

## The Role of Legal Language in Formulating Written Legal Rules in Indonesia

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### Abstract

*Legal language is a regulatory language intended to create justice and order in society, and is expected to protect personal interests and public interest. Because the legal language is modern Indonesian, the use of Indonesian must be clear, fixed, monosemantic and in accordance with the aesthetic requirements of the Indonesian language. Thus, to understand the rules of law and legal language, in principle, they are one unit in a legal discipline. If you want to learn and understand the rule of law, you must use good legal language. Legal rules are composed of a systematic legal language. From this point of view it is very clear, the role of legal language is very important to formulate legal rules in society. The problem is how are the rules of legal language used in formulating written legal rules in Indonesia? This study aims to determine the role of legal language in formulating written legal rules in Indonesia. While the type of research is normative legal research, namely legal research conducted by examining library materials, or secondary data or library research. And the results of the first research; rules of legal language to formulate written legal rules (1) Luges and exact; (2) Objective; (3) Careful definition; (4) Not emotional; (5) the exposure is conventional; (6) Not dogmatic (7) thrifty; (8) The form of the meaning is stable. Second; form of legal language; (1) The form of the word must be correct; (2) The meaning of the word must be precise; (3) Sentences must be clear; (4) Distinctive terms; (5) Not greeting people; (6) Typical wearing style; (7) The writing follows the EYD and (8) The legal norms are conveyed through sentences.*

### Keywords

legal language; role; legal rules



## I. Introduction

In every community life, a legal system applies, and the legal system consists of a set of legal rules, or what is called a legal rule. And the rules of law are usually contained in legislation, government bureaucratic decisions and judicial decisions. These legal regulations govern every behavior of citizens in their daily life. The rules of law require how we behave in the relationship between citizens with one another. Thus the rules of law will have consequences for what we should do and what we should at least not do.

Therefore, the existence of a rule is something that is *inherent* when humans interact with other humans in a community life. The rules always contain the necessity to behave in a certain way, while the contents of the rules are in the form of behaviors that are allowed, and those that are not allowed and which should be carried out by humans in everyday life. In essence, the rules governing human behavior are shown to maintain a balance and regularity of human interests in the survival of society, nation and state.

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Thus, to formulate a good legal rule, a good legal language is also needed. Because legal language is the main medium for people to recognize standard, clear rules and know the purpose of the legal rules being formed. In this era of globalization, it has encouraged the occurrence of a social dynamic to build the transformation of modern communication through digital communication, so that in this context language has a very important role. So that the use of language in the legal dimension becomes important to anticipate all possibilities of what happens in a change in social dynamics. Language is one of the most important things in the life of every human being. (Purba, N. et al. (2020).

Legal language is a regulatory language that is intended to create justice and order in society, and is expected to protect personal and public interests. Because the legal language is modern Indonesian, the use of Indonesian must be clear, fixed, monosemantic and in accordance with the aesthetic requirements of the Indonesian language. Maybe all this time, it will raise the question of which language is meant by legal language? The answer is simple but dogmatic, namely the language of law. The answer may be born for those who are poor in law degrees. In contrast to those with a Master of Law background, they said that the language of law is the language used theoretically in the realm of legal science. It is also different for a Doctor of Law, that the language of law will be a medium for interpreting, understanding and expressing the nature of a legal science. and it is very possible that a professor would have a different opinion.

Legal science (*science of law / rechtswetenschap*) is a scientific discipline that stands on the characteristics of its own knowledge (*sui generis*). And the science of law has its own logic, namely the logic of law (*logic of law / legal reasoning*), and for the needs and interests of the functioning of science, the science of law has its own language (*language*), namely the language of law (*law of language*). Therefore, the discipline of law with all its scientific properties and elements, with all its characteristics, structures and classifications, as well as with all the supporting elements of the system are all loaded with legal languages, so that to understand all the scientific disciplines properly, one must use his own language, namely the language of law.

Thus, to understand the rules of law and legal language, in principle, they are one unit in a legal discipline. If you want to learn and understand the rule of law, you must use good legal language. Legal rules are composed of a systematic legal language. From this point of view it is very clear, the role of legal language is very important to formulate legal rules in society. Therefore, a problem arises, how is the role of legal language in formulating written legal rules in Indonesia. This is what must be disclosed in order to know the embodiment of legal language in the formation of legal rules.

