

DISCOURSE AS A PHENOMENON OF CULTURE

Zaitseva M. O.

INTRODUCTION

The anthropological shift in science, determined by a growing interest in human beings and human activity in all its manifestations, has led to an expansion in the scope of scientific research and a revision of well-established views. One of the consequences of the anthropological shift or turn has been an “expanded view of culture”, according to Peter Burke. Thus, P. Burke writes about the expansion of culture: “This trend can be illustrated by several examples taken from the titles of academic papers of the 1990’s: “meritocracy culture”, “enterprise culture”, “gambling culture”, “life insurance culture”, “love culture”, “puritan culture”, “absolutist culture”, “protest culture”, “secret culture”, “culture of politeness”. Even “gun culture” has found its own historian. We are on our way to a cultural history of everything: dreams, food, emotions, travel, memory, gestures, humour, examinations, etc.”¹. Undoubtedly, a cultural turn has taken place in both linguistics and discursology.

In paralleling the concepts of “culture” and “language”, scholars draw attention to their proximity: “<...> cultures, like languages, are fundamentally ideational or mental – or conceptual – insofar as in communicating people seem (at least at first) to be giving evidence of knowledge, feeling, and belief, even creating, sharpening, and transforming knowledge, feeling, and belief in themselves and others”. And discourse, according to the researcher, is “<...> cultural knowledge lives and dies in textual occasions”².

Other researchers also support this view of the relationship between the study of language and culture. For example, Francesca Bargiela-Chiappini points out that “the study of language from an

¹ Бёрк П. Историческая антропология и новая культурная история / пер. с англ. М. Неклюдовой. *НЛО*. 2005. № 5. С. 64–91.

² Silverstein M. “Cultural” concepts and the language culture nexus. *Current Anthropology*. 2004. V. 45. № 5. P. 621–652.

anthropological perspective has involved treating language as a component of culture”³.

1. Culture as a mediating system in the study of discourse

As has been rightly noted by the representatives of linguistic anthropology E. Keating and A. Duranti in their work “Discourse and Culture”, “Discourse <...> is what makes human cultures possible and unique”. They view the phenomenon of culture from several perspectives. Thus, the cognitive point of view describes culture as a knowledge-based view of culture; the semiotic point of view equates culture with communication (culture is communication), presenting it as a representation system existing through myths, rituals⁴.

Following the perspectives of linguistic anthropologists, culture can be described as a mediating system or as a way in which people learn to use tools and mechanisms, including language.

Interestingly, they emphasise the role of language in discourse or as a mediator between past and present, potential and existing, given in reality and imagined.

In this respect, the concept of co-operative action by Ch. Goodwin⁵ can be discussed in more detail. According to the author’s observations, co-operative actions are at the heart of culture as a whole, as such actions involve using resources left behind by anonymous predecessors – material artefacts (not only specialised tools such as Mansell’s colour atlas or a sophisticated oceanographic instrument, but also the most familiar things like kitchen utensils), language signs, categories of professional discourse. In this way, Ch. Goodwin sought to show that all human activities, every cultural form, can be described in terms of cooperative action.

With regard to language, Ch. Goodwin emphasised the need for an integral approach, the use of which involves analysing speech activity, discourse, from both a linguistic perspective and a social action perspective, “since both are carried out simultaneously by speakers”⁵.

³ Bargiella-Chiappini F. Interculturality, “culture-in-use”, and intercultural business discourse. *Communication in the professions. Collaboration between academics and practitioners* / W. Cheng, K.K. Kong, eds. Hong Kong : Hong Kong University Press, 2008.

⁴Keating E., Duranti A. Discourse and culture. URL: https://www.researchgate.net/publication/290330148_Discourse_and_culture.

⁵ Goodwin Ch. Co-Operative Action. New York : Cambridge University Press, 2018. 521 p.

R. Wodak, R. de Cillia, M. Reisigl, and K. Liebhart in their work “The Discursive Construction of National Identity” (2009) have the following definition of culture, “we understand “culture” as a system of rules and principles for “proper” behaviour, analogous to the grammar of a language, which sets the standards for “proper” speaking. In this sense, culture is not primarily defined by cultural products or artefacts, it is “not the behaviour itself”, “rather it ‘contains the standards for behavior’ <...> or, in the words of Clifford Geertz: “The first <...> is that culture is best not seen as complexes of concrete behaviour patterns <...> but as a set of control mechanisms – plans, recipes, rules, instructions (what computer engineers call “programs”) for the governing of behavior”⁶. In this definition, the idea of a “controlling”, overbearing function of culture on the one hand, and of discourse on the other, is clearly evident.

In this context, the concept of the cultural theorist Michel Foucault should be mentioned. For him, discourse stands for knowledge and the forces that discourse entails, i.e. these are all interrelated concepts through which culture not only exists, but also evolves.

According to Foucault, the evolution of culture is a succession of epistemes (Greek for “knowledge” or “to know”) or paradigms of knowledge. The term “episteme” was introduced by M. Foucault in his work “Words and Things. The Archaeology of the Humanities” (1966). The evolution of culture thus represents a change of epistemes: episteme of similarity – episteme of analysis – episteme of systems and organisations – episteme of control or power. “Discourse should rather be understood as the violence we perpetrate on things, at any rate – as a kind of practice we impose on them; and it is within this practice that the events of discourse find the principle of their regularity”⁷.

In the age of information technology, the episteme of control manifests itself through access to information. Power gives access to information and the ability to manipulate it, and through it to manipulate people. Information is conveyed through speech practice, discourse. In Michel Foucault’s theory, culture is the space of discourse and one of the main problems of culture is the management of discourse, in other words, what is said, when and by whom. If discourse is not managed, then on the one hand, discourses will form chaos and on the other hand,

⁶ The Discursive Construction of National Identity / R. Wodak et al. Edinburgh University Press, 2009. 287 p.

⁷ Фуко Мишель. Воля к истине: по ту сторону знания, власти и сексуальности. Работы разных лет. Москва : Касталь, 1996. 448 с.

such discourse will be impossible to manage. It will be impossible for individuals to achieve power and exercise force. If everyone is allowed to say what they want and when they want, there will be no knowledge and no power.

Finally, we note Shi-Xu's cultural approach as an alternative method of discourse analysis, which he considers fundamentally obsolete and outdated, and which has marginalised culture and made discourse analysis the hegemon: "As the result of the marginalization of culture and hence owing to the grand master discourse of all discourses, a hegemonic order of the discipline is established"⁸. Furthermore, the one-directionality towards the Western world of discourse analysis is emphasised, which has necessitated, in the scholar's view, a new approach, which in his terminology is called "Cultural Discourse Studies", with discourse acting not as a hegemon but as an intermediary between cultures: "I propose that we theorize discourse from between cultures". Under Shi-Xu's concept, which he calls cultural pluralist theory, different culturally differentiated discourses exist in different spheres of social life and for different purposes. They are characterised by certain rules and conditions and consist of appropriate actors, ideology, power, means and channels of communication, etc.

