



Factors of politeness as reason for mitigation in judge's decision: Is it still relevant to be maintained?

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ABSTRAK

Background: Judges play a crucial role in the judicial process. According to Article 1 point 8 of Law Number 8 of 1981 on Criminal Procedure (KUHP), a judge is a state official authorized to adjudicate cases. Their duties include examining, deciding, and resolving cases. In making decisions, judges consider both aggravating and mitigating factors. Aggravating factors may include the defendant having previous convictions, while mitigating factors may include polite behavior during court proceedings. This article focuses on polite behavior as a mitigating factor. It explores how judges assess politeness in court and whether this factor remains relevant in modern criminal case decisions. **Methods:** To answer this problem, the author researches using the socio-legal method, where the author will examine the problem with legal norms governing polite elements as a reason for mitigation and supported by surveys to support data from existing norms and decisions related to this matter. **Findings:** Judges still consider the element of modesty as a reason to mitigate punishment in criminal cases. From the results of a survey of 76 judges from 64 courts, 49 respondents stated that the element of civility is still relevant to be maintained in the judicial process. Factors considered by judges as indicators of the defendant's civility in court include polite language, cooperative attitude, and non-verbal expressions that show respect for the trial process. **Conclusion:** This research shows that the element of modesty is still considered relevant by the majority of judges as a mitigating consideration. The defendant's demeanor in court can signal remorse and good faith which influences the judge's decision. **Novelty/Originality of this article:** This research combines a normative approach and socio-legal methods that are rarely used in the study of mitigating circumstances. A survey of 76 judges from different regions and ethnic backgrounds in Indonesia provides valuable insights into the actual practice of civility considerations in trials. This article confirms that the relevance of modesty is not just a formal tradition, but also reflects important social and cultural dynamics in the judicial process in Indonesia.

KEYWORDS: judges; decision; politeness.

1. Introduction

Criminal Procedure Law is the overall legal regulation that regulates the way law enforcers defend the criminal law (Pangaribuan, 2013). According to another opinion from Mochtar Kusuma Atmadja, Criminal Procedure Law is a legal regulation that is interconnected with criminal acts which regulates how to maintain the enactment of a material law. In addition, the former Chief Justice of the Supreme Court, Prof. Wirjono Prodjodikoro, argues that criminal procedure law is closely related to the existence of criminal law and is a series of regulations that contain how powerful government agencies, namely the police, prosecutors, and courts act in order to achieve State goals by establishing criminal law (Sofyan & Abd.yan, 2021). The objectives of the Criminal Procedure Law based on Law No. 8 of 1981 concerning the Criminal Procedure Code ("KUHP") are as follows (Atmasasmita, 2010):

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- (1) Protection of the dignity of the suspect and the defendant;
- (2) Protection of legal and governmental interests;
- (3) Codification and unification of Criminal Law in Indonesia;
- (4) There is alignment and unity of attitude for Law Enforcement Officials in Indonesia;
- (5) The creation of a Criminal Procedure Law in accordance with the 1945 Constitution of the Republic of Indonesia ("UUD 1945") and Pancasila.

In Criminal Procedure, the series of processes which are regulated in the Criminal Procedure Code ("KUHP") are the process of Investigation, Prosecution, Judge's Decision, and Legal Remedies. In the Judge's Decision process, before the Judge decides the case, based on Article 53 of the Judicial Power Law that the Judge has the authority to examine and decide cases, and the Judge is also responsible for the decisions and decisions he makes. According to the Judicial Power Law, the Judge's considerations are the thoughts or opinions of the Judge in passing a verdict by looking at things that can alleviate or incriminate the perpetrator. Each Judge is obliged to submit written considerations or opinions on the case being examined and become an integral part of the decision. Judges in making a decision in a court session can consider several aspects (Arief, 2001):

- (1) Fault of the perpetrator of the criminal offense;
- (2) The motive and purpose of committing a crime;
- (3) Manner of committing a criminal offense;
- (4) Mental attitude of the perpetrator;
- (5) Life history and socioeconomics;
- (6) Attitudes and actions of the perpetrator after committing the crime;
- (7) The effect of punishment on the future of the offender;
- (8) The community's view of the criminal offense committed by the perpetrator.

This research will discuss how the Judge's limitation or assessment of the terminology of politeness as a mitigating circumstance in the Judge's decision and whether the element of politeness can be used as a mitigating circumstance in a verdict. In this paper, a research method is used, namely socio legal empirical by distributing questionnaires in the form of google-forms. This method is also called the "non-doctrinal" method because this research uses legal rules in social research, and the legal rules are basically empirical (Fuad, 2020).

