UDC 811.111’42
DOI https://doi.org/10.26661/2414-9594-2021-1-10

STRATAGEM OF APPEAL TO LOGIC AS MEANS OF DISCURSIVE INFLUENCE (BASED ON PROSECUTORS’ SPEECHES)

Zaitseva M. O.
Ph. D. in Philology, Associate Professor,
Associate Professor at Foreign Languages № 2 Department
Yaroslav Mudryi National Law University
Pushkinska str., 77, Kharkiv, Ukraine
orcid.org/0000-0003-4304-3644
m.o.zaitseva@nlu.edu.ua

Key words: *English court discourse, arguments of underlying level, arguments of superficial level, logical impact, emotional impact, thematic group, lexical means.*

The notion of the stratagem to logic from the point of its discursive influence on recipients is researched in the paper. This notion is directly related to the concept of strategy. Nevertheless, unlike it, the researched notion is just beginning to occupy their niche in scholars’ writings. When interpreted in light of what is known about stratagems the relevance of the paper can be stated. The relevance of the article is due to the dearth of research and lack in-depth analysis done on the subject in the context of constant confrontation in the modern information space. Confrontation can be observed at all levels and in all spheres of human life, including judicial activities. The research is carried out at the intersection of several scientific and linguistic paradigms: communicative, cognitive, pragmatic and linguocultural. The logic of the development of these directions of modern linguistic science determined the novelty of this study.

In this article, the author in detail sets out the differences between such notions as strategy, tactic and stratagem. The views of leading scientists dealing with the phenomena are carefully analysed. Considerable attention is given to the applied nature of the research.

The primary purpose of the article is to investigate the stratagem of appeal to logic in English court discourse from the point of its influence on litigants. The following objectives have been set: to clarify the terminological apparatus involved in the article; to find out types of persuasive arguments and their impact on litigants; to establish the language means expressing stratagems of appeal to logic in the prosecution discourse. Mention should be made of the following methods that were used here to achieve the aim: linguistic observation and analysis, as well as cognitive method, critical discourse analysis method, pragmatic analysis method.

Thus, the above stratagem is proved to be expressed through arguments of underlying and superficial levels. It can be said that the arguments used by the prosecution constitute the deep level of the argumentation process and fulfil their essential function of the logical impact, that is, the function of proving the plaintiff’s innocence. The proofs justify the veracity of judgments, which, in their turn, persuade the court and the jury, becoming one of the methods of influencing the opponents. The lexical means are combined by the common message “credibility of the arguments”. So-called superficial arguments contribute to the positive image of the plaintiff and the negative image of the defendant, fulfilling a residual, auxiliary function of the emotional impact on recipients. The lexical means are represented by two thematic groups: a) lexical means with a positive connotation to create the image of the plaintiff and b) lexical means with a negative connotation to create the image of the defendant. Together, they form effective persuasive tactics that influence the recipients’ consciousness, leading to a change in their behavior.

СТРАТАГЕМА АПЕЛЯЦІЇ ДО ЛОГІКИ ЯК ЗАСІБ ДИСКУРСИВНОГО ВПЛИВУ (ЗА ВИСТУПАМИ ПРОКУРОРІВ)

Зайцева М. О.
кандидат філологічних наук, доцент,
доцент кафедри іноземних мов № 2
Національний юридичний університет імені Ярослава Мудрого
вул. Пушкінська, 77, Харків, Україна
orcid.org/0000-0003-4304-3644
m.o.zaitseva@nlu.edu.ua

Ключові слова:
англійськомовний судовий дискурс, аргументи глибинного рівня, аргументи поверхневого рівня, логічний вплив, емоційний вплив, тематична група, лексичні засоби.

Розглянуто стратагему апеляції до логіки в англійськомовному судовому дискурсі з погляду її впливу на реципієнтів. Це поняття безпосередньо пов'язане з поняттям стратегії. Однак, на відміну від неї, це поняття тільки починає займати свою нішу у працях учених. Актуальність статті зумовлена нестачею досліджень із цієї теми та глибокого аналізу цього явища в контексті постійного протистояння в сучасному інформаційному просторі. Дослідження проводиться на перетині кількох наукових і лінгвістичних парадигм: комунікативної, когнітивної, прагматичної і лінгвокультурологічної. Логіка розвитку цих напрямів сучасної лінгвістичної науки зумовила новизну цієї розвідки. Значну увагу приділено прикладному характеру дослідження.

