

## Juridical Analysis of Good and Correct Application of Indonesian Language in Legal Professionals

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Accepted: 25-05-2022 Revised: 28-06-2022 Approved: 29-06-2022 Published: 04-07-2022

DOI: <http://dx.doi.org/10.30596/dll.v7i2.10644>

### *How to cite:*

*Nurhilmiah. (2022). "Juridical Analysis of Good and Correct Application of Indonesian Language in Legal Professionals." De Legata: Jurnal Ilmu Hukum, 7(2), 339-348.*

### *Abstract*

*Bahasa Indonesia is a language used in the field of law in Indonesia, and has its own characteristics. therefore legal language must meet the Indonesian language terms and rules. Legal language is actually part of Indonesian too. Indonesian language with a variety of laws is one of the various Indonesian languages that are used as communication tools by people who are involved in the field of law or studying law. The variety of legal languages, must pay attention to the structure or rules of the standard Indonesian language. Therefore, legal language should not prioritize language style but prioritize legal certainty. Legal professionals that include academics and important legal practitioners master language skills. Because the field of law cannot be separated from the application of language. Legal products are written in language. According to previous research, there are various deviations in the prevailing Indonesian rules. both in case files, agreement letters, notary deeds, and statutory regulations. This writing wants to find answers to the problem formulation, how is the regulation regarding Indonesian in positive law. And how should the application of Indonesian language be good and right for legal professionals.*

**Keywords:** *Juridical Analysis, Language, Good, Correct, Legal Professionals.*

## INTRODUCTION

Many writings and studies, as well as scientific forums regarding the Indonesian language of law, have been held in Indonesia. The goal is one, to strengthen the desire of legal experts and practitioners to apply the Indonesian language in this legal field properly. In accordance with the rules of legislation.

Indonesian is the language used in the legal field, and has its own characteristics. Therefore, the legal language must meet the requirements and rules of the Indonesian language. Legal language is actually a part of Indonesian as well. Indonesian variety of law is one of the varieties of Indonesian used as a means of communication by people who are in the field of law or studying law. variety of legal language, must pay attention to the structure or rules of standard Indonesian. Therefore, legal language should not prioritize language style

but prioritize legal certainty. The need for the skills of legal professionals, such as legal academics, legal practitioners, and legal consultants is faced with the law that must be resolved effectively. Legal opinion is needed as an important discourse in addition to mastery of the language and legal system between countries. This demand must be responded positively by legal professionals with all the logical consequences (Hartini, 2014). Legal professionals, including academics and legal practitioners, are important in mastering language skills. because the field of law cannot be separated from the application of language. legal products are written in language. According to previous research, there are various deviations from the applicable Indonesian language rules. both in the case file, agreement letter, notarial deed, and statutory regulations. This writing wants to find answers to the formulation of the problem, how is the regulation of the Indonesian language in positive law? And how should the application of good and correct Indonesian language to legal professionals?

Based on AB Massier, a researcher on Indonesia from the Netherlands, there are two main problems in the legal language, namely: first, the main source of the diversity of legal terms, namely the large number of translations, namely the large number of unofficial translations of legislation. It needs to be replaced by an official translation which is enforced in place of the Dutch text. Second, there is a need to spread awareness that language is not something that can be handled as if it were independent of the law itself. The topic of language and legal terminology or language within the framework of the legal system is usually considered a marginal subject when viewed from the point of view of legal science. In Indonesia, the Netherlands, the United States and in France, essays on language in the legal field are generally considered a distraction topic. Language is considered a tool for what is considered the main food, namely law. Which consists of an understanding or concept. Although language is recognized as something important for legal jurist, as has been formulated in many languages. It is now recognized that this idea is incorrect. Language is not just a tool or means, but the core and structure of the law itself is language. Or, use a quote that is already widely used. Language is not only the garment of the law but the real body of the law. The job of a legal expert is to process language, in this case making and interpreting texts, for example, making a lawsuit or a memorandum of cassation for a judge's decision, interpreting statutory rules or agreements. And only from a certain point of view there, language can be considered as a tool for legal experts. This means that it can be mastered and used as a tool. On the other hand, from another point of view, those who are actually mastered are legal experts. Wasn't he the one who was educated to obey the customs of the work of an advocate, judge, or legal advisor, including the language and terminology in question? He is not free to create his language at will, but is dependent, bound and controlled by language habits. In conclusion, law and language cannot be separated like a craftsman and his tools. However, although this idea has now been accepted, the conception of language as a tool and legal scholars as its users is still often found in writings on language and law.”(Massier, 2017).