In many jurisdictions around the world, the role of mitigating circumstances in sentencing has evolved over time to include not only legal considerations but also broader social and cultural aspects. For instance, in the United States, factors such as the defendant's personal history, psychological condition, and expressions of remorse are routinely considered in the sentencing phase (Tonry, 2011). Similarly, in the Netherlands, mitigation may include the defendant's efforts to make amends, such as restitution or community service (Van Zyl Smit & Ashworth, 2004). These international parallels highlight that considerations of demeanor and social behavior are part of a global conversation about fairness and rehabilitation in criminal justice. In Indonesia, where collectivist and respectful social norms dominate, the inclusion of politeness as a mitigating factor reflects not only local cultural values but also aligns with international perspectives on humanizing the sentencing process.

2. Methods

This research uses socio-legal methods with empirical juridical research to examine the application of the element of modesty as a reason for mitigating punishment. Empirical juridical research examines the application of normative legal provisions in practice (in action) on legal events in society (Abdulkadir, 2004). This approach begins with secondary data analysis and continues with research on primary data through respondents (Soekanto, 2010). This research is also descriptive in nature, which aims to accurately describe the application of the element of decency in criminal decisions.

As part of the socio-legal approach, a survey using Google Form was distributed to 78 judges from various working areas in Indonesia. This approach not only examines legal

norms, but also analyzes actual practices and perceptions of judges regarding the relevance of decency considerations in the judicial process. The data collection tool used in this empirical juridical research is purposive sampling which is a non-random sampling method where the researcher ensures the quotation of illustrations through the method of determining the special identity that matches the research objectives so that it is expected to respond to the research case (Lenaini, 2021).

3. Results and Discussion

3.1 Basis of mitigation and mitigating circumstances in criminal punishment in Indonesia

The Judge in deciding a case has the authority to lighten or aggravate the sentence. In terms of mitigation, namely the basis for mitigation in a Judge's decision, there is no law that clearly regulates what is meant by the basis for mitigation. In some countries, mitigating circumstances are known as mitigating (extenuating) circumstances. According to Hessick, mitigation factors are all facts and circumstances that form the basis for the mitigation of punishment (Hessick, 2008). From the formulation of the above definition, when viewed from the characteristics of the aggravating and mitigating circumstances of this crime include:

- (1) The form is in the form of nature, matter, atmosphere or prevailing situation related to the criminal offense, as everything that affects the criminal offense or is affected by the criminal offense, can be in the form of (Hananta, 2018):
 - (a) A cause, trigger or impetus relating to a criminal offense;
 - (b) Can be anything that was in effect at the time of the commission of the crime; and
 - (c) Any impact or consequence of the commission of the crime.
- (2) The formulation is found outside of the criminal act, the formulation of criminal acts can be seen from the elements of the criminal act, so the formulation of aggravating and mitigating circumstances is outside the formulation of the elements of the criminal act, but is related to the criminal act itself.
- (3) Shows the seriousness of the crime or the degree of danger of the perpetrator which affects the severity or leniency of the criminal punishment to be imposed.

There are several limitations that can mitigate criminal penalties in Indonesia that are included in judicial mitigating circumstances in Romanian Criminal Law, including:

- (1) Circumstances related to the crime committed, which reduce the seriousness of the crime or the dangerousness of the perpetrator;
- (2) Attempts by the perpetrator to eliminate or reduce the seriousness of the criminal offense.

Article 75 section 2 Criminal Code of the Republic of Romania divides mitigating circumstances into legal mitigating circumstances and judicial mitigating circumstances. Circumstances included in legal mitigating circumstances are (1) the crime was committed due to strong mental distress, or caused by the victim, other violence and attacks on the dignity of a person; (2) exceeding the limits of self-defense and (3) exceeding the defense of what is necessary. Meanwhile, judicial mitigating circumstances are (1) efforts by the maker or deader to reduce or nullify the seriousness of the criminal offense; (2) circumstances related to the criminal offense, which reduce the seriousness of the criminal offense or the dangerous nature of the perpetrator.

Some examples of the Judge's consideration in mitigating circumstances can be seen from some of the following decisions:

- (1) Decision of the East Jakarta District Court Number 151/Pid.Sus/2013/PN Jkt. Tim., in the case of the Defendant M. Rasyid Amrullah Rajasa, which imposed a probationary sentence in a traffic accident case that resulted in death, injury and damage to property, with consideration of the mitigating circumstances in the Judge's decision as follows:
 - (a) The defendant was polite and did not complicate the proceedings;

- (b) The defendant was still young and a student;
 - (c) The defendant and the defendant's family apologized to the victim's family, the defendant and/or his family paid great attention to the victims by visiting the victim's family, attending the victim's funeral, providing compensation and funeral expenses, replacing the damaged vehicle, paying for the treatment of the victim who was sick and paying for the education of the victim's child who died;
 - (d) The defendant actively provided assistance to the victim (Decision of the East Jakarta District Court Number 151/Pid.Sus/2013/PN Jkt. Tim).
- (2) Decision of the Merauke District Court Number 572 K/Pid/2006 in the case of the Defendant H. Bachtiar Efendi, who committed a forestry crime, with consideration of the mitigating circumstances in the Judge's decision as follows:
- (a) The defendant was polite in court;
 - (b) The defendant admitted his actions;
 - (c) The defendant has never been convicted;
 - (d) The defendant regretted his actions (Merauke District Court Decision Number 572 K/Pid/2006).

