

Functions Of Hedging In Legal Bonds

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Abstract

While there are many studies on hedging in a wide variety of disciplinary discourses, the field of Law, to date, has been largely overlooked. Moreover, most research on hedging approach the phenomenon from either a textual or pragmatic perspective. The data for this study consists of a total of three bonds: BOND Agreement for Study fellowship, Sample Performance BOND and BOND for Scholarship. The lexical items used as hedging are identified and analyzed using Salager-Meyer 1997 strategic stereotype. Although hedging can be achieved with various linguistic devices, this study is limited to the following linguistic forms which are associated with hedging, they include: Epistemic modals, inferential modals, epistemic reporting verbs, adverbials, qualitative data gathering and interpretation techniques. The taxonomy proposed by Hyland (1996) was applied in order to identify and classify the various hedge words. The study revealed that different types of hedges play the role of maintaining politeness in communication. It is also pointed out that improper use of hedges fails to maintain politeness and leads to pragmatic failure.

Key words: discourse, hedging, pragmatic, epistemic, modals, taxonomy, politeness

Introduction

Hedging is the process whereby speakers tone down their statements in order to reduce the risk of opposition and minimize the threat to face that lurks behind every act of communication (Salager-Myers, 2000:3). This position associates hedges with scientific imprecision and defines them as linguistic cues of bias which avoid personal accountability for statements. Hedging is the expression of tentativeness and possibility and it is central to academic writing where the need to present unproven propositions with caution and precision is essential.

Hedging has received a great deal of attention in conversation analysis where devices such as *I think, sort of, maybe* and *possibly* are frequently used to create conviviality, facilitate discussion, show politeness and oil the phatic wheels (eg Holmes, 1984 & 1995; Coates, 1987). Hedges have also been associated with conveying purposive vagueness and treated as a form of meta-discourse (Vande Kopple, 1985; Crismore et al, 1993) and as a means of achieving distance between a speaker and what is said (Prince et al, 1982 and Skelton, 1988).

In linguistics, hedging has been the subject of a considerable body of conceptual and empirical research and a lot is known about the semantic and formal aspects of epistemic devices, particularly the modal. This literature has demonstrated the clear pragmatic importance of hedging as a discursual resource for expressing uncertainty, skepticism and open mindedness about one's propositions. A greater attention needs to be paid to the fact that hedging represents a writer's attitude within a particular context. A variety of devices are therefore employed to mitigate claims and minimize these impositions. Myers' work is clearly suggestive and central to any discussion of hedging, but his extension of Brown and Levinson's (1987) conversational model provides only a partial account of hedging in scientific discourse. Hedges help negotiate the perspective from which conclusions can be accepted. This article provides a functional account for the use of hedging in the legal genre of bonds. The study draws together strands from different studies to reveal a complex overlap of motivations for the use of hedging in bonds. Hedges can only be understood in terms of a detailed characterization of the institutional, professional and linguistic contexts in which they are employed.

Theoretical framework

Brown and Levinson's theory of politeness is classic in the field of politeness theory. Despite the fact that it was originally introduced already in 1970s, it remains the most influential model for describing politeness in human interaction. In spite of the criticisms, Brown and Levinson's theory as a whole has not been challenged, and therefore it is also used in this study. An overview of Brown and Levinson's theory is based on the existence of speakers A and addressees B. Both speaker and addressee are rational agents who have something that Brown and Levinson call 'face'. The term 'face' could be translated as a public self-image. The concept of face derives from earlier work by Goffman (1967) and from the English folk term used for example in the idiom of 'losing face' (Brown and Levinson 1987: 61). They further divide the notion of face into positive and negative face. Positive face refers to a positive self-image and a desire that this self-image is approved of by others (ibid). Negative face, on the other hand, refers to freedom of action and to rights to non-distraction (ibid). These faces can also be treated in terms of wants. As Brown and Levinson point out, both speakers and addressees share the same basic face wants and are aware of this (1987: 62). Therefore it is normally in the interest of speakers and addressees to cooperate in maintaining each other's face in interaction. This cooperation is especially needed in situations which could potentially make either the speaker or the addressee feel uncomfortable. These situations contain speech acts that "by their nature run contrary to the face wants of the addressee and/or of the speaker" (Brown and Levinson 1987: 65). These acts

are called 'face-threatening acts' (FTAs for short) (Brown and Levinson 1987: 60). FTAs are speech acts such as complaints, criticisms, disagreements and insults but perhaps surprisingly also apologies, invitations, advice and compliments. The first group means threats to positive face, as they do not enhance a positive self-image nor express approval. The second group is potentially threatening to negative face, as they limit freedom of action in some way. An illustrative example is an invitation, which puts some pressure on the addressee to do a particular act in the future