Thus, the systems of politics, economics, diplomacy, defence, law, science and technology operate in contemporary Chinese discourse. It follows that social life is made up of discourses. Social practice takes place precisely in the form of discourse. In all spheres of human activity – politics, economics, diplomacy, defence, education, science and technology, art, law, religion – discourse is represented; moreover, discourse takes a leading place in them. Discourse is everywhere in everyday life – in friends' conversations, in selling goods, in job reports, in commercial negotiations, in court decisions, in international cooperation, in the fight against terrorism, in the promotion of globalisation or anti-globalisation, etc. Social life is inseparable from discourses in principle, therefore, "Human reality is cultural reality"⁹. Shi-Xu sees culture as a framework, as a complex system of laws, rules, concepts, values, perceptions, symbols, and ways of thinking, strategies, personalities, statuses, and means of social practice of certain communities. In this understanding, "culture" is neither objective nor subjective; it is both material and spiritual at the same time.

⁸ Shi-Xu. *A Cultural Approach to Discourse* Palgrave Macmillan. 2005. 233 p.

⁹ *Ibid.* P. 17.

The cultural system of a particular community in a particular historical period differs from the cultural systems of other communities and other periods, and there may be a hierarchical relationship between these systems. A particular culture does not exist in isolation, but interacts with other cultures: “Our world, especially in the age of globalization, information technology and network society, is experiencing accelerated border-crossing and border-remaking: human migration, hypermedia, Europeanization, tourist travel, international business and global conflicts. Consequently, dynamic and diversity exist not merely between cultures, but also within cultures and subcultures”¹⁰.

Various intercultural and, consequently, interdiscursive contacts manifest the very “dialogue of cultures” mentioned by M.M. Bakhtin. Culture lives in discourse, so the study of discourse is the study of culture, as Shi-Xu argues. He divides discourses into two classes that are in an antagonistic relationship, competing with each other: “For some, discourses about the world market, leisure, tourism, individuality, fashion, art, health care, higher education, and the media are part of their lives on the one side. For others, it is the discourses of hunger, homelessness, unemployment, poverty, AIDS, and illiteracy that are constituents of daily existence on the other side. That is, certain discourses are restricted to particular communities but unknown or denied to others”¹¹.

R. Maier in the second chapter of this study, “Discourse and Cultural Transformation”, elaborates on Shi-Xu’s concept and argues that discourse is involved in all forms of power. Even if it concerns the use of military force or social status (“<...> and status power is prepared by discourse <...>”). The author also notes that discourse is “involved” there as well, since negotiations take place before the use of military force, and this is the realm of discourse. Threats and promises are used in negotiations, which the author calls “evidently discursive moves”¹². When using promises, the sender of the speech uses reasoning, and when threatening, sanctions or physical force: “The various forms of sanction, whether political, juridical, economic, or emotional, are embedded in discourses, such as speeches, judgments, contracts, or racist stories”.

¹⁰ Shi-Xu. *A Cultural Approach to Discourse* Palgrave Macmillan. 2005. P. 22.

¹¹ *Ibid.* P. 25.

¹² Shi-Xu (ed.) *Discourse as cultural struggle*. Hong Kong University Press, 2007. 200 p.

Here it is possible to specify and note suggestive or even coercive linguistic means. According to R. Maier's observations, authorities seek to expand their power: "<...> preservation of power will necessarily lead to attempts to increase power <...> Therefore, power necessarily involves conflict and instability"¹³. This is why the problem of conflict, as we have already mentioned many times, is becoming a leading issue in modern society.

2. Confrontation as a cultural dominant of modern society

It is safe to say that, for modern society, confrontation has become not only leading, but also inherent and dominant, as there is constant confrontation in the information space: speeches and debates by politicians, public figures and lawyers. Even at the "everyday" level, any event, from a dress style to a violent crime, causes fierce disputes, although from the point of view of common sense or, as the English say, from that of a "reasonably prudent person", the positions of the communicants should coincide.

Analysing the literature on the subject, we encountered the phrase "the phenomenon of the globalisation of aggression" associated with its growth in the media sphere and on the internet, which allows us to speak of such a multifaceted object as "the age of aggression <...> and consider its topical aspects as a unit of reality analysis"¹⁴.

Opposition, confrontation leads to cognitive dissonance and cognitive distortions, which in turn are reflected in the behavior of communicants when, for example, they use attack tactics, emotionally marked or even pejorative language is used, etc.

At present, these issues related to the culture of conflict, the discourse of conflict, are considered within the framework of cognitive linguistics, pragma- and sociolinguistics, speech act theory, discourse analysis, cultural studies, sociocultural studies, psycholinguistics, which shows the complexity of the phenomenon under study and the need for an interdisciplinary approach. It is the synergetic approach that allows us to bridge the divide in the nature of conflict between different scientific disciplines.

Defining the conflict discourse as a formation that includes everything that was *before* and will be *after*, independent of a specific

¹³ Shi- Xu. 2007. P. 40.

¹⁴ Касумов Т.К. Век агрессии. Чувства и мысли, поведение и действия. Москва : Издательские решения, 2020. 378 с.

communicative interaction, we can talk about the so-called “practice” of conflict (social, political, interpersonal, communicative, and cultural). It is determined by the linguo-cultural features of communication and reflecting changes in the worldview and ideology of a particular society, and about what strategies and tactics are relevant or archaic in the modern context. On this basis, discourse of any theme or focus can be seen as potentially controversial. In support of the above observation about the potential conflictuality of discourse, let us point out that even works in which the author explores conflict-free discourse become works of conflict analysis as a result, e.g. N.N. Kazydub’s article “Conflict-free discourse: concepts, strategies, scenarios”¹⁵.

The presence of members of society in constant conflict leads to unstable value orientations, a low level of trust in government and social institutions, which results in anomie. The term “anomie” is not new; it was coined by E. Durkheim in the late nineteenth century¹⁶.

As Durkheim put it, anomie is a state of society in which culture cannot regulate people’s behaviour and people cannot rely on culture and compare their life experiences with it. The result of anomie is the devaluation of traditional values, the emergence of a sense of insecurity and even fear, the levelling of generally accepted norms and rules of behaviour, and the absence of dialogue between communicants. A vicious circle emerges, when relations in society deteriorate, leading to a further deepening of the conflictual relationship between people, between the individual and the authorities.

Authorities are interested in new forms of control, and “the intellectual and emotional refusal to “follow with the rest” appears as evidence of neurosis and powerlessness”¹⁷. New forms of control contribute to the formation of the so-called universe of administration, in which conflicts are stabilised, as Herbert Marcuse put it, and which is supported by alternative techniques of manipulation and control through political discourse, media discourse and everyday discourse. Moreover, “<...> the existing universe of discourse everywhere retains the marks of specific forms of domination, organisation and manipulation to which members of society are subjected. People’s lives depend on bosses,

¹⁵ Казыдуб Н.Н. Бесконфликтный дискурс: концепты, стратегии, сценарии. *Вестник Иркутского государственного лингвистического университета*. 2012. № 3 (20). С. 94–99.

