

Title: Mitigation as a Stance-marking Strategy in Courtroom

**Abstract**

Studies on ‘mitigation’ in language use have drawn cognitive linguists’ attention over the past decades. While this research field is of central importance for people’s conception of the use of language in communication, most of the studies undertaken so far have focused on its illocutionary force in ordinary discourse. However, to tackle the complexity of this linguistic phenomenon, we should not only recognize the multi-dimensional nature of language use but also admit the importance of context in contributing to a better understanding of it. Therefore, in this study we will investigate how people talk in the courtroom with a special focus on mitigation. On looking for the speech patterns used in the courtroom, we center on the linguistic means by which mitigation is achieved and show how participants’ stances are marked via the mitigating devices they used.

The data on which this study is based consists of audio-recordings of 26 court hearings in the Taiwan High Court, altogether around 39.5 hours in length. The court hearings we observe and further analyze are all criminal cases, ranging from traffic cases, violation of trade fairness, intellectual property infringement, crimes of forging documents, fraud, drug possession, robbery, theft, to manslaughter. In order to provide a balance to the discussion of the mitigated linguistic choices in courtroom, we include judges, prosecutors, attorneys, complainants, defendants and witnesses as our subjects.

Our findings regarding to the mitigating strategies used in courtroom include (1) impersonalized devices such as *negation/multiple negation, pronoun, and passive voice*; (2) personal-center switch such as inserting *you say* to ‘come closer’ to the addressee and thus downgrade what the speaker contends; (3) hedges such as *I think* and *all I know is*; (4) attitudinal markers such as *conditional, adverbs, particle using, and the Chinese construction ‘verb + 一下 yixia (once)’*; (5) vague responses such as *the repetition in Mandarin Chinese*; (6) reference to authority/general knowledge; (7) indirect statement such as *using an irony or implication*.

While different choices of linguistic markers are used as the softeners by different participants, we found mitigation highlights the subjective quality in courtroom language and thus marks the stance of each of the participants. Mitigation has been traditionally subsumed under politeness theories (Brown & Levinson 1987), and the role of it played in the relational work is to maintain or promote social harmony. However, our findings demonstrate that the mitigations in courtroom are

very different from those found in daily communicative activities. The pragmatic motivation behind the production of mitigation in courtroom is often not a concern to save the other's face. Conversely, it is mainly self-oriented. In addition, the specific function mitigation has in court is mostly ego-centric and responsibility-evasion. We therefore argue that the traditionally assumed perlocutionary effect of mitigation – to ease the anticipated unwelcome effect, seems too narrow and insufficient when comparing to that of courtroom mitigation.

Key words: mitigation, stance, subjectivity, courtroom language, politeness theory

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