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MEDIEVAL JUDICIAL RHETORIC IN COMPARATIVE ANALYSIS

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SUMMARY

The medieval rhetorical theory has been unofficially divided into separate subdivisions. In the context of medieval rhetoric that has not been equally spread around the world, depending on religion and beliefs, the rhetoric of medieval Europe, the rhetoric of Byzantium and Slavic rhetoric has been distinguished, within which Ukrainian rhetoric is considered. The formation of medieval Arabic rhetoric has been individually positioned as well. The scientists assert that Byzantine rhetoric was based on the experience of the ancient art of rhetoric, on the theory of prose, the founder of which is Aristotle. A preaching system that predominated in Christian and Byzantine rhetoric was formed.

Key words: rhetoric, Bible, eloquence, Christian rhetoric, Byzantine rhetoric, Kiev Rus', court oratory, judicial rhetoric.

СУДОВІ РИТОРИКИ СЕРЕДНЬОВІЧЧЯ У ПОРІВНЯЛЬНОМУ АНАЛІЗІ

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АНОТАЦІЯ

Риторична теорія Середньовіччя неофіційно розділилася на окремі підвиди. У контексті риторики Середньовіччя, що неоднаково поширювалася світом залежно від віросповідання та переконань, виокремлюють риторичку середньовічної Європи, риторичку Візантії та слов'янську риторичку, у межах якої розглядається українська риторичка, а також окремо позиціонує себе арабська риторичка часів Середньовіччя. Науковці запевняють, що візантійська риторичка базувалася на досвіді античного мистецтва риторички, на теорії прози, засновником якої є Аристотель. Сформована була система проповіді, яка переважала у християнській та візантійській риторичці.

Ключові слова: риторичка, Біблія, красномовство, християнська риторичка, візантійська риторичка, Київська Русь, судове ораторство, судова риторичка.

Introductory part. In the European society, the concept of law has been changing under the pressure of the downfall of ancient traditions. Basis values advocates the concept of the City of Heaven, whereas the City of Earth is losing its position. The moral law – the Decalogue of the Bible, the so-called divine law, which supersedes the legal right, becomes the main law. Judicial rhetoric is also ousted, whereas sermons come instead of speeches, and punishments sent by God are considered “more effective” than those imposed by the court. It traces its origins to ancient Rome, where two systems of law were formed:

- the human right;
- the divine right.

Even then, the Romans understood all the imperfections of the human court, and advised to take into account not the human but the divine law in complex and questionable cases. At that time, the institution of the divine law was not fully formed, therefore Roman society made efforts to create Roman law as a set of fair laws that would guarantee each person reliable protection and security. The customs, which relied on religion, lost their dominant position, as the very religion disappeared, and its restoration began approximately in the VII century BC [1, p. 118]. The Bible also contained human rights. But, the European Middle Ages in the first place brings up the Christian church as a real embodiment of the City of Heaven [2].

The presentation of the main material. Under these conditions, Roman law weakened its power. The moral condemnation of crime manifestations, which were expressed in murders, slavery, usury, etc, was put above the law. As was mentioned

above, the sincere repentance in the church in the commitment of a cruel crime could free the repentant from serving punishment or mitigate it.

Christianity as a religion of the Middle Ages was based on the following ideas: – the idea of falling into the sinfulness of all mankind, originated from the original sin of Adam and Eve;

- the idea of salvation, which must be earned by every person;

- the idea of repentance, the confession of all sins to God – humanity went this way after the suffering and the voluntary sacrifice of Jesus Christ, who which united in itself the divine and earthly origin. During the early Christian period, there was a widespread belief in the second coming of Christ, the Last Judgment and the end of the world. And in the Middle Ages, there was a widespread belief in a payment made outside of death, in the existence of paradise and hell.

Europe's eloquence in the Middle Ages was limited to its development directly in the course of the church sermon, as the church was the main center of culture, and the ideology of the Bible contributed to impregnation into all spheres of secular eloquence – academic, court, everyday life. Literature in medieval Europe by genre specificity practically did not differ with the ancient, it remained the so-called rhetorical, and its purpose was to solve utilitarian problems. Artistic works in this environment were considered as separating, distracting from God and nullifying the possible salvation of the soul [3, p.11].

Subsequently, starting from the VII century and before the end of the Middle Ages, homiletics began the process of

deterioration. The Western Church forbade the reading of the Old Testament, which was translated into Latin, fearing that the laity would not understand it correctly. Being guarded by riots and uprisings, the supreme executive body of the Vatican – the Roman Curia, began publishing the “Index of Prohibited Books”. After church divisions in the East and West, the Church lost its leading position. After the collapse of the homiletics, only the collections of the sermons of the Church Fathers – the homarchy, which were kept in the churches – remained. Through them, the priests practically conducted sermons, fearing to add something of their own. Although the sermon was not developed massively, as at the beginning of the Middle Ages, it remained the only way of public speech. Gradually, in Sermons, they commented on the Holy Scriptures.