¹⁶ Дюркгейм Эмиль (1858–1917). О разделении общественного труда. Москва : Канон, 1996. 430 с.

¹⁷ Маркузе Г. Одномерный человек. Москва : REFL-Book, 1994. 368 с.

politicians, jobs, neighbours to make them say and imply things the way they do; by social necessity they are forced to identify “the thing” (including themselves, their consciousness, feelings) with its function. How do we know? We watch TV, listen to the radio, read newspapers and magazines, talk to people”¹⁸.

So, conflict discourse is therefore a combination of process and result, with both linguistic and extra-linguistic agendas. “Language now not only reflects <...> forms of control, but becomes an instrument of control itself, even where it communicates not orders but information, where it demands not obedience but choice, not submission but freedom. As the philosopher rightly points out, “<...> linguistic analysis <...> carries an extra-linguistic load (commitment)””¹⁹.

Consequently, the analysis of conflict discourse, along with the analysis of its linguistic content, implies extra-linguistic factors such as establishing the causes of the conflict, characterising the behavior pattern of the immediate participants, their socio-personal characteristics, socio-ideological conditions, since “<...> the link between the text itself and the socio-historical conditions of its creation, the cultural scheme explaining its construction, is not secondary, but is woven into the fabric of the text itself”²⁰.

The sociolinguistic dimension, it is argued, involves the study of real language practices in a social context: “<...> the study of real language practices in a social context is part of sociolinguistics in the broadest sense <...>”²¹.

Any communicative act from the perspective of sociolinguistics is characterized by self-presentation of its participants, embedded in the situation of communication and socio-cultural conditioning of the choice of communication modes, and the participant of communication in sociolinguistics is primarily understood as a subject of a particular society represented by various social institutions as well as beliefs and moral values: “speakers are first and above all social actors, that is, members of particular communities, each organized in a variety of social

¹⁸ Маркузе Г. Одномерный человек. Москва : REFL-Book, 1994. 368 с. С. 101.

¹⁹ Ibid. С. 102.

²⁰ Сейранян М.Ю. Конфликтный дискурс: социолингвистический и прагматический аспекты. Москва : Прометей, 2012. 96 с.

²¹ Boutet J., Maingueneau D. Sociolinguistics and Discourse Analysis: Ways of Saying, Ways of Doing. *Langage et société*. 2005. № 114 (4). P. 15–47.

institutions and through a network of intersecting <...> sets of expectations, beliefs and moral values about the world”²².

The pragmalinguistic approach to the study of conflict discourse is conditioned by the fact that it is impossible to adequately characterise language means without taking into account the speaker’s intention, the speech situation, the speaker’s competence, the level of linguistic and intellectual readiness of the listener to perceive the speaker’s speech. “From this perspective, conflict discourse can be seen as the realisation of pragmatic acts – strategies and tactics that, on the one hand, regulate the communicative and speech behaviour of conflict participants and, on the other, provoke conflict in harmonious communication”²³.

The cognitive-communicative approach analyses the relationship between language, speech behaviour and man as a thinking social object, revealing the relationship between the thought processes and language phenomena taking place in the mind of a human participant in communication, which are inseparable from thinking. Thus, conflictual speech (discursive) behaviour is included in the interactive picture of language, thinking and human behaviour.

To summarise, we hypothesise that conflict discourse is not synonymous with confrontational discourse, as the latter is a broader concept, in our view, as it includes persuasive, suggestive, and coercive discourses alongside conflict discourse.

3. The notion of persuasiveness

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. Communication activity, especially in recent times, has been analysed not only in terms of persuasiveness and in terms of effectiveness of speech, but also in terms of its trendiness and mediativeness. Moreover, this raises the question of further theoretical and practical reflection on the theory of argumentation and rhetoric, since the emergence of new pragmatic criteria (success, spectacle, and hype) developed in various contemporary discursive practices raises the question of the “insufficiency” of argumentation and rhetoric alone in their classical sense.

²² Duranti A. *Linguistic Anthropology*. Cambridge University Press, 1997. 398 p.

²³ Сейранян М.Ю. *Конфликтный дискурс: социолингвистический и прагматический аспекты*. Москва : Прометей, 2012. 96 с. С. 30.

Scholars talk about the combination of argumentation and rhetoric and the emergence of rhetorical argumentation, a symbiosis of the logical and the verbal, concentrating primarily on the verbal level of argumentation: the exchange of messages between communicators. However, this approach looks more at argumentation as a public event and does not take into account the stages of production and perception of argumentation as an internal event, a mental activity.

The first to draw attention to this is Dale Hample, who introduces an aspect of the cognitive dimension of argumentation that involves the study of the processes of production and perception of argumentation. In his view, argumentation is a cognitive phenomenon because argumentation and cognition are similar, firstly, in that they form beliefs and, secondly, in that they generate new thoughts: “<...> argumentation and cognition <...> are similar in two fundamental respects. First, both organize belief fields. But, in addition to organizing belief fields, argumentation and cognition have another basic concern in common: both produce new ideas. These two functions – organizing and producing beliefs – are basic to both fields of study”²⁴. There is some ambiguity in Hample’s theory regarding the definition of the perceptual process. Modern scholars develop his cognitive view of argumentation. For example, V.N. Brushinkin understands argumentation as ‘mental actions of the subject of belief, produced on the basis of the addressee’s perception created by him and directed to the development of a system of arguments, the presentation of which to the addressee is designed to change the belief system of the latter’²⁵.

Thus, argumentation is determined by the subject’s intention to change the addressee’s belief system. Within this approach, argumentation is no longer seen as a process or product of dialogue, but as a preliminary stage of dialogue – one person’s plan or project to persuade another person. The words “plan, or project”, that we have highlighted, indicate that argumentation has come to be perceived as a tactic in the course of carrying out speech activity.

Douglas Neil Walton and Erik C.W. Krabbe also define critical argumentation from a logical-cognitive approach as a primary or collateral tactic used in different dialogues and classify dialogues. For

²⁴ Hample D. The Cognitive Context of Argument. *Western Journal of Speech Communication*. 1981. Vol. 45. № 2. P. 148–158.

²⁵ Брюшинкин В.Н. Когнитивный подход к аргументации. *РАЦИО.ru*. 2009. № 2. С. 2–22.

example, they write of a persuasive dialogue, the purpose of which “is for one participant in the discourse to convince another (or others) of the acceptability of his or her point of view”²⁶.

In this regard, Daniel O’Keefe’s research – “Conviction, Persuasion, and Argumentation: Untangling the Ends and Means of Influence” (2011) – is definitely noteworthy. In his study, the scholar looks at persuasiveness from a slightly different angle, distinguishing between the traditional concepts of “conviction”, “persuasion” and “argumentation”. A quote from it: “Specifically, the traditional conviction-persuasion distinction’s identification of two different kinds of communicative ends, influencing the understanding and influencing the will, can usefully be reformulated as a difference between influencing the audience’s attitudes (“the understanding”) and influencing the audience’s behavior (“the will”)²⁷. Attitudes refer to the audience’s assessment of an object in its broadest sense. It can be a person, a thing, an action, etc. Communicators may have a positive/negative attitude towards something, but nevertheless not take any active action.