From several examples of decisions described above, one of the mitigating circumstances is that the defendant behaved politely in court.

3.2 Definition and basics of polite behavior

Mitigating circumstances are traditionally understood as factors that reduce the severity of a criminal sentence. Hessick (2008) defines mitigating factors as facts or conditions that lessen the culpability of the offender, thus justifying a lighter sentence. While Indonesian criminal law does not provide an exhaustive list of mitigating factors, judicial discretion often incorporates both legal principles and contextual social norms, such as politeness and remorse.

Politeness as a social behavior has been widely theorized across cultures. Lakoff (1973) introduced one of the earliest pragmatic frameworks, defining politeness as a strategy to reduce social friction and preserve interpersonal harmony. In contrast, Gu (1990) conceptualized Chinese politeness as a moral obligation based on social hierarchy and harmony, while Ide (1989) emphasized the ritualistic and non-negotiable nature of politeness in Japanese society, framing it as a reflection of social role and formality.

However, the application of politeness theory in the courtroom remains underexplored. Recent interdisciplinary research highlights the relevance of politeness in legal and institutional settings. For instance, Holtgraves (2010) discusses how pragmatic competence, including politeness, affects perceptions of credibility in forensic and legal contexts. From a sociological perspective, politeness is viewed as a form of symbolic capital (Bourdieu, 1991), influencing social interactions in structured environments such as courtrooms. Psychological studies (Tannen, 2001; Holmes, 2013) show that polite language and behavior shape perceptions of honesty, cooperation, and remorse—key elements that may influence sentencing decisions.

In addition to the theoretical perspectives already discussed, the concept of "face" proposed by Brown & Levinson (1987) can further illuminate how politeness functions in legal contexts. According to their theory, individuals engage in "face-saving acts" to protect their positive and negative face—the desire to be liked and the desire for autonomy. In the courtroom, defendants may employ polite behavior, such as deferential speech or non-confrontational gestures, to maintain or restore their social face. Judges, in turn, may interpret such behavior as a sign of respect and acknowledgment of authority, which can psychologically predispose them to show leniency. Thus, politeness operates not merely as a behavioral norm but as a form of strategic interaction aimed at reducing social distance and enhancing the likelihood of a favorable judgment.

These insights support the view that politeness, while culturally situated, carries communicative cues that judges may interpret as indicators of the defendant's moral

character and likelihood of rehabilitation. Yet, few empirical studies have directly analyzed how judges conceptualize or apply politeness as a mitigating factor in sentencing.

To fill this gap, this study adopts a theoretical framework that draws from pragmatics (Lakoff), social psychology (Tannen), and legal sociology (Bourdieu) to explore how politeness operates as a semi-formal criterion in judicial reasoning. The integration of these perspectives allows for a more nuanced understanding of how social behaviors—shaped by cultural norms—can influence formal legal decisions.

3.3 *Strength of judge's decision*

The definite legal powers, including the ability to bind the parties to the judgment, give evidence in court, and enforce the judgment, are all associated with *incracht* judgments (Rasyid, 2016). When a judgment is considered binding, it means that all parties must comply with it and enforce it; no one may dispute it (Manan, 2008). An example of an *incracht* judgment (*bindende kracht*) is a judge's decision that cannot be overturned in subsequent proceedings, including *verzet*, appeal, or cassation (Mappong, 2010). Several competing ideas try to explain why a particular judgment is potentially binding on its participants (Mappong, 2010).

Based on this view, the binding force of a judgment called “*gezag van gewijisde*” is similar to material law because it changes the status quo of civil authority and responsibility. Judgments are a source of material law because they can create, destroy, or alter legal relationships. As this approach is solely binding on third parties and does not authorize anyone to protect their rights against third parties, it has been abandoned (Mappong, 2010).

These rulings are, in his opinion, not a codified body of law but rather an official judicial tool. It will have procedural effects, including the establishment or abolition of authorities and requirements of process. As the judgment ultimately leads to a conclusive determination of the legal relationship at issue, the scope of this doctrine is very limited (Mappong, 2010). This strategy holds that the judgment is evidence of what it contains, which gives it binding force, and that proof of the contents of a judgment that has gained legal force is strictly prohibited. Today, not many people still hold this ancient belief (Mappong, 2010).

