SOME OBSERVATIONS ON ALTERING HEDGING PHENOMENON IN COURTROOM DISCOURSE
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У статті зактуалізовано на понятті «хеджування» в сучасній лінгвістіці. Термін «хеджування» ввійшов у лінгвістику зі сфер економіки й страхування, де він є часто вживним. Відомо, що термін практично повністю зберіг своє оригінальне значення в лінгвістіці. Це поширенний феномен у лінгвістичній науці і в усному, і в письмовому мовленні. Це комунікативна стратегія, яка передбачає цілеспрямоване послаблення іліокутивної сили висловлювання, без чого воно може звучати неввічливо, надмірно емоційно або навіть агресивно. Оскільки наразі не існує жодного дослідження щодо особливостей використання хеджування в судовому дискурсі, ба більше, його еволюції, то можна стверджувати, що це дослідження є актуальним. Метою розвідки є вивчення особливостей хеджування в судовому дискурсі.

Результати дослідження підтвердили, що в судовому дискурсі хеджування виконує роль посилення аргументації, тобто здійснює функцію переконання реципієнта або персуазивну функцію; функцію встановлення контакту з присяжними; функцію посилення достовірності/недостовірності висловлювання.

Установлено, що хеджування здійснюють з різною метою: для ізоляції мовця від можливої критики й захисту від неправильної інтерпретації його висловлювання, т. зв. хеджування «щит атрибуції». Якщо мовець не дуже впевнений у своєму висловлюванні – хеджування «щит правдоподібності» та хеджі-апроксиматори. Виявлено, що імперсоналізатори об'єктивують висловлювання, тому вони зазвичай присутні на фінальній стадії промови учасників судового процесу, коли викладають тільки факти щодо справи. Підкреслено, що індикатори особистої залученості мовця підсилюють емоційний аспект висловлювання. Зазначено, що хеджування також зумовлене екстрапонговими чинниками: історичним контекстом, особливостями судової справи, що її розглядають, тощо.

Це дослідження видається перспективним, оскільки доречно було б порівняти хеджі в промовах прокурорів та адвокатів, наприклад, або в промовах суддів.

Ключові слова: еволюція хеджування, екстрапонгові чинники, комунікативна стратегія, судовий дискурс, хеджування.
The paper updates on the notion «hedging». While analyzing, we have not encountered any research on its peculiarities in the courtroom discourse. So, it is possible to affirm that this study is relevant. With that in mind, the aim of this study is to explore the characteristics of hedging in courtroom discourse.

The results of our survey confirmed that in courtroom discourse hedges perform the role of strengthening arguments, the persuasive function; the function of building rapport with the jury; the function of strengthening the credibility/unreliability of the utterance. Hedges are implemented for different purposes: to insulate the speaker from possible criticism and protect themselves from misinterpretation – attribution shield hedges. If the speaker is not completely confident the statement – plausibility shield hedges and approximators. Impersonalizers objectify what is being said. Personal involvement indicators reinforce the emotional aspect of a statement. They are also determined by extra-linguistic factors such as the historical context and the characteristics of the court case in question, etc.

This study seems promising as it is thought to be interesting to compare hedges in the speeches of prosecutors and lawyers, for instance, or in the speeches of judges.

**Key words:** communicative strategy, courtroom discourse, evolution of hedging, extra-linguistic factors, hedging.

**Introduction.** The term «hedging» appeared in linguistics from the fields of economics and banking and insurance sector, where it is still widely used. In economics, hedging is defined as risk insurance aimed at protecting against various negative phenomena. In legal terms, hedging is understood as «opening transactions in one market to offset the impact of price risks on an opposite position in another market in equal parts. Hedging is implemented to protect against price risks by entering into transactions within the derivatives markets» (Vnukova, 2023). So, in fact, a preliminary delivery contract was concluded.