The example of a healthy lifestyle given by D. O’Keefe is significant, where many people express a fairly correct attitude to health, but few translate it into action: diet, exercise, regular check-ups with the doctor (ibid). Arguments can thus influence an actor’s perceptions and attitudes, but they cannot change the actor’s behaviour.

Influencing behaviour, in the opinion of E.J. MacEwan, for example, is the prerogative of persuasive discourse: “The business of persuasive discourse is to arouse to action”²⁸. The logical order of address in the process of sending a speech activity goes through three stages: from the recipient’s understanding of the information, then to the recipient’s emotions, and through these to volition terminating in action: “The logical order of address is first to the understanding, then to the emotions, and through these to volition terminating in action. Argumentation is at the heart of persuasiveness: “argumentation is ordinarily used in connection with persuasion and as its basis”²⁹.

²⁶ Walton D., Krabbe E.C.W. *Commitment in Dialogue*. Albany : SUNY Presse-like sequence of exchanges, 1995.

²⁷ O’Keefe D.J. *Persuasion: Theory and Research*. Thousands Oaks, CA : Sage Publication, 2002. 408 p.

²⁸ MacEwan E.J. *The Essentials of Argumentation*. D.C. Heath & Company, 1898. 412 p.

²⁹ Ibid. P. 207.

In fact, the discourse of the prosecution in court is persuasive, as the prosecutor needs to influence the judge and jury not only to convince them of the desired understanding of the problem, but also to make them act accordingly: to induce them to deliver a conviction and a verdict. So, “<...> the prosecutor acts as a representative of an authority that is infringed by the fact of law breaking and crime itself”³⁰.

It is generally accepted that persuasiveness is linked firstly to argumentation and secondly to the impact on the emotions and feelings of the recipient. However, we believe that persuasiveness is a broader concept, as it covers not only the feelings and emotions of the addressee, which is often the prerogative of suggestive discourse – we will argue this further in the section devoted to the phenomenon of suggestiveness in courtroom discourse – but primarily ethos in its social and axiological aspects.

From an axiological perspective, ethos is seen as a system of ideals and values at the level of mental attitudes, life patterns, social habits that dominate a culture and control the behaviour of its members.

In general, ethos is understood in the paper as related to the realm of the proper “<...> the kind of justice that prevents the reproduction of social injustice”³¹. Justice, in other words, the possibility of ethos as “the consciousness <...> that there is an objective moral order in the world, which implies that consequences depend unconditionally on what has been done, that responsibility for what has been done establishes a link between them’ is inherently set in every human being and human beings in general”³².

It is to such an objective moral order that the prosecution appeals, thereby presenting its arguments as something immutable, because 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 standards of morality”³³. The prosecution relies on the so-called “normative person model” (M. Ossowska’s term) and, in the English-language legal system, on the phenomenon of the “reasonably prudent person”, i.e. a reasonably prudent person who shares the generally accepted values of society and abides by the rules which

³⁰ Фуко М. Интеллектуалы и власть: Избранные политические статьи, выступления и интервью. Ч. 2 / пер. с франц. И. Окуновой ; под общей ред. Б. Скуратова. Москва : Праксис, 2005. 320 с.

³¹ Анчел Е. Этнос и история. Москва : Мысль, 1988. 126 с.

³² Ibid. С. 17.

³³ Ibid. С. 18.

are expressed in the form of injunctions, prohibitions, preferences and permissions. Law, therefore, as a normative system, must be imbued with morality.

However, if we recall politically motivated criminal trials, dubious court decisions and judicial arbitrariness, we should emphasise the dual nature of ethos as a socio-axiological phenomenon (emphasis added). Many researchers have written about it, in particular A.B. Frantz, who defined ethos as “the space of interpenetration of morality and power”, where “authority in its deployment continuously generates morality, the latter legitimises power”³⁴.

At the same time in modern science, and we support this view, there is a division between ethos and habitus. If ethos is an unconditional morality expressing man’s need for a supra-empirical moral order, then habitus or habitus (Greek *ἡβητις* – custom) is a conditional morality. In other words, “<...> a system of reproducible dispositions (attitudes, values, patterns of perception and action) which are structured from the outside (by power, socio-cultural situation, language, etc.), by people”³⁵. But in that case, we think we should speak about the process of manipulation rather than the process of persuasion. It is due to the difference between inducing persuasion/persuasion and manipulation is the following: 1) the intention underlying the communicative act committed by the speech sender; 2) the truthfulness and transparency of the communicative act; 3) the expectation to benefit from the communicative act by the speech sender.

The third component of persuasiveness, in this very order, in our view, involves influencing the emotions and feelings of the recipients. Undoubtedly, the representative of the prosecution seeks to influence the emotions and feelings of the judge and the jury, but the influence is different from that of the lawyer. Everyone knows the axiom about the impartiality of judges in the judicial process. The myth of impartiality “is based on two fictions: 1) emotion necessarily leads to injustice and 2) the just decision maker is necessarily impartial”³⁶. However, no one today would deny the need for emotional intelligence, and the higher it is, the better the capacity for understanding is expressed.

³⁴ Франц А.Б. Мораль и власть. *Философские науки*. 1992. № 3. С. 3–10.

³⁵ Бурдые П. Социология социального пространства. Санкт-Петербург : Алетейя, 2007. 288 с.

³⁶ Zipursky B.C. Anti-empathy and Dispassionateness in Adjudication. *Passions and Emotions*. 2012. P. 304–315.

Developed emotional intelligence makes it possible to resist manipulation, achieve emotional leadership, create effective communication, and persuade communicators to be right. One of the components of emotional intelligence is empathy, which is a necessary condition for gaining fronetive experience (or emotional experience, in the terminology of L.I. Petrazhitsky), cultivating practical wisdom, which, according to J. Tontti, contributes to constant self-criticism of law enforcement. J. Tontti argues that it promotes constant self-criticism on the part of the enforcer so that his decisions can claim to be fair³⁷.

Thus, if we take as a basis the classification of emotions in law proposed by P. Mindus: “1) emotions as feelings; 2) emotions as bias; 3) emotions as preferences; 4) emotions as capacity”³⁸. Then, the prosecution representative influences emotions as capacity, that is, emotions that become a trigger for the law enforcer to reconsider his own biases in terms of their acceptability in the context of a specific case (fronesis).

Based on our analysis, the following conclusion can be drawn. Persuasiveness implies three components: a logical component (argumentation), an axiological component (ethos), an emotional component (fronesis as the capacity for reasoning and prudence).

3.1. Appeal to ethos

The prosecutor refers to professional ethics, a professional moral code that includes the values and norms of the profession, its ethos, urging the court to recall the social responsibility that guides professional activity for the common good. Service to the common good is not only a defining characteristic of professional ethics, but also contributes to public recognition of the profession.

