

Forensic Linguistics: Analysis of Language in Legal Contexts, Including Plagiarism, Legal Documents, and Defamation

Muhammad Fahrozi, Rahil Helmi¹, Fitria Mardhatillah²,
Institut Seni Budaya Indonesia Aceh, Universitas Malikussaleh
rahilhelmi@isbiaceh.ac.id, fitriamardhatillah@unimal.ac.id

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ABSTRACT

The study of forensic linguistics is not a simple task since a linguist must have knowledge in other fields to support their expertise in linguistics to become an expert witness. Even though the testimony provided by a linguist is in the field of linguistics, in investigating or analysing a case, a linguist requires other skills such as computerisation, knowledge of a region's culture, and so on. With the development of forensic linguistics as a discipline, linguistic studies are very much needed. This study attempts to discuss some examples of forensic linguistic cases. The research method used in this study is descriptive, as it focuses on the analysis of language in forensic linguistics. Both spoken and written forms are the two types of data that are the objects of this research. The results of this study show both spoken and written data related to language in legal processes, language in legal products, and language in legal evidence. The discussion of the aspects of the language analysis dimension that are typical in forensic linguistics, namely comparative and distinguishing dimensions, is expected to contribute insights for the development of forensic linguistic studies. It is also hoped that the results of the discussion in this study can enrich the material for linguistic expert testimony in legal cases.

Corresponding Author:

Rahil Helmi
Department of Acehnese Language
Institut Seni Budaya Indonesia Aceh
Kota Jantho, Indonesia
Email: rahilhelmi@isbiaceh.ac.id
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Introduction

One of the interdisciplinary fields of linguistics that is still relatively new and often overlooked by the Indonesian public, even by justice enforcers, is forensic linguistics. This branch represents the application of linguistics or language studies within the legal domain. Its areas of study encompass anything language-related in a legal court, such as plagiarism,

legal documents, defamation, and more. The presence of a linguistics expert is often crucial to provide their insights based on their expertise in certain legal cases. This article will delve a little into forensic linguistics and all matters related to it, starting from the definition and history of forensic linguistics (Halid, 2022), the scope of forensic linguistics (Asmayanti, 2019), and examples of cases investigated using forensic linguistic analysis. Language and law are two very distinct fields of study, yet they require each other in their application. These two disciplines have recently converted into a field known as forensic linguistics, which is one of the applied branches of linguistics within the realm of law. Forensic linguistics is the intersection of language, crime, and law (SARIFUDDIN, 2021), this includes law enforcement, judicial matters, legislation, disputes or legal proceedings, and even conflicts that merely have the potential to involve some breach of the law or the necessity to seek legal remedies (Olsson, 2013). From this explanation, several questions arise regarding what, where, and how forensic linguistics is defined, and who is involved. The coexistence of forensic linguistics may still be viewed with some scepticism, as it is often overshadowed by forensic medicine or other branches of forensics.

The study of forensic linguistics is not an easy one, as a linguistics expert must possess knowledge in other fields to support their linguistic expertise in order to become an expert witness. Although the testimony provided by a linguistics expert pertains to the field of language, during investigations or case analysis, the expert requires additional skills such as computerisation, knowledge of local culture, and more. The role of a linguistics expert is crucial in assisting judges in making decisions. This role must also be supported by the ethics of an expert witness and adherence to the rules or regulations for becoming an expert (Kuntarto, 2021). Forensic linguistics is an interdisciplinary field because it involves a relationship between linguistic science and other domains beyond linguistics, specifically the legal domain (Muhassin, 2017). The word 'forensic' originates from the Latin term 'forens(is)', meaning 'pertaining to the forum or public'. In Indonesian, the term

'forensik' has a more specific meaning: 'a branch of medical science that deals with the application of medical facts to legal issues' and 'surgical science related to the determination of a person's identity in matters connected with the judiciary and legal proceedings' (RI, 2016). The definition found in the Kamus Besar Bahasa Indonesia Volume IV is rather narrow, as 'forensik' is only associated with medical science concerning the application of medical facts, specifically related to determining a person's identity for judicial purposes. However, the core meaning of 'forensik' actually encompasses anything related to the judiciary and legal proceedings, which includes linguistics (Muhassin, 2017).

Through forensic linguistics, the truth behind someone's statements can be explored more deeply, uncovering the actual truth. Additionally, any lies that a person might have told can also be analysed using forensic linguistics. It should be noted that the components of analysis in forensic linguistics are quite comprehensive, encompassing elements such as language sounds, word formations, meanings behind words and sentences, the construction of sentences, and the background reasons why those sentences or statements were made (Coulthard et al., 2016). The importance of linguistic science in the judiciary and legal domain has driven its development, thereby broadening its applicability and usefulness in addressing various issues. Forensic linguistics began in ancient Greece. Issues regarding plagiarism, which is one of the subjects of forensic linguistics, were already being questioned. Then, around the 18th century, scholars began to raise issues of authorship over famous works, including Shakespeare's literary works and other rare texts. The term "forensic linguistics" itself was first used in 1968 by a linguistics professor named Jan Svartvik (Olsson, 2013).

