

Narrative Texts in Three Copies of Court Decisions of Defamation Cases

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Abstract: This research aims to understand three copies of court decisions of defamation cases. It is to understand how and why the Indonesian judiciary designs decision to build the good image of judicial system. Ontologically, this study is built on the belief that the copies of court decision is a communication medium used by the judiciary to build image and to gain legitimacy. This study was carried out within the interpretive paradigm by using a semiotic approach. It employed semiotic analysis. This research shows that the copies of court decision of defamation cases have been designed by the judiciary as a rhetorical story to build a positive image that the judiciary is concerned with social and legitimacy issues. By doing so, the Indonesian judiciary actively seeks strategies to gain legitimacy from the Indonesian people.

1 INTRODUCTION

In the last few decades, the practice of disclosure of legal phenomena through linguistic perspectives has increased significantly. Studies have been conducted in many countries and published in various journals and proceedings. The study of linguistic aspects in the legal area not only employs structural approaches, but also interpretive and critical theory (Habermas, 2015). In fact, some linguistic studies pertaining to law have their own place in the field of forensic linguistics.

Most studies that analyze the disclosure of legal phenomena, generally revolve around courtroom evidence and textual information relating to legal products, such as laws and government regulations. Language is placed as an analytical tool or a verifier in major legal cases and/or legal products. Studies that examine specific legal products, such as courtroom products, have not gained so much attention in terms of language-and-law studies.

Issues related to legal products tend to be examined in the context of factors affecting case disclosure (Prakken, H. & Sartor, G. , 2015). Most research is initially based on the positivist paradigm by using mathematical equations and statistical analysis. However, as a part of the linguistic realm that intersects with the domain of law, language practice is not static and ignores aspects of social

dynamics (Cao, 2017). Language is a dynamic field of study and is formed on the basis of social interaction between individuals and their environment. In the perspective of social construction, as claimed by (Mattila, 2016), the practice of language and legal research should not only present quantitative information and correct-wrong calculations, but should also provide other information –such as narrative text, photos, tables, and graphs. To that end, this study attempts to look at one of the legal products, namely copies of court decision, by using a narrative perspective.

A copy of court decision contains a narrative text that explains the basis of decision making by the judge in a courtroom (Chase, 2015). It is designed by judge as a rhetorical account to establish justification for the decision through the use of narrative text. Narrative text is a part that plays an important role for the court (as well as the judge who presides over the trial) in shaping the image of the correctness of the decision taken. Narrative texts include, among others, the discussion and analysis submitted by the judge in the courtroom.

By using a narrative text, a judge's decision decision will provide a positive image and avoid negative image of the veracity of the decision (Weissman, 2015). The way in which judges use to transmit messages through Copies of decisions is, in essence, a judicial communication strategy used to build public confidence in the reliability of judicial

system. As noted earlier, not much research has focused on the issue of narrative text. On the basis of the argument, this study is intended to analyze the rhetoric used by judges in decision making. This study, in other words, attempts to answer the question of how and why judges disclose the information that underlies the decision-making contained in the Decision Copies. This study is based on an ontology that a copy of a court decision is a communication medium that can be used to form a rhetorical story relating to the basics of a judge's decision in the courtroom. As a communication medium, the rhetoric formed by the judge cannot be separated from the semiotic aspect because it forms the language used in communication. Based on the ontology, this research was conducted in an interpretive paradigm and used a semiotic approach that analyzed copies of decisions in the desired perceptive meaning of the use of symbols, words, and sentences.

2 THEORETICAL REVIEW

Text can be defined as a linguistic unit. Text is a unity of language that has the form and content, or facet of expression and terms of content. According to (Hoed, 2007), a text must meet the following textual criteria.

1. Among the textual elements, there is a formally marked semantic link.
2. Text content may be acceptable for fulfilling textual logic.
3. The text is produced with a specific purpose.
4. The text is acceptable to the reader/community.
5. The text is has semantic relation with other text.
6. The text is contains certain information and messages.

In the context of this research, in order to understand the narrative texts present in some copies of court decision, it is necessary to understand the meaning of each word, symbol, and sentence contained in the narrative texts. The meaning is interpreted as a message that a judge wants to convey to the audience (the people). This process is often called rhetoric.

(Martin, 2016) describes rhetoric as a form of language or persuasive or effective writing that aims to control reality in order to influence particular audience. Rhetoric as a process has certain characteristics. (Heracleous, L., & Klaering, L. A., 2014) says that there are two key characteristics of rhetoric: style and context.

