

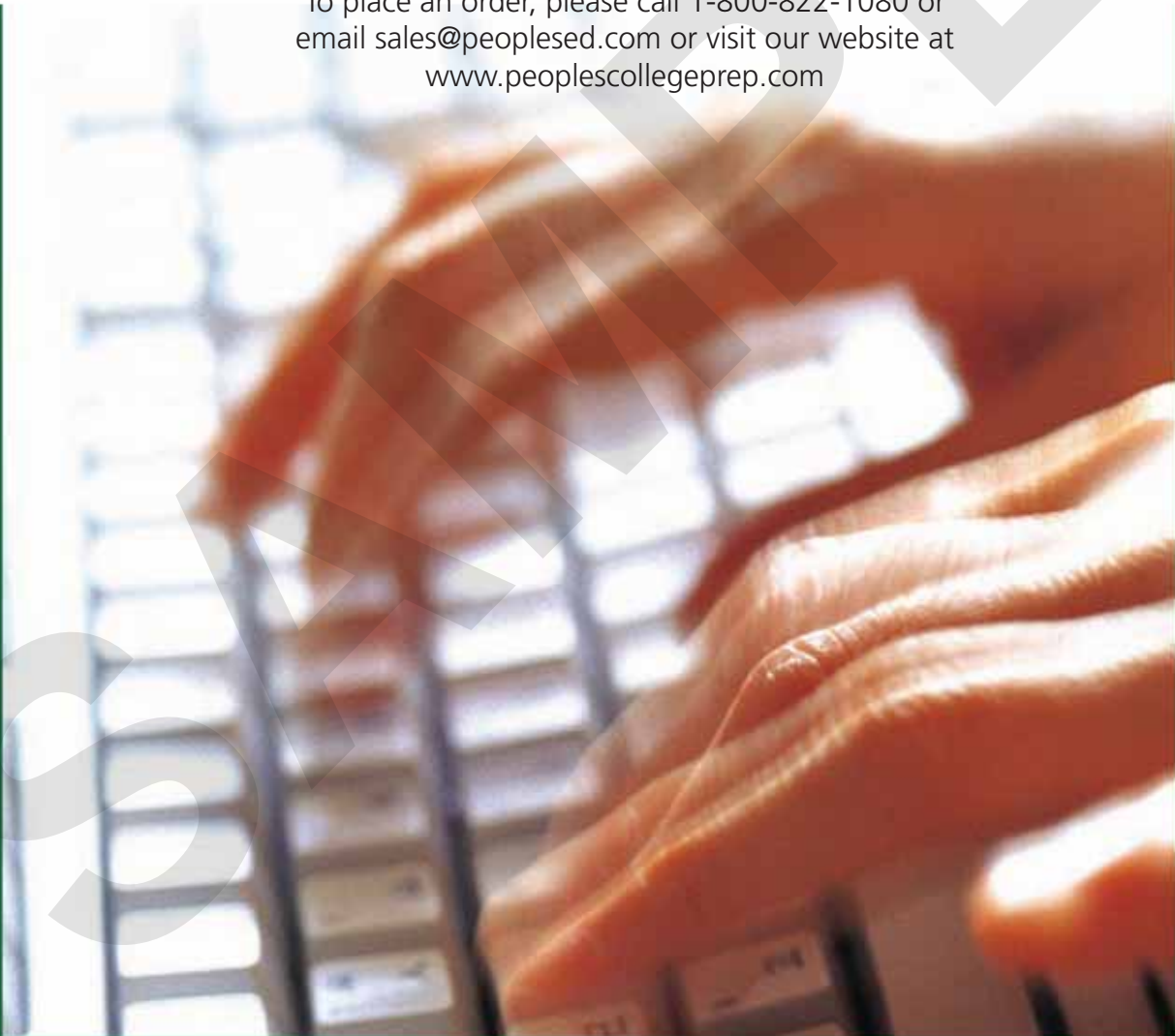
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Dedication

To Donald M. Murray, teacher of us all

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Modern Applications of Ancient Rhetoric

Successful students in an advanced course such as Advanced Placement English Language and Composition should be able to perform three tasks:

1. **Analysis.** A close examination of texts, with the awareness of a writer's purpose and the techniques the writer uses to achieve it.
2. **Argument.** A discourse intended to persuade an audience through reasons and/or evidence.
3. **Synthesis.** A bringing together of several texts, both written and visual, to form a coherent essay.

To do these tasks effectively, you should understand the rhetorical techniques of ancient Greece and Rome, as well as have insight into modern perspectives on rhetoric and argument. This chapter focuses on using ancient rhetorical techniques for analysis. Chapter 2 covers modern approaches to argument and synthesis.

In this chapter, you will learn some tools of rhetoric as you analyze a modern piece of persuasive writing, “Letter from Birmingham Jail,” by Dr. Martin Luther King, Jr. This powerful essay demonstrates King’s masterful application of rhetorical techniques.

About “Letter from Birmingham Jail”

In April 1963, the civil rights leader and clergyman Dr. Martin Luther King, Jr., was jailed in Birmingham, Alabama, for leading anti-segregation protests. His “Letter from Birmingham Jail,” dated April 16, is an open letter to eight white clergymen from Alabama. In it, King responds to a statement by these clergymen that expressed their belief that the battle against segregation should be fought in the courts and not in the streets. The letter was published in *The Christian Century* on June 12, 1963. For the full text, see <http://www.thekingcenter.org/prog/non/Letter.pdf>

The Five Canons of Rhetoric

The basic outline of classical rhetoric is composed of five categories, or “canons”:

- invention
- arrangement
- style
- memory
- delivery

Memory and delivery are concerned primarily with oral or spoken rhetoric and will not be treated in this chapter. Invention, arrangement, and style, however, are relevant to both oral and written rhetoric. You will examine these three canons in depth.

Invention

Invention is the process of coming up with ideas for speaking or writing. According to Aristotle, the great rhetorician of ancient Greece, under the heading of invention are three “proofs” or appeals: ethos, logos, and pathos.

Ethos is the character or credibility of the speaker/writer.

Logos is the content of the written or spoken message.