In the Hauptmann (Lindbergh) Trial (1935), the prosecutor uses biblical statements to persuade and influence the judge and jury: “*I have spent every minute since October, 1934, and applied myself every moment; and each day and each night, the more I proceeded, the more convinced I was that I was pursuing a righteous and proper cause. “Judge not, lest ye be judged”, my adversary says, but forgets the other*

³⁷ Tontti J. *Right and Prejudice: Prolegomena to a Hermeneutical Philosophy of Law*. Aldershot : Ashgate, 2004. 204 p.

³⁸ Миндус П. Гнев разума и благодать чувств: обосновывая эмоции в праве. *Известия вузов. Правоведение*. 2016. № 2 (325). С. 6–45.

biblical admonition, “And he that killeth any man shall surely be killed”, “Shall surely be put to death””.

Given the increasing variability of universal values, such an appeal to religious ethos is increasingly problematic and therefore less applicable.

In the 1954 Sheppard Trial, the prosecutor, appealing to the postulate of the value of human life as primordial to all others, stresses: *“That law which our lawmakers made said that no one should unlawfully take that which only God can give, human life”.*

Interesting, in our view, is the stratagem of appealing to the truth, which is inconvenient, but it is the truth: *“What happened in My Lai is the truth. You can’t hide it. You can’t cover it up. It exists. You have taken a solemn oath that you will, with complete impartiality, apply the evidence that has been presented to you in this case to the law which Judge Kennedy will give you”* in the trial “My Lai Courts Martial” (1970).

The sender of the speech presents his message as an objective truth, independent of human beings, of the arbitrariness of people, of their subjective desires and motives. Prosecutors always use a stratagem of appeal to ethos. It is oriented towards creating an effect of empathy for the plaintiff and an effect of rejection of the accused and is based on an ethical norm or an anti-norm, respectively. While in the early twentieth century prosecutors often used stratagems appealing 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 activities. Religious values may be proclaimed, but for various reasons they do not have a significant impact on society, often acting as a “must-have” attribute of social reality. Religious ethos is perceived more as a traditional cognitive-social form.

At the beginning of the twenty-first century, stratagems of appeal to democratic rights and freedoms as a system of ideals and values immutable for American society or stratagems of appeal to universal values are increasingly used. In general, however, the presence of this stratagem is mandatory in the discursive activity of the prosecutor, as he is within the canon and must maintain a judicial communicative culture.

4. The notion of suggestiveness

The phenomenon of communication and speech influence through communication (suggestiveness) has long attracted the attention of

neuropsychologists (V. Bekhterev, I. Pavlov) and psychologists (M. Belov, P. Buhl, and G. Goncharov). In the 1960's and 1970's, psychotherapists-practitioners John Grinder and Richard Bandler developed the neurolinguistic programming method as a form of suggestive psychotherapy, the foundations of which were laid in the 1950s with the publication of the study "Communication: the social matrix of psychiatry"³⁹. This method aims at changing a person's behaviour through verbal influence in such a way that the recipient adjusts their intrapersonal and interpersonal communication processes to the situation.

The role of suggestion in communication is studied by sociologists, psychologists, journalists, political scientists and philosophers. At the junction of scientific disciplines, a separate scientific discipline emerges – suggestive linguistics, whose foundations, as noted above, were laid in the studies of psychotherapists and psychologists. The first serious work on suggestive linguistics "The Beginnings of Suggestive Linguistics" by I.Y. Cherepanova, published in 1995, initiated a new tendency in the world science⁴⁰.

Knowledge of the laws of suggestion allows one to feel confident in the modern world, where various kinds of information flows and information wars are raging. The knowledge of the laws of suggestion allows one to feel confident in today's world, where information warfare is raging and various kinds of information flows are taking place.

Anthony Pratkanis and Elliot Aronson in their book "Age of Propaganda: the Everyday Use and Abuse of Persuasion" (2007) argue that in an era of "<...> more sophisticated use of propaganda techniques it is important, especially in a democracy, that citizens are aware of these psychological techniques that make them effective and how to counter them"⁴¹. All this has led to the emergence of new theories of influence, such as suggestibility and even manipulation. In addition, scientific interest in the study of the phenomenon of suggestion in the twentieth century is driven by the development of such concepts as the

³⁹ Михайлов Б.В., Сердюк А.И., Федосеев В.А. Психотерапия в общесоматической медицине: Клиническое руководство / под общ. ред. Б.В. Михайлова. Харьков : Прапор, 2002. 128 с.

⁴⁰ Черепанова И.Ю. Дом колдуньи. Язык творческого бессознательного. Москва : КСП+, 1999. 457 с.

⁴¹ Pratkanis A., Aronson E. Age of propaganda: The everyday use and abuse of persuasion. 2007. 432 p.

unconscious, the installation, mass consciousness, and mass consciousness influence.

The methods developed in suggestive linguistics can be used for good (e.g. to treat mental disorders), for practical purposes (marketing, law) and for harm (information wars and enemy images), as suggestion allows to impose actions contrary to the principles and attitudes of people. In suggestive discourse, an attitude means the willingness of the subject to take a certain kind of actions. Although persuasive discourse also implies a willingness to act as desired by the speaker, the key difference between persuasive and suggestive discourse is the more pronounced influence/influence aspect. The goal of suggestive discourse is to provide effective directed influence. The key here is the phrase directed influence, in which there is a shift from persuasion to persuasion or even suggestion. Targeted influence has an effect on the attitude so that “the activity regulation mechanism is activated, and the regulating function of the attitude manifests itself in the form of a focus on a particular task”⁴².

The arguer may use strong arguments, appeal to ethical norms, engage emotion, but end up with a so-called “low credibility rating” according to Isaac Persing and Vincent Ng following the well-known law of psycho-rhetoric: “to understand is not always to accept”⁴³. Acceptance refers to “the process of interiorisation of persuasive information, leading to a conscious motive for the recipient to implement it”⁴⁴.

Alternatively, the arguer, using strong arguments, appealing to ethical norms, appealing to emotions, as a result receives a high credibility rating, but his opponent still manages to re-convince the recipients, changing the attitude, thus getting rid of the “halo effect”.

Obviously, there is a need for special techniques, methods and practices that can change the course of a trial. The question of how to change the course of a trial can be answered using suggestive linguistics.

During litigation, an information war is essentially unfolding. If it is not an information war, then an information battle. It takes place in the communication space. Their participants use destructive and even untrue information, which can only be recognised by applying entirely new research methods and methodologies, including NLP, suggestive

⁴² Узнадзе Д.Н. Теория установки. Санкт-Петербург : Питер, 2001. 416 с.

⁴³ Persing I., Ng V. Why Can't You Convince Me? Modeling Weaknesses in Unpersuasive Arguments. URL: <https://www.ijcai.org/Proceedings/2017/0570.pdf>.

⁴⁴ Панасюк А.Ю. Психология риторики: Теория и практика убеждающего воздействия. Ростов-на-Дону : Феникс, 2007. 207 с.

linguistics and lie theory. These sciences, studying the influence on the mass and individual consciousness, limit the influential side of any information; change the preferences of the recipient by distorting the interpretation of objective reality.