There are positive and negative connotations associated with binding the parties to a choice. What has been decided by the parties is binding and applicable in the positive sense of the term. The judge's decision is final and binding (*res judicata pro veritate habetur*). Articles 1917-1920 of the Civil Code are the basis for this.

Negatively, a judge cannot decide cases that have been determined between the same parties and deal with the same subject matter. The expression “*nebis in idem*” means that repeat offenders will not face legal consequences (Article 134 Rv). In addition to what has been mentioned in Article 134 Rv, the binding force in this negative article is based on the principle of *litis finiri oportet*, the main provision regarding the grace period for filing legal remedies; what has already been decided by the judge cannot be appealed to the judge again. Decisions in Indonesian procedural law have the same weight as expiry, both positively and negatively.

If there are no other options for relief, the decision will have the force of irrevocable law (*inkracht van gewijsde*). Common legal remedies include challenging the decision, filing an appeal, and filing an appeal. Once a decision reaches finality in law, it cannot be reversed, even by a higher court, unless one of two exceptional circumstances applies: a third party files a civil suit or actively resists the decision.

Since the judgment is *Incracht*, court decisions are considered strong evidence and can be used as such in subsequent proceedings, including appeals, cassations, and executions (Manan, 2008). With Executorial Power, the state can use its military to enforce *incracht* judgments (Manan, 2008). One expert, Abdulkadir, argues that a decision that has permanent legal force is a decision that no longer has the opportunity to use ordinary legal remedies against the decision, while a decision that does not have permanent legal force is

a decision that still has the opportunity to use legal remedies against the decision, such as *verzet*, appeal, and cassation (Abdulkadir, 2000).

An application for judicial review that has become legally binding (*in kracht*) after the date of *verzet*, appeal, or cassation has passed or the process has been completed. This provision is contained in Law No. 14/1985 on the establishment of the Supreme Court. According to Article 1917 of the Civil Code, a decision does not have permanent legal force if the party who filed the appeal has not completed all existing appeals and cassations. Even if one of the defendants does not file an appeal or cassation and the decision does not have permanent legal force due to an appeal or cassation filed by another defendant, Supreme Court Decision Number 1043 K / Sip / 1971 supports this view. Both the defendant who did not file a lawsuit and the defendant who did not file a lawsuit cannot be affected by the challenged decision.

3.4 Consideration of the judge's decision

3.4.1 Definition of judicial decision consideration

Article 5 of Law Number 48 of 2009 Concerning Judicial Power requires judges in their legal considerations to be able to explore, follow, and understand the legal values and sense of justice that live in the community. This obligation must also be understood in a broad sense, namely by not only covering the motivation for consideration of the reasons and legal bases and articles of the relevant regulations, but also including systematics, arguments and conclusions that are clear and easy to understand for the litigants and the wider community. Regulated in Article 5 of Law Number 48 of 2009 concerning Judicial Power, requires judges in their legal considerations to be able to explore, follow, and understand the legal values and sense of justice that live in the community. The obligation must also be understood in a broad sense, namely by not only covering the motivation for consideration of the reasons and legal bases as well as the relevant articles of regulation, but also covering systematics, arguments and conclusions that are clear and easy to understand for the litigants and the wider community.

The existence of these articles shows that the judge's consideration is one of the elements that is very decisive in determining the value of a judge's decision that contains justice (*ex aequo et bono*), contains legal certainty, and contains benefits for interested parties; consequently, the judge's consideration must be careful, kind, and wise (Arto, 2004).

3.4.2 Importance of judge's decision consideration

For judges, listening to arguments, deliberating, and passing judgment all have the same effect, and the pain suffered by the losing party is no different from *judicium dei* (Harahap, 2004). Therefore, sentencing decisions by judges must be examined thoroughly through a fair judicial process that considers moral justice in addition to legal justice (Harahap, 2004).

The final result of a decision is strongly influenced by the judge's decision, which of course also affects the relationship and legal position of the litigants (Harahap, 2004). If the decision is legally binding forever, then (1) no one is authorized to cancel it and (2) the only way to do so is through the process of judicial review in civil cases and the granting of clemency in criminal cases.⁷⁸ Therefore, no matter how painful or unpleasant the choice is, it must be implemented either voluntarily or by using force through the implementation and execution of the fulfillment of the decision. Therefore, the judge's consideration in making a decision in a case is very important, the judge must be careful, thorough, and thorough.

3.4.3 Judge's decision consideration process

The judiciary is one of the executors of judicial power, and one of its main responsibilities is to receive, examine, decide, and resolve issues submitted to it in order to maintain the principles of justice and Pancasila law for the benefit of the Republic of Indonesia legal system (Arto, 2004).