## II. Research Method

This research takes the object of *the role of legal language in formulating written legal language in Indonesia*. While the type of research is normative legal research, namely legal research conducted by examining library materials, or secondary data or *library research*. From the collected material or data, then identification is carried out, compiled and presented as is. Then interpret and analyze qualitatively, namely by describing, interpreting and arranging in a logical-systematic manner according to the research objectives. Furthermore, from the results of the study, conclusions were drawn on the problems studied using the deductive method and presented descriptively - analysis.

### III. Results and Discussion

#### 3.1 Law as a Rule

There are a number of experts who say the word "norm" is synonymous with the word "rule", according to the Indonesian dictionary, the two words have different meanings, but refer to the same issue, namely "rules". The word "norm" based on the Indonesian dictionary, is defined as a rule or provision that binds all or part of the community; standard rules, the size to determine something. The word rule, based on the Indonesian dictionary, is defined as the formulation of principles that become law; certain rules; a benchmark; a proposition.

Sudikno Mertokusumo further emphasized that the rule is a rule of life that determines the direction of how humans should behave and behave in public life so that all public interests are protected, or in other words the rule of law is a value system that is contained in a concrete regulation. Meanwhile, according to Jimmly Asshiddiqie, rules are the embodiment of good and bad values into a form of a system of rules (laws) that contain permissibility, advice and orders. While suggestions and orders can contain a rule that is positive or negative, which includes suggestions to do something or not to do something.

According to Soerjono Soekanto, the law as a rule is a basic principle (benchmark) as a guide for human behavior in everyday life. While good/steady behavior will become the rule of customary law if it fulfills two requirements, namely (1) material requirements, steady habits, (b) psychological requirements, an awareness that arises from conscience to carry out obligations based on law. There is also an element of this legal awareness, in line with the principle of *opinio juris necessitatis*, *this is the basis for differentiating between legal actions or attitudes and actions or behaviors that are not legal. Therefore, awareness of legal values that arise from the heart is a determining factor for the validity of a law, it will give birth to legal awareness. Legal awareness, either directly or indirectly, has a close relationship with legal compliance, which is then concretized with human actions or behavior.*

It can be understood that the rule is a rule that determines human behavior in life, so that it can create a balance of interests between himself and others. That's why the rule of law can be used as a guide for human life in the position of humans as personal beings and as social beings. Therefore, the rule of law is a rule made by the state, the contents of the rule apply to everyone, so that it can be enforced by state officials and its implementation can be maintained. For example

- a. Whoever by force or threat of violence forces a woman who is not his wife to have sex with him, is punished for raping with a maximum imprisonment of twelve years (Article 285 of the Criminal Code).
- b. Each engagement to do something, or not to do something, if the debtor does not fulfill his obligations, gets a solution in the obligation to provide compensation for costs, losses, and interest (Article 1293 of the Civil Code).
- c. Marriage is legal, if it is carried out according to the law of each religion and belief (Article 2 paragraph (1) of Law Number 1 of 1974).