Methodology

Various categories used to express hedges were proposed by some scholars to offer an overview of the main communicative strategies used by authors of scientific and legal texts to express politeness and to make their messages rhetorically appropriate. To this end, the approaches on the insights of Salager- Meyer's strategic stereotypes (1997) was used for the identification of modal auxiliary verbs, lexical verbs, adjectival, adverbials, modal phrases, compound hedges and the "if clauses". An exhaustive reading of the texts was done to locate for analysis the areas where the author's intentions were revealed. Also, a multi-dimensional approach based on the insights from Biber (1995) was adopted for the analysis. The selected lexical items interpreted as signaling hedges were classified and analyzed according to their linguistic realization and the communicative strategy used by each of them.

Legal Bonds

In this research work, a *bond* is a promise to repay the principal along with interest on a specified date. A *surety bond* is a contract among at least three parties:

- The *obligee* - the party who is the recipient of an obligation, e.g., the client building an office building
- The *principal* - the primary party who will be performing the contractual obligation, e.g., the contractor building the office building
- The *surety*- who assures the obligee that the principal can perform the task

Surety bond is a promise to pay one party (the *obligee*) a certain amount if a second party (the *principal*) fails to meet some obligation, such as fulfilling the terms of a contract. The surety bond protects the obligee against losses resulting from the principal's failure to meet the obligation. When an investor for instance buys a *bond*, he/she becomes a creditor of the issuer. A riskier *bond* has to provide a higher payout to compensate for that additional risk. Some bonds are tax-exempt. They have many characteristics such as the way they pay their interest, the market they are issued in, the currency they are payable in, protective features and their legal status. *Bond* issuers may be governments, corporations, special purpose trusts or even non-profit organizations. Usually it is the type of issuer or the particular nature of a *bond* that sets it apart in its own category.

Bond agreement is available to anyone and may be obtained from the bond Trustee or Issuer. The issuer ensures that the bond agreement is available to the general public throughout the

entire tenor of the bond. Bond holder is the holder of a bond or bonds as registered in the securities register from time to time, while bond agreement is an attachment which it refers and any subsequent amendments and additions agreed between the parties. Depending on who is issuing the bond, bonds can be categorized as follows: Government bonds (issued by government and government agencies), Corporate bonds (issued by corporations), there are bonds issued by the local state or by foreign governments. In general, there are seven types of bonds with different properties:

- Treasuries,
- Government agencies
- Mortgage-backed securities,
- Municipal bonds,
- Zero coupon bonds,
- Investment grade corporate and high yield bonds
- Competitive and noncompetitive bidding at auctions.

In this regard many financial newspapers report auction schedules.

Empirical studies

The designation 'hedge'/'hedging' itself was introduced first by G. Lakoff (1972) in his article "Hedges: A Study in Meaning Criteria and the Logic of Fuzzy Concepts". In his synchronic, non-contrastive study of the oral and written standard English, Lakoff defines 'hedges' (from the point of view of language philosophy) as words whose function is to make meanings fuzzier (eg. sort of) or less fuzzy. Lakoff argues that the logic of hedges requires serious semantic analysis for all predicates. He (1972, 195) defines hedges as follows: "For me, some of the most interesting questions are raised by the study of words whose meaning implicitly involves fuzziness - words whose job it is to make things fuzzier or less fuzzy. I will refer to such words as 'hedges'".

In his article "Fuzzy-Set - Theoretic Interpretation of Linguistic Hedges", Zadeh (1972) followed Lakoff in using the new designation 'hedge' and analyzed English hedges (such as simple ones like very, much, more or less, essentially, and slightly and more complex ones like technically and practically) from the point of view of semantics and logics. The author assumes that hedges are operators that act on the fuzzy set representing the meaning of their operands. Hedges vary in their dependency on context. In a later publication, Zadeh (1975) studied the written standard English from the point of view of psycholinguistics.

Furthermore, fundamental contributions were made again by G. Lakoff (1973) with the focus on lexicography, and by Rosch (1973) from the point of view of cognitive psychology. Rosch (1978, 39) deals with semantic prototypes from the point of view of cognition and argues "that natural languages themselves possess linguistic mechanisms for coding and coping its gradients of category membership". In Rosch's opinion hedges belong to those mechanisms. In his article "Hedged Performatives", Fraser (1975) analyzed modal verbs from the point of view of

pragmatics. In more recent publications, Fraser deals with the hedging phenomenon from the point of view of mitigation and politeness research (Fraser 1980) and from the point of view of discourse markers (Fraser 1990).