In the XII – XIII, at the time of the Middle Ages, the Roman Church coordinated the cultural formation of young national states. At that time, the development of the sermon has improved somewhat. The Roman Church confirmed the possible achievement of the truth by scientific and religious paths. Western Europe was enriched by the emergence of many universities, where one of the subjects was rhetoric. The position of the sermon changed his listener. Instead of the common man “from the people”, the sermon was composed and proclaimed in an enlightened environment, at a high level. More sophisticated began to relate to the structure of the sermon and skills of the rider. Instead of church sermons, the university sermons have come, the composition of which is more completed. The process of developing the speech ability continued gradually, not limited to sermons – church and university. Later, justice, the school industry, relationships in society began the long development [1, p. 73].

After the collapse of the Roman Empire, rhetoric begins to develop actively in Byzantium. Hermogenes of Tarsus is considered by scholars to be the founder of the theory of Byzantine oratory. In their opinion, he was the first to doubt Aristotle’s rhetoric teachings. It is believed that Hermogenes of Tarsus “had his hand” into the creation of Byzantine “Art of Rhetoric”, although historical research suggest differently. Christian rhetoric affirmed its position thanks to the activity of the “Cappadocian Circle”. The circle consisted of theologians who were recognized as Fathers of the Church and who founded the Patristics. They defended the position of Christianity, and at the same time they mastered perfectly the knowledge of ancient literature, philosophy, understood the rhetoric. This helped them to apply the ancient traditions of rhetorical art to the development of Christian rhetoric. Basil of Caesarea (also called Saint Basil the Great), Gregory the Theologian (also known as Gregory of Nazianzus) and Gregory of Nyssa (also known as Gregory Nyssen) belonged to the Cappadocian Circle. They launched the mechanism of church life in a different way. The activities of the Cappadocian Fathers began the “golden age of theology”. They said about the Trinity: “Basil of Caesarea is the arm that acts, Gregory of Nazianzus is the mouth that says, Gregory of Nyssa is the head that thinks” [4, p. 48]. Basil the Great was well aware of the culture of the Hellenes, including rhetoric. It is known that for a certain period he was a logographer – an expert in writing speeches, mainly judicial ones. The famous work of Basil the Great is “Six Days of Creation”, which is considered a peculiar of commentary on the Bible’s story of the creation of the world. Also this work is an example of a living, intelligible word, despite the high-shrewd theoretical concepts. The works of Basil the Great (conversations, interpretations, letters, treatises, etc.) glorify Christianity, are moralistic in nature. The researchers came to the conclusion that the theologians’ sermons are reminiscent of the ancient ones, i.e., they are just as deep and well-grounded, but less pathetic and have less mental twists and turns. His speeches belonged to the Attic style characterized by restraint.

Thanks to his speeches, Basil the Great attracted people’s attention to Christianity turned them into it, convincing in the verity of the Christian doctrine. He believed that the listener should be able to understand the invisible through the visible and therefore used techniques and artistic means of expression that would make the speech understandable to anyone. Together with his friend, the representative of the aforementioned Circle, Gregory the Theologian, they became co-authors of two statutes for the monks.

The creative heritage of Gregory of Nazianzus, or Gregory the Theologian, includes 45 discourses, or words of various types and genres – dogmatic and polemical (against the Arians), liturgical, panegyric, funeral, and opportune ones. He received his title of the Theologian by giving 5 speeches in the area of the theology on the Holy Trinity. He also opposed the prohibition on Christians to study and use ancient knowledge. The researchers came to the conclusion that thanks to their letters, Gregory the Theologian founded the autobiographical genre of literature. Due to his works perfect in style, Gregory the Theologian gained authority among the Byzantine Middle Ages theologians and his doctrines have become the norms of appropriateness.

Gregory of Nyssa was an ancient rhetorician for the certain period of time. Among all the representatives of the Cappadocian Circle, he had the best command of traditional ancient oratory, but later he realized himself as a monk and placed his faith in Christian beliefs. Gregory of Nyssa distinguished by his philosophical thoughts. He was the master to use allegorical techniques in his writings. He masterfully interpreted the Holy Scriptures using allegory. In his essay, “On Christian Perfection” Gregory of Nyssa defined the life of a Christian as one containing three components: activity, word and thinking. He considered thinking as the most important, then the word, and only then basing on the first two elements there could be an act. He became the founder of the theory of the soul and resurrection, which became the basis of Christian eschatology, that is, the doctrine of the end of the world.

