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# THE APPLICATION OF FORENSIC LINGUISTICS AS AN INVESTIGATIVE TOOL IN CRIMINAL CASE VERDICTS (A case study at the state court of Gorontalo)

*by Rosma Kadir*

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## THE APPLICATION OF FORENSIC LINGUISTICS AS AN INVESTIGATIVE TOOL IN CRIMINAL CASE VERDICTS (A case study at the state court of Gorontalo)

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### ABSTRACT:

This research aims at describing the application of legal language using a forensic linguistics approach through discourse analysis, text, speech act, meaning, and language style. This research applies qualitative method. This research was conducted in the state courts of Gorontalo. Data were collected from verdicts of the state court of Gorontalo. The researcher selected these data using literature review technique. These data were then analyzed based on the substance of the problem. Data analyses were conducted by several steps. Verdicts were analyzed using 1) discourse form, 2) language style, and 3) speech acts. This research is of use for facilitating law enforcement officials to solve legal problems from the language use point of view. This is due to the unresolved issues of legal language, thus, this research strives for helping society find truths and justice through comprehensive legal evidence.

**Keywords:** Legal, Forensic Linguistics, Defendant's statement, Interrogation Report.

### INTRODUCTION:

Language associated with community is considered as a social behavior that is used in establishing communication. Language is also deemed as a social or cultural product, even it is acknowledged as an inseparable part of a

culture (Sumarsono and Partana, 2004:19-20). In other words, the science of language is not only limited to examining the aspect of linguistics but also sees human as the main supporting factor who delineate the existence of a language.

Placing an emphasis on the importance of community's role as an element in the process of language maintenance, Gumperz, and Hymes (ed 1972:53) argued that the relationship between language and social life are regarded as the primary media to portray all human actions in both knowledge (consciously or unconsciously) and other things that enable people to use language. In the study of community and language, a lot of scopes can be applied as the research materials, one of which is the forensic linguistics. Forensic linguistics is applied in analyzing the correlation between language and law. One of the subdomains of forensic linguistic study is discourse analysis.

In the context of discourse analysis and law, there are various studies of speech interpretations in a speech situation. This is in reference to the legal language that tends to be applicative, in which the speeches delivered refer to a certain activity.

Forensic linguistics is a part of applied linguistics involving the relationship between language and law. This means that language is able to be utilized as an investigative tool to help resolve the legal language problems.

This is crucial because law is often to be the instrument to achieve the interests of a

handful of intellectuals and legal apparatus who occasionally twist the interpretation of the meaning of a legal product. This type of language that potentially contains ambiguity is commonly used by people who get involved in a conflict of interest in legal issues. Parties involving in the conflict tend to build arguments from gaps in meaning that can be drawn into various interpretations.

The legal language has varying interpretations in accordance with the needs of the people. Every person is able to interpret the law based on what is understood and what logic intends to be constructed. This is due to the fact that law is quite open and permissive to various meanings. Meanwhile, this totally defies the concept of law that has certainty in meaning as well as having no multiple interpretations. As stated by Hadikusuma (1992:2-3), legal language is the language of rules and regulations aiming to actualize order and justice of protecting the public and personal interests in a community thus it requires the application of mono-semantics.

Language is a fundamental element in the study of law. This notion appears in the first place since law – either the legislation or legal document forms – is authentic of the linguistic product. This is simply because there is a juridical way of thinking in the legal language. To put it another way, law is enacted above the logic of a language. Based on this logic, the formulations of law are perceived as tools of justice in favor of regulating society's value and behavior socially as well as enabling them to have a definite legal reference.

The importance of legal language, as well as its interpretations constructed on top of the language, has inspired the researcher to conduct research in the field of forensic linguistics. Therefore, if at all times the investigation of a legal case receives more attention than the results, perhaps it is now time

for the presence of forensic linguistics will take into account.

This research was conducted at the state courts of Gorontalo. The sites were chosen as the research objects because it predicated on the basis of thought that the state courts are the main gates in accessing the justice system.