It should be noted that the term has almost completely retained its original meaning in linguistics, i.e., «language insurance», prevention of the speaker from radical, aggressive, or offensive statements addressed to the other party. It is a common phenomenon in linguistics, found in both spoken and written language. It is a communicative strategy that involves purposefully weakening the illocutionary force of an utterance, without which it may sound impolite, overly emotional or even aggressive, as outlined above.
There are a lot of research papers devoted to hedging in medical discourse, academic discourse, especially political discourse, and mass-media discourse. The hedging strategy is most clearly manifested and implemented in the academic and political spheres. The ability to deliver information as non-categorically as possible, without putting pressure on the interlocutor, and to establish contact with the audience in these areas of communication is a priority communicative strategy for achieving the communication goal. However, while working on this subject, we have not encountered any research on peculiarities of hedging, let alone on how hedging changes in the courtroom discourse.

Moreover, there is no comparative analysis of the specificities of hedging now and then. So, this paper has made an effort to compare the peculiarities of hedging as a communicative strategy in the past with those in the present. All of the aforementioned have made this study relevant.

**Background review.** The linguistic understanding of the term «hedging» is considered to have been coined by George Lakoff in 1972 (Lakoff, 1972). According to Lakoff, hedging is the use of words and phrases in language, the function of which is to make «things fuzzier or less fuzzy» (Lakoff, 1973, p. 471). As well, hedging helps to «save face» of the interlocutor through the use of certain words and phrases. In general, the concept of «face» in interactive communication was introduced by E. Goffman, who noted that «saving face», like the traffic rules, is a prerequisite for successful communication (Goffman, 1995).

In contemporary textual theory, hedging is defined as a rhetorical strategy by which the sender of the speech disclaims responsibility for the reliability and validity of the judgement made, expresses a certain degree of uncertainty and vagueness in order to fix the distance between the individual self and the information communicated (Hyland, 1996). The scholar categorises the two main pragmatic functions of linguistic hedging devices in terms of motivation underlying the generation of judgmental content and stimulating the reader to dialogue. These means:

1) determine the correlation between the information asserted in the text about the world around us and what is traditionally assumed about this world (Hyland, 1996, p. 256);

2) determine the personal responsibility of the author of the text for the effectiveness of the propositional content of the statement, which is the basis for the further ratification of the expressed opinion by the addressee (Hyland, 1996, p. 258).

K. Wales in her «Dictionary of Stylistics» gives such a definition of this notion as «the qualification and toning-down of utterances or statements, so common in speech and writing... in order to reduce the riskiness of what one says» (Wales, 2014, p. 212).

There are also works that analyse hedging in legal discourse, for example, «The politeness of judges: American and English judicial behaviour» by D. Kurzon (2001); «Lexical verb hedging in legal discourse: The case
of law journal articles and Supreme Court majority and dissenting opinions» by H. Vass (2017); «The pragmatic functions of ‘respect’ in lawyers' courtroom discourse: A case study of Brexit hearings» by D. Wright, J. Robson, H. Murray-Edwards, N. Braber (2022) and so on. Thus, the ability to «communicate your intended message with all its nuances in any socio-cultural context and to interpret the message of your interlocutor as it was intended» (Fraser, 2010, p. 15) is referred to as pragmatic competence, and it is believed that hedging is a crucial component of that competence.

Incrementally, the notion of hedging has changed from being understood as a semantic feature of a class of words to a broad pragmatic concept encompassing nearly any expression of tentativeness or possibility, or with a softening or downtoning function. There is currently an understanding that «no linguistic items are inherently hedgy» (Clemen, 1997, p. 241) and that the theory of a grammatical class of hedges has been rejected. Summing up the definitions of hedges, we can conclude that hedging is used to reduce the level of categorical utterance, making the audience aware of the position without imposing the opinion of the writer or speaker on recipients.

In light of the above, the **aim** of this study is to explore the characteristics of hedging in courtroom discourse, which entailed putting forward the following **tasks**, namely: 1) to establish the linguistic means of hedging in judicial discourse; 2) to identify their functions; 3) to characterise their evolution.

**Methods of research.** At the stage of terminological grounding, the main method was the method of comparison, i.e., a review of the research of scholars dealing with this problem, trends in the analysis of the problem, etc. At the second and third stages, the following methods were used: classification (to distinguish linguistic means), generalisation (to summarise information), and argumentation (to justify one's position). The choice of approaches to the analysis was determined by modern scientific paradigms: cognitive linguistics, pragmatic linguistics, communicative science, and methods of lexical and semantic analysis.