There are factors that cause language errors by legal professionals. The language of the law is difficult, but what makes the law difficult to understand is not the language and its meaning. According to Karni Ilyas, it is the legal people themselves who confuse the legal language. They translate the legal language according to their respective interests. That the

difficulty of the legal language is a long-standing obstacle in Indonesia. This difficulty is also often felt by journalists. In fact, it is journalists who usually translate the legal language made by the government into concise language so that it can be understood by the public. According to Karni, the original legal language was already difficult to understand. For this reason, as long as there are unilateral interests at play, games, and a sense of distrust, the legal language in Indonesia is getting more and more chaotic. It turns out that the consequences of the complexity of legal language are not only felt by the general public. Even among legal officials, there are still differences in interpretation of the legal language. For example, when Yusril Ihza Mahendra used to be the Minister of Justice and Human Rights, he disagreed with the then chairman of the Supreme Court, Bagir Manan in response to Tommy Suharto's remission (Zae, 2002).

Menurut Todung Mulya Lubis, that the difficulty in understanding legal language is because legal language is exoteric. It is exoteric, meaning that it can only be understood by those who study it. The difficulty of legal language also often makes the community, especially legal practitioners, face the problem of multiple interpretations. Whereas in reading legal provisions, lawyers often face problems of multiple interpretations. This situation is often used by some parties as a fertile business ground. If the provisions of laws and regulations often have multiple interpretations, this is what Todung Mulya Lubis calls a confusing law. The confusing law breeds the arrogance of legal professionals. If we maintain the legal language as it is today, it means we are maintaining the arrogance of the legal profession. This will shackle us all. With confusing legal language, actually we who are involved in this legal profession are also fooling the public. Especially fooling justice seekers because people become very dependent on the services of the legal profession and cannot help themselves (Hartini, 2014).

Therefore, legal practitioners must participate to improve this situation. Otherwise, we join in fooling justice seekers and ordinary people who are dependent on lawyers. Although it is well realized that to realize this is very difficult, because it is rooted and ingrained. Regarding the use of Dutch legal terms in the practice of proceedings in Indonesian courts, he said that it could not be avoided because of the limitations of the Indonesian language. What must be solved now is how to translate the Dutch language with its equivalent in Indonesian. The difficulty of the legal language is very detrimental to the community. On the other hand, it is the people who are bound and burdened with the obligation to comply with the legal products produced by the government. This is like a big conspiracy that has been going on in the legal field. The demand for legal language needs to be understood by the people because the law belongs to the people. The law belongs to the public, created in the public sphere and applied to all people. Therefore, the legal language should be made easier. Law enforcers in filling out the Investigation Report (BAP) often make mistakes. Even though these mistakes are small, if they occur in many places, it will give the impression that law enforcers themselves do not learn from their mistakes. Not taking the initiative to correct errors both in the existing BAP form and in the substance of the BAP itself (Nurhilmiah, 2020b).

Based on the above background, it is deemed necessary to conduct a juridical analysis of the application of good and correct Indonesian language for legal professionals. The formulation of the problem in this paper is as follows, how is the regulation of the Indonesian language in positive law? How should the application of Indonesian properly and correctly to

legal professionals? The purposes of this writing are as follows: (a). to know the laws and regulations governing the Indonesian language in the current law in Indonesia; (b). to understand the application of the Indonesian language properly and correctly for legal professionals in accordance with the applicable laws and regulations. The benefit of this writing is that theoretically it can contribute to the development of the Indonesian Law course, which was initiated by a teacher with a legal education background. While practically, it can be used as a reference material for legal professionals in applying the Indonesian language properly and correctly.

## **RESEARCH METHOD**

The research method commonly used in legal research is normative legal research using more than one approach, namely, the statute approach, the conceptual approach, the analytical approach, the case approach, and the case approach. history (historical approach), comparative approach (comparative approach), and philosophical approach (philosophical approach), and future approach (futuristic approach) (Efendi & Ibrahim, 2018). In accordance with the problems studied, this research is legal research. Legal research is research that is applied or applied specifically to the science of law. The type of research used in this writing is library research.