Pathos is the emotional appeal to the audience by the speaker or writer.

Aristotle calls these proofs “artistic” because they are under the control of the speaker or writer, who creates them in the minds of the audience.

Aristotle points out that these three *artistic proofs* need to work together in balance for the speaker or writer to achieve maximum persuasive effect. People use their hearts as well as their minds in making decisions, and these three proofs are tools for both analyzing and creating effective arguments.

Ethos

Ethos is an appeal based on the character or credibility of the speaker/writer. In “Letter from Birmingham Jail,” how does King establish his credibility, his character? Instead of beginning the letter with the impersonal “Dear Sir,” or “To Whom it May Concern,” King opens with “My Dear Fellow Clergymen.” The greeting is warm, but it is also more than that. By addressing his audience as fellow clergymen, he is reminding them that they are in fact equals, that they all work in the same profession, and that they all share a common ground.

King says he seldom takes the time to respond to criticism, but he makes an exception in this case because these are “men of genuine good will” and their “criticisms are sincerely set forth.” The clergymen have accused King of being an outsider coming in to stir up trouble, and King uses the ethos appeal in three ways to respond to this accusation:

1. He points out that he is acting not as an individual but as president of the Southern Christian Leadership Conference, which has an affiliate organization in Birmingham. The local chapter invited him to “engage in a nonviolent direct-action program if such were deemed necessary.”
2. King says that, like the prophets of the Old Testament and the New Testament, he goes wherever there is injustice. By citing scripture, he is appealing to the religious background and shared values of the clergymen, his audience.
3. King observes that it no longer makes sense to talk about an “outside agitator,” because

“We are caught in an inescapable network of mutuality, tied in a single garment of destiny.”

These three points establish that King is one of them, not an outsider, and therefore his words should be credible. King goes on to establish his character for his audience by pointing out the four basic steps of his nonviolent campaign. He is trying to convince his readers that he did not take these actions impulsively; but that they were the result of a four-step process. The steps, in King’s words are

1. “collection of facts to determine whether injustice exists”
2. “negotiation”
3. “self-purification”
4. “direct action”

He wants his audience to see him as a person who carefully weighs all options before taking action.

As King concludes his letter, he makes further use of ethos. He apologizes for having taken so much of the audience’s precious time, ironically noting that he has lots of time in jail. He goes on to beg forgiveness for any overstatement and hopes the letter finds the clergymen “strong in the faith.” In his conclusion, he is again establishing

that his character is the same as theirs because they share the same profession and have a shared common ground.

Logos

King's ethos is further established through his use of logical argumentation, logos. In Greek, *logos* means "word," the content of the argument. King answers each of the clergymen's arguments pragmatically and ethically. To illustrate King's response, it is useful to reduce the clergymen's arguments into a logical structure. Their objections can be restated in the following manner:

- "Outsiders" should not be leading local protests (major premise).
- King is an "outsider" (minor premise).
- Therefore, King should not be protesting (conclusion).

Syllogism

Arranged this way, those three statements are an example of a logical **syllogism**, which is a chain of reasoning moving from general, universal principles to specific instances.

While King is establishing his credibility, his ethos, he also responds to the clergymen's argument pragmatically, by countering their minor premise, that King is an outsider. He points out that he was invited by local leaders to assist in the protest and he is president of the Southern Christian Leadership Conference. Therefore he is not an outsider.

Next King addresses the major premise ("Outsiders" should not be leading local protests) from an ethical point of view. He states that the Apostle Paul and the Old Testament prophets went wherever there was a need, wherever God sent them. He further writes that all communities in the modern world are interrelated:

"Whatever affects one directly affects all indirectly. Never again can we afford to live with the narrow, provincial 'outside agitator' idea."

Enthymemes

Aristotle states that under logos, or the content of the message, the two most powerful tools are the enthymeme and the example. Everyone knows what an example is, but the enthymeme, while used by all of us every day, is a little-known concept outside the realm of rhetorical studies. The **enthymeme** is a shortened syllogism that serves the purpose of a more practical and expedient way to argue. A well-known example of a syllogism turned into an enthymeme is the following:

- All people are mortal (major premise).
- Aristotle was a person (minor premise).
- Therefore Aristotle was mortal (conclusion).

Aristotle's syllogism, restructured as an enthymeme, would be the following:

Aristotle was mortal because he was a person.

Left out of the enthymeme is the major premise, or the universal principle that *All people are mortal*.

In an argument, the speaker or writer can leave out the universal principle because everyone would agree that all people are mortal. This principle does not need to be stated. It is an assumption shared by everyone. Therefore, enthymemes have great practical value in argumentation. However, an argument might be vulnerable if the audience does not accept the unstated principle that supports the argument.

Modern Approaches to Argument

In Chapter 1, you examined ancient rhetorical tools and applied them to a modern text. In this chapter, you will encounter a variety of modern approaches to argument. The rhetorical techniques and strategies presented in both chapters will provide you with the theoretical background for constructing your own arguments, synthesizing an array of sources to support a position, and analyzing the arguments that others construct.

The Rhetorical Triangle

The modern **rhetorical triangle** consists of five elements:

- writer
- audience
- message
- purpose
- rhetorical context

Traditionally, the rhetorical triangle contains the first three components: writer, audience, and message. Although the communication process is more complicated than can be captured by a graphic illustration, Figure 2-1 shows the process reduced to a simple triangle. The three points of the triangle are writer, audience, and message, and the rhetorical triangle is often connected to the three Aristotelian proofs, or appeals, of ethos (writer), logos (message), and pathos (audience) that you read about in Chapter 1.