A great contribution to the development of Christian rhetorical prose was made by famous preacher John Chrysostom. His speeches are an example of Christian rhetoric. It is in his works that the transition from the Attic (restrained) style to the Asian one, characterized by pomposity and solemnity, was carried out. The Asian tradition was extremely effected by the Asian literary influence. In particular, the Bible, which not only represents new spiritual ideals, but also has a powerful influence on the creation of a new style of literature. John Chrysostom compared Christianity and ancient philosophy, and came to the conclusion that Christianity is a religion for everyone and Christian doctrine is comprehensible to any person. The preacher wrote, “In short and clear words, Christ taught us what is fair and honest, and useful, and any virtue. All this is understandable and easy to comprehend and for a farmer, and for a slave, and for a widow, and even for an adolescent and for an extremely and slow-thinking person” [4, p. 80]. In the creative achievement of John Chrysostom, an important position is taken by the interpretation of biblical texts, also known as exegetical works. They were characterized by lightning improvisations instantly created. While interpreting biblical texts, the preacher uses an integrated approach to this matter, and takes into account the author’s origin, the time of creating the text, the actual language of the work and structure. Particular attention was paid to the preparation for a sermon, where the most important was to choose a theme from the Holy Scripture and thought thoroughly over the presentation of the sermon itself [5, p. 19].

According to the rules of the homiletics of Vasyliy the Great the sermon was divided into:

– exegetical sermon, which was focused at an audience of educated listeners;

– sermon-instruction, which was targeted on all ordinary believers;

– a theological sermon, intended, first of all, for church ministers, since it contained theoretical reflections on the problem issues of faith, and it was intended to prevent apostasy.

In Byzantine rhetoric, the ancient tradition and the Christian doctrine are combined. This contributed to the formation of the new outlook with high moral values.

Byzantine rhetoric was based on such profound concepts as:

– protogimnasma – types of the simplest forms: the chreia (reasoning, affirmation, praise, shame, etc.);

– status – the situation in which the rhetorician is;

– idea – the full implementation of content in the qualities of style (clarity, purity, height, majesty, etc.), and it also inherited the ancient doctrine of the structure of the work (introduction, the main part (statement), conclusions) [1, p. 68].

Later, Byzantine rhetoric gives preference to a diminished, more accurate classification of the types of rhetorical words. For example, before Christ, there were 21 types of epistolary eloquence, and in the late Byzantine period – as many as 113. The rhetoricians of Byzantium highly valued not only the exquisite speeches, but also those, which have their own rhythm style. Recognizable element of speech was deliberate roughness. Thus, Dionisius Haliparnaskyi described this style in his treatise “On the Connection of Words”, “... the strict construction has that kind of character. It requires the words to be firmly established, they stood firm so that everyone could be seen from afar, and that fragments of language would be separated from each other by noticeable pauses. Collisions are rough and unpleasant for hearing; it admits often and relates to them indifferently: so, when they put a wall of precious stones, they are based on stones of irregular shape and untutored, wild and untreated. It likes to stretch out as broadly as possible due to the big overlocking words; but to squeeze itself into short syllables is disgusting to it, as if from necessity” [1, p. 69].

Before the church split in 1054, which divided the church into eastern and western, Byzantine rhetoric developed much more actively, and prevailed over the western. In Byzantium, state and church authorities were united in a single incarnation, embodied in the person of the emperor, and in Western Europe, the church stood above the state, penetrating into all spheres of state domination. These distinctive features were reflected in the organization of the church and also led to uneven development of rhetorical art. After the Byzantine Empire ceased to exist, West’s rhetoric resumes its active development, using certain ideas of the post-Middle Ages – the Renaissance [4, p. 88].

So summing up the above, one can focus on the following features of the rhetoric of Byzantium:

– it continued the ancient tradition of rhetoric based on Christianity;

– asianism was considered the main style;

– the founder of Byzantine rhetoric was Hermogen Tarsi;

– the largest contribution to the theory of rhetoric was made by the Cappadocian circle;

– three types of rhetorical works are established.

Thanks to the Byzantine ideology, the Christian ideal, which did not belong solely to the theology, emerged and established, it was reflected in the theory of rhetoric as well. Byzantine rhetoric was not guided by obsessive advice that would limit the space of creativity. The authors of the rhetoric pointed out that the presence of eloquence as the main goal made the statement of the unattainable for the mind of the Divine principle, before which the speech of people was powerless.