In this aspect, researchers have proved the relevance of using universal underlying mechanisms: psychological laws, stereotypes, myths and the specifics of a person's cognitive structure, which when activated allow rational perception to be "repurposed" and pass off as wishful thinking, which is usually the result of the programmed action of external stimuli.

In our research, we differentiate the concepts of "suggestion" and "suppression", although many researchers use them as synonyms, for example, A.V. Antonova in her doctoral dissertation attributes suggestion (along with hypnosis and NLP tactics) to insinuation processes⁴⁵.

Suggestion, in our view, is a special undisguised psychoprogramming communicative act and is applied during a psychotherapeutic session, for example, whereas suggestion "is incorporated into information in a covert, disguised way and is characterised by unconsciousness, imperceptibility, involuntary <...> assimilation"⁴⁶.

Induction and suggestion are also distinguished by the degree of narrowing of consciousness: in suggestion one idea and/or emotion usually dominates while other content is practically excluded, in suggestion other content is not excluded, the emphasis falls on perceiving information without critical evaluation or with a reduced critical evaluation. In contrast to induction, suggestion does not exclude argumentation and information.

Suggestion is fundamentally different from both persuasiveness and manipulation. Unlike persuasiveness, suggestion is left-hemisphere oriented, so it is characterised by a tolerance for logical contradictions and appeals largely to the irrational and emotional in the suggester's psyche.

The main characteristic of a judgement is its ability to express truth or falsity, so logic distinguishes between factual truth/rightness, i.e. whether a statement is true or false, and logical truth/rightness, i.e. whether it conforms to the rules of logic. The arguer relies on factual veracity

⁴⁵ Антонова А.В. Система средств речевой манипуляции в британском политическом дискурсе: рецепиентоцентрический подход : автореф. дис. ... докт. филол. наук. Самара, 2011.

⁴⁶ Шелестюк Е.В. Речевое воздействие: онтология и методология исследования : монография. Москва : Наука, 2014. 344 с.

(real facts at his disposal) and the suggestor relies on logical veracity: when real facts are lacking or do not exist, he engages linguistic means.

The result of this deliberate choice is that language as a “medium” has a powerful influence on the course and outcome of the recipient’s thought process, “and there are many cases where such “feedback” is not only a brake on correct thinking, but sometimes even destructive”⁴⁷.

A distinguishing characteristic of judgements made in the defence discourse from those in the prosecution discourse is that they belong to what is known as the logic of backward influence. In addition, persuasiveness is a form of leverage in which the actor intends to convince an opponent of his or her correctness by using the arguments offered, including by invoking his or her rights or a position of superiority: the prosecution represents the state.

The moment of reliance on authority is almost absent in suggestive discourse, so suggestion implies a more subtle influence. In this paper, the representative of the prosecution is therefore defined as an inflective discursive personality and the representative of the defence as a provocative discursive personality. The inflective discursive personality is the accusing one, vested with power; the provocative discursive personality is the influencing one, but not so explicitly, masking its influence on the recipients, which is often not even perceived as direct influence, so the advocate’s claims are more easily perceived as their own ideas.

As for the concepts of manipulation and suggestion, there are many studies that treat these concepts as synonymous, e.g. “verbal suggestion, i.e. manipulation of a person by means of words”⁴⁸; and as different forms of verbal influence⁴⁹. We assume that “the prerequisite <...> of manipulation is the concealment of both the fact of exposure and the intentions of the manipulator”⁵⁰, on the one hand; and, on the other hand, influencing the suggestend as against their will: the message <...> is

⁴⁷ Кулик Б.А. С чем идет современная логика в XXI век? URL: <http://filosof.historic.ru/books/item/f00/s00/z0000234/index.shtml>.

⁴⁸ Грищенко Т.Ф., Варясова Е.В. Суггестия как способ речевого воздействия в религиозном дискурсе. *Вестник Кемеровского государственного университета*. 2019. № 4 (80). С. 1086–1094.

⁴⁹ Поварницына М.В. Манипуляция, суггестия, аттракция и фасцинация в креолизованном тексте. *Известия Волгоградского государственного педагогического университета*. 2016. № 2 (106). С. 117–124.

⁵⁰ Бодров М.А. Психологическое воздействие на личность. Москва :Академия безопасности и выживания, 2017. 352 с.

delivered in such a way as to make the target think or believe something regardless of their will.

So, we understand suggestion and manipulation as overlapping but different forms of speech influence: suggestion implies influence on the target audience, but the suggestor, the lawyer in this case, does not hide his intention; moreover, the target audience is aware that he will be subject to some kind of influence from the defence. The suggestive influence will not be hidden, but will and should be skillfully disguised and unnoticed by the suggestend. An example of the overlapping use of manipulation and suggestion is political discourse with its suggestive manipulation of recipients' consciousness.

Based on our analysis, the following conclusion can be drawn: suggestion consists in controlling the behaviour of the other person / suggestend, who in doing so behaves in accordance with the demands or requests of the other / suggestor. Suggestion is inherent in all communicative activities.

Suggestion involves influencing emotions (sympathy, empathy, desire for justification), the irrationality of the suggester person's consciousness through images (good, evil, beauty) and experiences (real life phenomena are not only understood but also experienced) and logic as a desire to correct a previous opinion presented through subjective argumentation as a fallacy (backward influence logic).

4.1. Culture of appealing to emotions

An integral component of suggestive tactics is the stratagem of appeal to emotions, understood in this work as a mental process reflecting a person's subjective evaluative attitude to various situations and objects. It should be emphasised that, at the level of brain structure and functioning, a clear topological distinction between thinking and emotion is not possible, as the data of contemporary neuropsychological research show: '...evidence from neuropsychological studies suggests that at the level of brain structure and functioning, a clear-cut topological distinction between cognition and emotion might not be feasible'⁵¹.

Moreover, while they are often opposing concepts, they successfully interact and complement each other. Just as the thinking process cannot exist without emotions, emotions cannot exist without accompanying thoughts: emotions intervene in our thinking and change it, redirecting or

⁵¹ Phelps E. A. Emotion and cognition: Insights from studies on the human amygdala. *Annual Review of Psychology*. 2006. № 57. P. 27–53.

creating new thoughts; the thinking process can also evoke or suppress certain emotions in the process.

However, since emotional reactions outpace the cognitive evaluation of information, the representative of the defence first seeks to influence the emotions and feelings of the judge and the jury. The suggestor actively engages emotions to direct the recipients' attention to those events, facts, and details of what is happening that are of personal importance to them, diverting their attention from the objective meaning of what is happening, which may be quite different. Such phenomena have the effect of narrowing consciousness, which aims to focus the recipient's attention only on what is personally significant, emotionally singled out from the totality of external stimuli.

By presenting an event first of all as an emotional event, the lawyer can create a new emotional perception of the circumstances of the case by focusing the decision-maker's attention on certain points of known information or by throwing in a new piece of information, which in turn can change the judge and jury's mind and consequently influence the revision of previously made decisions.