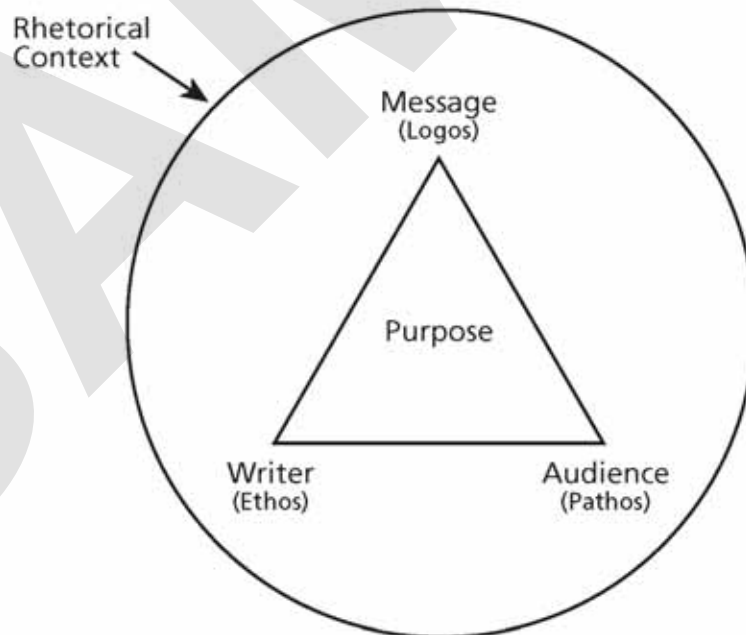


Fig. 2-1 The Rhetorical Triangle

Writer

The writer must ask the question “What can I do to build my credibility and make the audience trust my message?” In “Letter from Birmingham Jail,” which we shall continue to analyze in Chapter 2, Dr. Martin Luther King, Jr., spends considerable time establishing his ethos. You recall that he does so by giving a warm greeting, finding common ground with his “fellow clergymen,” and giving his opponents credit as “men of genuine good will.” He also establishes that he is not an “outsider” because of his organizational ties to Birmingham and his calling to fight injustice wherever it exists.

Writing Effectively

You can build your ethos through the choices you make in terms of tone, style, and dealing with counter-arguments.

Audience

To have a message accepted by an audience, the writer should try to appeal to their emotions, which is why the audience is often linked with pathos in the rhetorical triangle.

Because he was also a clergyman, King understood his primary audience well. He knew what would appeal to their humanity and their consciences. In “Letter from Birmingham Jail,” rather than sprinkle pathos throughout the letter, King chooses instead to concentrate the emotional appeal in one long periodic sentence. He makes the audience feel the pain of segregation, as he writes about “vicious lynch mobs,” “hate-filled policemen,” human beings “smothering in an airtight cage of poverty,” the impossibility of explaining segregation to a child, and a list of “inner fears and outer resentments” that culminates in the cry, “then you will understand why we find it difficult to wait.”

Writing Effectively

The writer must ask, “What values and beliefs do I appeal to in the audience? How can I engage both the audience’s heart and mind?” The more you know about your audience, the better able you will be to find what will appeal to their emotions.

Message

In the rhetorical triangle, message is often linked with logos, the content of the communication. People sometimes confuse logos with logic. The logical argument is certainly an important component of logos; however, logos involves the entire content of the message, which goes well beyond the limits of logic.

For example, in “Letter from Birmingham Jail” King not only builds his own argument; he also refutes the major and minor premises of the clergymen’s arguments, which are sometimes unstated. He points out their inconsistencies and provides evidence to counter their assertions. He writes,

“You deplore the demonstrations taking place in Birmingham. But your statement, I am sorry to say, fails to express a similar concern for the conditions that brought about the demonstrations. I am sure that none of you would want to rest content with the superficial kind of social analysis that deals merely with effects and does not grapple with underlying causes.”

Writing Effectively

As you construct and analyze arguments, ask, “What assumptions support the reasoning? What is the evidence?”

Balancing writer, audience, and message

In Figure 2-1, writer, audience, and message are the three points of an equilateral triangle. The triangle emphasizes the importance of the three elements working equally together, in balance. For example,

- If you put too much emphasis on message, you risk forgetting about the audience or establishing yourself insufficiently.
- If your emphasis is too much on the emotional appeal to the audience, then the content of your message might suffer, or the audience might not trust you.
- If you focus too much on yourself as the writer, then you might be dismissed as an egotist or a blowhard.

Writing Effectively

Seek to balance the three major elements of writer, audience, and message. These must work together to achieve the goal of your communication: your purpose.

Purpose

The purpose of your communication is your rhetorical goal. What are you trying to achieve with your message? In “Letter from Birmingham Jail,” King was seeking to persuade the local clergymen of the rightness of his action, and help unite the African-American community. He also wanted the letter to reach out to the white political moderate, who he says “is more devoted to ‘order’ than to justice; who prefers a negative peace which is the absence of tension to a positive peace which is the presence of justice.” King knew his audience would be resistant to his cause, so his purpose had to be clear and strong. The open letter format—which allowed his letter to be read by everyone—shows his purpose to be much larger than he initially suggested: he wanted not just to refute the claims of the clergymen, but also to persuade the community at large that his cause was right.

Writing Effectively

To identify the purpose of your communication, ask “What is my goal? What do I hope to achieve?” It is important that the goals be clear and specific. Unclear goals lead to unclear communication.

Rhetorical Context

The background or situation to which a persuasive message is addressed is considered **rhetorical context**. As the rhetorical situation changes, so should the response. Aristotle refers to the rhetorical context as those proofs that are *inartistic* or *extrinsic* because they are not under the control of the writer and do not emerge from the writer’s creative efforts.

In “Letter from Birmingham Jail,” the rhetorical context is the incarceration of King and his followers for breaking the law against public demonstrations. He was arrested on Good Friday, the day commemorating the crucifixion of Jesus Christ. King uses this rhetorical context to his advantage, allowing him to compare himself to Christ as well as to other religious and historical figures who had broken the

Beauty

Background

Over time and across cultures, the mystery of beauty has vexed as well as captivated many people. Beauty has been the subject of persistent and varied attempts to define it, to capture it, to market it, to replicate it, to ignore it, to use it, to enhance it, and to celebrate it. The clichés about beauty are many, but they are difficult to dismiss. Everyone seems to accept that beauty is viably present and often sought. However, its importance and its role in our lives remain the subject of vigorous discussion and wonder. Why is beauty the object of both admiration and envy? Why does the pursuit of beauty bring us pain as well as pleasure? This chapter focuses upon texts that offer views and viewpoints on human beauty, specifically human female beauty.