In its history, English law implemented a system Judges' Rules. The system applied the rule that during witness interrogations, police were only allowed to record what the witness said. Similarly, when interrogating a suspect, police were not permitted to ask questions while the suspect was speaking. However, over time, this rule was not always

fully adhered to, as police sometimes still asked questions during a suspect's statement, leading to additional information being obtained. From this practice emerged phrases like 'I then observed', referring to police questioning individuals during interrogations. This falls within the scope of forensic linguistics, specifically the police register used during witness and suspect interrogations (Olsson, 2013). It can be observed that the Judges' Rules are not fully implemented due to certain shortcomings. A police officer transcribing what a suspect says may encounter difficulties if the suspect does not narrate in a clear, orderly, and detailed manner, especially if the statements lack coherence. To address this, the questions posed by the police are useful for obtaining important information that the suspect may have failed to provide or for clarifying certain points.

Therefore, in the UK, discussions about the authenticity of police statements during interrogations are included in forensic linguistics. Subsequently, in 1993, an organisation called the Association of Forensic Linguists was established. Then, in 1994, a journal on forensic linguistics was also created, titled the International Journal of Speech, Language, and the Law (Heydon, 2014). Forensic linguistics is relatively new compared to other fields within macro-linguistics, but it has become increasingly recognised and needed within the judicial realm. Several universities have also established forensic linguistics as a distinct academic discipline, including Aston University and Cardiff University in the UK, and Pompeu Fabra University in Spain.

Forensic linguistics encompasses the use of language in legal documents, court processes (both in investigations and trials), and the use of language as evidence (Khatimah & Kusumawardani, 2016). In each of its applications, linguistic aspects such as pragmatics, forensic linguistics, and others are utilised in investigations as part of case resolution efforts. Legal products refer to legal documents, such as civil servant oath texts, power of attorney letters, deeds, property ownership certificates, and others. Linguistic analysis in these legal products primarily focuses on written language analysis. According to

(Coulthard et al., 2016), The language used in legal documents is often difficult to understand. For example, the structure of civil servant oath texts is very complex, employing intricate sentence structures syntactically. This makes it challenging for civil servants to fully comprehend the content of their oaths, leading them to accept the consequences of legal violations without complete awareness (Khatimah & Kusumawardani, 2016).

The use of language in court processes, both in investigations and trials, is a key area of forensic linguistics because it determines whether someone will be found guilty or not. The choice of words and language variations used by the accused, suspects, or witnesses during court and investigation processes are crucial for resolving a case. Additionally, a linguistic approach to communicating with defendants, suspects, or witnesses from different cultural backgrounds is important, as understanding cross-cultural communication helps avoid misunderstandings and build trust with interlocutors during legal proceedings and investigations. Moreover, the linguistic aspects employed by judges, prosecutors, and police officers are also significant in the investigation and trial process. For instance, at the arrest stage, police typically state, "Anything you say can and will be used against you in court" (Coulthard et al., 2016). They questioned the use of the words "can" and "will" when replaced with the word "may".

The research conducted by (Khatimah & Kusumawardani, 2016) showed that in the investigation section, the police used several types of sentences in interrogating witnesses. The most common sentence is the wh-questions form. Other forms of sentences used were tag-questions and declarative sentences. The wh-questions sentence has a coercive power that is not so strong but is able to make the investigator get several things, namely initial information to find indications of the status, role and level of involvement of the examinee in the case; further information and link it to the role of the examinee and other parties and evidence owned by the investigator; and explore information to see the integrity of the

examinee's role. These investigative wh-questions are also used by legal advisors and public prosecutors in court proceedings. Meanwhile, other sentence forms that are also used are the taq-questions sentence form and declarative sentences used because these sentence forms have strong coercive power, and the investigator uses them to speculate about a fact to be confirmed by the investigator and confirm the truth of the data that the investigator already has in the initial examination. This form of confirmatory tag-questions and declarative sentences is also used by judges in court proceedings.

Furthermore, the use of language as evidence is also one of the scopes of study of forensic linguistics because evidence becomes very important, especially in court proceedings. Language evidence can be both written and spoken language (Khatimah & Kusumawardani, 2016). The examples of written language used as evidence are the words in Tempo magazine in the case of alleged fintah and defamation by the editor of Tempo magazine in the Tanah Abang fire case and the stylistic aspects of language in the suicide case of international musician, Kurt Cobain, where he left a suicide letter. Meanwhile, examples of spoken language used as evidence are the acoustic aspects of the perpetrator's voice relating to the authenticity of the voice and conversational implicature related to the motive of the perpetrator's conversation in the Artalita Suryani bribery case against Prosecutor Urip Tri Gunawan and lexical semantic and pragmatic aspects in the case of insults in the campaign of regional head candidates.

