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LINGUISTIC MEANS OF EXPRESSING ETHOS IN ENGLISH COURT DISCOURSE

The paper is devoted to the study of speech communication as a special kind of activity aimed at shaping opinions and beliefs. All these tendencies can also be applied to court speeches, by means of which the prosecutor and the defense lawyer seek to influence the judge and the jury in order to convince them of the desired understanding of the problem, as well as to force them to act. In this context, the phenomenon of ethos, which is seen as a system of ideals and values at the level of mental attitude, life patterns, social habits and values that dominate the culture and control the behaviour of its members, has been researched in the article. The author reveals the ways of language representation of ethos in English court discourse, which makes a certain contribution to understanding the mechanisms of speech impact in court, as there are not enough studies, where ethos is analysed from the linguistic point of view.

It has been established that in contemporary court discourse the appeal to religious ethos is becoming less and less applicable. At the beginning of the twenty-first century, appeals to democratic rights and freedoms as a system of ideals and values immutable for American society or appeals to universal values are increasingly used. The prosecution seeks to create an effect of empathy for the plaintiff and to create an effect of rejection for the accused, so it bases itself on an ethical norm or anti-norm, respectively. The defense lawyer also appeals to ethos, as does the prosecution, but the defense lawyer chooses a different context for these thematic groups. The paper identifies the relevant thematic groups: with the common themes of «civic virtues», «rule of law» and «universal values». It has been revealed that the appeal to ethos is mandatory in both the discursive practice of the prosecutor and the discursive practice of the defense lawyer, due to their being within the canon and their duty to maintain a court communicative culture.

Keywords: ethos, court discourse, defense lawyer's speech, prosecutor's speech, thematic group, discursive practice, court communicative culture.

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МОВНІ ЗАСОБИ ВИРАЖЕННЯ ЕТОСУ В АНГЛОМОВНОМУ СУДОВОМУ ДИСКУРСІ

У статті розглянуто поняття етосу. Звернено увагу на особливості апеляції до етосу в англomовному судовому дискурсі. Аналіз проведено на автентичному матеріалі судових процесів, що відбувалися в останні роки. Виявлено спільні та відмінні ознаки вираження етосу в промовах адвокатів і прокурорів. Схожість полягає в тому, що апеляція до етосу є обов'язковою як в дискурсивній практиці прокурора, так і в дискурсивній практиці адвоката, що обумовлено їх перебуванням всередині канону і обов'язком підтримувати судову комунікативну культуру. Відмінності стосуються вибору контексту для обраних тематичних груп.

Ключові слова: етос, судовий дискурс, промова адвоката, промова прокурора, тематична група, дискурсивна практика, судова комунікативна культура.

Formulation of the problem. Speech communication as a special kind of activity, aimed at shaping opinions and beliefs, has always attracted the attention of researchers from different fields of scientific knowledge. Communicative activity, especially in recent times, has been analysed not only in terms of the persuasiveness of speech and its effectiveness, but also in terms of its trendiness and publicity. Here the question arises of the further theoretical and practical understanding of new pragmatic criteria: success, attraction and hype. All these tendencies can also be applied to court speeches, by means of which the prosecutor and the defense lawyer try to influence the judge and the jury in such a way as to convince them of the desired understanding of the problem. Also, to make them act accordingly to their intention: to induce them to pronounce a verdict of guilty or acquittal and a verdict of guilty or not guilty of the defendant. Which makes it necessary for the sender of the speech to address different aspects, both logical and emotional, psychological and social. In this regard, we consider it necessary to analyse such phenomenon as ethos, defined by researchers as a system of ideals and values at the level of mental attitudes, life patterns, and social habits, values dominating in the culture and controlling the behaviour of its members [1]. Identification of ways of linguistic representation of ethos presented in English court discourse could make a certain contribution to understanding the mechanisms of speech impact in court. Thus, the focus of the paper on solving important practical problems, as well as on further development of theoretical issues, confirms the relevance of the topic chosen for research.

Recent researches analysis. A study of the existing works devoted to the problem of ethos led us to conclude that the problem is underdeveloped. While there are still works that consider ethos as a philosophical and sociological phenomenon, there are very few studies that analyse ethos from a linguistic point of view.

Let us briefly review these studies. Therefore, A.B. Frantz defines ethos as «the space of interpenetration of morality and power», where «power in its deployment continuously generates morality, and the latter legitimises power» [2]. P. Bourdieu distinguishes between ethos and habitus. If ethos is an unconditional morality expressing human need for a supra-empirical moral order, then habitus (Greek ἥβησις - custom) is a conditional morality, «...a system of reproducible dispositions (attitudes, values, schemes of perception and action) which are structured from

outside (by power, socio-cultural situation, language etc.), by people» [3, p. 23]. The famous Polish researcher M. Ossowska deals with ethos from the point of view of morality, defining it as a lifestyle of some social group, general orientation of some culture, the hierarchy of values accepted in it [4]. But in this case it is worthwhile to bear in mind that we should talk about the process of manipulation rather than the process of persuasion. It may be added at this point that the difference between inducing persuasion/persuasion and manipulation is as follows: 1) the intention underlying the communicative act by the sender of the speech; 2) the truthfulness and transparency of the communicative act; 3) the expectation to benefit from the communicative act by the sender of the speech.