Readings

Matthew Zimmerman

Marilyn Monroe, New York, 1954

C.E. Gomes

Swahili Woman

Jean Godfrey-June

Why I Wear Purple Lipstick

Nancy Etcoff

What Is Beauty and How Do We Know It?

Kathy Peiss

Hope—and History—in a Jar

Alex Kuczynski

What is Beautiful?

Christine Rosen

The Democratization of Beauty

Virginia Postrel

The Truth About Beauty

(Left) **Matthew Zimmerman**
Marilyn Monroe, New York, 1954
(Right) **C. E. Gomes**
Swahili Woman, *circa* 1900

Each of the photographs below captures and conveys the image of a woman whom different observers in different cultural contexts refer to as beautiful. Study the photographs then answer the questions that follow.



First Reading

1. What is your personal response to the Zimmerman photo of Marilyn Monroe?
2. What is your personal response to the Gomes photo of an unnamed Swahili woman?
3. How do the images address different audience expectations? What is the likely audience for the Zimmerman photograph? What is the likely audience of the Gomes photograph?
4. How is the subject matter of the images similar? Identify specific features.
5. How is the subject matter of the images distinct? Again, identify specific features.

Second Reading

1. Are these images contrived or do they convey truth? Explain your response.
2. The continuing audience for the Zimmerman photo is consistent with the continuing interest in its subject. How do you account for the interest? How does the presence of such interest impact a reading of this image?
3. Unlike the Zimmerman photograph, the Gomes portrait is largely unknown. Does such unfamiliarity make the Gomes photo more difficult to read? Explain.
4. Does the Zimmerman photograph carry meaning beyond its subject? How, for example, does it remind its current viewers of an ideal?
5. Is beauty evident in both images?
6. What arguments do the respective photographs make about human beauty? About perfection? About culture?

Writing

1. **Analysis** — These photographs are public in character. That is, they were taken with a broad audience in mind. View them carefully and then write an essay of no more than one page that considers the distinction between public and private beauty.
2. **Argument** — Write an essay in which you propose competing definitions of human beauty as represented by three photographs: these two and a third photograph of your own choosing that is preferably of an adult. Write specifically about each image in your response.

Christine Rosen The Democratization of Beauty

Senior editor of *The New Atlantis* and resident fellow at the Ethics and Public Policy Center, the author regularly observes and comments on issues involving ethics, technology, and policy. In this excerpt from a 2004 essay, Rosen considers the implications of the growth of the popularity of cosmetic surgery on American culture.

The contemporary cosmetic surgery industry is a lavish smorgasbord of options for the American consumer. A partial list of the procedures available include: Cheek implants, mentoplasty (chin augmentation), collagen and fat injections, otoplasty (pinning back the ears), blepharoplasty (eyelid tightening), rhytidectomy (facelift), forehead lifts, hair transplantation (using scalp reduction, strip grafts, and plugs), rhinoplasty (nose job), brachioplasty (arm lift), breast augmentation, mastopexy (breast tightening), breast reduction, buttock lift, thigh lift, calf implants, pectoral implants, abdominoplasty (tummy tuck), penile enlargements and implants, and the ever-popular Botox (where diluted doses of the botulinum toxin are injected into wrinkles) and liposuction (the removal of deposits of fat using a suction cannula).

According to the American Academy of Cosmetic Surgery, approximately 860,000 cosmetic surgery procedures were performed in 2002, mostly on women, although men accounted for 150,000 procedures. One-third of cosmetic surgery patients are between the ages of 35 and 50; another 22 percent are between the ages of 26 and 34. And 18 percent of people getting cosmetic surgery are under the age of 25. Instead of the smoke and mirrors of the old freak show, we now have, online, hundreds of “before and after” pictures of cosmetic surgery patients—all of them encouraging a belief in the surgeon’s power of total transformation.

Aging is not the only problem cosmetic surgery seeks to solve—it also offers a solution to the American obsession with our waistlines. In his book *Battleground of Desire: The Struggle for Self-Control in Modern America*, Peter Stearns notes how, as early as 1916, popular magazines were equating control of one’s weight with the health of one’s character. The first diet cookbook, published in 1900, stated matter-of-factly in its preface, “An excess of flesh is looked upon as one of the most objectionable forms of disease.” Liposuction, a technique for removing deposits of fat using a tool called a suction cannula, was developed by French surgeon Yves-Gerard Illouz in the 1970s,

and it is the most popular invasive cosmetic surgery procedure: 74,000 people had liposuction in 2002 alone.

The language of artistic achievement suffuses the industry: surgeons describe their work as “body sculpting” or “body contouring,” and liposuction is known as “blind subcutaneous sculpturing.” But the anodyne terms mask physically brutal procedures. The trauma of this kind of surgery can be considerable. As Ryan Murphy, the creator of the FX network’s plastic surgery drama *Nip/Tuck* told the *New York Times* jocularly, “one plastic surgeon told me that getting your face done is basically the equivalent of going through a car window at 70 miles an hour and surviving.” His show is one that revels in gory details. “I think the public thinks that this is delicate surgery, and these surgeons treat the face as if it were porcelain,” he said. “And in fact they treat it like it was sirloin.”

The faces and bodies of many celebrities testify to the unhealthy lure of excessive physical transformation: Michael Jackson’s many surgeries have left him nearly unrecognizable, and Jocelyn Wildenstein, a terrifying spectacle of a socialite, has had multiple surgeries, including an enormous chin implant, lip implants, facelifts, and eyelifts so that her face would have the features of a large cat. Respectable surgeons do try to vet candidates for surgery to avoid encouraging the activities of these “scalpel slaves.” “I wish we had a questionnaire that could warn us,” [plastic surgeon] Dr. [George] Weston said. “We sit down with patients in consultation, but we’re both interviewing each other.” Weston concedes that if he refuses to operate on someone who is obviously mentally unstable or who has unreasonable expectations for surgery, “they’ll eventually find someone else to operate on them.”

