
LEGAL INTERPRETING IN INDONESIA: FORENSIC LINGUISTIC STUDY

Ni Gusti Ayu Widiantari

Magister Ilmu Linguistik/Universitas Warmadewa

gustiayuwidiantari07@gmail.com

Published: Juni/2023

How to cite :

Widiantari, N. G. A. (2023). Legal Interpreting in Indonesia: Forensic Linguistic Study. *IJFL (International Journal of Forensic Linguistic)*, Vol.4(1). Doi: <https://doi.org/10.55637/ijfl.4.1.6332.124-129>

Abstract- Legal system in Indonesia based on a civil law system, intermixed with customary law and the Roman Dutch law. Procedures in Indonesia district court, start with the prosecutor was ordered to bring the defendant before the trial in a free state. The research aim is to described the Legal System in Indonesia: Forensic Linguistic Study. This research used descriptive qualitative method. This study used lexical semantics (verbal communication such as sounds, words, language and speech) in visual media as the data. This research method used qualitative by describing the data. The result shows that the access to language assistance for a defendant is very important especially for foreign people who are not able to speak Indonesian because the court session is the most important place for a defendant to defend himself. Furthermore, the defendant will be able to state everything he needs for his defense freely, for this purpose the court provides an interpreter for a defendant. As an interpreter must be neutral and impartial, all matters and conversation in the court during the trial must be kept confidential.

Keywords: *Forensic Linguistic; Legal Interpreting; Legal system.*

I. INTRODUCTION

Legal system in Indonesia based on a civil law system, intermixed with customary law and the Roman Dutch law. Procedures in Indonesia district court, start with the prosecutor was ordered to bring the defendant before the trial in a free state. The judge will start the trial with ask some questions such as “are you in good condition”, “are you ready to start this trial” to make sure that defendant able to give true evidence without any pressure. The language use in Indonesian trial should be formal, impersonal and wordy or redundant. The judge used language wordy or redundant in order to validation of evidences. Furthermore, they also used distorted language, which means “to twist different ways.” When something is distorted this can mean that it has been changed from the original form in any way. Someone can have a distorted worldview, or facts from an event can be distorted in the retelling. On the other hand, judges also use pathological communication while trial to have the truth information from the defendant. The conclusion, characteristics of legal language use in Indonesia district court are quite similar with theory Tiersma and Caesar-Wolf about linguistics point of view.

Legal interpretation is familiar to lawyers, judges, and legal theorists. Public and private disputes of tremendous importance turn on questions of how to interpret legal texts. Legal interpretation requires a close examination of legal materials, such as statutes, constitutions, contracts, and wills. This chapter presents the fundamental question of what legal interpretation, by its very nature, seeks, as well as conflicting answers to that question. It then surveys key substantive theories of legal interpretation and discusses a few influential theories and the challenges they face in greater detail. The chapter concludes by discussing how legal interpretation ideas should be supported and evaluated.

Inputs for legal interpretation include legal texts and practices, the acts and mental states of particular legal actors, and conventions. (It is debatable exactly what the input should consist of, although some

texts are essential.) And legal interpretation provides an outcome — “an interpretation.” The familiar discussion surrounds which way of going from the input to the output is correct. But the more basic question is what the product is supposed to be - what legal interpretation wants. (For the sake of brevity, I will frequently write simply about what legal interpretation wants; “by its nature” should be understood.) Is it, for instance, the linguistic meaning of the provision's language in the case of constitutional and statutory provisions? What does the provision contribute to the substance of the law? What is the greatest way to settle disputes? Or something else?

Linguistic significance is a subspecies of symbolic significance. Linguistic meaning is the information transmitted by words, sentences, and other linguistic entities in a reliable and orderly manner. In actuality, there are numerous types and constituents of linguistic meaning, including word meaning, semantic content, what is said, speaker meaning, and implicature. In recent years, textualism has taken center stage in discussions of legal interpretation. (As the term is used here, it includes both textualism in statutory interpretation and “public meaning” originalism in constitutional interpretation. There is a lively debate between textualism on the one hand and intentionalism and purposivism on the other, including a debate about how and whether the opposing positions differ (see, e.g., Molot, 2006; Manning, 2001; Kenny, 2007). This section examines intentionalism (including purposivism) and textualism more closely. It introduces several distinctions necessary to get clear about what the positions involve and raises important problems for the positions.