Основна мета цієї роботи – дослідити стратагему апеляції до логіки в англійськомовному судовому дискурсі з погляду її впливу на учасників судового процесу. Заявлено такі завдання: уточнити термінологічний апарат, задіяний у статті; з'ясувати типи переконливих аргументів, їхній вплив на учасників судового процесу; встановити мовні засоби, що виражають стратагему апеляції до логіки в дискурсі сторони звинувачення. У розвідці використано такі методи: лінгвістичне спостереження й аналіз, а також когнітивний метод, метод критичного аналізу дискурсу, метод прагматичного аналізу.

Доведено, що зазначена стратагема виражена за допомогою аргументів глибинного та поверхневого рівнів. Глибинні аргументи виконують основну функцію логічного впливу – доведення правоти позивача. Такі докази обґрунтовують правдивість суджень, які, у свою чергу, переконують суд і присяжних. Лексичні засоби, які вербалізують аргументи глибинного рівня, об'єднані загальним смислом: «переконливість аргументів». Встановлено, що аргументи поверхневого рівня виконують другорядну функцію – функцію емоційного впливу для створення негативного іміджу відповідача та позитивного іміджу позивача: а) лексичні засоби з позитивною конотацією для створення образу позивача; б) лексичні засоби з негативною конотацією для створення образу відповідача. Разом вони утворюють ефективну тактику переконання, яка впливає на свідомість адресатів, приводить до зміни їхньої поведінки.

The representative of the prosecuting party on behalf of the state authorities gives a socio-political assessment of the crime and characterises the personality of the defendant, the crime he perpetrated, from the point of view of public danger. He classifies the aggravating and mitigating circumstances of the crime committed. His speech contains an exhaustive analysis of the evidence collected and sufficiently checked during the court hearing, which serves as a basis for the conclusions about the guilt of the defendant, the qualification of his actions and the necessary punishment, the reasons for which the punishment is proposed. The prosecutor therefore seeks to create a context of confidence in the truth of his arguments by using persuasive tactics and stratagems. However, while a considerable amount of scientific research has been devoted to issues of strategy and tactics in judicial discourse [1; 2; 3], stratagems in judicial discourse are just beginning to occupy their niche in scholars' writings. Some

researchers even claim a "stratagem frenzy" [4] in social psychology, sociology, political science and management. They are in demand in situations of military, commercial, political and interpersonal confrontation, that is, they are applicable in all fields where confrontation is involved. They are effective precisely in an atmosphere of confrontation, and this is their peculiarity. As B. Chugreev amptly points out: "<…> stratagems are, in essence, a weapon, a tool of struggle" [5]. We should also add that stratagems are in demand in adversarial confrontation between the parties, especially since the focus on influencing the recipients is a central and distinctly perceived goal of the sender of the speech in court. In view of the above, we would like to state the **relevance** of the chosen topic of our research.

To arrive at the terminology basic to our discussion, we start with the concept of stratagem. It is directly related to the concept of strategy. The original meaning of the word "strategy", used in Ancient Greece in the military sphere, denoted the art or skill of a general in conducting military operations: "the art of the General" [6], including, inter alia, being distinct from others: "<…> strategy is about being different" [6]. This is undoubtedly due to the thought processes that guide human activities and play a key role in any success. All this shows that strategy has a cognitive dimension and depends primarily on the way a person thinks. Given the circumstances, a litigant is also constrained by certain external factors, such as the ritual and ceremonial nature of the trial. So, his speech behavior is conditioned not only by the peculiarities of his way of thinking but also by his awareness of himself as a part of interactive process where addressee and addressee interpret each other's speech actions according to their motivations, desires and by strategy [7, p. 95–96]. Mention should be made of William Labov's statement that there are only two interaction strategies – appeasement and irritation [8]. And, since the interaction of the parties in court implies mainly confrontation rather than interaction, stratagems become a decisive factor in influencing the recipients to achieve their goals.