More mundane dangers exist for people who undergo cosmetic surgery. One study, conducted by a plastic surgeon in 2000 and described by David and Sheila Rothman, found that “the rounded mortality rate for liposuction surgery in the late 1990s hovers near 20 per 100,000.” Compare that

and Psyche's nose, among other things. Pictures of one of her "performances" show a partially anesthetized Orlan reclining on an operating room table, draped in a surreal, mirrored gown and speaking into a cordless microphone. Buzzing about are surgeons and nurses decked out in scrubs designed by Issey Miyake and Paco Rabanne. But Orlan has other enthusiasms. As the *New York Times* noted, she "grandly proclaims her work to be 'a fight against nature and the idea of God' and also a way to prepare the world for widespread genetic engineering." Orlan offers us a disturbing peek into our future.

In the end, the questions raised by cosmetic surgery pose a special challenge for conservatives. Conservatives advocate free markets and individual autonomy (albeit linked to personal responsibility), but profess horror at the logical excesses of this view. We cringe when commercial culture throws up a Michael Jackson or an *Extreme Makeover*, but on what grounds do we argue for their end? Like our new reproductive technologies, cosmetic surgery collides with intimate, personal choices about the kind of lives we want to lead. And it becomes difficult to argue against the exercise of choice either legally or politically.

Perhaps this is the point at which culture becomes more important than policy, and the direct

engagement with our cultural extremes a way of helping us find a more rational center. In the end, democratic culture seeks authenticity, but it doesn't always find it in the old forms where conservatives tend to feel more comfortable. And so we need to ask less threatening but no less fundamental questions—questions about the excesses of individualism and the extremes of democracy, questions about what are and what are not genuine social goods, and questions about how we measure success and failure.

We are not yet a nation of Narcissi, content to stare happily into the pool, our surgically enhanced self-esteem intact but our character irrevocably compromised. But we would do well to be more engaged in the culture that is encouraging us to move in that direction. "There are no grades of vanity, there are only grades of ability in concealing it," Mark Twain purportedly wrote. Concealing our desire for physical perfection behind a mask of democratic or therapeutic rhetoric will ultimately do us no good. We should, instead, bring cosmetic surgery out into the open, not merely to please our taste for voyeurism, but to understand how we might handle new and increasingly sophisticated techniques for empowering our vanity—techniques which stand to make that vanity much harder to conceal and to control.

First Reading

1. Identify Rosen's most compelling statement. Explain and defend your choice.
2. Specify portions of the text that indicate her assumptions about who is reading it. What knowledge and background does she assume her audience has?
3. Define Rosen's attitude toward her audience. What words and phrases convey that attitude?

Second Reading

1. Explain the relationship between the essay's title and the content of this excerpt. Indicate particular details that best illuminate the relationship.
2. Describe the tone of the excerpt, pointing to language and ideas that support your description.
3. Note where Rosen cites various credentialed authorities and recognized figures and explain why she does so.
4. Rosen makes several historical references to publications and television programs from decades ago. Identify how she uses two of these references to develop her argument.
5. Evaluate the conclusion of Rosen's essay. Explain how she leads up to her closing comment and explain its importance.
6. Distinguish Rosen's views on cosmetic surgery from those of Kuczynski.

Writing

Analysis and Argument — In lines 200–212, Christine Rosen cites Malcolm Gladwell, who wrote that “we have come to prefer a world where the distractible take Ritalin, the depressed take Prozac, and the unattractive get cosmetic surgery to a world ruled, arbitrarily, by those fortunate few who were born focused, happy, and beautiful.” In a prepared essay, explain how Rosen uses Gladwell’s comment to enhance her own argument, and then develop a position of your own in response to his claim.

Food

Background

In order for us to live, food *must* be part of our lives, but its necessity only suggests its compelling importance. For some, including those who work in farming and fishing, in the grocery industry, or in restaurants, food defines their livelihoods. For many, food is taken for granted, part of a quick routine, while for others, food and the dining experience are a revered passion, one of life's great pleasures. Meanwhile, those who face starvation must scramble and scrounge for food. Still others, ironically, turn away from the act of eating. Food is central at family and social events and is often associated with emotions. Food also involves ethical considerations. Who gets to eat what? How much does it cost? What food is safe to eat and who gets to say so? Where should we buy it? Do I dare to eat a peach, a whoopee pie, a slice of bacon, or must I make a beeline for some broccoli?

The selections in this chapter are concerned with several facets of our lives with food. What are the associations between food and family? How does food help define a culture? What are some of the ethical dimensions around eating? What are proper public policies in regard to the availability and sale of food?

Readings

M. F. K. Fisher

The Measure of My Powers

Ruth Reichl

The Queen of Mold

Claire Brassil

Cake Walk

Samuel L. Johnson

Coriatachan in Sky

Elizabeth M. Williams

The Sixth Deadly Sin

Peter Singer and Jim Mason

Food is an Ethical Issue—But You Don't Have to Be Fanatical About It

**United States Department of Health and Human Services
and United States Department of Agriculture**

Dietary Guidelines for Americans 2005: Key Recommendations
for the General Population

Cynthia Tucker

Broad-based Effort Needed to Attack Americans' Obesity

Greg Beato

How Big Nutrition Destroys Your Will to Fatness

Rob Rogers

Trans Fat

Alan Miller

A Transitional Phase

Elizabeth M. Williams The Sixth Deadly Sin

The writer is an attorney in New Orleans and president of the Southern Food and Beverage Museum. This essay appeared in *Gastronomica: The Journal of Food and Culture* in 2006. In addition to gluttony, the traditional seven deadly sins of early Christian teaching include lust, greed, sloth, anger, envy, and pride.

In the early nineteenth century French intellectuals considered an appreciation of fine food and the development of the palette a subject worthy of philosophical discourse. The most famous instance is *The Physiology of Taste*, written in 1826 by the erudite gentleman lawyer Jean-Anthelme Brillat-Savarin. In counterpoint to Brillat-Savarin's physical and philosophical enjoyment of food was the Roman Catholic Church's prescription against the sixth deadly sin, gluttony. One could savor, but not to excess. And, unlike those who indulge in the other sins, people who regularly committed gluttony wore the evidence for all to see. (King Louis XVI seems to have paid the ultimate temporal price for his self-indulgence.)¹ Yet even though gluttony was considered a deadly sin, most of the faithful never had the luxury of enough food to face that particular temptation.