It is worth noting that in the Middle Ages the formation and development of Arab-Muslim oratory are distinguished. In the VII century Islam as a new religion was created, on the basis of which subsequently the cultures of many eastern peoples came

into being. Like the Bible, the main sacred law of Christians, had a great influence on the development of Christianity, then the Koran, the sacred law of Islam, had the same effect on the development of Islam. The features of Islamic rhetoric are based on the eloquent principles of the Koran. Mohammed, a Prophet, is considered to be the founder of Islam. Before he became the Prophet, he had not been too educated, but was imbued with mythological stories from the Bible (biblical parables are considered folklore by Muslims), which he knew only as oral retellings, and saw his presence near Allah (God in Islam) as Providence, where he was given to read and memorize the Book, which was kept near the throne of Allah. This Book was the Koran. After that, Mohammed dictated the Koran to his secretaries. Thanks to the Koran, Arabic rhetorical craftsmanship as well as folklore and literature, were formed. It also became the basis of legal proceedings and legal rhetoric. The Koran consisted of two types of surah (chapters). These are highly poetic texts that have depicted the visions of Mohammed. The Muslims believe that the voice of Allah itself is heard in these visions. This is the so-called rhetorical method. Mohammed did not use the verse form, he believed that it “tired” [1, p. 75]. The Koran has become a kind of beginning of Arabic prose. The language of the Koran is considered rhetorical. In most cases it is characterized by simple verbal-stylistic decisions, metaphors and other means of expressiveness are not common. The language of the Koran is folk, understandable. The purpose of the Prophetic Sur was to tell the people, who are not converted to Allah and do not know about Him, about the One God. Religious oratory was the source and the basis of the Koran language. The Koran sets “5 pillars of faith”, which are similar to 10 commandments of the Bible.

Completely natural religious rhetoric of the Koran is transformed into a legal one. At some points the followers of Islam needed a Law similar to Biblical, “If he gave her a divorce (for the third time), then she will not be allowed for him, until she marries another husband, and if that one gave her a divorce, then no sin over them, that they will return, if they think to fulfill the limitations of Allah. And here are the borders of Allah; He explains them to people who have knowledge” [1, p. 76]. This orientation continued in the Medina surahs, that is the final approval of the didactics of the Koran and Islamic legislation (later – the Sharia, that is the correct way). Islamic law offers categories of idzma – an agreed opinion of the theologians and lawyers) and kyas (inference by analogy). The Koran has firmly affirmed its position in religious and court rhetoric. Muslim eloquence spread to the East. A good example of Arabic eloquence of the Middle Ages is Arabic fairy tales “Thousands and One Nights”. Rhetoric was subordinated to human values. An excerpt from the work “Kalila and Dimna” demonstrates in a fable form how the characters think and judge, actively quoting parables and aphorisms. The basis of these books is household eloquence, which contains enough legal and religious-philosophical experience.

Medieval Greek and Arabic thinkers and scholars, as well as writers saw the borderland of civilization in the Kiev Rus’, although, in fact, it enlarged the number of European countries after the adoption of Christianity and was one of the most developed countries in Europe. During the reign of Yaroslav the Wise, Kiev became an international spiritual and cultural center, and some scholars even called it an opponent of Constantinople, in particular A. Bremenskiy [1, p. 89]. The literature records the speeches made by the princes to the soldiers, ambassadors from other countries and their people. There was also a court oratory. But, when it became impossible to prove the truth, they turned to the judgment of God, because they believed that the one who said the truth would not suffer.

Almost all the literature in the Middle Ages was of Christian orientation, and most of the works reflected rhetorical ideas – sermons, treatises, hagiography, chronicles. It also influenced

the ancient Ukrainian literature, the foundations of which were based on rhetoric. The eloquence of Kiev Rus' was distinguished from the Byzantine literature and literature of the Southern Slavs, which was also based on the Byzantine peculiarities of rhetoric, since in Byzantine doctrine there was a sufficiently developed system of genres of oratory. The features of the rhetorical style were depicted in Svyatoslav's "Izborniks" (1073–1076). By the XVI century in the Ukrainian literature, poetic forms that corresponded to artistic and poetic purposes were not used. In the Kyiv Rus', the Bible, which was translated for several centuries, has become the basis for enrooting the Ukrainian oratory. The most popular were psalms, parables, liturgical variants of the Gospels. There were also known the works of the Fathers of the Church, as well as scientific and historical works.

In the rhetoric of Kiev Rus', scientists singled out two common types:

- didactic, that is instructive;
- panegyric – solemn.