#### LITERATURE REVIEW:

Bhatia (1983 and 1993) applied theories of Simplification and Easification on legal English text. This research is entitled *Simplification and Easification – The Case of Legal Texts and Analysing Genre: Language Use in Professional Settings*.

Bhatia's research uses techniques of easification devices. This technique can be applied to help readers understand the legal English texts with ease.

Butt, Petter, and Castle, Richard (2006) outlined the features of Anglo-Saxon (USA) legal texts in their research entitled "How to Draft Modern Texts?". These features include the use of formal language, document structure, punctuation, tables, notes, summaries, ambiguities, pronouns, special terms, word emphasis on 'and' and 'or,' criminal elucidation, and conclusions. In addition, this research also examines the external factors influencing the legal texts. These factors cover the mixed language, customary law concept, and the central government intervention.

Djarmika et al. (1999) conducted similar research in Indonesian legal texts with a title "Strategi Memahami Teks Hukum: Sebuah Pendekatan Sistemik Fungsional." This research applies a systemic functional approach to examine what aspects of language inflict the Indonesian legal texts to be complicated and disheveled. Based on the findings, they set out some strategies to understand the analyzed texts with ease.

The other review is a research of Djarmika et al. (2001) entitled "Pemudahan

Teks Kitab Undang-Undang Hukum Perdata: Sebuah Analisis Wacana". This research also strives for formulating easification techniques to overcome the transactional texts in the Indonesian civil code. The next easification technique is through seeing how those cohesive devices are used in Indonesian legal texts. Based on the discourse analysis stressing on cohesion usage, the formulation of easification strategy is presented in further research of Djatmika (2003) with a title "Kohesi Teks Hukum Berbahasa Indonesia: Sebuah Upaya Pemudahan dengan Analisis Wacana"

Holdsworth, Judith L (2013), in his research entitled "English Legal Language and Terminology" depicts the difference of text structure of verdicts in the USA and England. The text form of a verdict in the USA comprises of the name of verdict, name of the court, date of verdict, citation, introduction containing a brief description of the case, name of judges who delivered the verdict, indictment, judicial opinion, judgment, considerations, and decipherment of each judge opinion. In contrast, the text form of a verdict in England is ambiguous, tautological, using Middle English words, terms, and occasionally inserting French terms that are not commonly known.

Mattila, Heikki (2006), in his research entitled " A Characteristics of Legal Text" mentioned characteristics of western legal text that is accurate, informative, universal, systematic, formal, solemn, using initials and acronyms along with the application of legal terms. In outlining the accuracy factor of a legal text, Mattila emphasizes the writing models which are concise, gives meaning and attestation of the officials. He also emphasizes the universal feature that consists of the use of hypothesis, judicial opinion, and metaphor.

Nawaz, Naveed (2013) conducted research with a title "Language of Law: Stylistic Analysis of A Legal Document." The research problem focuses on identifying stylistic

markers, functions of language style in a legal text, and how the application of stylistic features helps achieve effective communication in a legal text. Furthermore, the analysis result underscores the elements of graphological, lexical, and syntax. The research result reveals that the language of a legal document possesses several unique features that are different from other types of language. The uniqueness lies in the implementation of terminology, complex sentences, and straightforward language.

Saifullah, Aceng Ruhandi (2009), in his research entitled Analisis Linguistik Forensik Terhadap Tindak Tutur yang Berdampak Hukum (studi kasus di Polres Bandung) discussed the correlation of language and law. This research shows that the study of forensic linguistics functions as the study of language in legal texts. As a result, Saifullah succeeded to solve trademark and intellectual property disputes through semantic analysis. He was also able to analyze the quashing through pragmatic analysis using interrogation transcription records.

Stanojevic, Maja (2011), in her article entitled "Legal English – Changing Perspective" explained the England legal text that encompasses the use of old English, exaggerated synonyms, obscured meanings, and long sentences in passive form. She then set out some of the solutions to make both legal documents and texts simpler and easier through creating stylistic markers in certain parts of the texts. These parts are the materials of indictments, judicial opinion, and verdict.