With this in mind, we understand **strategy** in general as the mindset-determined art of creating one's position/line of conduct to achieve a leading goal that realises through tactics and stratagems. The guiding goal expresses the pursuit of a particular end state, a result. **Tactics** refer to methods of creating one's position/line of behaviour to achieve the established goal(s), and **stratagems** refer to a step-by-step action plan. The concept of stratagems is introduced in connection with interpreting court discourse as a discourse of confrontation, and stratagem vision is usually a vision through the prism of conflict, of someone confronting someone. According to V. Demyankov's fair comment, stratagems "stitch" episodes of discourse [9, p. 111] into a thematically and pragmatically, from our point of view, organised whole. By pragmatic organisation we mean the speaker's attitude to control the recipient's understanding and behavior [10], his purposeful and deliberate influence on the recipient. This purposeful and deliberate influence on the recipient in judicial discourse is carried out primarily by means of the stratagem of appeal to logic, that is, the use of arguments as the basis of the system of proof. Only if the facts stated in the statement of claim are proven can they be legally qualified and, therefore, a judgment in the case.

Thus, **the aim** of this study is to investigate the stratagem of appeal to logic in English court discourse from the point of its influence on litigants.

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

1) to clarify the terminological apparatus involved in the article;

2) to find out types of persuasive arguments and their impact on litigants;

3) to establish the language means expressing stratagems of appeal to logic in the prosecution discourse.

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

At the stage of terminological reasoning the following methods were applied: 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.

Appealing to logic implies the use of arguments, so let us first turn to the notion of argument. It should be made clear that arguments in court discourse have special features. The most important difference in arguments delivered in court discourse is that while in any other type of discourses we can talk about correct and incorrect arguments, in court discourse we are only talking about strong and weak arguments. The legal evidence must be logical, consistent, complete and beyond any doubt. It is the totality of such evidence that can justify a delivery of judgment. However, the same can be said of arguments in, for example, medical discourse when it comes to surgery. Apparently, there is some other aspect that characterises and distinguishes the legal argument. Referring to D. Dziuba's research where

he defines an argument as motivation, comparison, the use of opinions and the art of creating an image: "Argument is urging, comparing, using opinions and characterizations" [11], let us add that besides completeness, consistency and irrefutability, arguments in court should prompt and create an image. What image will be created in terms of its "successful" impact on the recipient is determined by many factors, such as the addressee's way of thinking, peculiarities of his character, chosen rhetorical techniques of speech construction, etc. Hence, when entering a discourse, the arguer subconsciously chooses the relevant system of arguments and their structural organisation. Then, he constructs a certain model in accordance with his/her cognitive, existential and social attitudes. We find ourselves in full agreement with W. Brockriede who said, "Arguments are not in statutes but in people" [12, p. 3]. Thus, to characterize argumentation, it is necessary to examine not only different kinds of arguments, but also the cognitive processes that result in them, as well as the cognitive processes they cause. For example, a message conceived by an arguer as persuasive may have the opposite effect on recipients. This phenomenon can be explained by interpretating argumentation as a complex two-tier formation with a superficial level, conditioned by the nature of the language, and deep one, conditioned by the nature of the psychological structure of the personality [13].

On the basis of the material selected for the study, we can say that all the underlying arguments put forward by the prosecution have the essential function of proving the guilt of the defendant. Whereas superficial arguments have residual function of creating a positive image of the plaintiff and a negative image of the defendant. In the absence of weighty evidence, these functions may change. And then the essential function is to create a negative image of the accused and a positive image of the plaintiff. Let us give a few examples.