Elements of cognitive analysis helped to identify the dependence of judicial discourse on social conditions.

Certain authentic language corpus was selected for the research. To confirm our hypothesis, documents from 20 trials from 1913 to 2021 (Famous Trials) were analysed. The documents of 2 trials were taken as illustrative material for this article. These are Sam Sheppard Trials (1954 – 1966) and Casey Anthony Trial (2011).

**Overview of the main research findings**

I. **Sam Sheppard Trials (1954 – 1966)**

Having examined the speeches by the prosecutor from Sam Sheppard Trials (1954 – 1966), we were able to single out such peculiarities as: shields (plausibility shield and attribution shield), approximators, impersonalizers, and personal involvement indicators (our terms).
So next we are going to clarify the terms. Approximators «…affect the truth-conditions of propositions…» (Markkanen, Schröder, 1997, p. 5). On the contrary, shields do not affect the truth-conditions but «…reflect the degree of speaker’s commitment to the truth-value of the whole proposition…» (Markkanen, Schröder, 1997, p. 5). E. Prince, J. Frader, and C. Bosk divided all shields into two categories. The first one is termed a «plausibility shield». The second type of shield, so called «attribution shield», involves attribution of information to some third party (Cutting, 2011, p. 83) or involves other sources of information (our remark).

Here is a typology of hedges based on the frequency of their use in the prosecutor’s speech in the form of Table 1:

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>attribution shield</td>
<td>40%</td>
</tr>
<tr>
<td>plausibility shield</td>
<td>26%</td>
</tr>
<tr>
<td>Impersonalizers</td>
<td>24%</td>
</tr>
<tr>
<td>Approximators</td>
<td>7%</td>
</tr>
<tr>
<td>personal involvement indicators</td>
<td>3%</td>
</tr>
</tbody>
</table>

Table 1

There are some examples that illustrate our Table 1.

I. Attribution shield:

* **Witnesses** will be called on to testify under oath from that witness stand.

One by one they will tell their story.

The *State* will make the opening argument, *counsel for the defendant* will make their argument and then the *State* will close the argument.

Following the closing arguments, the *Judge* will instruct the Jury on the rules of law that apply in a case of this kind, *he* will explain to the Jury the verdicts...

The *evidence* will disclose that Sam H. Sheppard, his wife, Marilyn, and his son...

The *evidence* will disclose that this home is situated... (Sam Sheppard Trial).

As you go to the second floor of that house you go up three steps...

The *evidence* will disclose that his dress that night

The *police* made an extensive search around the place, *they* examined the house (Sam Sheppard Trials).

II. Plausibility shield:

...and I *believe* there were two boys of the Aherns –

I *believe* he was fixing an airplane of his son that had been broken, a toy airplane.

or Mr. Ahern principally I *think* was interested in that,

I *believe* just before or just about the time that the movie went on Chip was put to bed.

I *believe* it was about 5:50 or thereabouts,

I *believe* it was of Steve’s and

I *believe* that one of the nails was pretty near (Sam Sheppard Trials).
III. Impersonalizers:

*The television was pointed out to you, and the couch was pointed out to you.*

*There are three steps up to that platform,*

*There is a bolt there*

*It was determined that it was blood and that some of it was human blood,*

*there were about 25 blows that had been*

*That is the story he told the police, ladies and gentlemen*

*The only violence that was found to have been exerted in that room was the violence that was exerted on the body of Marilyn Sheppard*

*There was nothing missing from that room.*

*The reasonable interpretation is that the (Sam Sheppard Trials).*

IV. Approximators:

*Sometimes after that, or maybe it was before they went to the basement,*

*About 9:00 they started to eat,*

*It was quite chilly that evening, and...*

*And I might say that this hospital with some 25 vicious blows to her head (Sam Sheppard Trials).*

V. Personal involvement indicators:

*We expect to show that,*

*We will have evidence here from the Coroner*

*We expect the evidence in this case to disclose, if you please,*

*And I say to you,*

*So, ladies and gentlemen, that is the case that we expect to prove here (Sam Sheppard Trials).*

Their arrangement in the text of the prosecutor’s opening speech is also interesting and demonstrative enough. Interpreting the term «hedging» as specific language signals that indicate the messages the author wants to convey to recipients, we have spotted certain specifics in their use.