Method

The method used in this research is descriptive method because this research focuses on the dimension of language analysis in forensic linguistics. (Maleong, 2012). Spoken variety and written variety are two types of data that are the object of this research. The type of data of this research is secondary data because the data of this research is obtained from books and documentation. (Sugiyono, 2013). The data collection technique

of this research is through literature study which is used to collect data related to the dimensions of language analysis in forensic linguistics. Furthermore, the data obtained was then analysed with a qualitative approach. (Rusli, 2021) The qualitative approach is conducted by describing, elaborating and explaining the data.

Result and Discussion

a. The use of the morpheme 'Mc' in the case of McDonald Corporation's lawsuit against Quality Inns Internasional

An instance of a linguistic approach to morphology is the feud between McDonald Corporation and Quality Inn International over the patent of the morpheme 'Mc'. (Ainsworth, 2020). The feud started when Quality Inn International planned to build a hotel under the name 'McSleep'. Previously, McDonald Corporation had patented the name 'McDonald'. They claimed that it was McDonald Corporation that popularised the 'Mc' morpheme. McDonald Corporation thought that Quality Inn International was trying to use McDonald's reputation by naming the hotel 'McSleep'. Quality Inn International then asked a forensic linguist, Shuy, to prove that the 'Mc' morpheme was an independent, widely used morpheme that had no connection to McDonald. In handling this case, Shuy used a corpus linguistics approach where he collected all texts containing the 'Mc' morpheme. Based on the data that has been obtained, Shuy argues that the prefix 'Mc' has become a lexical independent which means 'basic, easy, cheap, and standardised'. To counter the arguments from Quality Inn International, McDonald's hired a market researcher to conduct interviews and distribute questionnaires as a way to obtain evidence related to people's perceptions of the morpheme 'Mc' with McDonald. From the results of these interviews and

questionnaires, it is known that people who hear the morpheme 'Mc' will associate it with 'McDonald'.

b. A customer's claim against an insurance company for retirement benefits

Prince (in (Coulthard et al., 2016)) handled a case where a 58-year-old worker sued an insurance company for refusing to pay severance pay for early retirement due to incapacity to work. The insurance company argued that the worker lied about his paralysis. This was based on the worker's 'no' answer to the question 'Have you any impairments? ... Loss of sight or hearing? ... Loss of arm or leg? ... Are you crippled or deformed? ... If so explain ...' on a declaration document. The worker wrote 'no' because his paralysis was caused by obesity, high cholesterol, and frequent back pain. To address the case, Prince examined the document from the perspective of a reader trying to figure out what 'impairment' meant. Some readers will certainly grasp the meaning of the word 'impairment' as physical paralysis because the word 'impairment' in the question has been given a context of "Loss of sight or hearing? ... Loss of arm or leg? ... Are you crippled or deformed?". If readers do not understand the meaning of a word in a sentence, they usually do not immediately look up the meaning of the word in a dictionary; they understand the word through the given context. Starting from that problem, Prince questioned whether "Loss of sight or hearing? ... Loss of arm or leg? ... Are you crippled or deformed?" is an example of 'impairment' or the form of 'impairment' that the insurance company is referring to. The insurance company did not specifically define 'impairment'. Therefore, Prince concluded that it was appropriate for the worker to answer 'no' to the question because her inability to work was not due to physical paralysis, or loss of arms or legs.

c. The Jenny Nicholl Murder Case

Retrieved from the daily BBC News ("Jenny 'Murdered by Married Lover,'" 2008), back in 2005 John Olsson, a forensic linguistics expert, was called in by the police to deal

with the disappearance of a 19-year-old teenager from her home in Richmond, Yorkshire. After her disappearance, Jenny's parents kept receiving text messages from her saying that she had left home of her own free will. To solve the case, Olsson then compared the messages sent before and after Jenny disappeared.

Here is a comparison between the messages sent before and after Jenny disappeared:

Tabel 1. the messages sent before and after Jenny disappeared

No	Before	No	After
1	Sum black+pink k swiss shoes and all the other shit like socks.We r goin2the indian.Only16quid.What u doin x	1.	Thought u wer grassing me up.mite b in trub wiv me dad told mum i was lving didnt give a shit.been2 kessick camping was great.ave2 go cya
2.	Yeah shud b gud i just have2get my finga out and do anotha tape wil do it on sun.will seems keen2x	2	Hi jen tel jak i am ok know ever 1s gona b mad tell them i am sorry.living in scotland wiv my boyfriend.shitting meself dads gona kill me mum dont give a shite.hope nik didnt grass me up.keeping phoneof.tell dad car jumps out of gear and stalls put it back in auction.tell him i am sorry