In 1921, a case about an attempted murder of the first degree, assault in the first and second degrees was tried in New York (USA). The prosecutor tried to appeal to the logic of the judge and the jury without having such conclusive evidence as fingerprint results, although the fingerprint examination was introduced in 1902. Therefore, it was only through circumstantial, indirect evidence that the prosecutor drew the following accusatory inferences:

Just how many shots were fired or who fired, all of them ***I don't pretend to be able to show****. As is very common in such cases, where the whole thing happens in a very, few minutes, and where all the persons, engaged were laboring under very great excitement,* ***it is impossible to tell*** *or to get the witnesses to agree to all the shooting that was done.*

The arguer finally conceded that he did not know exactly who had fired the shot, but he considered it proven that it was the defendant:

He was fired at as he went back, but whether by Eastman not, we ***do not know, but we presume by Eastman*** *<…>.*

Draw your attention to the contextual antonyms in the above example: ***not know – presume.***

In the same case, arguments aimed at creating an image of the plaintiff and the defendant are also noteworthy. Once again, we emphasise that due to the lack of underlying arguments so-called surficial arguments can be used to compensate for the absence of the former. But in this case, due to a lack of direct evidence, the prosecutor also failed to create a clear negative image of the defendant. Moreover, he failed to create a positive image of the plaintiff because of the latter's low moral character. The sender of the speech attempted to correct it by giving a positive image of the defendant's father:

<…> the son of a ***man distinguished in public life in the United States*** *<…>.*

It may be added at this point that this is a rather uncommon technique in modern court proceedings. The prosecutor's speech deliberately emphasised the word "child" in relation to the plaintiff, who was heavily intoxicated:

At half-past ***two o'clock in the early morning*** *of the 2'nd of February last, a young man,* ***very much under the influence of liquor****,* ***staggered out*** *of Jack's* ***all-night restaurant****,* ***drunken boy****,* ***drunken kid****.*

This characteristic, in contrast, leads to cognitive dissonance: a young man/almost a child, on the one hand, at 2:00 a.m., / was out, wandering around / a 24-hour restaurant, on the other. Although the arguer tries to smooth the situation a bit by using the euphemism "very much under the influence of liquor". In addition, despite the absence of weighty evidence, the Public Prosecutor demands a fair trial and accuses the defendants of attempted murder in the first degree, despite the fact that the intent to do so must be established. The actor must have a certain guilty state of mind in the form of so-called substantial step. Moreover, according to US lawyers, distinguishing between acts that constitute a "substantial step" and those that do not constitute such a step is quite difficult [14].

The exact opposite is true of the high-profile Ku Klux Klan case of 1964 – Freedom Summer Murders. The Prosecutor's position is supported by the preponderance of the evidence that the murder of three black civil rights activists was committed. Firstly, he substantiates that it was a carefully thought-out murder with aggravating circumstances:

The short time involved, the distance traveled, draws a conclusion of their own plot*.* ***No one, no group could have*** *stumbled on that Station Wagon on highway*

19, stopped it, killed the boys, made arrangement for disposal of the bodies fifteen miles away, half a mile off the blacktop road in the middle of the woods ***without their having been advanced planning****.* ***The fact*** *that they were buried in a dam in and of itself tells us* ***that it was a careful worked out plot****.*

The prosecutor then methodically builds up a series of arguments, each of them persuades the jury of the guilt of the defendants. The arguments presented by the prosecution are logical, vetted and therefore convincing:

The boys are alive at ***10:30 when they were released****, the station wagon is* ***on fire at 12:45 o'clock*** *located fourteen miles northeast of Philadelphia. The Neshoba County law enforcement officer, Cecil Ray Price, controlled the time of release, he could have released them an hour later, he could have released them an hour early, but he* ***released them just so*** *they would go to their deaths.* So, he proves the time of death.

The Station Wagon which was the way the boys were traveling had traveled ***a considerable distance*** *between 10:30 and a quarter to one. This is* ***about ten or twelve miles****. You follow these roads, these back roads back* ***to about ten miles back to*** *Philadelphia. Then you take the road to Philadelphia up here at Posey's Service Station down 21 down on to the dam site,* ***that's six to six and a half miles*** *here,* ***ten to eleven miles here****, approximately* ***ten miles back on the back road****,* ***a half mile down to the dam site*** *and add them all up,* ***six miles back into town and thirteen or fourteen miles back up the road*** *where the car was found. That car* ***traveled in a little over two hours over fifty miles, fifty, fifty-one or fifty-two miles that night*** (proof of the distance travelled and where the murder took place);

<…> the circumstances of the killing also point toward law enforcement, toward the fact that some law enforcement officer, and we know it was Cecil Ray Price, we know that one ***gun a. 38 at least put one bullet in the chest*** *of each of the three boys. We know that their gun was fired* ***at contact range****, fired by someone who could have* ***grabbed those three boys*** *like that by the shirt,* ***put that gun to their chest and pull the trigger*** (proof of the nature of the wounds, as the bullets were fired at close range).