Style refers to a choice in making arguments to be conveyed to an audience. When a style is related to presentation, the rhetoric will greatly affect the ability

of the presenter in presenting argument (Heracleous & Klaering, 2014). There are four factors that influence the style in rhetoric (Hart, R. P., Daughton, S. M., & LaVally, R., 2017), namely (a) logical argument, (b) the ability to influence others, (c) rhetoric is an open interpretation and can have multiple meanings;) rhetoric is composed of identifiable linguistic techniques.

The second aspect of rhetoric is context. Context refers to the consideration of situation in which certain arguments will be made. In other words, the arguments made must be addressed to an audience (Heracleous & Klaering, 2014). Rhetoric is generally directed at a particular audience. A person who is ethical must be able to adapt to a particular audience and can change the ideas that the audience already has (Heracleous & Klaering, 2014). According to Heracleous & Klaering (2014), the point of the argument is to reaffirm the speaker's conviction –not to convince an audience of truth they have believed.

All in all, it can be said that a copy of court decision is one form of rhetoric. This rhetoric is done by judge. The judge shows certain arguments and data to convince readers that in carrying out judicial activities, the judge also pays attention to related social aspects.

3 RESEARCH METHODS

This research employed a qualitative method through a narrative semiotic analysis of three copies of court decisions related to defamation cases. This research did not use numbers as indicators of research variables to answer the research problems. This study used copies of court decisions as the data. It is because, during the year 2014-2016, Indonesian court has held trials for more than 3000 cases of defamation. The amount of this figure is triggered by the Indonesian legal system which still categorizes some verbal activities as crimes.

The analysis of data conducted in this research was a semiotic analysis of narrative text in the copies of court decision. The narrative semiotic analysis is an analysis that uses sentence structure as the basis for explaining a narrative text. Semiotics is the study of signs in human life. That is, everything present in life is seen as a sign, something we must give meaning. Ferdinand de Saussure (1916 in (Gasparov, 2016) from the beginning of the initiation of modern linguistic studies puts a sign as a meeting between the form (which is illustrated in the sense of a person) and the meaning or content (which is understood by the human being as the sign user).

The data used as an object of analysis in semiotic study is text. Texts can be classified into two subgroups: (a) text representing experience, which can be analyzed by systematic elicitation techniques (identifying elements of text that are part of a culture and examine the relationships between them) from the analysis of words or texts as sign systems; and (b) text as the object of analysis by conducting conversation, narrative, parole, or grammatical analyses (Fleisher, 2015). This research belongs to the subgroup (a). The data analysis is based on analytical descriptive approach in accordance with the meaning of symbols, words, and sentences encountered in the copies of court decision.

4 FINDINGS AND DISCUSSION

Among the types of crimes listed in the Indonesian Penal Code, defamation can be considered as the most attractive type for linguists. Defamation is one of the criminal acts that make language a 'tool of evil'. Typically a crime, Indonesian law regulates defamation in detail and thoroughly since language of law should not provide a loophole for the emergence of multiple interpretations. In almost every period, public attention is also devoted to various cases of defamations involving many parties. As an illustration, throughout 2013, the search directory on the Supreme Court website provided 791 defamation cases across Indonesia that had been decided at various levels of courts ranging from the District Court to the Supreme Court (Zifana, 2016).

4.1 Front Cover

Cover of the copy of court decisions is designed to illustrate the image of a legitimate and official judicial institution. All covers use similar designs, namely the judiciary. The use of images and design is not without purpose but has certain meanings. The front cover is an official image of the Indonesian judiciary that has the legitimacy to resolve legal cases. The plain white background on the cover can be identified with the sanctity of the judiciary. It appears that the Supreme Court seeks to emphasize its rights and obligations as the competent authority to resolve legal disputes.

In addition to white, the cover also shows the text that is the title, namely "*Salinan Keputusan Pengadilan*" (The Copy of Court Decision). Several items of the copies describe the cases decided in the relevant courtrooms. This is certainly the focus of the legitimacy of a legitimate judicial institution. This

description shows that the Indonesian judiciary has a specific purpose to be conveyed through the cover. This is in accordance with the opinion (Mautner, 2016) that in a text, the presentation with the best way of view and the meaning of the text must be clearly understood.

4.2 Preliminary Section

This section contains introductory words from judges in formal texts. In the three copies of court decisions, this section has three points of message conveyed to the reader as follows.

4.2.1 A copy of a court decision shall be prepared in accordance with the format of writing required by the Supreme Court

In drafting a copy of a court decision, judges use the format of writing as a guide. This is clearly expressed through the similarity of formatting at the beginning of the copies as follows.