The literature research used in this paper aims to find the rule of law, legal principles, and legal doctrines in order to answer and find solutions to problems related to juridical analysis of the application of the Indonesian language properly and correctly to legal professionals. The approach taken is to compare the discussion of topics in similar fields. Several previous researchers discussed the role and function of the Indonesian language in the field of law, one of which raised the legal issue of legal review regarding legal language in case files in court. While in this paper it is not limited to the activities of judges, but also other legal professionals, prosecutors, advocates/legal advisors/lawyers. In essence, normative legal research is focused on providing answers and briefly describing the discussion of research results, not answering a research hypothesis (Irwansyah, 2021)

## **DISCUSS AND ANALYSIS**

### **Legislation on Language**

History proves that Indonesian legal language is a product of the Netherlands. Indonesian legal experts at that time studied a lot in the Netherlands because Indonesian law itself was rooted in Dutch law. However, in its absorption, Indonesian legal language is now more often juxtaposed with English legal language, this creates its own problems (Shanty, 2016). The legal basis for the use of the Indonesian language in positive law is stated in Article 36 of the 1945 Constitution which reads, "The State Language is Indonesian. This Grund norm is clarified by organic regulations under it, namely the issuance of Government Regulations. Everything about language is further regulated in Government Regulation Number 57 of 2014 concerning Development, Guidance, and Protection of Language and Literature, as well as Improving the Function of Indonesian. This regulation is known as the Language Government Regulation. Article 1 number (1) PP No. 57 of 2014: Language development is an effort to modernize the language through vocabulary enrichment,

stabilization and standardization of the language system, development of language barrels, and efforts to improve the function of Indonesian as an international language.

Indonesian language is a language that is flexible and dynamic in following changes, so that the Indonesian language continues to develop according to the times. It is said to be flexible and dynamic because Indonesian is easily adapted to current conditions, which are adapted to the needs of science and technology at that time. So that if new vocabularies emerge, Indonesian can adapt itself with the help of guidelines for forming terms (Hartini, 2014). Various kinds of news can be formed and various ways of news content can be influenced, but a news will never lose its meaning from its reality if it has elements or general formulation of news writing known as 5W + 1 H, what (what happened), where (where it happened), when (when the event happened), who (who was involved in the incident), why (why it happened) and how (how the event happened) (Lubis & Koto, 2020). For example, in the study of the definition of electronic information. Obtained 3 (three) elements in terms of electronic information, among others: (a). a. electronic information is one or a set of electronic data; (b). Electronic information has the form, namely the data "can" be in the form of writing, sound, pictures, maps, designs, photographs, electronic data interchange (EDI), electronic mail (electronic mail), telegram, telex, telecopy or the like, letters, signs processed numbers, access codes, symbols, or perforations; and (c). Electronic information has meaning or can be understood by people who are able to understand it (Asmadi, 2021).

Article 1 number (2): Language protection is an effort to maintain and preserve language through research, development, guidance, and teaching. In this regulation, in Article 1 point (13), it is the Language Development and Development Agency that bears the responsibility for the development and protection of the language. The language of the Unitary State of the Republic of Indonesia, hereinafter referred to as Indonesian, is the official national language used throughout the Unitary State of the Republic of Indonesia. Regarding the protection of the Indonesian language, it is more specifically regulated in Article 27 paragraph (1) which is carried out to maintain the position and function of the Indonesian language as the national language and the official language of the state. While in paragraph (2) it states that the protection of the Indonesian language is carried out at least through: a). Education; b). Development; c). coaching; d). linguistic research; e). Documentation; f). Publication.

As a guide in speaking properly and correctly, since 2015 the Minister of Education and Culture of the Republic of Indonesia Regulation No. 50 of 2015. This is what is used by all Indonesian citizens both orally and in writing in various fields of use. The General Guidelines for Indonesian Spelling or more popularly known as PUEBI, in accordance with Article 1 paragraph (1) of the Minister of Education and Culture are used for government agencies, the private sector, and the community in using the Indonesian language properly and correctly. Based on Article 2, the enactment of this PUEBI simultaneously revokes and declares EYD (Enhanced Spelling) no longer valid. Unfortunately, there are still many legal professionals who do not know this information and in conversation or writing they often still use the guidelines and mention EYD in the application of language.