In this case, the judge examining and trying the case is obliged to (Arto, 2004):

- (a) Constatirizing, which means proving whether or not the events or facts submitted by the parties are true or not by proving valid evidence, according to the law of evidence, which is described in the sitting of the case and the Minutes of the Trial;
- (b) Qualifying the events/facts that have been proven, namely assessing what legal relationship the event belongs to, or which one, finding the law for the event that has been constatirizing to then be stated in legal considerations;
- (c) Constituir, namely determining the law which is then stated in the ruling.

3.4.4 Judge's decision consideration materials

Judges must assess two key factors in reaching a decision that has the value of justice, legal certainty, and benefits for the parties in order to be able to (Abdulkadir, 2000):

3.4.4.1 Consideration of facts

In reviewing a case, the judge must focus on the matter or event that is the source of the parties' dispute to obtain a consideration of the facts. The judge also looks at the facts of the trial and requests evidence during this examination. The outcome of the evidence will be taken into account when the case is decided.

The most crucial stage of the trial examination is the evidence. To ensure an accurate and impartial verdict, evidence seeks to establish with confidence that the claimed event or fact actually occurred. Until it becomes clear to the judge that the event/fact actually happened, i.e. it has been proven and there is a legal relationship between the parties, the court cannot render a judgment (Arto, 2004).

In essence, the judge's consideration must also include the following matters (Arto, 2004):

- (1) Subject matter and matters that are admitted or arguments that are not denied;
- (2) There is a juridical analysis of the decision in all aspects concerning all facts / matters proven in the trial;
- (3) The existence of all parts of the Plaintiff's petition must be considered/adjudicated one by one so that the judge can draw conclusions about whether or not the claim is proven and whether or not it can be granted in the ruling.

3.4.4.2 Legal consideration

Judges' professional work in considering the law relies heavily on their originality in interpreting statutes and using other techniques for legal discovery. Therefore, every Religious Court judge must have competence and courage in judicial activity. Judges are encouraged to investigate and identify the values of unwritten law that exist in society in accordance with legal principles and rules based on their competence in judicial activities, which involves various knowledge, abilities and personality attributes.

3.5 Review of politeness as a mitigating circumstance based on survey results

The author has conducted research through questionnaires with 76 Judges as respondents, including 56 male Judges and 20 female Judges, from 64 Courts. With the age range of Judges who filled out this questionnaire from 27 years old to 49 years old, and the

length of service as a Judge with a range of 8 years to 20 years and comes from 17 tribes in Indonesia.

This study made Judges as respondents, there were 76 Judges who filled out the questionnaire submitted to respondents. The comparison of respondents who filled in based on their gender was 74.4% (58 people) male and 25.6% (20 people) female. The reason for asking questions related to gender is to illustrate that the research data is not only taken from one gender, so that the respondents can represent the population of Judges in Indonesia when viewed from their gender.

Table 1. Tribes of Judges in Indonesia who completed the questionnaire

	Total	Percentage %
Aceh	1	1.3%
Bugis	10	13%
Bali	1	1.3%
Banjar	1	1.3%
Batak	11	14.3%
Betawi	1	1.3%
Jawa	29	37.7%
Minangkabau	4	5.1%
Makassar	1	1.3%
Melayu	2	2.6%
Minahasa	2	2.6%
Minang	6	7.8%
Palembang	2	2.6%
Rejang	1	1.3%
Sumbawa	1	1.3%
Sunda	2	2.6%
Madura	1	1.3%

Furthermore, the length of service of Judges was one of the things asked to respondents, which aims to see the skills of Judges in deciding and how many Judges with a certain length of service use modesty as a reason for mitigation. From the data obtained through the survey, respondents who had a tenure of 1-5 years were 26 people, 5-10 years were 19 people, 10-15 years were 16 people, and 15-20 years were 17 people.