5. The notion of coercion

Taking as a basis the general scientific dialectical principle that all phenomena of the world are interconnected and represent a single whole, we consider it necessary to make a brief historical overview to trace how the philosophical and legal understanding of coercivity has changed, leading to its eventual treatment in linguistics.

The English word coercion is represented, as a rule, by the following lexical-semantic group: duress, violence, pressure, deterrence, restraint, influence, compulsory measures. In different historical periods, the problem of violence was considered from different positions, but, as a rule, it is the problem of violence and the state, the role of the state in the implementation of violence, the justification of the use of violence.

Thus, the ancient Chinese statesman Shang Yang in the 4th century B.C. wrote the work "The Book of the Ruler of Shang Province", where he linked violence as punishment and virtue: "Punishment generates strength, strength generates might, might generates greatness, which inspires awe, and greatness, which inspires awe, generates virtue. So, virtue has its origin in punishment"⁵².

⁵² Шан Я. Книга правителя области Шан. URL: http://library.nlu.edu.ua/POLN_TEXT/KOMPLEKS/KURS_1/kurs/10/21_1.htm.

The views of Thomas Aquinas, who regarded man as a rational, moral and collective being, who, however, “<...> cannot provide for himself the necessities of life if left alone <...>” are interesting. So, the power of the state in the person of the king is seen as a good, as a phenomenon of the divine order on the one hand: “<...> provinces and city-states which are governed by one sovereign enjoy peace, rejoice in justice and are glad to flourish <...>” and as a necessity, on the other. “For man, however, since he is a social and political being, it is natural for him to live in the multitude; even more so than all other creatures, for this is required by natural necessity”⁵³. The law in Thomas Aquinas’ interpretation must use “force and fear” to restrain those who are “found to be depraved, prone to vice and not easily amenable to words” so that they “desist from evil-doing, and leave others in peace” and that they become “habituated in this way”⁵⁴.

Kant, in his “Doctrine of Law”, sees violence/coercion as a dual phenomenon: both restraining human freedom and promoting human freedom, since violence in the form of law prevents the rights of some citizens from being violated by others. Only such violence can be justified⁵⁵.

J. Mill believed that for the good of society people must obey laws, but that compliance with laws can only be achieved through despotic rule. This was especially true of “ignorant nations”. They “must be regarded as incapable of any liberty other than a limited one, any people who in the prosecution of criminals do not of their own free will assist the law and the public authorities”⁵⁶. In addition to restrictions imposed by the state, according to his conception, there should be restrictions by civil institutions.

The development of law and legal institutions and the development of analytical approaches to philosophy provided philosophers and legal theorists with an opportunity to define the concept of coercion in more depth. In this regard, we cannot ignore H. Kelsen’s study *The Pure Doctrine of Law* (1934), where he separates jurisprudence from the philosophy of justice, sociology and politics, axiological problems.

⁵³ Aquinas T. *The Summa Theologica*. Second and Revised Edition. Translated by Fathers of the English Dominican Province. URL: <https://www.newadvent.org/summa/>.

⁵⁴ *Ibid.*

⁵⁵ Kant I. *The Philosophy of Law*. Edinburgh : T. & T. Clark, 1887. 265 p.

⁵⁶ Милль Дж. *Размышления о представительном правлении*. Нью-Йорк : Chalidze Publications, 1988. 265 c.

He writes that “Jurisprudence has mixed quite uncritically with psychology and sociology, ethics and political theory”⁵⁷.

The key characteristic of law is its coercion: “Its distinguishing feature is the use of coercion; this means that the act envisaged by the order as a consequence of a socially harmful action must also be carried out against the will of its recipient, and in case of resistance on his part, with the use of physical force”⁵⁸. Law cannot therefore exist without power, because it is “a specific order of power or organisation of power”⁵⁹.

M. Foucault does not limit the phenomenon of power to the state and state authorities. He views the phenomenon of power as a multidimensional and multi-dimensional one, existing everywhere and inherent in everything – army, courts, politicians, family, noting that each of the institutions uses different mechanisms, technologies and methods of exercising power: “power relations are entangled in other types of relations (productive, marital, family, sexual), where they play both a determining and conditional role <...>”⁶⁰. He argues that “Authority is everywhere not because it encompasses everything, but because it comes from everywhere”⁶¹.

In the same paper, he defines power and understands it as “a plurality of relations of force <...> power is to be understood as the strategies within which these relations of force achieve their effectiveness <...>”⁶².

Authority and the pressure exerted by government are not something negative in M. Foucault’s concept. It is productive and constructive, it “awakens pleasures, forms knowledge, produces discourse”, where, strictly speaking, the realisation of power relations takes place: “<...> produces things, it induces pleasure, forms knowledge, produces discourse”⁶³.

The philosopher compared the process of exercising power to the process of worship, to the game, to discourse as a practice which is also

⁵⁷ Кельзен Г. Чистое учение о праве / пер. с нем. М.В. Антонова, С.В. Лёзова. 2-е изд. Санкт-Петербург : ООО Издательский дом «Алеф-Пресс», 2015. 542 с.

⁵⁸ Кельзен Г. Чистое учение о праве / пер. с нем. М.В. Антонова, С.В. Лёзова. 2-е изд. Санкт-Петербург : ООО Издательский дом «Алеф-Пресс», 2015. 542 с. С. 123.

⁵⁹ Ibid. С. 124.

⁶⁰ Фуко М. Воля к истине: по ту сторону знания, власти и сексуальности. Москва : Касталь, 1996. 448 с.

⁶¹ Ibid. С. 78.

⁶² Ibid. С. 80.

⁶³ Ibid. С. 90.

subject to certain rules, in which connection he is interested in “techniques of “managing” people, namely directing their behaviour”. Like any game, power is a confrontation: “<...> the relationship of power may become a confrontation between two adversaries <...>”⁶⁴ where speaking actors are assigned certain roles and set certain rules.

Another contemporary researcher, P. Pettit, also talks about discursive control, but he views the problem of power from a different perspective – freedom as the absence of any kind of domination. To achieve this and to strike a balance between power and human rights, he suggests that discursive mode control, persuasion.

“It is only by means of international debate, grounded in the acceptance of certain common reasons, that states can hope to establish where, as in such cases, they may be harming one another and where the limits should naturally be set to the freedom as nondomination <...>”⁶⁵. Discursive control is about having the ability to engage in discussion and the ability to persuade.

Thus, the study of discourse is to some extent aimed at revealing the mechanisms of controlling the behaviour of actors, so by referring to judicial discourse as coercive, we mean identifying how the agent performing the role of coercive agent manifests itself in communicative forms.

Judge’s discourse, as a special ritualised form of power to establish the truth, combines methods of observation, qualification, classification, punishment as a demonstration of power. Using his authority, the judge makes distinctions and renders a final judgment: “<...> establishes over individuals a visibility through which one differentiates them and judges them”⁶⁶.