Pengadilan Negeri Purwakarta yang mengadili perkara-perkara pidana pada pengadilan tingkat pertama dengan acara pemeriksaan biasa, telah menjatuhkan putusan sebagai berikut dalam perkara terdakwa....

The Purwakarta District Court that tries the criminal proceedings at the court of first instance with the ordinary examination, has rendered the following decision in the case of the defendant.... **(Copy of Decision 1).**

Pengadilan Tinggi Maluku yang memeriksa dan mengadili perkara-perkara pidana dalam pengadilan tingkat banding, telah menjatuhkan putusan seperti tersebut dibawah ini dalam perkara terdakwa....

The High Court of Maluku that examines and adjudicates criminal cases in the appellate court, has rendered a decision hereunder in the case of the defendant.... **(Copy of Decision 2)**

4.2.2 Objectives of the Courts

A copy of court decision is used as a tool to provide clear and transparent information for people. The following statements show that the courts' decision-making is a product of judiciary in providing a sense of justice to the people.

Menyatakan Terdakwa NUNUNG SETYANINGRUM,SH binti KARLAN telah terbukti secara sah dan meyakinkan bersalah melakukan tindak pidana “ Dengan sengaja dan tanpa hak mentransmisikan dokumen elektronik yang memiliki muatan penghinaan dan/atau pencemaran nama baik.

Stating the Defendant NUNUNG SETYANINGRUM, SH binti KARLAN has been proven legally and convincingly guilty of committing a criminal act “Intentionally and without right to transmit electronic documents that have defamatory and/or defamatory contents”. **(Copy of Decision 3)**

4.2.3 Statements of the Judges in Duty

This section contains the statements of the Panel of Judges. The contents of the judges’ statements on the three Copies are similar. This section is used to summarize the end of the court decision. The following is an excerpt from the statement of one of the copies of court decision.

Demikianlah diputuskan dalam rapat permusyawaratan Majelis Hakim Pengadilan Negeri Purwakarta pada hari RABU tanggal 7 MEI 2014 oleh kami NGURAH SURADATTA D., SH.MH. sebagai Hakim Ketua, ISTIQOMAH BERAWI, SH.MH. dan MARTA NAPITUPULU SH.MH. masing-masing sebagai Hakim anggota berdasarkan penetapan Ketua Pengadilan Negeri Purwakarta No. 16/Pen.Pid/2014/PN.Pwk., tanggal 20 Januari 2014, putusan tersebut diucapkan pada hari RABU tanggal 14 MEI 2014 dalam persidangan yang terbuka untuk umum oleh Majelis Hakim tersebut, dengan dibantu oleh SRI WILUJENG Panitera Pengganti pada Pengadilan Negeri tersebut, dan dihadiri oleh EKA DARMAWAN NUGRAHA, SH. Penuntut Umum pada Kejaksaan Negeri Purwakarta dengan hadirnya Terdakwa.

Thus it was decided in the meeting of the Panel of Judges of Purwakarta District Court on the day of WEDNESDAY dated MAY 7, 2014 by us NGURAH SURADATTA D., SH.MH. as Chief Judge, ISTIQOMAH BERAWI, SH.MH. and MARTA NAPITUPULU SH.MH. respectively as member judges pursuant to the stipulation of the Chairman of Purwakarta District Court Number 16/Pen.Pid/2014/PN.Pwk., dated January 20, 2014, the decision was made on the day of WEDNESDAY dated MAY 14,

2014 in a court session that is opened to the public by the Panel of Judges, assisted by SRI WILUJENG as the Substitute Registrar at the District Court, and was attended by EKA DARMAWAN NUGRAHA, SH., the Public Prosecutor at the State Prosecutor’s Office of Purwakarta with the presence of the Defendant. **(Copy of Decision 1).**

What is presented by the judiciary is essentially a rhetorical story to shape the image and affect the reader. In this case, the judicial courts use the copies of decisions as tools to form a positive image on the existing judicial system. Through such statements, the judges wishes to inform the readers that the Indonesian judiciary is a caring entity and carries on the principles of justice.

The above disclosure practice is basically consistent with the argument of (Dubrovskaya, et al., 2015). The judiciary tends to try to create an image that is perceived in accordance with the values of justice determined by the state. Therefore, the judiciary is actively looking for images that have positive values, and tend to avoid negative image.

4.3 Case Profile

A case profiles is expressed through narratives that tell the background of a court process. In this section, a narration is, of course, unique and is not similar to others. A narrative text is used to describe an identity of each case, from the background to the events that led to the courtroom. The narrative tells the beginning of the case until the case of the trial. The following is excerpts from the three copies of court decisions.