Forensic Linguistics became famous when a linguist named Jan Startvik uncovered a murder case in his report entitled *The Evans Statements: A Case for Forensic Linguistics* in 1968. In the report, he explained that the four statements that the police had made about Timothy Evans killing his wife and baby daughter had different grammatical styles. Since then, the term Forensic Linguistics has been widely used along with many studies. Of particular

interest is Sousa-Silva & Coulthard (2016) mention that nearly 20 years earlier, the term Forensic English had been used by Philbrick (1949) in his book *English, Language and the Law: the Semantics of Forensic English*, the term was never used. In 1968, Starvik initiated the study of forensic linguistics. At the time, he attempted to solve the murder of his wife and their 14-month-old kid by Timothy Jon Evans, her husband. This occurrence took place in England. Levin and McDevitt (2008) state that to tackle this issue, he employed forensic linguistics and created forensic linguistics as a discipline to be researched in the future. Forensic Linguistics is a branch of applied linguistics. This is in line with Susanto (2017), which states that Forensic Linguistics is included in the study of applied linguistics. Likewise, Olsson (2008) expressed the view that forensic linguistics is the application of linguistics to legal issues linguistics in the field of law. Forensic Linguistics has a lot to do with linguistic evidence for lawful purposes. For example, the study of the language of legislation, the language of trials, interrogation by the police of people suspected of having committed a crime and even analyzing voice recordings of conversations for the sake of investigations. The aim research is to described a judge's speech: India's Harish Salve argues case for Kulbhushan Jadhav (A Forensic Linguistic study).

Subyantoro (2017) has attempted to establish forensic linguistics as a scientific discipline in Indonesia. Using linguistics, he has conducted research on various hate speech examples. He has also published a book based on his study. According to him, there are three explanations for forensic linguistics: (1) analyzing the use of language in legal language, (2) investigating the depth of language used in legal writing, and (3) observing or reviewing the use of language in legal language in court for the purposes of investigation and justice processes. According to Mc Menamin (2004: 4), forensic linguistics is the application of linguistics to legal language. Similarly, Olsson (2004) assert that forensic

linguistics is utilized in the language of law pertaining to language, crime, and any violations of the law. They determined that forensic linguistics was associated with language. The research aim is to described the Legal System in Indonesia: Forensic Linguistic Study.

II. METHOD

This research used descriptive qualitative method. This study used lexical semantics (verbal communication such as sounds, words, language and speech) in visual media. This research method used qualitative by describing the data.

III. RESULT AND DISCUSSION

Legal Interpreting in Indonesia

Legal interpreting In Indonesia was described in Law No. 8 of 1981 about *Hukum Acara Pidana (KUHP)* or *Criminal Procedure Law*. Article 53 (1) In examinations at the investigation and court level, a suspect or defendant has the right to at any time receive the assistance of an interpreter as referred to article 177. Article 177 (1) If the defendant or witness does not understand Indonesian, the head judge at trial shall appoint an interpreter who promises to translate everything that must be translated correctly. Other than that, the legal interpreter also described in article 5 law No. 13 of 2006 to Law No. 31 of 2014 about witness and Victim Protection also regulates the rights of witnesses and victims to obtain interpreters.

Based on that constitution, the access to language assistance for a defendant is very important especially for foreign people are not able to speak Indonesian because the court session is the most important place for a defendant to defend himself. Furthermore, the defendant will be able to state everything he needs for his defense freely, for this purpose the court provides an interpreter for a defendant. As an interpreter must be neutral and impartial, all matters and conversation in the court during the trial must be kept confidential. There is also symbiotic relationship between law enforcement officials and defendants, witnesses, or foreign national experts in the presence of interpreter. Bali one of the city

most visited by foreign tourists and there are several cases involving them, for examples several cases in Denpasar- Bali like credit card fraud, cybercrime and persecution based on detiknews.com on 2018. Therefore, courts usually ask a translator or interpreter to show an HPI (Himpunan Penerjemah Indonesia), it is for make sure that the interpreter as a professional and qualified.

Budget of Legal Interpreting in Indonesian Court

Based on hukumonline.com, explained that the court did not budget for the payment for interpreting services in court. However, fees for translation services can be taken from the cost of hearing a case. According to website, the community has determined the nominal value of those using interpreters. On the other hand, Civil Servants who hold functional positions as interpreter. Based on Presidential Regulation No. 70 of 2008, they are given a monthly allowance. The amount varies according to position level. The lowest, first class interpreter gets a position allowance of IDR 375,000. The highest is the main translator with a position allowance of IDR 1,300,000 per month. The budget of interpreter in Indonesia from the court and do not charge from defendant.

Implementation Legal Interpreting

Based on case in hukumonline.com, Ataliat Joses Guambe or Lawrence had to deal with Indonesian law enforcement officials. Throughout May 2012 he dealt with the South Jakarta District Court. The case against the man from Mozambique is tough under Indonesian law: narcotics. Based on Mathius Samiaji as South Jakarta District Court spokesman said that the statement resulting from the translation convinces the judge, the translators usually take an oath or promise beforehand. The role of translators becomes more important, especially in criminal proceedings where the accused is a foreign citizen, or when the judge wants to hear witnesses or experts who are foreign nationals. It is common knowledge that some legal officers are not yet fluent in foreign language skills.

