Handling Criminal Offenses with Linguistic Data Evidence in The Digital Era Based on the Criminal Justice System in Indonesia: A Forensic Linguistic Perspective

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INTRODUCTION

- We Are Social (2024) reports that Indonesia has 210 million social media users (70% of total population), with an average usage time of 7.9 hours per day.
- Cybercrime handling is increasingly tied to the use of linguistic data as *instrumenta delicti* in criminal offenses. Yet, crimes with linguistic data as core evidence are often considered "catch-all articles" (pasal karet), especially when referring to Electronic Information and Transaction Law (UU ITE).
- Investigators are permitted to summon experts to provide opinions on cases. However, the qualifications of someone deemed an "expert" remain undefined in legal terms.

LITERATURE REVIEW

- **Expert Testimony in Legal Evidence**
  Recognized as a valid form of legal evidence (Hiariej, 2014; Mertokusumo, 2003), but there is no clear standard for qualifying an "expert".
- **Language as a Criminal Element**
  Implicit meanings in utterances can form intent or threat components (Bachari, 2021).
- **Forensic Linguistic Approach**
  Contextual, structural, and implicit meaning analysis helps interpret evidence (Coulthard & Johnson, 2007; Olsson, 2008). A pragma-semantic approach is needed, such as Speech Acts theory (Austin, 1962) to uncover the action behind utterances, and Presupposition theory (Levinson, 1983) to understand underlying assumptions.
- **Positive Legal Framework**
  The ITE Law, PDP Law, Child Protection Law, Juvenile Justice Law, Penal Code (KUHP), and Criminal Procedure Code (KUHAP) have not yet provided specific regulations regarding linguistic digital evidence.

METHOD

This research is qualitative-descriptive with a normative juridical approach.

- Primary Sources:
  - Indonesian Penal Code (KUHP)
  - Indonesian Criminal Procedure Code (KUHAP)
  - Electronic Information and Transactions Law (UU ITE)
  - Personal Data Protection Law (UU PDP)
  - Child Proctection Law
  - Juvenile Criminal Justice System Law (UU SPPA)
- Secondary Sources:
  - Journal Articles
  - Books

FINDING AND DISCUSSION

Who Qualifies as a Linguistic Expert?

- KUHAP (Criminal Procedure Code) recognizes expert testimony as valid evidence, but lacks criteria for defining an expert.
- In cases involving linguistic evidence, linguistic experts should be involved.
- Without standardization, bias is likely. Anyone may claim to be a “linguistic expert" without any linguistic competence.
- Although the Indonesian National Police (Polri) is committed to involving linguistic experts in language-based criminal investigations, the unequal distribution of experts across Indonesia poses a serious challenge.

FINDING AND DISCUSSION

Linguistic Data = Digital Evidence Without Guidelines

- Chats, voice notes, discourse videos, and social media captions are often used as the basis for criminal charges.
- No clear SOP exists on how to legally interpret digital communication.
- High risk of misinterpretation: meaning can shift depending on tone, context, or interpersonal relations.
- Speech Acts theory (Austin, 1962) and Presupposition theory (Levinson, 1983) show that utterances convey intentions and implicit assumptions not evident in surface-level texts.
- Without linguistic frameworks, legal interpretation is prone to bias and arbitrary reduction of meaning.

FINDING AND DISCUSSION

Case Example: TikTok Post by Dr. Lita Gading on Safea Mulan Dhani

- Dr. Lita Gading's comment about a celebrity's child was perceived as an act of defamation.
- The content consisted of opinions and descriptions but was interpreted as an attack on dignity.
- This case illustrates how language meaning can be contested, and cannot rely solely on raw text.
- Forensic linguistic analysis should have been conducted to determine whether criminal elements were truly fulfilled.

CONCLUSION

- Handling criminal offenses with linguistic digital evidence still faces both normative and practical challenges within Indonesia’s criminal justice system.
- The absence of linguistic expert qualification standards and linguistic data interpretation guidelines leads to bias, ambiguity, and the risk of unjust criminalization.
- Pragma-semantic approaches, particularly Speech Acts and Presupposition theories, show that language is not mere text, but social action embedded in context.
- There is an urgent need to formalize qualification standards for forensic linguistics experts and to develop SOPs for managing and interpreting linguistic digital evidence in order to ensure fairness and accuracy in the legal process.
- It is also necessary for regional Language Centers (Balai Bahasa) to take a more active role in training and preparing linguistic experts, especially in forensic linguistics, to support police investigations across the nation

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THANK YOU!