During the trial, the judge constructs a model of discursive behaviour where he or she uses an excersisive strategy, expressed in specific linguistic means, aimed at the optimal achievement of the goal in the context of social interaction.

5.1. Manifestation culture of power

Unlike ethos, addressed by moral and ethical principles, legitimacy is a value-based, cultural aspect of the relationship between government

⁶⁴ Фуко М. Воля к истине: по ту сторону знания, власти и сексуальности. Москва : Касталь, 1996. С. 102.

⁶⁵ Pettit P. A Republican Law of Peoples. *European Journal of Political Theory*. 2010. № 9. P. 70–94.

⁶⁶ Foucault M. *The Foucault Reader*. New York : Pantheon Books, 1984.

and society, arising from the homogeneity of political attitudes, mores, traditions, the economic system, the general spirit of a given type of society.

The judge demonstrates his or her legitimate authority as evidence of support, for any authority that issues and enforces the laws issued is legitimate, but being non-recognised by the people is illegitimate, so manifestation of legitimacy, the recognition of authority is a necessary stratagem in coercive tactics. To this end, the judge combines the manifestation of his authority and the manifestation of respect and trust in the jury as an additional support and reinforcement of their position.

In the 2019 trial of B. Christensen, for example, the judge manifests his deference to the jury with the following statement: “*All right. **Thank you. Please be seated. Ladies and gentlemen, thank you for being prompt this morning so we can start as schedule. As you come in, you can be seated. We will remain standing as a courtesy to you and as a courtesy to the process***” (Brendt A. Christensen Trial, 2019). However, the expression of reverence and trust is interspersed with an emphasis on their authority: “*Before we begin, I’m going to give you some preliminary instructions that will help you understand the process and follow along with the case*” (Brendt A. Christensen Trial, 2019). There is a clear message here about the directing and regulating, dominating role of the judge, without whose prior instructions the actions of the jury are difficult or impossible. The word “instruction” helps to create a modality of categorical credibility, as the person giving the instructions is always an authorised person, capable of doing so, possessing a certain amount of knowledge; also the word “instructions” conveys a semantics of pressure on the recipient (an authoritative tone), obliging him to comply with the given instructions.

In the 1921 trial of L. Stanley, accused of third-degree burglary and first-degree larceny, the judge levels his importance by focusing the actors’ attention on the role of the jury as supreme judges with exclusive prerogative. But, at the same time the judge speaks of pointing out the definition of the crimes and clarifying the charge: “*The Court merely decides the legal questions that arise. There has been practically nothing for the Court to do here. There is a very simple case from a legal standpoint. The Court has told you the definitions of the crime and has explained the charge to you, and there the Court’s duty end. The Court has no right to find any facts, nor to express any opinion, and the Court has not done so. That is your sole prerogative. You are the sole,*

supreme and exclusive judges of the facts” (People of New York against Leroy Stanley. 1920. 3629).

Drawing a parallel between the linguistic framing of this stratagem at the beginning of the twentieth century and the twenty-first century, we can point out the following feature: the judge in the last century manifested his power and authority by introducing himself in the third person by the word “court”. Whereas today judges more often use the pronoun “I”, which was demonstrated in the above examples. This use of the third person instead of the first person indicates the emphasised impartiality of judges and the greater ceremonialism of the trial in the past.

In addition, this distancing should “maintain public confidence in the integrity of the judiciary. It is not enough to administer justice; it must be done openly to the public”⁶⁷.

CONCLUSIONS

The modern era is characterised by expanded communicative possibilities due to both globalisation processes and the emergence, perfection of technical means that limit or even terminate real communication. The issue of ownership of the information space becomes the main one today. The struggle for information space is organised in such a way as to achieve maximum impact or the so-called perlocutive effect.

Most scholars at the present stage of scientific knowledge recognise discourse as a broader concept, a complex communicative phenomenon that includes a social context that gives insight into both the participants in communication and the process of production and perception. The term “discourse” emphasises the multi-component and multifaceted nature of the communicative process, which includes, in addition to linguistic factors, also extra-linguistic factors: values, knowledge of the world, attitudes of the addressee and recipient of communication, social relations and cultural identity.

As many contemporary scholars have noted, the advent of a new era leads to a change and emergence of new paradigms of thinking and worldview, which leads to the revision of previously accepted terms and the emergence of new ones, one of which is discourse. We understand discourse as a bifurcative term: discourse is a “form of reasoning” that

⁶⁷ Этические нормы поведения судей / ООН. Вена, 2019. URL: https://www.unodc.org/documents/ji/training/19-09534_ebook_rus.pdf.

sets certain principles and rules for the construction of thought; symbolic behaviour, including linguistic behaviour, determined by historical epoch, social and cultural factors, individual characteristics of the communicant and the communicative situation. Discourse in this interpretation becomes not so much a linguistic construct representing a way of configuring knowledge as a tool for knowing the world and a tool for creating new knowledge about the world, a tool that changes the world and the individual as a result of such changes.

At present, these issues related to the culture of conflict, the discourse of conflict, are considered within the framework of cognitive linguistics, pragma- and sociolinguistics, speech act theory, discourse analysis, cultural studies, sociocultural studies, psycholinguistics, which shows the complexity of the phenomenon under study and the need for an interdisciplinary approach. It is the synergetic approach that bridges the divide in views on the nature of conflict between different scientific disciplines.

This for us is the cognitive-communicative approach, which analyses the relationship between language, speech behaviour and the individual as a thinking social object, revealing the relationship between the thought processes and language phenomena occurring in the mind of the human participant in communication, which are inseparable from thinking. Thus, controversial speech (discursive) behaviour is included in the interactive picture of language, thinking and behaviour of a person. From our point of view, the most significant, which represents the linguistic personality, is the discourse produced under the conditions of its main communicative role – professional activity, the discursive characteristics of which are considered as an essential property of the linguistic personality.

SUMMARY

The anthropological shift in science, determined by a growing interest in human beings and human activity in all its manifestations, has led to an expansion in the scope of scientific research and a revision of well-established views. One of the consequences of the anthropological shift or turn has been an “expanded view of culture”. Following the perspectives of linguistic anthropologists, culture can be described as a mediating system or as a way in which people learn to use tools and mechanisms, including language. Discourse is a “form of reasoning” that sets certain principles and rules for the construction of thought; symbolic behaviour, including linguistic behaviour, determined by historical epoch, social and

cultural factors, individual characteristics of the communicant and the communicative situation. Discourse in this interpretation becomes not so much a linguistic construct representing a way of configuring knowledge as a tool for knowing the world and a tool for creating new knowledge about the world, a tool that changes the world and the individual. The most significant, which represents the linguistic personality, is the discourse produced under the conditions of its main communicative role – professional activity, the discursive characteristics of which are considered as an essential property of the linguistic personality.

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Information about the author:

Zaitseva Margaryta Oleksiivna,

Candidate of Philological Sciences,

Associate Professor at the Department of Foreign Languages № 2

Yaroslav Mudryi National Law University

77, Pushkinska street, Kharkiv, 61024, Ukraine