Refer to the AUSIT code of ethics, look for whether there is a similar code by a similar association in Indonesia

AUSIT code of ethics	Indonesian Translators Association (HPI) and AICI (Association of Indonesian Conference Interpreters)	similar	Different	Comment
Interpreters and translators only undertake work they are competent to perform in the languages for which they are professionally qualified through training and credentials.	Work in accordance with the knowledge and abilities they have with full responsibility to be given to the interpreter	√		Thus code ethics are quite similar about professionally and competent to be interpreter. On thus code ethics, we should prepare our ability to be a professional interpreter.
Interpreters and translators act at all times in accordance with the standards of conduct and decorum appropriate to the aims of AUSIT, the national professional association of interpreting and translation practitioners	Apply principles accordance with Pancasila		√	Thus code ethics are little bit different about professional conduct. AUSIT based on organization regulation and HPI & AICI based on National principle
Interpreters and translators use their best professional	The interpreter not able to manipulate the meaning of the	√		Thus code ethics are quite similar, about accuracy of the message

nal judgement in remaining faithful at all times to the meaning of texts and messages.	messages.			while interpreting.
Interpreters and translators are responsible for the quality of their work, whether as employees, freelance practitioners or contractors with interpreting and translation agencies.	Interpreters and translators are responsible for the quality of their work, whether as employees, freelance practitioners or contractors with interpreting and translation agencies.	√		Thus code ethics are quite similar about maintaining professional relationship. Establish good relationship between all participants are very important for facilitate communication.
Interpreters and translators maintain confidentiality and do not disclose information acquired in the course of their work	keep the information contained in the translated materials confidential, as long as the client considers the information to be confidential		√	Thus code ethics is little bit different due on HPI & AICI wrote also about confidential but as long as the client considers but on AUSIT didn't mentioned about client considers.
Interpreters and translators continue to develop their professional knowledge and skills.	strives to maintain, improve, expand and deepen knowledge about interpreting	√		Thus code ethics are quite similar about maintaining professional relationship. Establish good relationship between all participants are very important for facilitate communication.

Watch the RMIT police interview video

Time	What the interpreter is not doing right?	What you think the interpreter should do
1:50	The interpreter was added her argument or other information which was not conveyed by the police	when a client asks question on a previous question, as an interpreter she must deliver the question first and do not allow to add information that was not conveyed by the police during the interview
2:25	The same think in this section, the interpreter was added other information	The interpreter supposed to be conveying the question to the police if the client asks it.
3:12	she edited the words her client said	The interpreted supposed to be conveying accurately without editing what the client said, this case are able change the police's view of the client even though the thing to be conveyed has the same meaning

IV. CONCLUSION

Based on the result, it can be conclude that the access to language assistance for a defendant is very important especially for foreign people who are not able to speak Indonesian because the court session is the most important place for a defendant to defend himself. Furthermore, the defendant will be able to state everything he needs for his defense freely, for this purpose the court provides an interpreter for a defendant. As an interpreter must be neutral and impartial, all matters and conversation in the court during the trial must be kept confidential. There is also symbiotic relationship between law enforcement officials and defendants, witnesses, or foreign national experts in the presence of interpreter. Bali one of the city most visited by foreign tourists and there are several cases involving them, for examples several cases in Denpasar- Bali like credit card fraud, cybercrime and persecution based on detiknews.com on 2018. Therefore, courts usually ask a translator or interpreter to show an HPI (Himpunan Penerjemah Indonesia), it is for make sure that the interpreter as a professional and qualified.

REFERENCES

- John Olsson. (2008). *Forensic Linguistics: An Introduction To Language, Crime and the Law* (2nd ed.). Bloomsbury Publishing.
- Kenny, S. (2007). *Developing Communities for the Future* (Third Edit). Nelson Australia Pty Limited.
- Manning, J. F. (2011). Textualism and the Equity of the Statute. *Columbia Law Review*, 101(1), 1–127.
- Molot, J. (2006). The Rise and Fall of Textualism. *Columbia Law Review*, 106(1), 1–69.
- Olsson, J. (2004). *Forensic linguistics: An introduction to language, crime and the law*. Continuum.
- Philbrick. (1949). *English, Language and the Law: the Semantics of Forensic English*. Macmillan.
- Sousa-Silva, R., & Coulthard, M. (2016). Forensic Linguistics. In R. J. Dinis-Oliveira & T. Magalhães (Eds.), *What are Forensic Sciences?: Concepts, Scope and Future Perspectives*. Pactor.
- Subyantoro. (2017). Langkah Prof Subyantoro Kembangkan Linguistik Forensik di Indonesia. *Universitas Negeri Semarang*.
- Susanto. (2017). Potensi dan Tantangan Linguistik Forensik di Indonesia. *ILSIA III. Jakarta: Ikatan Ilmuwan Indonesia Internasional*.