In this paper we consider ethos in the legal plane, so we are based on the position of E. Anchel, who understands ethos as related to the sphere of the proper «...such justice, which prevents the reproduction of social injustice» [5, p. 16]. Justice, in other words, the possibility of ethos, as «consciousness...that there is an objective moral order in the world, which presupposes that consequences depend unconditionally on what has been done, that responsibility for what has been done establishes a connection between them' is initially set in every human being and human beings in general» [5, p. 15]. It is to such an objective moral order that the prosecution appeals, thereby presenting its arguments as something immutable, since to reject or question this order «would mean a spiritual and moral surrender to barbarism, an implicit recognition that ... evil could shake the binding force of human measures of morality» [5, p. 14]. The prosecution relies on the so-called «normative persona» (M. Ossowska's term) and, in the English-language legal system, on the phenomenon of the «reasonably prudent person», i.e. the person who shares the generally accepted values of society and who observes the norms which are expressed in the form of injunctions, prohibitions, preferences and permissions. Law, therefore, as a normative system, must be imbued with morality.

Meanwhile, it goes also without saying that from the linguistic point of view, as noted above, ethos has not been fully considered. For example, one can cite such few works as A. V. Savchenko "Expression of Bourgeois Ethos by means of Paremiology" [6], [6], Claudio Ramírez «Ethos and Critical Discourse Analysis: From Power to Solidarity» [7], Vitale María Alejandra «Ethos in the "Conversationalization" of Public Discourse. The Inaugural Speeches of the Argentinian President Cristina Fernández de Kirchner» [8], Yaroslava Fedoriv "Manipulative Rhetoric: Linguopragmatic Analysis of Strategies of Privileged Influence" [9].

Thus, the aim of this study is to investigate the linguistic means of expressing ethos in English judicial discourse.

In order to achieve this goal, the following tasks are to be solved:

- 1) to clarify the terminological apparatus involved in the article;
- 2) to establish the language means expressing ethos in the prosecution discourse;
- 3) to establish the language means expressing ethos in the defense discourse;
- 4) to find out the similarities and differences of language means in different subtypes of English court discourse.

Results and discussion. The aim, objectives and specificity of the material determined the choice of methods of analysis.

At the stage of terminological grounding the main methods are comparison (comparing the views of different scholars, directions of problem analysis, etc.), classification (identifying linguistic means), generalisation (summarising information), argumentation (in support of its position).

In our choice of approaches to the analysis we were guided by the contemporary scientific paradigms: cognitive linguistics, pragmatic linguistics, speech communication theory, lexico-semantic analysis methods. Elements of cognitive analysis helped to identify the dependence of judicial discourse on social conditions.

The factual material of the study was authentic materials (texts of opening speeches of the prosecutor and the lawyer) of the American trial 2019 McStay Family Murder Trial.

The discourse of the prosecution is regulated and monotonous. Such a regulated and monotonous nature is justified by the fact that the speaker in this case delivers his speech on behalf of the state and has to be ceremonially impartial. As a rule, the representative of the accusing party refers to the social and political assessment of the crime and the characteristic of the defendant, the public danger of the crime, the aggravating and mitigating circumstances, contains an exhaustive analysis of the evidence collected and checked during the court hearing, which serves as a basis for conclusions about the guilt of the defendant, the qualification of his actions and the necessary punishment, the reasons for which the given punishment is proposed. However, given the adversarial principle in court and the fact that the accusatory speech should have a moral and legal and educational orientation, the so-called axiological component determined by moral and moral and cultural attitudes and rules existing in society, the prosecution cannot remain completely impartial, which determines the evaluative, emotive, emotional and expressive nature of its speech.

When referring to the activities of a lawyer, modern linguistics uses the term advocacy discourse. However, the development of modern scientific thought is characterised by processes of differentiation, as they help to explain a phenomenon in more detail. As a consequence, we consider it appropriate to propose the term «defence discourse» and to separate these two concepts – advocate's discourse and defence discourse – by providing comments on the issue.

Advocacy discourse is now seen as a moral discourse, as a form of reconciliation between the person whose case is being tried and those who are trying it. On the other hand, advocacy discourse is represented by the discourse of famous personalities such as Martin Luther King, for example. The work of such individuals is that of advocates

who seek reconciliation by caring for the good and appealing to conscience: «What made these advocates unique was their concern with goodness. They insisted on being concerned with the goodness even of the power brokers to whom they appealed. They based their advocacy on the goodness in those who were their clients. They appealed not to power but to conscience. Their advocacy tended to reconcile people rather than defeat them...» [10, p. 648]. However, very often litigation is not at all about reconciliation but about confrontation with a clearly expressed desire to win the dispute by any means, so we consider it more justified to separate these terms and single out the term «discourse of the defense».