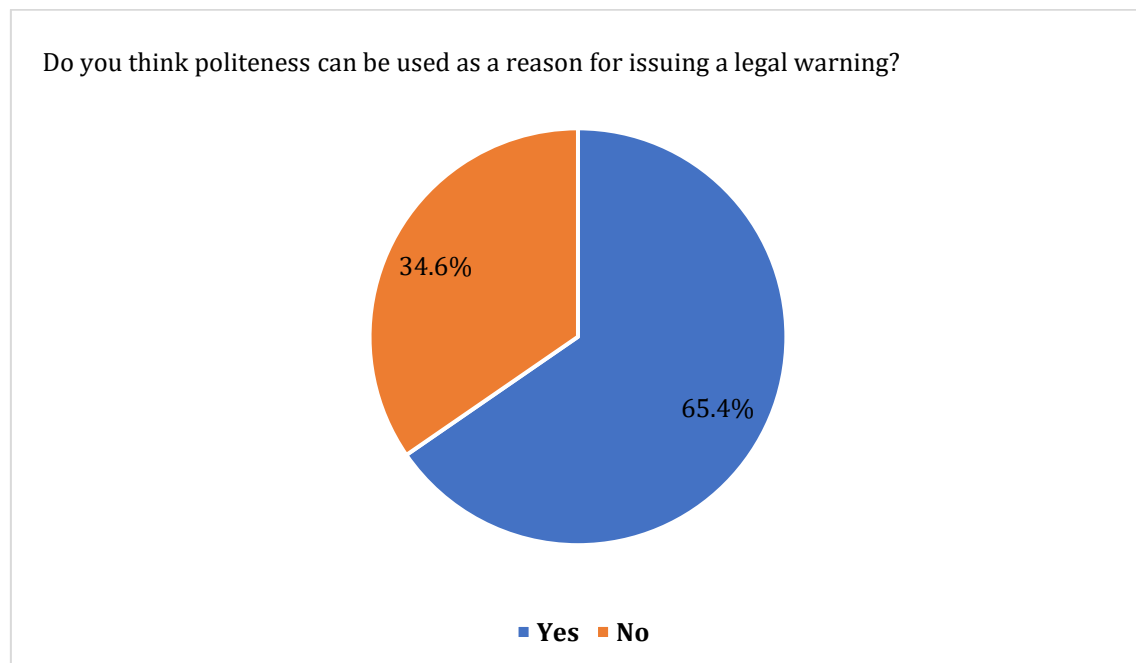


Fig. 1. Pie chart politeness can be used as a basis for mitigating punishment in Indonesia

Based on the survey results, it is concluded that Judges with a tenure of 1-5 years make politeness a mitigating reason on the grounds that the defendant is polite in court by providing honest testimony and regrets his actions and promises not to repeat his actions, a tenure of 5-10 years because the defendant appreciates and respects the trial, a tenure of 10-15 years the defendant is cooperative and maintains the order of the trial, and a tenure of 15-20 years can assist the Panel of Judges in creating a conducive trial so that the Panel of Judges can reveal legal facts and material truth properly and objectively. Tribe of Judges who completed the questionnaire.

Based on the results of the author's research, Judges who use modesty as a basis for mitigating criminal penalties in Indonesia are 51 respondents with a percentage of 65.4%, while those who do not use modesty as a basis for mitigating criminal law in Indonesia are 27 respondents with a percentage of 34.6%. From this question, many Judges agree that modesty can be used as a basis for mitigating punishment in Indonesia. Using the element of politeness in consideration to be the basis for mitigating punishment.

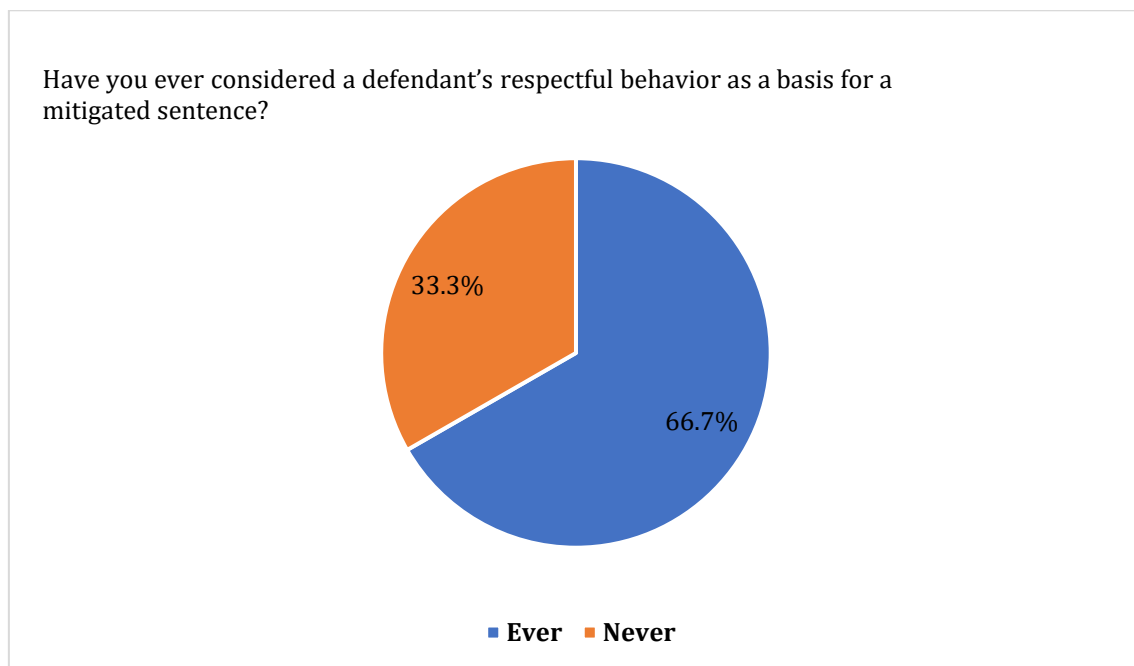


Fig. 2. Pie chart of using the element of politeness in consideration to be the basis for sentence mitigation

Based on the results of the author's research regarding the ethnicity of the Judges who filled out the questionnaire, the average Judge came from Javanese, Bugis, Batak, and Minang tribes. In this study, the author proposed in his questionnaire related to the ethnicity of the Judges, because what was discussed by the author was related to the element of politeness, and with various ethnic groups, of course, they have different standards of politeness depending on the customs and culture of each tribe.