Issues of food and its relationship to the body found particularly fertile intellectual ground in United States, where numerous food fads rose during the nineteenth century. Will Keith Kellogg's belief in the social need for clear bowels and vegetarianism led to the development and popularization of corn flakes, a food that revolutionized the American breakfast. Kellogg founded the W. K. Kellogg Company in Battle Creek, Michigan, in the pursuit of health, both mental and spiritual, that could be attained by eating right. A bowl of breakfast cereal became a catalyst for social change, based on consumer response to its perceived health benefits.²

Today, there are still plenty of health food gurus who promote various panaceas to American excess at the table, but increasingly it is lawyers who are shaping the way our society thinks about food. These lawyers are not as sympathetic as Brillat-Savarin, however. Rather than celebrate food, they choose to punish it through damaging lawsuits. We also have a Congress and state legislatures that scramble to limit such lawsuits by passing laws in knee-jerk reaction to them.³ Restaurants, food and beverage manufacturers, and others are being forced to find a balance between two basic American values—seeking redress in the courts and the freedom to make personal choices.

The Next New Enemy

Obesity has emerged as the primary domestic health problem of the new millennium, displacing smoking. Before smoking was seen as an enemy to public health, diseases, rather than activities, were considered the causes of sickness. Even the demon of the temperance movement, alcohol, generated arguments about morality and religion, not about health. It took years to establish smoking as an enemy to public health.

Almost twenty years have elapsed since 1988, when Surgeon General C. Everett Koop made his first remarks about nicotine. Cigarette advertisements on television were soon banned, and eventually, laws were enacted that prohibited smoking in government buildings, office buildings, and restaurants. Over the past few decades smoking

1 In what is likely an apocryphal story, Louis XVI was said to be so gluttonous that he had to stop to eat while escaping from revolutionary forces and so was captured at the table, later to be executed.

2 Seven decades later, Dr. Robert Atkins similarly convinced people that if they eliminated carbohydrates from their diets, they could easily lose weight and acquire the health benefits of being thin. The Atkins diet became extremely popular. Fanatical adherence to it changed the way people ate to the extent that the economic viability of the grain industry was threatened. The true social changes resulting from his diet—which is simply a present-day example of the social connection between food and health—are too recent, however, for a complete assessment.

3 Seven decades later, Dr. Robert Atkins similarly convinced people that if they eliminated carbohydrates from their diets, they could easily lose weight and acquire the health benefits of being thin. The Atkins diet became extremely popular. Fanatical adherence to it changed the way people ate to the extent that the economic viability of the grain industry was threatened. The true social changes resulting from his diet—which is simply a present-day example of the social connection between food and health—are too recent, however, for a complete assessment.

65 has been transformed from a habit that was seen
as cool and sophisticated to one that is vilified. To-
day, if smokers become sick from smoking, they're
just as likely to suffer a "What did you expect" as
to receive a sympathetic "I'm so sorry."

70 A small backlash has developed against the
crackdown on smoking. Smokers' advocates ar-
gue that those who smoke have the right to do so.
This argument is countered by nonsmokers, who
complain that they are forced to endure second-
hand smoke, a by-product of the smokers' habits.
75 These countervailing positions illustrate the con-
flict between exercising personal freedom and not
infringing on the rights of others.

When in 1954 smokers first sued tobacco com-
panies for compensation for injuries to their
80 health caused by smoking, the tobacco industry
argued that the plaintiffs chose to smoke their
legally-produced products despite health warn-
ings on the label. These early suits were dis-
missed because the courts found that (1) there
85 was no causal relationship between smoking and
cancer; and (2) smoking was volitional, there-
fore even if there was a causal relationship, the
plaintiff had chosen to smoke. The downfall of
the tobacco industry came only with the discov-
90 ery that the tobacco companies had intentionally
increased the level of nicotine in cigarettes.⁴ Ad-
dicted to the nicotine, people bought more cig-
arettes and the companies enjoyed larger profits.
The companies also publicly denied what they
95 were doing. When the truth came out, the pub-
lic perception of smoking changed dramatically,
as did the behavior of the tobacco industry. This
new approach eliminated the enemy. A void was
created. A new enemy was needed.

100 The new enemy, it appears to me, is obesity.
Obesity brings with it the plethora of health prob-
lems necessary to qualify as a public enemy—dia-
betes, high blood pressure, heart disease, stroke,
and more. It is a disease that could exact a very
105 high public health and social cost. It appears to
be a public sin caused by eating too much, denot-
ing a lack of self-control that in turn engenders
embarrassment and feelings of self-loathing. This
disease is complicated by the contemporary soci-
110 etal standard of beauty, which is defined as thin,

leaving the obese to suffer consequences that are
not only physical but also psychological.

115 We can make analogies in this case to the
path taken against smoking and the tobacco
companies. Those who benefited from lawsuits
against tobacco companies can similarly attempt
to find the culprits behind obesity and bring them
to their knees in court. They can claim lots of
money to fight obesity and restore public health
120 (and become wealthy in the process). If America
indeed has a weight problem, it must be some-
body's fault. And that somebody had better have
deep pockets.

The Legal Argument

125 I am starting from the proposition that we
in the United States have defined public policy
through law. Alexis de Tocqueville described this
phenomenon in his book *Democracy in America*,
which was based on his observations of the United
130 States in early nineteenth century. Everyone has
the opportunity to get into the act: the executive
branch through executive orders and regulation;
the legislative branch through enacting laws; the
judicial branch through its rulings and interpreta-
135 tion of laws; and the public, directly by bringing
lawsuits and indirectly by influencing legislation
and regulation. To watch the debate over the new
enemy, we need only observe what is happening
in the legal process. But first we must review legal
arguments involve and the matters than have to
140 be proved.