Professional communication is always aimed at achieving a certain result, at solving a problem, i.e. it is goal-oriented communication. In addition, professional communication implies a high level of responsibility for not achieving professionally relevant goals. When in court, the lawyer and the prosecutor must be discreet and not show their emotions or negative attitudes towards each other in front of the audience. They must not show any disrespect for the court.

Let us illustrate this with examples. A trial begins with the opening speech of the prosecutor who, on the one hand, refers to ethos as a general system of human values of which the value of human life is the most important. On the other hand, as a system of values accepted in American society at the level of mental attitude, life patterns, and social habits which dominate the culture and which control the behaviour of society members.

Thus, the prosecutor states that four people simply disappeared from life, the lives of four people suddenly cut short, two of whom were young children aged four and three.

«Family of four disappeared off the face of the earth; just up and gone».

In addition to the value of life, the prosecutor appeals to the universal value of friendship:

«*the defendant was Joseph's best friend*».

All the more repugnant is the crime committed by the "best friend", the cause of which is simple human greed, which in this case is a universal anti-value:

«*All this boils down to greed*».

The concept of «civic virtues» emerges from the description of murdered family members as good citizens of American society, law-abiding citizens who do not break laws, pay taxes, and work for the good of American society:

«*...husband who is running a business; mom who is raising her two kids, fixing up a house they bought recently*», «*they lived in a quiet residence, had two cars, had a business*».

The concept of «civic virtues» that are inherent to the dead is contrasted with a set of negative qualities of the defendant:

«*his lies; he misled the investigator; he owes Joseph a lot of money, 42,000 dollars; he played casinos: Pollock casino, Casino in Highland, San Manuel casino, Commerce casino; forging checks; played the victim; tried to cover his tracks after murders; took 5,000 dollars from Joseph's mother but never paid her back*».

Interestingly, the prosecutor mentions as a negative characteristic of the defendant the fact that he had borrowed money from his victim's mother, but had never paid back the debt.

As a result of the «clash» of virtues and anti-virtues, certain contradictions arise, that is to say a conflict which leads to murder:

«*basic human emotion and greed*».

While the prosecution relies on the so-called «normative persona» (M. Ossowska's term) and universal values, the defense in the English-language legal system appeals more to the concept of a «reasonably prudent person», i.e. a person who shares the generally accepted values of society and who observes the rules which are expressed in the form of injunctions, prohibitions, preferences and permissions. They conduct a joint business that brings them profit. Moreover, they were about to enter into a lucrative contract, so the murder of a business partner was entirely unprofitable for the defendant as a pragmatic businessman and law-abiding person. Therefore, he does not call the tragedy that occurred a murder, but a disappearance of people:

«*It is not a murder, murders happen every day, it is disappearance; somebody wanted this family to disappear*».

Based on such findings, the defense lawyer demands justice and a fair hearing:

«*...we want justice...*».

It is noteworthy that both the prosecution and the defense lawyer use the concept of «best friend» but in exactly the opposite context: the prosecutor resents that the victim's best friend committed the murder in question, while the lawyer emphasises that the defendant is suffering moral distress because he was the best friend of the murdered man:

«*...the loss is also to him, best Joseph's friend...; Merit needed Joseph, his best friend...*».

While in the early twentieth century prosecutors used to appeal to religious ethos, in today's increasingly varied human values such an appeal to religious ethos is becoming less and less applicable. Referring to M. Weber, we note that the existence of modern civil society is built on purposive-rational and value-normative activity. Religious values can be proclaimed, but for various reasons they do not have a significant impact on society, acting often as a «must-have» attribute of social reality. Religious ethos is perceived more as a traditional cognitive-social form with which people are more comfortable, by inertia, to identify themselves. At the beginning of the twenty-first century,

appeals to democratic rights and freedoms as a system of ideals and values immutable for American society or appeals to universal values are increasingly used.

Conclusions and perspectives. The content analysis of the texts of the speeches made by the prosecution drew the following conclusions: the speech sender always uses appeals to ethos, i.e. «appeal to the ethical norms shared by the listeners» [11, p. 96]. It is oriented towards creating an effect of empathy towards the plaintiff and towards creating an effect of rejection of the accused and is based on an ethical norm or an anti-norm, respectively. In general, however, the presence of an appeal to ethos is mandatory in the discursive activity of the prosecutor, as he or she is within the canon and must maintain a judicial communicative culture. In terms of linguistic representation, the appeal to ethos is realised through the discursive activation of the following thematic areas: with the common semantics of "civic virtues", "rule of law", "universal values". The defense lawyer also appeals to ethos, as does the prosecution, but the lawyer chooses a different context for these thematic groups.

Based on such an understanding, we can note that the appeal to ethos is almost identical for all subtypes of judicial discourse in that the parties appeal to an objective moral order, to the immutable principle of the rule of law in American society, and to biblical values. As we have noted above, the appeal to ethos is mandatory in both the discursive practice of the prosecutor and the discursive practice of the lawyer, due to their location within the canon and their duty to uphold a judicial communicative culture. However, certain questions remain: does it address the judge? Which thematic groups express it? We consider the above questions as a prospect for further investigation of the problem of appeal to ethos in court discourse.

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