Brown/Levinson (1978, 1987), dealing with politeness in verbal interaction from the point of view of pragmatics, viewed hedges as a device to avoid disagreement. They describe hedges as a strategy or an expression of negative politeness (see chapters 5.3.1. and 5.4. in Brown/Levinson 1978). Prince/Bosk/Frader (1982) conducted an empirical study of hedging in discourse among physicians working in an intensive care unit. The authors distinguish between two types of hedges, those that affect the truth-conditions of propositions ('approximators') and those not affecting the truth conditions but showing the speaker's commitment to the truth-value of the whole proposition ('shields'). Rounds (1982) introduced the notion of 'diffusers' meaning that "they tend to disperse or cut off a source of disagreement or argument".

The first monograph about hedges was published by Hübler (1983). In his book "Understatements and Hedges in English", Hübler makes a distinction between understatements and hedges, although he also uses understatement as a covering term for both. Understatement proper means for him that "the emotional negatability (of sentences) is restricted through the indeterminateness of the phrastic", i.e. concerns the propositional content of the sentence (...), whereas hedging means that it "is restricted through the indeterminateness of the neuistic", i.e. concerns the speaker's attitude to the hearer regarding the proposition. Other important publications on the very concept hedge and hedging are Markkanen/Schröder (1988, 1992), Darian 1995, Salager-Meyer (1995) and, furthermore, the articles by Holmes (1982a, 1982b, 1984), who deals with hedges from the point of view of teaching and learning English as a second language. Holmes defines hedges as devices for attenuating the strength of utterance (1982a) and as a part of epistemic modality (1982b, 1984).

Pragmatic Functions of Hedges in Politeness

Hedges are means of expressing fuzziness. He Z.R. (1985) argues that hedges are characterized by fuzziness, uncertainty and possibility and fuzziness is inexplicitness, which doesn't definitely mean a bad thing. Explicitness isn't always in need and it's essential to figure out the implications of words. Without implications, language would be dull. Fuzziness is nature of language, which endows language with various pragmatic functions. Pragmatic study on hedges dates from the middle of 1980s. Many researchers (Fasker, 1975; Brown & Levinson, 1978 & 1987; Prince, 1982; Kasper, 1981) have focused the functions of hedges from the perspective of pragmatics. The thesis aims to explore the pragmatic functions of hedges in the realm of politeness.

Approximators and Their Pragmatic Functions in Maintaining Politeness

In communication, speakers tend to express themselves inexplicitly with hedges on purpose to avoid being assertive and make their words sound more polite. Such hedges as "kind of", "to

some extent”, “somewhat”, “quite”, “entirely”, “more or less”, “really”, and “almost” are effective to show politeness to the hearers in conversations.

Our product is quiet cheap.

“Quite” shows the speaker’s basic attitude towards the price of their product, indicating there is little space to concede, while it also tells the hearer there is a degree of flexibility for bargaining.

Rounders and Their Functions in Maintaining Politeness

Rounders are usually used to refer to the range of variation and to measure things. Speakers adopt rounders with meanings of approximation to offer the range of alternatives. Hearers are supposed to understand the speakers words confined to the range. Rounders usually include: approximately, essentially, about, over, in most respects, roughly, about, ect.

Plausibility Shields and Their Functions in Maintaining Politeness

Plausibility shields demonstrate speakers’ subjective judgment or the reservations they harbor. Such hedges include: I think, hard to say, as far as I can tell, seem, I wonder, I believe/ assume/ suppose, I’m afraid... When speakers lack enough confidence with the truth of information and dare not to make absolute judgments, they tend to use plausibility shields in order that they can show respect to hearers and in case that they make hearers displeased

Attribution Shields and Their Functions in Maintaining Politeness

Attribute shields are often used by speakers to show their speculation or reservation. Speakers tend to quote the arguments of the third person and demonstrate their attitudes directly. No matter it is right or wrong, the quotation doesn’t necessarily conform to the speaker’s own view, having nothing to do with the speaker himself. Even if the quotation is wrong or is against the hearer’s view, it wouldn’t destroy the communicative relationship of both sides. This is right in accordance to Leech’s “Agreement maxim: Minimize disagreement between self and other; maximize agreement between self and other.” Speakers use attribution shields to report others’ words.

Salvager-Meyers’ classification

The taxonomy of hedges is based on Salager – Meyer classification (1997:152); typically hedging is expressed through the use of the following strategic stereotypes:

1. Modal auxiliary verbs: the most tentative ones being: may, might, can, could, would, should, for example :Concerns that naturally low cholesterol level **could** lead to increased mortality from other causes may well be unfounded.

