
Advokatning himoya nutqida mamlakatning xuquqiy xujjatini tilga olish va diniy mavzular orqali nutqiy ta'sir ko'rsatish

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Annotatsiya *Mazkur maqolada advokatning himoya nutqida mamlakatning asosiy huquqiy hujjati — Konstitutsiyaga murojaat qilish orqali nutqiy ta'sir ko'rsatish usullari tahlil qilinadi. Tadqiqotda advokat nutqida Konstitutsiyani tilga olishning mantiqiy, emotsional va huquqiy dalillar bilan uyg'unligi, uning auditoriyaga – sudyalarga va tinglovchilarga – ruhiy va aqliy ta'siri ko'rsatishdagi o'rni yoritiladi. Shuningdek, bunday murojaatning ritorik vosita sifatida himoya nutqining ishonarlilik darajasini oshirishga xizmat qilishi ham ko'rsatib o'tiladi. Maqolada real sud jarayonlaridan olingan nutqiy parchalar asosida tahliliy yondashuv qo'llanilib, advokatning strategik fikrlashi va huquqiy madaniyatining ifodasi sifatida Konstitutsiyaga tayanish holatlari ko'rib chiqiladi.*

Kalit so'zlar *Advokat nutqi, himoya nutqi, asosiy huquqiy hujjat, nutqiy ta'sir, ritorik vosita, huquqiy dalil, mantiqiy asos, emotsional ta'sir, sud ritorikasi*

Использование правовых документов страны и религиозных тем для создания риторического эффекта в защитительной речи адвоката

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Аннотация *В данной статье анализируются методы риторического воздействия, достигаемые путем ссылки в защитительной речи адвоката на основополагающий правовой документ страны — Конституцию. В исследовании рассматривается, как ссылки на Конституцию в риторике защиты сочетаются с логическими, эмоциональными и юридическими аргументами, а также подчеркивается их психологическое и интеллектуальное воздействие на аудиторию, включая судей и слушателей. Кроме того, в статье показано, как такие ссылки служат риторическими инструментами, повышающими убедительность защитной речи. Основанный на выдержках из реальных судебных разбирательств, аналитический подход показывает, как опора на Конституцию отражает стратегическое мышление и правовую культуру юриста.*

Ключевые слова *Речь адвоката, защитительная речь, основополагающий юридический документ, риторическое воздействие, риторический прием, юридическая аргументация, логическая основа, эмоциональная привлекательность, риторика в зале суда*

Using the country's legal document and religious themes to create rhetorical impact in a lawyer's defense speech

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Annotation *This article analyzes the methods of rhetorical influence achieved by referencing the country's fundamental legal document — the Constitution — in a lawyer's defense speech. The study explores how invoking the Constitution in defense rhetoric aligns with logical, emotional, and legal arguments, and highlights its psychological and intellectual impact on the audience, including judges and listeners. Furthermore, the article demonstrates how such references serve as rhetorical tools that enhance the credibility of the defense speech. Based on excerpts from actual court proceedings, the analytical approach reveals how reliance on the Constitution reflects the lawyer's strategic thinking and legal culture.*

Key words *Lawyer's speech, defense speech, fundamental legal document, rhetorical influence, rhetorical device, legal argument, logical basis, emotional appeal, courtroom rhetoric*

Huquqiy nutq, xususan, advokatning himoya nutqi nafaqat huquqiy dalillarga, balki ritorik vositalarga ham tayanadi. Bu nutqning asosiy maqsadi – sudyani va boshqa tinglovchilarni ayblanuvchi foydasiga ishontirish, uning huquqlarini himoya qilishdir. Bunday vazifani samarali bajarish uchun advokat turli strategik usullardan foydalanadi. Ulardan biri – mamlakatning asosiy huquqiy hujjati, ya'ni Konstitutsiyaga murojaat qilishdir. Konstitutsiyani tilga olish nafaqat huquqiy asos yaratadi, balki auditoriyaga kuchli nutqiy ta'sir o'tkazadi. Mazkur lisoniy hodisa ingliz yuridik nutqida, jumladan, Angliya Konstitutsiyasida ham ko'rish mumkin:

The Congress shall have Power to lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States. (6)

Bu gapdagi *The Congress shall have Power to lay and collect Taxes* jumlasini qoliplashgan birikmalardan tarkib topgan. Yuridik ritorikaning ma'lum bir qoliplashishi bu uning ijobiy jihati. Chunki yuridik nutqni ma'lum bir jumla, so'z birikmalari asosida shakllantirish huquqiy normani yoki huquqiy tushunchani osonlik bilan tushunilishiga, fuqarolar tomonidan tez qabul qilinishiga, ular ongiga bu qonunning tez singishiga sabab bo'ladi. Shuning uchun yuridik tilni ma'lum bir jumlar asosida qoliplashtirish lozim.

O'zbek tilida JPK, ya'ni jinoyat prosessual kodeksi misolida nutqda namoyon bo'ladi. Masalan: Sudning hukmi qonuniy, asosli va adolatli bo'lishi shartligi O'zR JPKning 455-modda talabidir.