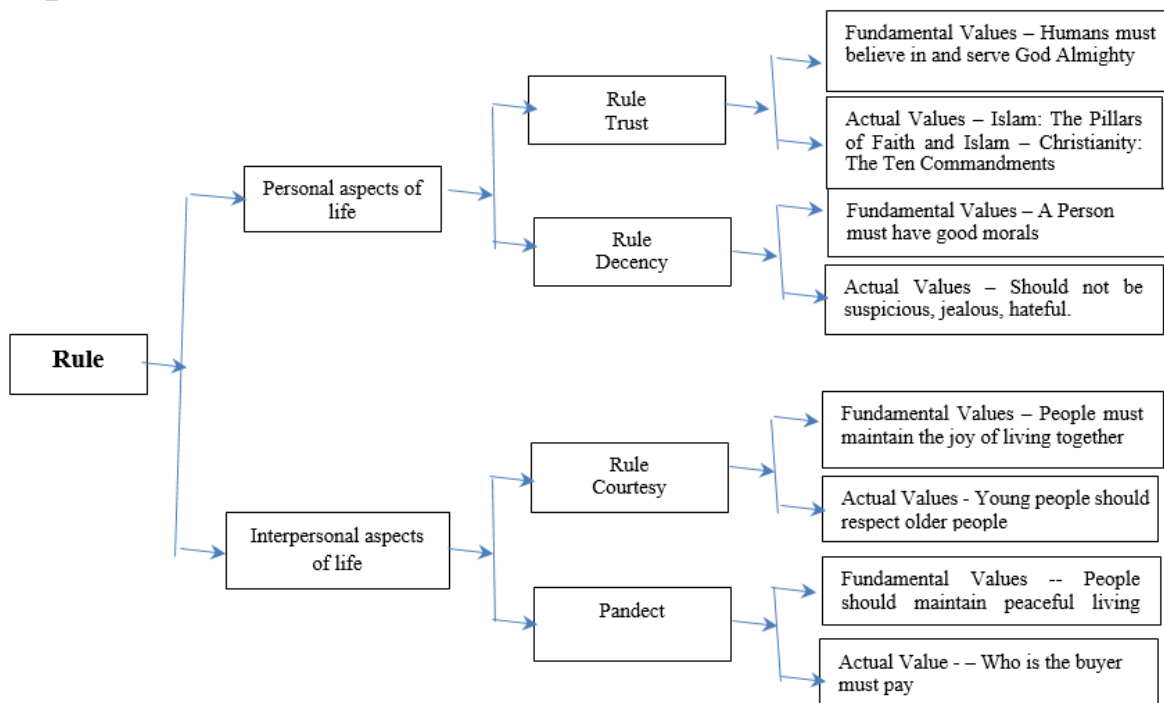
In the example above, if you violate the rule of law, you will get strict sanctions and be imposed by state officials, where the main purpose of this rule is to create order and justice in society. For this reason, it is hoped that this *kidah* will be able to achieve peace in the association of human life. So, to maintain peace, tranquility and harmony of life in society is a fundamental value of the rule of law. This value is universal and forms the

basis of this rule of law. While the value of equity is that whoever does it must be responsible for the act.

In everyday life we know there are four kinds of rules as guidelines to direct human life in the best place. And that rule is a rule that becomes a benchmark in the association of life between human beings. Among the four kinds of rules are as follows:

1. Religious rules, these rules come from God, teachings that come from God become human life guidelines, and as a way of life for survival.
2. The rule of morality, this rule is related to the position of humans as individuals because they involve the human person. This rule is considered a rule of life.
3. The Rule of Courtesy, this rule is based on good deeds that are repeated, and become a habit. This rule arises from the association of human life in life in the midst of society.
4. Legal rules, these rules are made by the authorities both in writing and unwritten, so that their implementation is under coercion from the government, if you commit a violation, you will get strict sanctions from the government.

Hans Kelsen argues that its relation to the rule of law, as seen in his book *The Pure Theory Of Law*, explains; “*Legal Norms are not judgment, that is, they are not statements about an object of cognition according to their meaning they are commands; they maybe also permission and authorization.*” Kelsen views that the rule of law is not something that is informative, or just a formulation of the basis for action, but that the rule of law is an order, a rule, a permissibility, or an authority, so that the rule cannot be seen as "right" or "wrong." ". Kelsen said: “*.....the norms enacted by the legal authority, imposing obligations and offering rights upon the legal subjects are neither true or false, but only valid or invalid.*”



### 3.2 The Role of Legal Language in Formulating Written Legal Rules

In the legal field, the use of standard Indonesian language is rarely used as a tool for strengthening national legislation programs. As there are several laws and regulations that contain the meaning of bias, and not infrequently the meaning of justice is not felt in

practice. Not only that, Indonesian legal language is often translated by law enforcers, by analogizing that justice is only in the normative scope according to the text of the text. The legal language used today is less than perfect, the semantics of words and the composition or composition of words in each sentence are less precise and unclear. Because many legal scholars have never received special legal language lessons, and always forget to learn the importance of good and correct grammar or Indonesian language rules.

Legal language is a language used in making or compiling a law, with the aim that legal language provides explanations so that it is easily understood by the public. Therefore, the legal language must be in accordance with the rules of the Indonesian language, such as having to pay attention to grammatical aspects of grammar, etymology (science of word origins), semantics (science of word meaning) and syntax (science of grammar). All of this does not mean that law graduates must become Indonesian language/literary scholars, but pay attention to when legal language is used in legal formulation, so it is mandatory to use all kinds of *hardware media* (such as dictionaries) and *software* (expert advice) linguists.