D. Abramovych notes that at the time of the Middle Ages in Kyiv Rus', all kinds of speeches were called the word. Speeches placed in the "Tale of Bygone Years" by Nestor the Chronicler are obviously not created by the author specifically for the work, but recorded from folklore sources, in which reflections and various statements from these speeches are well preserved. Therefore, it is stated, that the Testament, in which Yaroslav the Wise addressed his sons is not a speech, but a word. Nestor helped to determine the important positions of oratory of medieval Ukraine. The word with which they turned to the people stood out and created a special genre. The church sermon was also called the word. Obviously, henceforth, the name of the famous work "The Story of Igor's Regiment" comes from [6, p.14].

Life of the saints was considered rhetorical by nature. In the XI century, the Life of Borys and Glib, built in certain positions on the concepts of the word as a sermon, was a well-known Ukrainian life.

Famous rhetoricians of Kyiv Rus' were Metropolitan Hilarion (XI century), Clyment Smolyatych (XII century) and Kyrylo Turovskyi (XII century).

In his detailed work "The Word" Hilarion, the first metropolitan of Kyiv during the times of Yaroslav the Wise, noted that the Slavs received faith through God's grace, also argued that the New Testament was higher in its principles for the Old Testament, which was reflected in the faith, because Grace is a manifestation of God's love, not a manifestation of fear of God. Hilarion masterfully picked up an allegory, thanks to which he compares the law to the likeness of the slave Hagar, who bore a son to Abraham, which bypassed free Sarah, but could not overcome the fact of his legitimate wife and mistress. Hilarion's style is distinguished by a deep pathetic.

The next metropolitan of Kiev, who made a great contribution to the development of ancient Ukrainian medieval rhetoric, was Clement Smolyatych. In his "Epistle to Presbyter Foma" he responded to his complaints that in his works he refers more to works of ancient thinkers such as Platon and Aristotle, and writers, in particular Homer, than to the works of the Fathers of the Church. Clement, relying on the oratory works of Byzantine thinkers, proved the importance and necessity of a symbolic interpretation of the Bible. The rhetoric of Kyiv Rus' has always relied on the Holy Scripture, because highly educated Ukrainian thinkers and orators knew how to display an exceptional skill in his masterful interpretation. This indicates a high level of eloquence.

Kyrylo Turovskyi in his works represented Kyiv culture. His works were known not only in the ancient Ukrainian lands, but also among the Bulgarians and Serbs. Sermons of Kyrylo Turovskyi are distinguished by solemnity, festivity, are based on a symbolic explanation of religious holidays, and are somewhat similar to the Byzantine ones. He succeeded in developing his own expressive style, due to his special origi-

nality. Thus, in the work "Slovo na antypasku" K. Turovskyi describes the renewal of nature in the spring symbolically, while keeping in mind the spiritual growth and release of people after conversion to Christianity, imitating something from Hryhorii Nazianzin [1, p. 91–93].

Conclusions. Rhetorical art of Kyiv Rus' acquired new features in connection with the division of the Eastern Slavs after the Tatar-Mongolian attacks in the XIII century. The Mongols confirmed their domination in the territories of northeastern Rus'. It caused to domestication of Asia's customs and to formation of tyranny. Right-bank Ukraine, and later Halychyna, went to the Polish-Lithuanian Commonwealth. As part of the Lithuanian Duchy the Ukrainian literature was actively developing, was the so-called guide of civilization. For example, in the XIV century the statute of the Duchy of Lithuania was written in the Old Ukrainian language and the Orthodoxy enlarge upon the state. After the marriage of Yagailo – the Prince of Lithuania, with Polish queen Yadviga, Lithuania suffered catholicism, it led to the extrusion of the Orthodox Ukrainian culture. The rhetoric of the church of Kyiv Rus' was kept a long time on a high level. For example, Bishop Serapion created samples of a tragic homiletic style. The texts of speeches of Kyiv Rus' orators were repleted with folklore and national traditions. They were influenced not only by the traditions of oratory, but also by the existing public word. The Christian church and religion demanded from preachers and audience obedience and restraint, since they did not share the idea of external manifestation of emotions and various techniques. In addition to sermons, other types of spiritual rhetoric had been developed – praiseful speeches, and even speeches for the sanctification of the temples.

The Polish-Lithuanian Commonweals, to which later entered the Ukrainian state, contributed to the beginning of the absorption of Byzantine Orthodoxy by Western culture. It helped to adopt western skills and achievements, in particular in rhetoric and judicial rhetoric. The Northeast Slavs, being under the oppression of the Mongol invasion, stuck in the level of the old Byzantine canons.

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