Williams, Christopher (2004), in his research entitled "Legal English and Plain Language: an Introduction" illustrated the main characteristics of England legal texts that consist of having long and complex sentences; tautology; using old English and Latin. In addition, he pointed out that the England legal text is supposed to be changed and follows society's current social conditions. This is



important for the public to understand the legal text favorably.

Witczak, Iwona (2009), in research entitled "A Linguistic-Pragmatic Note on Indeterminacy in Legal Language" defined that language in the legal text is a linguistic vagueness. Techniques of the vagueness use codes and semiotics that are dominant in legal language. Witczak stated that the legal language is purposely vagued in order to be only understood by the users in the field. This is in accordance with the use of esoteric language in which specific language is used for certain purpose i.e., the use of legal language.

Based on the previous studies either from the language analysis, legal text, or terminology, this dissertation has its own distinct approach that lies in the analysis of specific text structure and the use of local language variations in the verdict content, which basically uses varieties of formal language.

#### **METHODOLOGY:**

The research applies qualitative method. This research aims to discover an in-depth scientific truth of the research object in order to obtain an accurate result (Muhadjir, 1990:60).

The research was conducted in the state courts of Gorontalo, namely, the state court of Gorontalo City, the state court of Limboto, the state court of Boalemo District, and the state court Pohuwato District.

The research began with data collection. Data were collected from verdicts of the state court of Gorontalo city (IB class), the state court of Gorontalo district (IB class), the state court Boalemo District (IIA class), and the state court of Pohuwato district (IIA class). The selection of the area in both cities and districts, apart from seeing variations of the language use, is aimed to have representation for data sources based on class divisions in each court.

The purposive sampling is intended to show the verdict from all kinds of criminal acts such as premeditated murder, vandalism, humiliation, mistreatment, death due to negligence, decency, and corruption. These verdicts represent the elements of tort under the category of a criminal act.

From the collected data, the researcher selected data using literature review technique. The literature review is to utilize the written sources in obtaining data (Subroto, 2007:47). The reason for this is that verdicts in a criminal case, the source of the data, are formed in written texts.

Data are then analyzed based on the substance of the problem. Data analyses were conducted by several steps. Verdicts were analyzed using 1) discourse form, 2) language style, and 3) speech acts

Additionally, in examining the language disorder, researcher essentially demands for second opinion. Therefore, nonlinguistic aspects are conducted and analyzed, particularly interviewing judges, attorneys, legal advisors, law professors, and legal practitioners.

The results of data analysis are in the form of rules identified in the analysis. These are also related to the research problems including discourse structure, language variation, speech act, coherence, and cohesion, along with the characteristics of legal language in criminal verdicts. These rules are presented in a narrative with detailed sentences.

#### **DISCUSSION**

##### **Discourse form on criminal case verdict in the state court of Gorontalo:**

The discussion of a verdict structure is inseparably linked with the special characteristic of legal language. The legal language tends to have a distinct feature from ordinary language. This signifies that the legal language is not only formed by the inherent

regulatory function as its main characteristic but also the composition of the language is constructed from systematic and comprehensive flow of thoughts.

Systematic and comprehensive are shown from a whole idea outlined, starting from the topic selection, introduction, content, conclusion to becoming a product of rules. This might be something that we rarely find in other languages which are value-free. Ordinary language puts more emphasis on the substance, resulting in other problems such as context-dependency of the speech participants and speech situations.

An analysis of the language use in a text i.e., a verdict in criminal case, Brown, and Yule (1996:1) defined that discourse analysis is an analysis of the language use. Language is examined based on the objective of the language needs. Meanwhile, Charty (1997:5) explained that discourse analysis is related to the study of relationship between language and language use context. This means that discourse analysis is a study of text and context, in which both text and context serve as a study tool to analyze discourse. Similarly, Fasold (1993:65) proposed several things that can be done in discourse analysis i.e., text analysis with its situations. In this instance, discourse analysis demands both text and context.