The arguer also uses so-called superficial arguments that create an image of a) the plaintiff and b) the defendant:

а) *innocent, peaceful prisoners in the custody of the law, he preached freedom; he was a symbol of COFO, COFO was the symbol of forced integration of the races in the State of Mississippi; he was the thorn;*

б) *a fanatic; to satisfy his own consuming hate; Cross-burnings, meetings, and eliminations, provided that discipline was maintained and that action of this type was approved by the local State Organization; to understand and grasp the evil of this organization; we are disposed to use our physical force against our enemies; the boys were held in custody when they were murdered.*

In cases where a significant evidence base has been gathered, it can be said that the arguments used by the prosecution constitute the deep level of the argumentation process and fulfil their essential function of the logical impact, that is, the function of proving the plaintiff's innocence. The proofs justify the veracity of judgments, which, in their turn, persuade the court and the jury, becoming one of the methods of influencing the opponents. The lexical means are combined by the common message "credibility of the arguments". So-called superficial arguments contribute to the positive image of the plaintiff and the negative image of the defendant, fulfilling a residual, auxiliary function of the emotional impact on recipients. The lexical means are represented by two thematic groups: a) lexical means with a positive connotation to create the image of the plaintiff and b) lexical means with a negative connotation to create the image of the defendant. Together, they form effective persuasive tactics that influence the recipients' consciousness, leading to a change in the mental states of the individual, which usually leads to a change in behavior [15, p. 32].

Based on such findings, we draw your attention to the following fact that this research is promising, as the question of the stratagems of appeal to logic in advocate discourse and in judge discourse remains unresolved. In addition, it would be interesting, from our point of view, to carry out a comparative analysis of the linguistic expression of these stratagems.

BIBLIOGRAPHY

1. Мальцева В. Судебные прения: речевые стратегии и тактики. *Вопросы психолингвистики*. 2011. № 13. С. 152–159.
2. Нефёдова Л., Никифорова Э. Коммуникативные тактики создания образа подсудимого. *Юрислингвистика*. 2015. № 4. С. 43–50.
3. Зайцева М. Судебный дискурс: речевые стратегии и тактики, языковые средства выражения конфликта. *Перший незалежний науковий вісник.* 2016. № 6–1 (6). С. 74–78.
4. Завьялова Т. Формирование терминологических средств стратагематики в китайской культуре. *Восток – Запад: Историко-литературный альманах: 2003–2004.* Москва : Вост. лит., 2005. С. 255–275.

5. Чугреев В. Стратагемы – особенности и специфика применения. 2011. URL: https://strateg.org/stratagemy.html (дата звернення: 21.04.2021).
6. Moon H. The Art of Strategy: Sun Tzu, Michael Porter, and Beyond. Cambridge : Cambridge University Press, 2018. 332 p.
7. Иссерс О. Коммуникативные стратегии и тактики русской речи. Москва : КомКнига, 2006. 288 с.
8. Labov W., Fanshel D. Therapeutic Discourse. Psychotherapy as Conversation. New York : Academic Press, 1977. 347 p.
9. Демьянков В. Интерпретация текста и стратагемы поведения. Семантика языковых единиц и текста : лингвистические и психолингвистические исследования. Москва : Ин-т языкознания АН СССР, 1979. 148 с.
10. Павлова Н. Дискурс в современном мире. Москва : Изд-во «Институт психологии РАН», 2011. 368 с.
11. Dziuba D. Opening Statement – Some Reminders. URL: http://www.trialarchives.org/pdfs/Opening%20Statements/Opening%20Statement%20-%20Some%20Reminders%20(Daniel%20C.%20Dziuba).pdf (дата звернення: 21.04.2021).
12. Brockriede W. Where is Argument? URL: https://files.eric.ed.gov/fulltext/ED102638.pdf (дата звернення: 21.04.2021).
13. Беседина Е. Особенности аргументативного дискурса личностей с когнитивным стилем «Когнитивная простота». *Научный журнал Кубанского государственного аграрного университета.* 2011. № 66. С. 1–15.
14. Уголовное право США. URL: https://studme.org/196497/pravo/pokushenie_attempt (дата звернення: 21.04.2021).
15. O'Keefe D. Persuasion: Theory and Research. Thousands Oaks, CA : Sage Publication, 2002. 408 p.