The restrictors from the first group – attribution shield – are used throughout the text of the speech. Due to them objectivity and hence the persuasiveness of the speech are generated. The same functions are performed by the restrictors from the group of impersonalizers. Moreover, they appear in his speech nearer the late stage which is explained by the fact that they express a greater degree of objectivity in comparison with attribution shield. Being impersonal and not associated with any identity, they help the speaker protect themselves from possible criticism and/or thus protect themselves from misinterpretation.

It is noteworthy that the restrictors from the second and fourth groups (plausibility shield, approximators) are concentrated in the prosecutor's speech in the place where he cites evidence. They seem to be used in order to reduce the risk and responsibility associated with what is said. Moreover, any prosecutor must prove **beyond a reasonable doubt** that the defendant
is guilty. Therefore, the sender of the speech emphasises that this is what he thinks, believes, supposes, feels and so on.

The approximators reinforce this message about uncertainty to some extent. Incidentally, when the defendant was released ten years later, his lawyer spoke of an erroneous prosecution based on errors made by the investigation. The hedges used by the prosecutor obviously carried this message of inaccuracy and a certain bias in the prosecution due to the cultural context of the time: «the atmosphere of social and material prosperity surrounding Sheppard exacerbated the public dislike so clearly felt at the time of his arrest and trial. He was born «with a silver spoon in his mouth» and life had always pampered him» (Yahalom, 2009).

It is quite significant that the sender of the speech hardly seems to show any personal involvement in the process. This is a common characteristic of court speeches at that time, which distinguishes them from contemporary court proceedings. We will summarise this in Table 2:

<table>
<thead>
<tr>
<th>Attribution shield</th>
<th>Throughout the speech</th>
</tr>
</thead>
<tbody>
<tr>
<td>Plausibility shield</td>
<td>Stage of proving liability by a preponderance of the evidence or stage of a storytelling</td>
</tr>
<tr>
<td>Approximators</td>
<td>Stage of proving liability by a preponderance of the evidence or stage of a storytelling</td>
</tr>
<tr>
<td>Impersonalizers</td>
<td>The stage of finalising of storytelling</td>
</tr>
<tr>
<td>Personal involvement indicators</td>
<td>Providing a conclusion and building rapport with jurors</td>
</tr>
</tbody>
</table>

II. Casey Anthony Trial (2011)

Here is the social background of the 2011 Casey Anthony trial. This was one of the most high-profile trials. The defendant was accused of the deliberate murder of her two-year-old daughter. A whole team worked on the collection of evidence for the prosecution, and it included well-known, highly successful professionals who had won more than one case. The ‘star team’ included the best forensic experts in the United States. The prosecution was actively supported by the public, following the process closely through the media.

When examining the prosecutor's speech in terms of the presence or absence of hedging, we have observed the following: she hardly ever employs hedges of the plausibility shield category, apart from isolated cases, and does not use approximators. A characteristic feature has been the use of hedges of the attribution shield group. However, whereas in the first case they are oriented towards third party involvement (he/she/they-party involvement), in this speech the prosecutor addresses the jury directly (you-party involvement):
I. Attribution shield:

But as the evidence in this case and the investigation into the background of Casey Anthony will show, that was an illusion.

You will hear during the course of this case that George Anthony at that time, during June of 2008, according to her cell phone records that day, spent most of it with her new boyfriend, Tony Lazzaro.

And according to testimony that you will hear from both George and Cindy Anthony,

You will hear during the testimony in this case that no one had any idea

You will learn during the testimony and evidence in this case, there is no Zani.

Casey Anthony's cell phone records, you will hear, show that she is at Tony Lazzaro's apartment

Again, cell phone records establish that Casey Anthony was in the area of Tony Lazzaro's apartment

On that day as well, you will hear from the testimony of another of Casey Anthony's friends by the name of Troy Brown

And so you will hear that Casey Anthony calls Tony Lazzaro

II. Impersonalizers:

The story of this case is not about Casey Anthony. It is about what happened between the photograph

There is no Zani, there is no Juliette, there is no Annabelle.