The problems of context and text also received attention by Halliday and Hasan (1994:13). They argued that text is a functioning language; a language that is recognizable when operates specific task for a particular context. It implies that the text exists because of the context; conversely, a context is able to be identified from the presence of the text.

The primary goal in discourse analysis is to find out the information instead of rules. This was highlighted by Rani et al. (2006:16), in which they stated that discourse analysis tends not to precisely formulate the rules as in grammatical form. This means that discourse

analysis is intended to find out the purpose of using a language. In discourse analysis, the structure has wholeness that is constructed by intertwined components in a discourse organization. This organization is called a discourse structure (Rani et al., 2006: 25). Therefore, discourse structure is supposed to have a relevant concept where all parts bind to one another. Halliday and Hasan (1994:2) also added that a series of sentences could be categorized as a discourse structure if there is an emotional and meaningful correlation among all segments. This indicates that each element in discourse should be aligned to one another either the form or the meaning of the sentence. Halliday and Hasan (1994: 65) reinforced it by stating that discourse structure is the language units with the wholeness of meaning and is practical and situational. This may be inferred that every unit in discourse structure not only has relevancy in meaning but also should be functional and contextual.

The functional and contextual discourse structure is divided into three main sections; those are opening, content, and closing (Tarigan, 1993:31). The opening section outlines the introduction of the text, the content section describes the substance of the text, and the closing section contains conclusions of the text.

Specifically, in the discourse structure of a verdict in the state court of Gorontalo, the opening section consist of the letterhead, defendant's complete identity, time and official's name of detainment, and prosecuting attorney. The content section contains prosecutor's indictment, witness testimony, defendant statements, judge's consideration, and hearing statement. Lastly, the closing section covers judge's name and position.

The discourse structure of a criminal case verdict functions as a framework in conceptualizing the verdict coherently. One way is by creating a group of variables which are

treated as one integrated unit rather than a separated entity. Hence, the final result of a verdict can be perceived as a text that forms a unified whole.

#### **Language Style of a criminal case verdict in the state court of Gorontalo:**

Coupland (2007:7) explained that language style is associated with a language system and language change in a group of people. This is closely related to the existence of language development in society that is metamorphosing as the evolution of human civilization.

Furthermore, Coupland (2007:16) cited that language style begins with an agreement to produce statistical values (the percentage of people using certain language in a certain situation) in representing linguistic variation pattern. This concept puts emphasis on agreements made by a particular group of people to create language variety to be used by their own group.

On the one hand, Holmes (1992:207) explained that the occurrence of language style is due to situational factors such as people, places, topics, and problems. This statement can be linked with human creativity in creating a new language that is different from other varieties. This creativity will always continue along the way that enables social environment evolving with a new perspective.

In the same way, Halliday (1984: 195-196) stated that variations in the language use will most likely improve if the numbers continue to grow in accordance with the development of the field that fits it. This means that the potential of language varieties development is wide open along the development of science.

In regards to the language style, Scheneider (In Chambers et al., 2003:52) related it to text analysis applied in identifying variations of language. He mentioned several

requirements in text analysis. First, the text must have similarities with language speech. Second, the text must be different. Third, the text must present a variety of phenomena of language use. Lastly, the text must fit the exact size, in other words, it must meet the quantitative standard analysis of linguistic phenomena. These four requirements become the standardized rules to perform an analysis of the language changes in a text. The fulfillment of those important elements will make the process of identifying language variations more relevant and accurate.

A product text, the criminal case verdict, in the state court of Gorontalo is found the use of several language styles. For instance, the use of formal language, complete sentences, local language phrases, and specific lexicon of legal terms.

#### **Speech Act of criminal case verdict in the State court of Gorontalo:**

Characteristics of the speech language in Indonesian legal system and other countries which adhere to civil law system not only lie in configuration of values, principles, and dogmas but also form as utterances that have a communicative function. It is because law is perceived as a device that regulates people's behavior and ensures certainty in a problem.