3) *Hurmatli sud va sud prosessi ishtirokchilari! Bugun biz O'zbekiston Respublikasi Jinoyat Kodeksining 277-modda 2-qism "b, g" bandlari, 105-modda 2-qism "i" bandi bilan ayblanib, sudga berilgan Orziev Azamat,*

Berdiqulov O'tkir va boshqalarning jinoiy ishini ko'rib chiqib, tugallash arafasida turibmiz. (Salomov, 2006)

Erkak advokatlarining sud jarayonida yuridik sohasiga oid O'zbekiston Respublikasi Jinoyat Kodeksi, 277-modda, 2-qism "b, g" bandlar, 105-modda 2-qism "i" kabi soha terminlarini o'rinli ishlatish orqali nutqiy ta'sirchanlikka erishishlari kuzatiladi.

Yuridik ritorika davlat tomonidan qabul qilinadigan rasmiy hujjat bo'lib, uni shu hududda, jamiyatda yashovchi fuqaro, kim bo'lishidan qat'iy nazar, bajarishi, unga amal qilishi shart. Unda ifodalangan huquqiy normalar taxmin, istak, yoki gumon deb emas, balki bajarilishi shart bo'lgan huquqiy norma deb qabul qilinadi. Yuridik ritorikani pirovardida hamma fuqarolarning xohish-irodasidan ustun turadi. Shunga ko'ra qonunda qat'iylik belgisi kuchli bo'ladi. Buni qonunning har bir moddasida kuzatish mumkin.

Masalan:

O'zbekiston Respublikasida O'zbekiston Respublikasining Konstitusiyasi va qonunlarining ustunligi so'zsiz tan olinadi. (O'zbekiston Respublikasi Konstitusiyasi 15-m.). Hech qaysi mafkura davlat mafkurasi sifatida o'rnatilishi mumkin emas (O'zbekiston Respublikasi Konstitusiyasi 12-m.). O'zbekiston Respublikasining butun hududida yagona fuqarolik o'rnatiladi (O'zbekiston Respublikasi Konstitusiyasi 21-m.). (Salomov, 2006).

Matndan ko'rinadiki, bu huquqiy normalar o'ta qat'iy ifodalangan. Ayniqsa, bu moddalardagi "so'zsiz", "hech qaysi", "yagona fuqarolik" so'zlari huquqiy normalarning qat'iyiligini yanada oshirgan.

Demak, o'zbek tilida O'zbekiston Respublikasi Konstitusiyasi, O'zbekiston Respublikasi Jinoyat Kodeksi aksariyat hollarda nutqiy ta'sirchanlikning ortishida nutqga olinadi.

- 1. The court cannot be sure the confessions are reliable. It follows that the conviction is unsafe. The conviction is quashed (Downing,*

*2002 EWCA Crim 263). There are similarly other cases where the court specifically addresses the issue of innocence as it relates to the role of the **Court of Appeal.** (5)*

- 2. I make clear at the outset that I offer no comment whatsoever on this particular case. While the editorial slants of the tabloids may hint at two-fingered salutes to the law of "strict liability" contempt of court, I am going to play safe by disclaiming that, as criminal proceedings in this case are "live" within the meaning of Schedule 1 of the Contempt of Court Act 1981 (a suspect having been arrested without a warrant), what follows is intended as a contribution to a discussion in good faith of public affairs or other matters of general public interest. (8)*
- 3. In 2008, the common law defence of self-defence was put on a statutory footing in section 76 of the Criminal Justice and Immigration Act 2008. (9)*

The Code for Crown Prosecutors provides that when a charging decision is being taken the test is two-fold – (i) is there a realistic prospect of conviction on the evidence? (7)

Advokatlar nutqida murojaat shakllariga urg'u berish orqali nutqiy ta'sir o'tkazish yuqorida ham qayd etilgan edi.

Masalan:

- 1. **Good afternoon, ladies and gentleman (мурожаат).** My name is Larry Lawyer, and I am representing the plaintiff, Jessica Smith. We are here today to decide if the defendant, John Smythe, is liable for damages caused to Ms. Smith's vehicle as a result of a car accident that took place on June 15, 2003.*
- 2. Mr. Spencer: I am, **Your Honor.** Thank you very much. **Your Honor,** may it please the Court.*

***The court:** Everybody have his or her notebooks?*

– Yes? (7)

O'zbek tilida esa yuqorida ta'kidlangan, *Hurmatli sudya va xalq maslahatchilari! Hurmatli sud hay'ati!* (murojaat) *Hurmatli sudya va xalq maslahatchilari!* kabi murojaat kuzatiladi. Ikki tilning farqli jihatlari shundaki, Buyuk Britaniya davlati monarxiya tizimiga ega ekanligi, qirollikka oid murojaatlarning hail ham ularning nutqida saqlanib qolganligini ko'rsatadi. O'zbek tilida esa, aksariyat xollarda kasbga oid so'z va birikmalar orqali murojnat kuzatilishi bilan xarakterlanadi.