REFERENCES

1. Maltseva V.A. (2011) Sudebnyie preniya: rechevyie strategii i taktiki [Trial debates: speech strategies and tactics]. *Voprosyi psiholingvistiki*, № 13, pp. 152–159.
2. Nefyodova L.A., Nikiforova, E.Sh. (2015) Kommunikativnyie taktiki sozdaniya obraza podsudimogo [Communicative tactics of creating an image of the defendant]. *Yurislingvistika*, no. 4, pp. 43–50.
3. Zaitseva M.A. (2016) Sudebnyiy diskurs: rechevyie strategii i taktiki, yazyikovyie sredstva vyirazheniya konflikta [Court discourse: Speech strategies and tactics, linguistic means of expressing conflict]. *Pershiy Nezalezhniy Naukoviy VIsnik*, № 6–1 (6). pp. 74–78.
4. Zavyalova T.G. (2005) Formirovanie terminologicheskih sredstv stratagematiki v kitayskoy kulture [Formation of terminological means of stratagematics in Chinese culture]. *Vostok – Zapad: Istoriko-literaturnyiy almanah: 2003–2004.* Moscow: Vost. Lit., pp. 255–275.
5. Chugreev V. (2011) Stratagemy – osobennosti i spetsifika primeneniya [Stratagems – features and specific applications]. Retrieved from: https://strateg.org/stratagemy.html (accessed 21. 04. 2021)
6. Moon H. (2018) The Art of Strategy: Sun Tzu, Michael Porter, and Beyond. Cambridge: Cambridge University Press, 332 p.
7. Issers O.S. (2006) Kommunikativnyie strategii i taktiki russkoy rechi [Communicative strategies and tactics of Russian speech]. Moscow: KomKniga, 288 p. (in Russian)
8. Labov W., Fanshel, D. (1977) Therapeutic Discourse. Psychotherapy as Conversation. New York: Academic Press, 347 p.
9. Demyankov V.Z. (1979) Interpretatsiya teksta i stratagemyi povedeniya [Text Interpretation and Stratagems of Behaviour] Semantika yazyikovyih edinits i teksta (lingvisticheskie i psiholingvisticheskie issledovaniya). Moscow: In-t yazyikoznaniya AN SSSR, 148 p. (in Russian)
10. Pavlova N.D. (2011) Diskurs v sovremennom mire [Discourse in the modern world] Psihologicheskie issledovaniya. Moscow: Izd-vo "Institut psihologii RAN", 368 p. (in Russian).
11. Dziuba D. Opening Statement – Some Reminders. Retrieved from: http://www.trialarchives.org/pdfs/Opening%20Statements/Opening%20Statement%20-%20Some%20Reminders%20(Daniel%20C.%20Dziuba).pdf (accessed 21. 04. 2021).
12. Brockriede, W. Where is Argument? Retrieved from: https://files.eric.ed.gov/fulltext/ED102638.pdf (accessed 21. 04. 2021).
13. Besedina E.V. (2011) Osobennosti argumentativnogo diskursa lichnostey s kognitivnyim stilem "Kognitivnaya prostota" [Peculiarities of argumentative discourse of personalities with cognitive style "Cognitive simplicity"]. *Nauchnyiy zhurnal KubGAU – Scientific Journal of KubSAU*, № 66, pp. 1–15.
14. Ugolovnoe pravo SShA [US criminal law]. Retrieved from: https://studme.org/196497/pravo/pokushenie_attempt (accessed 21. 04. 2021).
15. O'Keefe D.J. (2002) Persuasion: Theory and Research. Thousands Oaks, CA: Sage Publication, 408 p.