No	Before	No	After
3.	Shit is it.fuck icant2day ive allready booked2go bowling.cant realy pull out wil go2shop and get her	3.	Y do u h8 me i know mum does.told her i was goin.i aint cumin back and the pigs wont find me.i am happy living up here.every1 h8s me in rich only m8 i got is jak.txt u couple wks tell

	sumet soon.thanx4tdlin me x	pigs i am nearly 20 aint cumin back they can shite off
4	No reason just seing what ur up2.want2go shopping on fri and2will's on sun if ur up2it	4. She got me in this shit its her fault not mine get blame 4evrything.i am sorry ok just had 2 lve shes a bitch no food in always searching me room eating me sweets.ave2 go ok i am very sorry x
5	Sorry im not out2nite havnt seen u 4a while aswel ru free2moro at all x	
6	Only just turned my fone havnt lied bout anything.no it doesnt look good but ur obviously jst as judgemental than the rest.cu wen i cu&i hope its not soon	
7	Im tierd of defending myself theres no point.bye	

From the investigation, Olsson found that the messages sent after Jenny's disappearance were longer than the messages sent before Jenny's disappearance. Olsson also found that the messages had different writing styles. Here are the differences:

Table 2. The different writing style

<i>Sign</i>	<i>Before</i>	<i>After</i>
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<i>Spacing</i>	<i>word9word.</i> <i>Contoh: goin2the, and2will's, out2nite</i>	<i>word9 word, word 9word.</i> <i>Contoh: ave2 go, been2 kessick, blame 4evrything</i>
<i>Sign off</i>	<i>Cu</i>	<i>Cya</i>
<i>Possesive/ reflexive</i>	<i>my, myself</i>	<i>me, meself</i>
<i>Ejaan</i>	<i>fone</i>	<i>Phone</i>
<i>Singkatan</i>	<i>ive, have2</i>	<i>ave(2)</i>
<i>Penanda</i>	<i>im not, havnt</i>	<i>Aint</i>
<i>negative</i>		
<i>Umpatan</i>	<i>shit</i>	<i>Shite</i>

Eventually, in 2008, Jenny's boyfriend, David Hodgson, was arrested for her murder. To support evidence of murder, Malcom Coulthard, a forensic linguist, compared messages sent from Hodgson's mobile phone and from Jenny's missing mobile phone. Coulthard found that the messages on both Hodgson's and Jenny's mobile phones contained abbreviations such as 'aint', which Jenny never used.

d. Analysis of Kurt Cobain's suicide letter

(Sudjana & Fitri, 2013) examined the authenticity of a suicide letter written by Kurt Cobain, lead singer of the band Nirvana. Kurt Cobain wrote the suicide letter to his imaginary friend named Boddah. In analysing the suicide letter, Sudjana and Fitri used a forensic semantic approach. Here is an example of Sudjana and Fitri's analysis: *Speaking from the tongue of an experienced simpleton who obviously would rather be an emasculated, infantile complain-ee. This note should be pretty easy to understand.* Clause "...be an emasculated, infantile complain-ee", showed that people often complained about him. From

the clause, it can be seen that Kurt Cobain chose to commit suicide because of the many complaints he received from people around him. ***I haven't felt the excitement of listening to as well as creating music along with reading and writing for too many years now. I feel guilty beyond words about these things.*** From the first sentence, there is an implied meaning. Kurt Cobain used the perfect tense in the first sentence. “*I haven't felt the excitement...*” which indicates that she hasn't felt happy for a long time. Then, this is also reinforced by the writing of the phrase “*for too many years now*”. Therefore, it is assumed that Kurt Cobain wanted to end his life a long time ago. The second sentence, i.e. “*I feel guilty beyond words about these things*”, reinforces the first sentence where Kurt Cobain's request expresses his unwillingness to live anymore. Indirectly, Kurt states that he actually wants to end his life. (Olsson, 2013) stated “*the proposition needs to be simply phrased: it should be thematic...*”. The two sentences contain the assumption that the second sentence is still related to the first sentence where the first sentence shows a theme, namely Kurt's desire to kill himself.

Conclusion

Forensic linguistics emerged as a new branch of applied linguistics and is related to legal cases that use linguistic data as the analysis. Forensic linguistic data is classified into three things that are included in the scope of forensic linguistics, namely language in legal products, language in the trial process, language in evidence. In analysing these linguistic data, forensic linguistics requires contributions, both linguistic (micro and macro) and non-linguistic contributions. Furthermore, case investigation in forensic linguistics is carried out in three stages, namely the investigation stage, the trial stage and the appeal stage. Forensic linguistic analysis has been applied in several cases such as patent dispute cases, customer claims against insurance companies, murders, and suicide letters.

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