Diniy mavzularda nutqiy ta'sir o'tkazish ham kuzatiladi.

Masalan:

Ingliz tili: *1) J: If you step forward and will you raise our right hand for me please and say solemnly swear the testimony you are about to give will be the truth the whole truth and nothing but the truth, so help you God. (4)*

G: Yes, please.

J: Have a seat.

However, the danger in offering a lesser charge is that the lesser charge might not properly reflect the gravity of the offending. To use a well-known illustration, many people wouldn't have regarded it appropriate if Ewan McDonald were prosecuted with "careless use of a firearm causing death", rather than with murder. Should Christian prosecutors resist the urge to unjustly "dispose" of cases by offering no evidence or by accepting guilty pleas to lesser charges? Yes. Proverbs 17:15 says "He who justifies the wicked, and he who condemns the righteous, both of them alike are an abomination to the LORD". Both principles then, should guide a Christian prosecutor to act differently from a non-Christian prosecutor in a range of circumstances. (3)

Are you considering the practice of law? Make sure that, if the Lord calls you to practice law, you do justice, doing your work "heartily, as for the Lord rather than for men" (Colossians 3:23).

"Like a trampled spring and a polluted well, is a righteous man who gives way before the wicked" (Proverbs 25:26), but **"Who may**

dwell on Thy holy hill? He who walks with integrity, and works righteousness, and speaks truth within his heart ... He who does these things will never be shaken" (Psalm 15: 1b-2, 5). (10)

O'zbek tili: *Hadislarda aytilganidek, shubha, gumon iymonni kuydiradi. "Adolat binosi harob bo'lmas" deganlaridek yaxshiyamki, sudlanuvchining baxtiga mazkur jinoyat ishi viloyat sudi Rayosati, viloyat prokurorining roziligi bilan qaytadan sinchkovlik bilan o'rganilib, tegishli ravishda qaror qabul qilinib...* (Salomov, 2006). To'plangan misollarda advokatlar nutqida ingliz tilida diniy mavzular kuzatilmadi. O'zbek tilida esa, Alloh, xadis, Qur'on kabi bir qator diniy sohaga oid lisoniy vositalar advokatlar nutqida kuzatilishi aniqlandi.

Davlat rahbarlarini ismlarini tilga olish orqali nutqiy ta'sir qilish ham kuzatiladi. **O'zbek tili:** *Hurmatli Prezidentimizning Oliy Majlis sessiyasidagi nutqida: "Sud jazolovchi o'rgandan oddiy odamlarning huquqlari va manfaatlarini himoya qiluvchi organga aylanib, haqiqatan ham mustaqil bo'lib qolishi lozim", deb ta'kidlagan edi. Shuningdek, Prezidentimiz prokuratura organlari bilan sudning o'zaro munosabatlarini tubdan qayta ko'rib chiqish fursati etganligini aytgan edilar. (Salomov, 2006)*

Ingliz tili: **Prime Minister David Cameron**, having promised in his party's manifesto to afford "greater protection" to householders who use force against burglars, said: 'We'll put beyond doubt that homeowners and small shopkeepers who use reasonable force to defend themselves or their properties will not be prosecuted.'(4)

O'zbek tili: **Muxtaram Prezidentimiz**, odil sudlov dargohini muqaddas dargoh deb baholab: "Bu dargohan hech kim norizo ketmasligi kerak", degan edilar. Odil sud dargohidan hech kim norizo ketmasligi uchun esa, sud nihoyatda adolatli va xolisona pozitsiyada turib, jinoyat ishi yuzasidan to'plangan barcha dalillarga baho bermog'i lozim. A.Mirsoliev ota

izidan borib IIBga o'tganiga ko'p vaqt bo'lmay jamoa orasida obro'- e'tibor qozondi. (Salomov, 2006).

Himoya nutqining samaradorligi advokatning strategik fikrlashiga bog'liq. Konstitutsiyani tilga olish orqali advokat ayblovga qarshi yuqori darajadagi yuridik asos yaratadi. Bu esa sudning qaror qabul qilish jarayoniga bevosita ta'sir ko'rsatishi mumkin. Shuningdek, bu usul advokatning huquqiy madaniyatini, yuridik tafakkurini ham ifodalaydi.

Konstitutsiyaga asoslanish, ayniqsa, muhokama qilinayotgan masalada ijtimoiy yoki axloqiy jihatlar dolzarb bo'lsa, nihoyatda ta'sirchan bo'ladi. Advokatning himoya nutqida Konstitutsiyani tilga olish ikki tomonlama vazifani bajaradi: bir tomondan – huquqiy dalil sifatida xizmat qilsa, ikkinchi tomondan – kuchli nutqiy ta'sir vositasiga aylanadi. Bu orqali advokat sudya va tinglovchilar e'tiborini asosiy huquqiy prinsiplar asosida mijozining huquqlarini himoya qilish zarurligiga qaratadi.

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