Let us begin with John F. Banzhaf III. Banzhaf
is the self-proclaimed ringleader of the anti-
tobacco company lawsuits and a professor at
George Washington University Law School. He
145 makes no bones about his desire to bring the fast-
food restaurant industry to its knees. On his web
site, www.banzhaf.net, he has posted his mani-
festo. Unlike Brillat-Savarin, who appreciated
the complexity of the conditions that can lead
150 to the enjoyment of food, Banzhaf presents his
legal arguments brusquely, without subtlety. He
clearly draws the analogy between fast food and
tobacco and attempts to rally the forces around
155 this position, claiming to be a proponent of con-
sumer protection.

4 During a 1988 trial it was revealed that a 1972 report entitled "Motive and Incentives in Cigarette Smoking" by Philip Morris Research Center characterized cigarettes as very efficient nicotine dispensers. Up until that time the tobacco companies had maintained that cigarettes were not addictive and that therefore smoking was volitional. This report proved that the industry knew that nicotine was addictive and that they used it to keep people smoking. This report did much to remove the volitional argument from the playbook of the tobacco companies. Because all of the companies knew of the report and its findings, the court found that the three big tobacco companies were in a conspiracy to hide their business plan to create addiction. By this time the link between smoking and cancer had been scientifically established, but the defense was still that it was a volitional act, i.e., the choice of the smoker. This report removed the "choice of the smoker" argument.

The legal argument in the tobacco cases was simple: (1) smoking tobacco was the direct cause of illness of the plaintiffs; (2) the tobacco companies sold tobacco; and (3) the tobacco companies ensured that the act of smoking was not volitional by knowingly manipulating the nicotine level in tobacco to make it addictive. This argument essentially made the tobacco companies directly responsible for the illness of the plaintiff, in a manner similar to the person who causes injury while driving a car.

But does the legal argument against fast foods follow the same simple paradigm?

Defining the New Enemy

It is easy to say that obesity as a national problem. One can find statistics to support the mental and physical health risks associated with obesity, although, on the other side, the latest scientific evidence indicates that the obesity problem is not as widespread as has been believed.⁵ Social and economic problems are associated with obesity. Airlines, for example, have recalculated the average weight of passengers, a change that affects both the size of the seats (and hence the profitability of each flight) and the cost of fuel needed to support the increased weight load.

But, unlike the case with tobacco, obesity is not accompanied by a simple solution. The solution to preventing the health problems associated this smoking is to stop smoking. One can live without smoking. It is a choice. But there is no similar univalent solution to obesity, which is caused by multiple factors. And one cannot live without eating. It's easy enough to recite the cause of obesity: we eat too many calories for the number of calories that we burn. Excess calories are stored in the form of fat. In other words, we eat too much and exercise too little.

Lawyers who bring what can collectively be called obesity lawsuits must establish a direct link between the obesity suffered by the plaintiff and the illness that the person has contracted (the obesity is the *probable cause* of the malady); that the defendant (read "culprit") was a source of the obesity; that the food eaten in excess was somehow nonvolitional and the fault of the de-

fendant, not the choice of the plaintiff. And unspoken, but nevertheless important, is the need for the culprit to have deep pockets. Call me naïve, but I am still trying to figure out what can be gained should there be a successful plaintiff in an obesity lawsuit. The money judgment will not cure a plaintiff's obesity. That person is still eating too much and exercising too little. And I can hardly see how, in legal terms, one could sustain the burden of proof. There are simply too many questions. Does merely being obese without health problems entitle a person to compensation? That is, are the social issues alone sufficient to trigger a fault/responsibility response in a lawsuit?

The Direct Link

If we analyze the legal dots that have to be connected to establish a legally viable case, it becomes clear that the problem is vast. Let's start with the cause of obesity: overeating. To establish that a particular food is at fault, the plaintiffs would have to demonstrate that that particular food caused the obesity. The lawsuit filed in 2002 by Caesar Barber, plaintiff, named McDonald's, Burger King, Kentucky Fried Chicken, and Wendy's as defendants. It would have been Barber's burden to establish that each of those defendants had caused his obesity. He withdrew the lawsuit. Since that time, new suits have focused on child plaintiffs. By using children as plaintiffs, the attorneys representing them can avoid the defense that eating the product is volitional, claiming that parents, not children, are responsible for their offsprings' diet.⁶

How does a plaintiff's attorney choose the next defendant? Coke or Pepsi? Oreo or Little Debbie? Burger King or McDonald's? Unless a person eats only one company's food to the exclusion of all others, it will be hard to trace the path of any particular calories to a final resting place on the plaintiff's hips. Certainly, eating too much foie gras, too much peanut butter, even too much "health" food could cause obesity. Are these other pockets simply too shallow for the plaintiffs to pursue? The sandwich shop Subway seems to have evaded the problem that has faced

5 The Centers for Disease Control in Atlanta promulgated statistics from a study in 2004 that projected 400,000 deaths annually in the United States that were related to obesity and overweight. By contrast, in April 2005 researchers from the National Institutes of Health and the same Centers for Disease Control published an article in the *Journal of the American Medical Association* in which they claim that fewer than 26,000 deaths annually in the United States are due to obesity related causes. See Mokdat et al. "Actual Causes of Death in the United States, 2000," *JAMA* 291 (2004):1238-1245; and Flegal et al. "Excess Deaths Associated with Underweight, Overweight, and Obesity," *JAMA* 293 (2005):1861-1867.

6 One indirect result of these lawsuits and the social impact of the debate surrounding them is the movie *Supersize Me* (2004). This documentary fuels the position that food from McDonald's is unhealthy. Written and directed by Morgan Spurlock, it tells a story of his experience eating food exclusively from McDonald's.

other fast-food chains by touting the weight loss
250 benefits of eating Subway sandwiches. I am wait-
ing for someone who doesn't lose weight eating
as Jared Fogle did (Fogle is Subway's spokesman)
to sue for false claims.⁷

255 What about the other side of the equation, the
expenditure of calories? Perhaps, limiting our-
selves to children for the moment, we can exam-
ine latchkey kids who stay inside because their
parents have to work and live in areas where the
260 streets aren't safe. They eat junk food at home and
don't get enough exercise. Should they sue their
parents for not giving them a better life? Should
they sue the municipal government for not keep-
ing the streets safer? Should they sue Kraft for
265 making tasty snacks? Can we sue school systems
for limiting or eliminating physical education?
Can we sue Nintendo, computer manufactur-
ers, television manufacturers and producers,
the auto industry, or the federal government for
270 building a highway system that keeps us from
walking enough?