The standards of what is considered polite vary significantly across cultures, which raises questions about consistency in judicial interpretations. In Javanese culture, for instance, indirectness and humility are markers of politeness, while in Batak culture, directness and assertiveness are often more acceptable (Geertz, 1961; Simanjuntak, 2018). These differing norms can create challenges in a multi-ethnic society like Indonesia, where judges and defendants may come from different cultural backgrounds. If judges unconsciously favor expressions of politeness that align with their own cultural expectations, this may result in implicit bias. Therefore, while politeness may be a useful indicator of remorse or rehabilitation potential, it must be interpreted with cultural sensitivity to avoid unintended discrimination. Politeness can be used as a basis for mitigating punishment in Indonesia.

Based on the results of the author's research, Judges who used the element of politeness in their consideration as a basis for mitigating punishment were 52 respondents with a percentage of 66.7%, while those who did not use politeness in their consideration as a basis for mitigating punishment were 26 respondents with a percentage of 33.3%. From this question, there are still many Judges who use courtesy in their consideration as a basis for mitigating punishment. What are the things that can be considered polite in court.

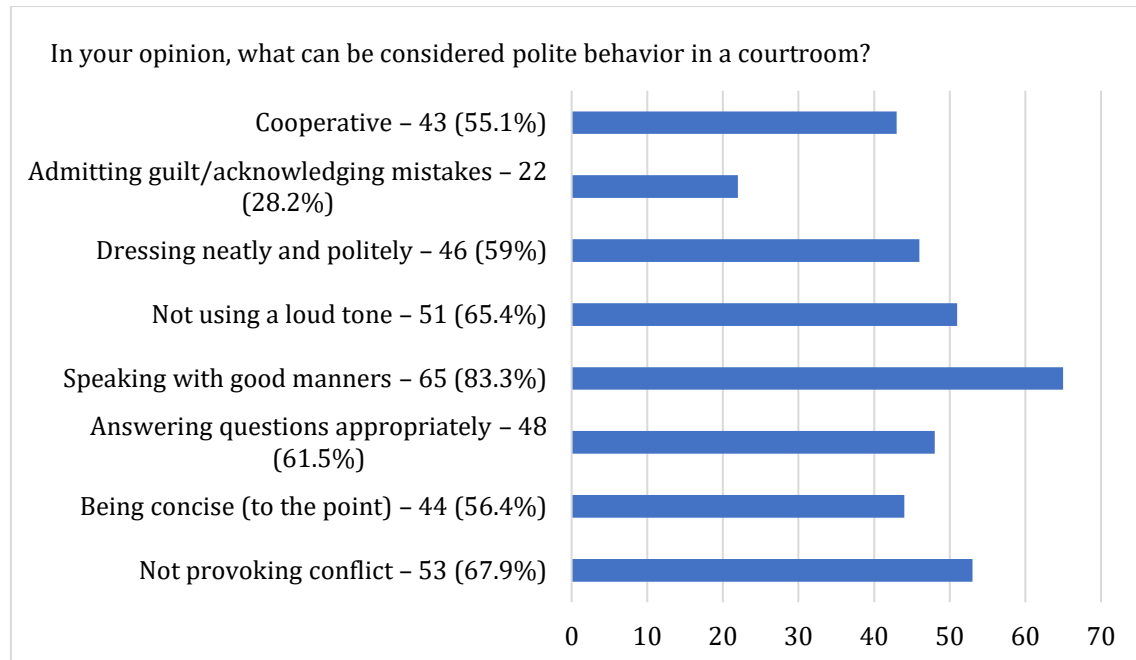


Fig. 3. Bar chart of things that can be considered polite in a trial

From the data collected, further analysis shows a mild trend suggesting that younger judges (1–5 years of experience) are more likely to interpret verbal cues, such as tone and word choice, as evidence of politeness, whereas more senior judges (15–20 years) place higher value on behavioral indicators like cooperation and non-disruption of proceedings.