That evening there are multiple calls from the Anthony household

Evidence from the car was also preserved.

The hair and other debris collected from Casey Anthony's Pontiac Sunfire was sent to the Federal Bureau of Investigation's laboratory

These findings led to the inescapable conclusion that, in fact, a dead body had been in the trunk of Casey Anthony's car.

III. Personal involvement indicators:

As we have heard several times throughout the jury selection proceedings, this is the case of the State of Florida versus Casey Marie Anthony.

As I told you, George Anthony worked the 3 to 11 shift.

We've already shown you the last photographs taken of Caylee Anthony

Excuse me, until

What happened to Caylee Marie Anthony?

How can that be? What happened between June 16th and July 15th? Where was Caylee Marie?

So what happened?

So on Tuesday, June 17th 2008, where is Caylee Marie Anthony?

So where's Caylee? No Caylee.

We've heard that before.

Cindy Anthony once again pressing, pushing, wants to know where's my granddaughter?
At the break, we were speaking of Lee Anthony’s efforts. How do you get out of that? You tell another lie.

Here is a typology of hedges based on the frequency of their use in the prosecutor’s speech in the form of Table 3:

<table>
<thead>
<tr>
<th>Attribution shield</th>
<th>45%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Impersonalizers</td>
<td>30%</td>
</tr>
<tr>
<td>Personal involvement indicators</td>
<td>25%</td>
</tr>
</tbody>
</table>

Concerning their arrangement in the text of the prosecutor’s opening speech, we can say that the prosecutor employs hedges of the first group (attribution shield) all the time, which is due to the desire for objectivity, justification and support for her own position, as well as shifting the responsibility for making an erroneous decision to the jury.

Hedges of the second group, impersonalizers, as in the first case, are more often brought into play in the final stage, where only bare facts are given.

Finally, address the hedges of personal engagement or personal involvement indicators. The prosecutor has constructed her speech from a person who is genuinely empathetic to the process. This is perhaps because she herself is a woman and a mother. And by Mother’s right she asks direct questions as Mother or on behalf of Mother; she constantly applies the pronoun «we», urging the defendant to realise the heinousness of her crime. She commences and concludes her speech with the pronoun «we»:

As we have heard several times throughout the jury selection proceedings, this is the case of the State of Florida versus CaseyMarie Anthony.

And at the conclusion of all the evidence and argument in this case, we will be asking you to return a verdict that reflects the truth of what happened to Caylee Anthony.

We will summarise this in Table 4:

<table>
<thead>
<tr>
<th>Attribution shield</th>
<th>Throughout the speech</th>
</tr>
</thead>
<tbody>
<tr>
<td>Impersonalizers</td>
<td>The stage of finalising of storytelling</td>
</tr>
<tr>
<td>Personal involvement indicators</td>
<td>Starting, providing a conclusion and building rapport with jurors</td>
</tr>
</tbody>
</table>

Conclusions. The results of our survey confirmed the hypothesis that hedging in judicial discourse differs from such, for instance, in political or academic discourse. Although in general the communicative strategy of hedging consists in a targeted weakening of the illocutive force of the utterance, without which it may sound impolite, excessively emotional or even aggressive, in courtroom discourse hedges perform the role of strengthening arguments, that is, the persuasive function; the function of building rapport
with the jury; the function of strengthening the credibility/unreliability of the utterance.

Further, different types of hedges are implemented for different purposes. If the speaker wants to insulate themselves from possible criticism and/or protect themselves from misinterpretation, they use attribution shield hedges. If the speaker is not completely confident or trusts the statement, he/she uses plausibility shield hedges and approximators.

Impersonalizers – in order to objectify what is being said. Personal involvement indicators reinforce the emotional aspect of a statement. As such, they are used at different stages of the participants' speeches in court. They are also determined by extra-linguistic factors such as the historical context and the characteristics of the court case in question, etc.

This study seems promising as we consider it interesting to compare hedges in the speeches of prosecutors and lawyers, for instance, or in the speeches of judges.

**Literature and sources**


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