivalent verbal utterances of the top-voice. Our discussion centers on the standpoint that “Williams should be allowed to continue positively executing his rights to fight, to seek and to find purpose” = Williams should not be executed. The author of the discourse presents a protagonist’s position. Connected to statements of a voice-over, supporting ‘evidence’ and ‘statements of evidence’ are presented. These elements cannot always be replaced by verbal utterances. However, the top-voice can describe the materials or quote the witnesses. We have analyzed what is lost in doing so in terms of an appeal to reason by focusing on prosodic elements. Information such as prosodic information cannot be replaced and is partially argumentatively relevant. Also, some relevant information conveyed by editing cannot be replaced. However, the argumentative strength of such information is limited (compared to a direct and unmediated way of presenting) simply by the fact that it is mediated by a narrator. This raises an issue that may turn out to be even more important for argument theory than the differences between verbal and multimodal argumentation, namely, the apparent differences between any form of mediated discourse as an appeal to reason and combinations of mediated discourse and unmediated showing as practiced in courtroom discussions.

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