2. Modal lexical verbs (or the so - called speech act verbs used to perform acts such as doubting and evaluating rather than merely describing) of varying degree of illocutionary force: to seem, to appear (epistemic verbs), to believe, to assume, to suggest, estimate, tend, think, to argue, indicate, propose, speculate. Although a wide range of verbs can be used in this way, there tends

to be a heavy reliance on the above mentioned verbs especially in academic writing. The examples: Our analyses **suggest** that a high dose of the drug can lead to relevant blood pressure reduction.

a- Probability adjectives e.g. possible, probable, un/likely.

b- **b-Nouns** e.g. assumption, claim, possibility, estimate, suggestion.

3. Adverbs (which could be considered as non-verbal modals) e.g. perhaps, possibly, probably, practically, likely, presumably, virtually, apparently.

For examples: Septicemia is **likely** to result, which might threaten his life.

4. Approximators of degree, quantity, frequency and time e.g. approximately, roughly, about, often, occasionally, generally, usually, somewhat, somehow, a lot of. For example, Persistent subjective fatigue **generally** occurs in relative isolation.

5. Introductory phrases such as " I believe", to our knowledge, it is our view that, we feel that, which express the author's personal doubt and direct involvement. For example, **we believe** that the chronic fatigue reflects a compiler interaction of several factors.

6. If clauses e.g. if true, if anything. For example: **If true**, then, the study contradicts the myth that fishing attracts the bravest and strongest men.

7. Compound hedges: These are phrases made up of several hedges, the commonest forms being:
a) A modal auxiliary combined with a lexical verb with a hedging content e.g., it would appear.
b) A lexical verb followed by a hedging adverb or adjective where the adverb (or adjective) reinforces the hedge already inherent in the lexical verb e.g., (it seems reasonable, probably).
Such compound hedges can be **double hedges** (it may suggest that, it seems likely that, it would indicate that, this probably indicates) **treble hedges**(it seems reasonable to assume that).
As can be seen then, all the forms presented above imply that the statements in which they appear contain personal beliefs based on plausible reasoning. Without these strategies, the readers imply that the information conveyed pertains to universally established knowledge.

Data Analysis

Modal auxiliary

*The said study **shall** be subject to the terms and conditions expressly and impliedly reserved in the regulations of the polytechnic relating to study leave and study fellowship.*

Text D(Lines 13-15)

Another way of appearing "confidently uncertain" is the predominant use of modal auxiliary verbs such as **may, might, could** and **can** in legal texts. It expresses permission, but has some

other additional meanings used to convey possibility or probability. This feature is characteristic for common usage as indicated in text D. Modals in the texts are used as a kind of possibility which is a subjective judgment concerning the possibility of a proposition as expressed in the corpus by the use of *may* and *shall*. It can be seen that *shall* and *may* appears to be precise in legal language and also maintains a style and language that differentiate the genre from other professions.

Adverb

We hereby bind ourselves, each of us, our and each of our heirs, executors and administrators jointly and severally

Text F (Lines 10-14)

However, the adverbs used as identified above prevent generalization and are specifically used to give background information and make inferences and presuppositions. They are used to present judgment and conclusions accurately enough for the purpose required and how the proposition can be mentally perceived under a specific communicative situation.

Modal Phrase

Although a modal is a type of auxiliary that is used to express ability, possibility and permission or obligation, modal phrases are used to express the same thing as modals but are a combination of auxiliary verb followed by a preposition. Here is an example from the text.

*All money, charges, costs and expenses **may be determined by** the president as having been incurred on or in respect of scholars training abroad.*

Text F (Lines 9-11)

Compound Hedges

The commonest forms being, a modal auxiliary combine with a lexical verb with a hedging content or a lexical verb followed by a hedging adverb or adjective where the adverb or adjective reinforces the hedge already inherent in the lexical verb. Examine the usage below:

*THE CONDITIONS FROM THIS OBLIGATION are such that if the said principal, his heir, representative or successors, **shall well and truly** keep and observe all of the covenants, conditions and agreement in said contract*

Text E(Lines 14-16)

Conclusion

Hedging constitute an essential element of argumentation in presenting new claims for ratification, and are among the primary features which shape the research article as the principal vehicle for new knowledge. An understanding of their use therefore has important implications for a number of areas, especially in the area of law which establishes its claims to knowledge and how lawyers carry out their work. Information about hedging can also advance our

understanding of the practice of evidential reasoning and also has practical consequences in ESP where textbooks often emphasize the impersonality of scientific discourse. Most importantly however, the analysis demonstrates the dynamic and interactive nature of linguistic writing. It contributes to a growing sociological and linguistic interest in professional writing by providing a discourse analytic understanding of one means by which the legal discourse is both socially situated and structured to accomplish rhetorical objectives.

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