Those Pesky Deadly Sins

275 There are people who are obese because they eat
too much. Some people eat too much even when they
don't eat junk food. We live in a land of plenty where
food is abundant and cheap, and where, when one
can ride, it is not considered acceptable to walk. It
is not cool to get off the sofa to use the television but-
tons instead of a remote control. Why would anyone
use a crank can opener when an electric one is avail-
280 able? We have changed from a country whose wealth
has made people grow taller and be healthier to one
whose very wealth and sense of plenty have become
the problem. All of the self-checking mechanisms of
society have been eliminated, and ease is available to
285 just about all of us. Now we must try to impose bal-
ance on ourselves, and this is no mean trick.

Whom can we blame for a society that has be-
come so rich that gluttony is a real sin, not a theo-
retical one? Perhaps it is only the devil finally get-
290 ting his due. After roasting all those scrawny sin-
ners, maybe he needed a few fat ones who would
be tender and self-baste.

First Reading

1. What is the overall tone of Williams's essay? Identify the sections of the text that exemplify her attitude.
2. In paragraph 3 (lines 33–46), Williams identifies what she says are two “basic American values” and suggests that the “balance” between them is at issue: “seeking redress in the courts and the freedom to make personal choices.” How does she illustrate the importance of each value?
3. Where in the essay does Williams explicitly address the need for “balance”? Does she offer explicit solutions?
4. Where in the essay does Williams appeal to logic?
5. Where in the essay does Williams vary her syntax in order to emphasize important points?
6. Where in the essay does Williams use comparison/contrast to develop her argument?

⁷ Jared S. Fogle, a spokesman for Subway, claims to have lost 245 pounds eating Subway sandwiches. Subway advertises the lean benefits of eating its sandwiches.

Second Reading

Annotate the essay, carefully noting the function of the footnotes and other text elements. Then answer these reading comprehension questions. After each one, explain what the question asked you to know or do, and why you answered as you did.

- The primary function of note 1 in paragraph 1 is to
 - elaborate on an allusion.
 - offer a contradictory viewpoint.
 - limit a definition.
 - examine a historical prediction.
 - cite a questionable source.
- Taken together, paragraph 2 and note 2 do each of the following EXCEPT
 - narrow the focus of the essay.
 - illuminate the central point of paragraph 1.
 - illustrate and elaborate upon a claim.
 - I only
 - I and II only
 - I and III only
 - II and III only
 - I, II, and III
- The purpose of footnote 2 (line 32) is to provide the reader with
 - evidence that doctors Kellogg and Atkins championed social change.
 - further insight into the economic consequences of fanaticism.
 - information that casts doubts upon Brillat-Savarin's work.
 - an analogy that offers additional support for a claim.
 - an introduction to contemporary dietary science.
- In light of current discussions of public policy related to food, the first three sentences of paragraph 3 (lines 33–40) indicate that the author views "lawyers" as
 - more influential than health food gurus.
 - lamentably potent in shaping public attitudes.
 - major players in setting a course for change.
 - reluctant to celebrate food.
 - indispensable allies against reactive legislation.
- In the sentence "This new approach eliminated the enemy" (lines 97–98), "this" refers to
 - establishment of a link between smoking and cancer.
 - policies balancing freedom of choice with public health concerns.
 - court rulings upholding volitional activity.
 - revelations affecting public perception of tobacco companies.
 - increased prominence of health warnings.
- In paragraph 8 (lines 100–112), a primary rhetorical strategy of the author is to
 - arouse the interest of the audience, then cite compelling statistics.
 - present competing definitions that prove to lack substance.
 - make an assertion and support it with commonly held views.
 - buttress her own position by denouncing views of competing authorities.
 - qualify previous statements with additional information.
- The structure of paragraph 11 (lines 142–156) can best be described as
 - an exordium accompanied by neutral commentary.
 - a review of activities punctuated by explicit denunciation.
 - a series of references followed by presentation of credentials.
 - an introduction followed by characterizing details.
 - an *ad hominem* attack extended by a comparative assertion.

8. The purpose of footnote 5 (line 176) is to deepen the reader's
- (A) understanding of the author's subsequent assertion.
 - (B) awareness of competing medical claims.
 - (C) appreciation of recent revelations.
 - (D) confidence in scientific research.
 - (E) concern about continuing legal actions.
9. Paragraph 15 (lines 183–194) includes
- I. the use of personal voice
 - II. the use of rhetorical questions
 - III. the use of parallelism
- (A) I only
 - (B) I and II only
 - (C) I and III only
 - (D) II and III only
 - (E) I, II, and III
10. The footnotes collectively suggest that the author believes it is important to
- (A) relate personal experience to historical and scientific trends.
 - (B) value Web sites as a source of statistical information.
 - (C) present current statistics that affirm her views.
 - (D) comment upon a variety of apt contemporary and historical developments.
 - (E) offer conflicting viewpoints on controversial issues.

Writing

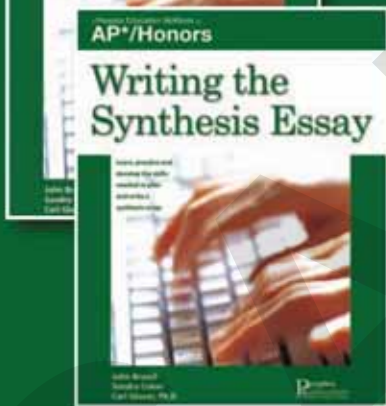
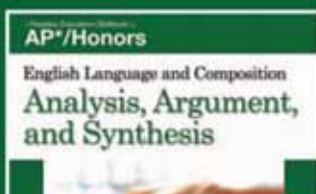
1. **Analysis** — Write an essay in which you define the central argument of Williams's essay, then analyze the rhetorical strategies she uses to present and support it.
2. **Argument** — Write an essay in which you support, refute, or qualify Williams's argument. Use appropriate evidence to develop your position, conducting your own research in service of your own argument. Properly cite and account for sources used in your essay.

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