In the 1945 Constitution of the Republic of Indonesia, article 1 paragraph (3) "The State of Indonesia is a state of law". Law is the most effective system of norms to achieve state goals. Therefore, the legal dimension is always related to the regulatory aspects of human behavior or actions. Meanwhile, the issue of regulation of human behavior or actions is not usually built, applied or appreciated without clear, firm, logical and argumentative language. Then an argument emerges that legal language is a language that has its own language rules, this view is very clearly misleading when this view ignores the rules of using Indonesian, especially those related to semantics, choice of words, use of improved spelling (EYD), as well as in the use of sentence formulation.

This situation raises many problems, especially in an effort to explain the position of legal language that is in line with the values of justice. Based on Law Number 12 of 2011 concerning the formation of legislation, it is very clear that the formation of laws and regulations must be in accordance with the "principle of general clarity". The purpose of the "general clarity principle" is that every statutory regulation to be enacted must meet the technical requirements for the preparation of statutory regulations, systematics, the use of words, sentences, and terms as well as in the use of legal language, all of which must be clear and firm, and easy to understand so as not to cause various interpretations at the implementation stage.

In the legislation, the language used is standard Indonesian. The language of the legislation is Indonesian which is in accordance with the rules of the Indonesian language, such as regarding word formation, sentence structure, and spelling. For example, to formulate a rule, in one sentence there is a sentence structure in which there is a subject. This subject is the party the law intends to address. Where to make the law to regulate the parties, so the party (subject) must be determined first. Law and language cannot be separated from each other, interrelated, because legal language can be expressed. For this reason, in using language in the formulation of written legal rules, it must use language that is straightforward, firm, clear and does not cause multiple interpretations, all of this to avoid the meaning of can in law. This is in line with the characteristics of the law which aims to regulate the legal community, while language is a unity because there is no internal law but the law must be realized in everyday life.

In connection with the role of legal language in formulating written legal rules (statutory regulations), the language used is a language that must be scientific with the following criteria:

- a. Luges and exact because it avoids ambiguity and ambiguity
- b. Objective and suppresses personal prejudice
- c. Provide a careful definition of Names, traits, and categories that he investigates to avoid confusion
- d. Unemotional and avoid sensational interpretations
- e. Tends to freeze the meaning of words, expressions and style of presentation based on conventions
- f. Not dogmatic or bigoted
- g. In a frugal manner, only the necessary words are used
- h. Form, meaning and function are more stable than ordinary words have.

The Indonesian language used in relation to the formulation of legal rules (statutory regulations) must meet the following requirements:

- 1. The form of the word must be correct;
- 2. The meaning of the word must be precise;
- 3. Sentences must be clear, true, and precise;
- 4. Typical terms;
- 5. Not greeting people personally;
- 6. Typical wearing style;
- 7. Writing follows the Enhanced Indonesian Spelling;
- 8. Legal norms are conveyed through sentences.

Language is a means, tool or medium for humans to convey their goals to others, so that other people know the meaning of the language. Therefore, the material content of the law or legislation must reflect good principles so that it can be accepted or felt the existence of law that reflects a sense of justice and peace for the survival of the community. Accordingly, based on Law no. 12 of 2011 article 6 concerning the formation of laws and regulations, it is stated that the content of the legislation contains the following principles:

- a) protection; Every statutory regulation must function to provide protection in the context of creating public peace.
- b) Humanity; Every material contained in laws and regulations must reflect proportionally the protection and respect for human rights as well as the dignity and worth of every citizen and resident of Indonesia.
- c) Nationality; Each material content of laws and regulations must reflect the nature and character of the pluralistic Indonesian nation (diversity) while maintaining the principles of the Unitary State of the Republic of Indonesia.
- d) kinship; Each material content of laws and regulations must reflect deliberation to reach consensus in every decision making.
- e) Archipelago; Every material contained in laws and regulations always pays attention to the interests of the entire territory of Indonesia and the material content of laws and regulations made in the regions is part of the national legal system based on Pancasila.
- f) Bhineka Tunggal Ika; The material content of laws and regulations must pay attention to the diversity of the population, religion, ethnicity and class, special conditions of the region, and culture, especially those concerning sensitive issues in the life of society, nation and state.
- g) Justice; Each material content of laws and regulations must reflect proportionally justice for every citizen without exception.

