

Rhetoric and Its Application in Court Debate

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ABSTRACT

Rhetoric has a long history. With the continuous development of society, its importance has become increasingly prominent and promoted the prosperity of culture. However, the traditional rhetoric concept can no longer meet the current social and cultural needs. It needs to be upgraded and adjusted accordingly in order to play its value. Rhetoric Originated from speech in court and is a summary of various argumentative languages and strategies. Therefore, with the changes of court cases and court debates, rhetoric also needs to be reformed. Aristotle systematically sorted out and summarized the traditional rhetoric, and most of the subsequent studies were based on this. The research field and content are also expanding with the theoretical research of future generations. After a long time of inheritance and innovation, rhetoric has made new development. Legal Rhetoric is not only the intersection of rhetoric and law, but also a new aspect in the field of language research. Moreover, legal rhetoric is one of the basic ideas for legal argumentation and research, and it is also an important tool for legal argumentation. Therefore, the study of rhetoric has important practical significance.

KEYWORDS

Rhetoric; Court arguments; Application research

1 Rhetorical concept

As early as the Zhou Dynasty, the concept of rhetoric appeared in China. In the book of changes · book of changes · qiangua · classical Chinese: "a gentleman enters virtue and cultivation. Loyalty and faith lead to virtue; rhetoric establishes sincerity, so he lives and works." In ancient times, rhetoric refers to the words used in the article or the words used by the ancients in daily communication. Rhetoric can basically be equated with language, and its focus is on speech.

Modern rhetoric is a special language discipline, which belongs to a detail of language use. Its research content is mainly how to improve the effect of language expression and master the law of language. Through the speaker's organization and performance, with the help of various literary materials and expression methods to express their thoughts and ideas, or analyze something and phenomenon. The meaning of rhetoric is to guide people to use and create all kinds of rhetoric to serve their own language expression.

The above concept is a conventional interpretation of rhetoric. From a professional point of view, rhetoric refers to western rhetoric. The rhetoric mentioned below refers to the theoretical "rhetoric", that is, western rhetoric. Focus on persuasion and argumentation skills. Therefore, the practical significance of rhetoric is to meet the need for speakers to argue with others in public places and courts, and improve the persuasiveness of their own language.

2 Application of rhetoric in court debate

2.1 Aristotle's rhetoric theory

Aristotle's rhetorical inference, also known as rhetorical syllogism, refers to the speaker's use of various stylistic or technical means to resonate with the audience, affect the audience's view and psychology of the event, and promote the audience to accept the speaker's ideas and ideas. Its essence is to reason and modify the language from the audience. Therefore, there is no need for strict forms of expression, and its integrity and content logic are usually ignored. It can be a complete three paragraph inference or an omitted syllogism. In practice, the latter is mostly omitted.

In the debate session of the court, the speaker can directly quote the relevant provisions in the written law, as well as the values and good morals generally recognized by all sectors of society. Both sides of the speech will prove their views through a series of excuses to persuade the judge and the audience, so as to make the judge favor their own side. China's legal system is a written law. In the trial of a case, we should strictly follow the provisions of the legal provisions, and the judge should also reason in combination with the specific situation of the case, and finally get the result of the judgment of the case. However, the trial of the case can not get the final result only through reasoning, but should comprehensively consider various factors and be determined at the discretion of the judge.

For example, China's contract law clearly stipulates the definition and punishment rules of liquidated damages, but there is another legal provision that the people's court should determine the performance of the contract according to the actual situation of the case and the losses of the parties, and make a ruling according to the principles of fairness and honesty. This not only reflects the legal provisions of our country, but also reflects the discretion of the judge. Therefore, both sides can influence the judge's judgment and safeguard their legitimate rights through rhetorical reasoning.

2.2 Perelman's argument theory

Perelman's argument theory can be divided into two categories: truth and preference. Take the consensus of ordinary listeners as the basis of facts. During the trial, the judge also belongs to the ordinary audience. Therefore, the plaintiff and the defendant should provide evidence and explain the facts in the court debate. If the content of the debate deviates from the facts investigated by the court, the judge and the ordinary audience will not accept it. Preference refers to value judgment. Through the application of rhetoric, judges can believe their own elaboration, so as to make a trial result in favor of their own side.

There are two main argumentation methods in this argumentation theory, one is combined and the other is separated. Joint argumentation refers to the effective combination of evidence in logic to enhance the persuasion of discourse. The argument based on the real structure is an argumentation method based on the structure of some real thing, and obtains the expected topic based on a topic that people can accept. The debate method of this display structure is mostly the application of examples and analogies. Although China is a country with written law, in the process of court trial, we can use a similar example to enhance the persuasion of our arguments and effectively convince judges. For example, many plaintiffs and defendants will quote cases published by the people's court in the trial.

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3 Summary

With the continuous development of society and culture, we should re-understand the role and significance of rhetoric in court trial, increase the research on rhetoric and apply it reasonably in the process of court trial. While ensuring the legitimacy and effectiveness of the program, we should safeguard our own legitimate rights and interests, and design a perfect rhetorical application program.

About the Author

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