... terdakwa membuat tulisan di dinding akun facebook N'Doen Poenya Dinnie milik terdakwa dengan kalimat sebagai berikut...

... the defendant made a post on the facebook wall of “N'Doen Poenya Dinnie” belonging to the defendant with the following sentence ... **(Copy of Decision 1)**

...Perbuatan mana dilakukan Terdakwa dengan cara-cara sebagai berikut...

... Which act were committed by the Defendant in the following ways ... **(Copy of Decision 2)**

...bahwa perbuatan Terdakwa tersebut dilakukan dengan sengaja, yaitu dengan cara mengirim dokumen elektronik berupa sms kepada saksi korban...

... that the defendant's act was committed intentionally, that is by sending an electronic document in the form of sms to the victim-witness ... **(Copy of Decision 3).**

The sentences contained in the case profile include all illustrations of events that lead to the defamation cases and show defamatory forms that violate the laws. According to (Tilly, 2015), individuals (both people and institutions) provide explanations for their established behavior (consciously or unconsciously) to maintain their claims about positive social or image identities. In the case of the copies of court decisions, the behavior of bringing the background of the case to the main event of the case is done to maintain a positive image in the judiciary.

4.4 Case Disclosures

(Smith, 2017) says that a success in rhetoric depends greatly on the intended audience and the arguments used in conveying the message. The judges attempt to convey a message to the community and set out specific reasons for how the messages are delivered to them.

4.4.1 Target of Information

The copies of court decisions are addressed to public. This is indicated through the openness of the Supreme Court site to the public who wishes to download and read any Copies. In particular, the copies are also expected to be a learning material for people to be more compliant with applicable law. These things are indicated through the narrative statement below.

Menimbang bahwa ... Majelis Hakim memandang tujuan pemidanaan tersebut bukan semata-mata sebagai pembalasan atas perbuatan Terdakwa, melainkan agar Terdakwa menginsyafi kesalahannya...

Considering that... according to the Panel of Judges, the purpose of the trial is not merely as retaliation for the Defendant's actions, but for the Defendant to acknowledge the guilt ... **(Copy of Decision 1).**

Menimbang, bahwa tujuan pemidanaan dalam sistim hukum pidana Indonesia adalah salah satunya Mencegah dilakukannya tindak pidana dengan menegakkan norma hukum demi pengayoman Negara dan masyarakat.

Considering that the purpose of criminal punishment in the Indonesian criminal law system is, among others, to prevent the commission of criminal acts by upholding the legal norms for the protection of the State and the people **(Copy of Decision 2)**

Menimbang, bahwa berdasarkan pertimbangan tersebut unsur ini telah terbukti terpenuhi dalam perbuatan terdakwa...

Considering that based on this consideration, this element has been proven to be fulfilled in the actions of the Defendant... **(Copy of Decision 3)/**

Furthermore, the target encompasses the entire people as the subject of applicable law, so that the Indonesian judiciary feels the need to emphasize the nature of the court as the party that awakens the defendant to the guilt.

The purpose of a copy of court decision for the judiciary is to be a management and a communication tool that bridges the judiciary and the people. The copies provide information that is transparent to the public. This is stated clearly in the three quotations above. The copies are rhetorical stories used by the judiciary as an impression management to influence the reader that the judiciary has implemented sustainable law enforcement.

4.4.2 Copy of court decision as the rhetorical story of the judiciary

The narrative text present in a copy of court decision can be classified as a rhetorical story used by the judiciary to influence the reader to support the existence of the existing judicial system. Like other legal documents, a copy of court decision is also a part of judicial and legal activities that are regarded as official state information.

According to (Mattila, 2016), legal language can be classified as rhetorical because the information provided may affect the reader. Rhetoric can be interpreted in different ways, from bombastic and misleading to an argumentative language.

In the case of a copy of court decision of the Indonesian judiciary, the contents of the copies may be considered as the argument to influence readers that the Indonesian judiciary has properly administered the governance, operation, and performance of the judicial system. Several statements in the copies examined in this study indicate that the judiciary uses many persuasive sentences that may affect the public opinion regarding law enforcement.

4.4.3 Getting a good image from the community

It has been mentioned earlier that in conducting its activities, the judiciary seeks to create a positive image and tends to avoid negative image. This image can be formed with an impression approach. The impression strategy may differ depending on the target community. Explanation in the copies of court decisions are a rhetorical process or story as a Judicial System strategy to establish a good image of the judiciary institution. Through these copies, the judiciary also displays positive statements related to law enforcement. Here are some examples.