- h) Equality in Law and Government; The material content of laws and regulations may not contain things that are distinguishable based on background, including religion, ethnicity, race, class, gender, or social status.
- i) Legal Order and Certainty; Each material content of laws and regulations must be able to create order in society through guarantees of legal certainty.
- j) Balance, Harmony and Harmony; The content of each statutory regulation must reflect balance, harmony, and harmony between the interests of individuals and society with the interests of the nation and state.
- k) Other Principles in accordance with the Field of Law; These are principles that are in accordance with the legal field of the relevant regulations, including:
  - 1) In criminal law, for example the principle of legality, the principle of no punishment without guilt, the principle of fostering prisoners, and the principle of presumption of innocence.
  - 2) In civil law, for example, the principle of freedom of contract, the principle of agreement, the principle of good faith.

The legal language used in the formulation of written legal/legal rules is Indonesian, where the characteristics or patterns of language use are typical in the legal world. Based on the Second Indonesian Language Congress on October 28 – November 2, 1954 in Medan, this congress paid great attention to the use of language in the legal sphere. In 1974, the National Legal Development Agency (BPHN) held a language and law symposium in the same city, Medan. The 1974 symposium resulted in the following four contests below.

- a) Indonesian legal language (BHI) is the Indonesian language used in the legal field, considering that its function has its own characteristics; therefore, the Indonesian legal language must meet the requirements and rules of the Indonesian language.
- b) The characteristics of legal language lie in the specificity of the terms, composition, and style.
- c) BHI as Indonesian is a modern language whose use must be fixed, clear, monosemantic, and meet aesthetic requirements.
- d) The symposium saw that there were imperfections in the legal language currently used, especially in word semantics, form, and sentence composition.

Legal principles are basic principles in the form of a system of values that form the basis for thinking about a law. In other terms, the principle of law can also be said as the initial basis or reason for the formation of a legal regulation, or also referred to as the "*ratio legis*" of a legal regulation, which contains noble values, social ideals, or in other words an ethical view that to be realized in public life. Therefore, the principle of law is the heart or bridge that connects positive law/statutory regulations with social ideals and ethical views of society, which are to be realized into a reality of human life.

If we understand the main principles of a legal system, then the law must be communicated to the public. Conversely, if the rule of law cannot be communicated properly to the community, then the law will not be able to influence the behavior of the community, which in turn will form low legal awareness. In the end, the enforcement of the law did not work effectively, because the law could not be communicated properly to the community. It is in this position that legal language has a very fundamental role, especially in the formulation of a legal rule. The legal language used must be standard language in accordance with Indonesian grammatical rules.

## IV. Conclusion

*First*; the rules of legal language used in formulating written legal rules must refer to standard Indonesian grammatical rules, taking into account the scientific criteria of a language, namely: (1) Luges and exact because it avoids ambiguity and ambiguity; (2) Be objective and suppress personal prejudice; (3) Provide a careful definition of the name, nature, and category under investigation to avoid confusion; (4) Not emotional and avoid sensational interpretations; (5) Tend to freeze the meaning of words, expressions and style of presentation based on conventions; (6) Not dogmatic or fanatic; (7) In a frugal manner, only the necessary words are used; and (8) The form, meaning and function are more stable than those of ordinary words.

*Second*; The form of legal language used in relation to the formulation of legal rules (statutory regulations) must meet the following requirements: (1) The form of the word must be correct; (2) The meaning of the word must be precise; (3) Sentences must be clear, correct, and precise; (4) Distinctive terms; (5) Do not greet people personally; (6) Distinctive wearing style; (7) The writing follows the Enhanced Indonesian Spelling; and (8) Legal norms are conveyed through sentences.

## Suggestions

Legal language is very important in formulating written legal rules, with the aim of establishing clear, concrete legal rules and not causing misinterpretations. suggestion is for *first*; Law enforcers must have competence in the field of legal language, with the hope of not misinterpreting/interpreting at will, so that law enforcement is in accordance with the values of social justice for all Indonesian people. *Second*; law makers must have legal language competence, with the aim of creating laws that are not multi-interpreted because the legal language is not clear.

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