Utterances with communicative function in a legal speech that work as the speech acts are found in the law and some other legal documents i.e., a verdict. The importance of communicative function has made the legal practitioners discuss this topic in open discussion when conducting in-depth studies about the issues of language and law.

The legal language admittedly receives greater attention from people in the field since it upholds a juridical way of thinking concept. Moreover, the utterances of legal thoughts, in general, cannot be interpreted by the definition only since it can lead to another activity as well.



The similar existence of speech disorientation often triggers problems in the implementation of a legal product. Type of speech that potentially contains ambiguity is commonly used by people who get involved in a conflict of interest in legal issues. Parties involving in the conflict tend to build arguments from gaps in meaning that can be drawn into various interpretations.

In the speech acts study, the illocutionary act becomes the major part among other speech acts. The illocutionary act is the most frequently act used in legal documents, including the criminal case verdict in the state court of Gorontalo.

According to Searle (1969), illocutionary is divided into five speech forms that have a communicative function. These five types are assertive, directive, expressive, declarative, and commissive. Furthermore, Jaszcolt (2002:301) added two more types, namely, verdictive and excersitive.

Wijana (1996 : 30-32) divided speech acts into two types, those are direct speech act and indirect speech act. A direct speech act is a formal speech based on the mode that conventionally used. For instance, an utterance in news is used to provide information, an utterance in question is used to ask for information, and utterance in command is used for an order, persuasion, requests, or solicitation. On the contrary, if utterance in command is uttered with news or question way aiming to politely speak so that the listener does not feel making him/her do something, it is called the indirect speech act. Principally, the difference between direct speech act and indirect speech act are the way in utterance delivery.

On the other hand, Hymes (in Chaer, 2004:48) pointed out that the speech event must fulfill eight components. The components are abbreviated to SPEAKING, which stands for Setting, Participant, End, Act, Key,

Instrumentalities, Norm, and Genre. These eight components are the requirements for performing the speech event.

Some components of the speech event are outlined as the forming elements of a verdict in a criminal case. Moreover, the most used types of speech act in a verdict of the state court of Gorontalo are the speech acts of commissive, verdictive, and excersitive. These three types of speech act are found in almost all sections of the verdicts.

### CONCLUSION:

Discourse in criminal case verdict is known as a correlation of text and context in language use. This means that discourse analysis is a study of a text and all that relates to it. It implies that the text exists because of the context; conversely, a context is able to be identified from the presence of the text.

Context identification is done through comprehensively understanding the text. This may encompass the content, form, purpose, and participant. In addition, location of the created text should be taken into account, including the verdict in the criminal case issued by the judiciary.

The contents of the verdict in the criminal case are constructed from an organized framework, which means all things are detailed and complete. In this instance, the problem not only focuses on the substance but also the composition of well-structured sentences. As a result, the texts of criminal case verdict are systematically and coherently arranged.

The coherence of sentences in a text is shown through the formality correlation of one idea and another in a continuous flow of thinking. Hence, the final result is to conceptualize the codification of a verdict. This has given predominant characteristics in the legal documents in countries adhering to a civil law system where these types of verdict

describe the legal events in a coherent and cohesive thought.

The coherent and cohesive thought not only functions to conceptualize the verdict properly but also to create a group of variables which are treated as one integrated unit rather than a separated entity. This signifies that the substance of a verdict cannot be outlined by each section since the material is a combination of all trial stages – during the process of criminal case investigation. As a result, partially outlining the material of a verdict stops the flow of thought that is constructed by the judiciary.

Generally, the structure of verdicts in criminal cases comprises opening, content, and closing. Each section shows the use of grammatical rules, including the application of good writing format, which is in compliance with the writing mechanism of legal documents. This means, there is accuracy of the use of language to even express complex thoughts. Also, at the same time, it prevents bias in meaning.

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# THE APPLICATION OF FORENSIC LINGUISTICS AS AN INVESTIGATIVE TOOL IN CRIMINAL CASE VERDICTS (A case study at the state court of Gorontalo)

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