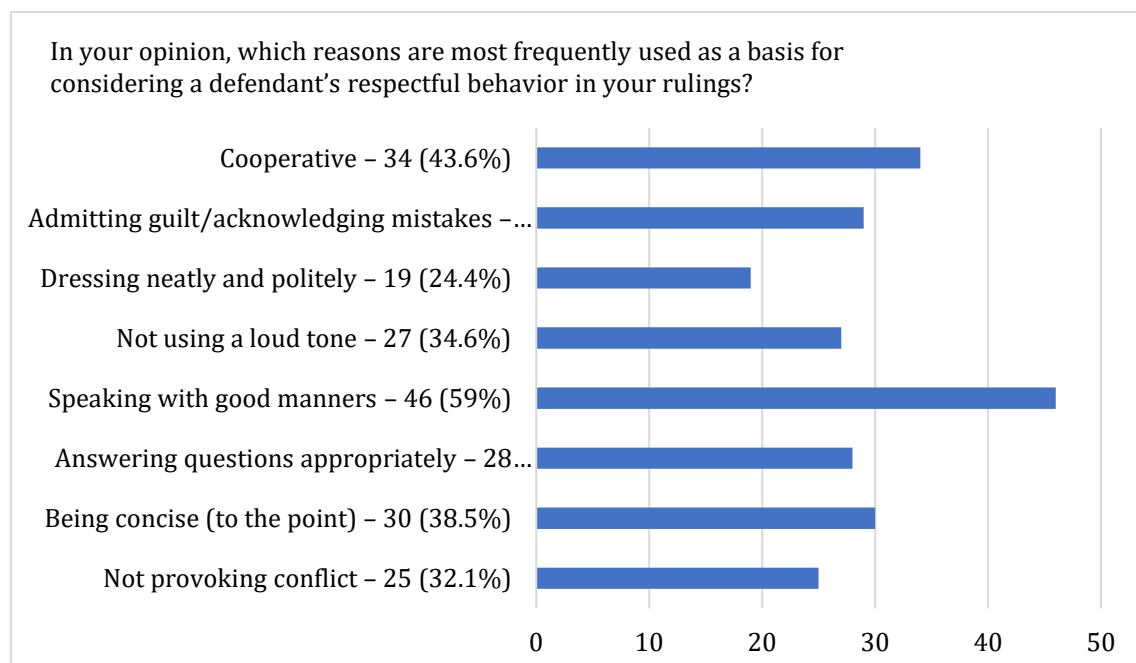


Fig. 4. Bar chart of the most common reasons used by Judges as a basis for considering politeness in their decisions

This generational difference may reflect shifts in legal training and exposure to interdisciplinary approaches such as legal psychology or communication studies. Moreover, there is a notable pattern in which judges from collectivist-oriented ethnic groups (e.g., Minang, Bugis) are slightly more inclined to use politeness as a mitigation factor compared to those from more individualistic backgrounds. These observations suggest that judicial interpretation of politeness is influenced not only by professional experience but also by personal cultural frameworks.

Based on the results of the author's research, the table above are things that can be said to be polite in court, with the average respondent answering that they speak well, do not provoke commotion, and do not use high tones. The most common reason used by Judges as a basis for consideration of politeness in their decisions.

Based on the results of the author's research, the most common reasons used by Judges as a basis for consideration of politeness in their decisions include being well-spoken, cooperative, and not long-winded (to the point). From the results of the survey submitted by the author, Judges have their own understanding of the elements of politeness and what can be considered polite in court. Judges who define politeness by being cooperative and not long-winded in giving testimony are expanding the definition of politeness in the doctrine.

4. Conclusions

Given the findings, several recommendations are proposed. First, there is a need for a more standardized guideline or training module for judges on interpreting demeanor-related mitigation factors, including politeness, to promote greater consistency across courts. Second, the legal education curriculum should integrate cultural competence and communication analysis to better prepare future judges for the nuanced social behaviors encountered in courtrooms. Finally, a broader public discussion should be encouraged about the role of behavioral norms in judicial decisions, especially in a diverse society.

As a final reflection, it is important to recognize both the potential and the limitation of using politeness as a mitigating factor. While it can serve as a proxy for remorse or rehabilitation potential, it must be assessed in conjunction with objective facts and not as a stand-alone criterion. Judicial fairness requires balancing cultural understanding with legal objectivity to ensure that all defendants—regardless of background—are judged equitably.

The element of politeness can still be maintained as a consideration for Judges in mitigating a case. Based on the results of a survey with 52 respondents. Things that can be said to be polite in court include being cooperative, pleading guilty / admitting his guilt, looking polite and neat, not using high tones, speaking well, answering according to the questions given, not long-winded (to the point), and not provoking a commotion. However, the most common reason used by Judges as a basis for consideration of politeness is cooperativeness, where cooperativeness is a form of expansion of the definition of polite contained in the doctrine.

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Conflicts of Interest

The authors declare no conflict of interest.

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