Majelis Hakim berpendapat bahwa hukuman yang akan dijatuhkan kepada Terdakwa adalah sudah cukup setimpal dan adil dengan perbuatan yang telah dilakukan oleh Terdakwa tersebut. .

The Panel of Judges is of the opinion that the sentence to be imposed on the Defendant is sufficient and fair to the act which the Defendant has committed. **(Copy of Decision 1).**

Majelis Hakim memperhatikan dari segi kemanusiaan sehingga dengan dijatuhkan pidana tersebut tidak akan menderitakan.

The judges are concerned with humanitarian matters so that the imposition of such a crime will not be miserable. **(Copy of Decision 3).**

The above statement indicates that the existence of the Judiciary has had a positive influence on law enforcement in Indonesia. This indicates that the judiciary struggles to form a positive image in the eyes of the people. This positive image can be indirectly interpreted as the acquisition of legitimacy.

5 CONCLUSIONS

This study aims to answer two main questions. The first question is how decision-making is narrated in the copies of decisions. In disclosing decision-making information, the judges use the standard format of court decision making as a guide. The judge discloses background information on decision making in the form of a rhetorical story to form a positive image that the decisions they take can be justified by virtue of applicable law. This is done to convince the reader, in this case the public, as well as to gain legitimacy as the implementer of the law.

The second research question is why the copies of court decision is different from the decision read out in court. From semiotic analysis, it can be concluded that there are several reasons for why the copies of court decision is different from the official decision read out in court. These reasons include the copies of court decision in the Indonesian justice system as a medium of communication between the judiciary and the community, so it must be presented in a solid and clear manner. The copies of court decision is rhetorical forms of judiciary to obtain a good image of the community and to gain legitimacy from the parties in the courtroom.

REFERENCES

- Cao, D., 2017. *Chinese law: A language perspective*. London: Routledge.
- Chase, O. G., 2015. Narrative, Inference, and Law in Cultural Context. In: J. S. Bruner, ed. *Beyond 100*. s.l.:Springer, pp. 211-218.
- Dubrovskaya, T., Dankova, N. & Gulyaykina, S., 2015. Judicial power in Russian print media: Strategies of representation. *Discourse & Communication*, 9(3), pp. 293-312.
- Fleisher, M. S., 2015. The Culture of Violent Behavior: Language, Culture, and Worldview of Prison Rape. *Qualitative Research in Criminology*, Issue 1, p. 101.
- Gasparov, B., 2016. Between Methodological Strictness and Moral Appeal: Questions of Language and Cultural Theory in Russia. *History of Humanities*, 1(2), pp. 303-326.
- Habermas, J., 2015. *Between facts and norms: Contributions to a discourse theory of law and democracy*. New Jersey: John Wiley & Sons.
- Hart, R. P., Daughton, S. M., & LaVally, R., 2017. *Modern rhetorical criticism*. London: Routledge.
- Heracleous, L., & Klaering, L. A., 2014. Charismatic leadership and rhetorical competence: An analysis of Steve Jobs's rhetoric. *Group & Organization Management*, 39(2), pp. 131-161..
- Hoed, B., 2007. *Semiotik dan dinamika sosial budaya*. 2nd ed. Depok: Komunitas Bambu.
- Martin, J., 2016. Capturing desire: Rhetorical strategies and the affectivity of discourse. *The British Journal of Politics and International Relations*, 18(1), pp. 143-160.
- Mattila, H. E., 2016. *Comparative legal linguistics: language of Law, Latin and modern lingua francas*. London: Routledge.
- Mautner, G., 2016. Checks and balances: How corpus linguistics can contribute to CDA. In: R. Wodak & M. Meyer, eds. *Methods of CDA*. London: Sage, pp. 154-179.
- Prakken, H. & Sartor, G. , 2015. Law and logic: a review from an argumentation perspective. *Artificial Intelligence*, Volume 227, pp. 214-245..

- Smith, C. R., 2017. *Rhetoric and human consciousness: A history*. Long Grove: Waveland Press..
- Tilly, C., 2015. *Identities, boundaries and social ties*. London: Routledge.
- Weissman, D., 2015. The Politics of Narrative: Law and the Representation of Mexican Criminality. *Fordham Int'l LJ*, Volume 38, p. 141.
- Zifana, M., 2016. *Pembuktian Terbalik Kasus Pencemaran Nama Baik Dalam Perspektif Linguistik Forensik*. Jakarta, Unika Atma Jaya, pp. 121-126.