As a rule, Legal Indonesian can be found in the legislation. According to Article 7 paragraph (1) of the Act No. 12 of 2011, types and hierarchy of laws and regulations consist of: (1). the 1945 Constitution of the Republic of Indonesia; (2). Decree of the People's

Consultative Assembly (TAP MPR); (3). Laws/Government Regulations in Lieu of Laws (UU/Perppu); (4). Government Regulation (PP); (5). Presidential Regulation (Perpres); (6). Provincial Regulation (Perdapro); (7). Regency/City Regional Regulations (Perdakab/kot). In addition, there are other laws and regulations other than those referred to above that are issued by state agencies or institutions that have the authority to issue laws and regulations in accordance with their duties, principals and functions (Nurhilmiah, 2020a).

### **Good and Correct Application of Indonesian for Legal Professionals**

Indonesian as a national language serves as a national identity, national pride, a means of unifying various ethnic groups, and a means of communication between regions and regional cultures. In addition, as the official language of the state, it functions as the official state language, the language of instruction for education, a means of communication at the national level, a means of developing national culture, a means of transaction and commercial documentation, a means of developing and utilizing science, technology, as well as the arts and language of the mass media. Thus Article 5 paragraphs (1) and (2) Government Regulation no. 57 of 2014 describes.

Chapter VII Government Regulation No. 57 of 2014. Aims to show identity and improve the nation's competitiveness. Ways to improve the function of the Indonesian language, among others, 1). The use of the Indonesian language in international forums; 2). Development of Indonesian language teaching programs for foreigners; 3). Increasing linguistic and literary cooperation with foreign parties; 4). Development and empowerment of Indonesian language learning centers abroad, and/or; 5). Other efforts are in accordance with the provisions of the legislation. The improvement of the function of Indonesian into an international language has become a national policy set by the Minister who carries out government affairs in the education sector, namely the Minister of Education and Culture of the Republic of Indonesia, as regulated by Article 1 number 12.

On the other hand, the application of Indonesian in the field of law can be said to be still influenced by Dutch terms. Even though there is an equivalent in Indonesian, legal professionals, especially those who practice in court, feel less confident if they do not include foreign terms. In order to improve literacy skills in Indonesian properly and correctly, community empowerment can be carried out in this case teachers, according to the problems faced, in particular to strengthen thinking skills, literacy and other competencies related to scientific publications, in the form of soft skills. and hard skills, through teacher's scientific publication writing training.(Nurhilmiah & Hanifah, 2021)

In the midst of criticism by linguists of the Indonesian language applied by legal professionals, as a legal person himself, the author does not fully blame. Sometimes if you only write down the meaning, for example an adage, without including the original language text, it gives the impression as if the person concerned did not know or when he was at the Faculty of Law, he did not learn about it. An example is the *adage Lex specialis derogat legi generali*. There are times when for the purpose of building a legal construction in the context of defending the interests of his client, for example, a lawyer feels the need to quote the principle of the Dutch language. By itself he did not escape to include the original term of the principle. Although it is widely known by fellow legal professionals, the purpose of this

principle is different if you only write the Indonesian translation. In other words, the mention of a foreign language has a function to strengthen the argument.

Interesting to be input for legal professionals, there are several advantages to returning Indonesian to its actual position, in accordance with the rules of PUEBI, namely: (1). we will not lose the characteristic of legal language as an addition to the “prestige” of legal professionals. Because we still maintain the systematic writing of the law; (2). if there is two-way communication, it can actually ease the work of legal professionals; (3). if legal sentences are made simpler, then there will be no more multiple interpretations, which will confuse legal practitioners and the legal user community; and (4). if you adopt foreign sentences, it is better not to adopt the grammatical system because Indonesian grammar is different from foreign language grammar (Hartini, 2014). In addition, it is also necessary to wisely use language, words, terms, and sentences, not to lead to hate speech. Hate speech is an expression in the form of an expression that can be the subject of a ban, and includes a criminal act. Hate speech seems to be happening lately. Contains sentences in the form of incitement to hate, or other accusations that tend to be discriminatory (Koto, 2021).

### **Indonesian in the Field of Law**

The Language and Law Symposium held by the National Legal Development Agency (BPHN) in 1974 in Medan, discussed various issues, including the following: 1). General principles and rules of Indonesian grammar and national law development; 2). Contribution of thoughts towards the formation and use of good legal language; 3). Law as reflected in proverbs and language; 4). Legal terms; 5). Legal language in deeds/contracts and minutes of meetings; 6). Legal language in court decisions; 7). The use of Indonesian in the world of Indonesian law (Nasional, 1974). The characteristics of Indonesian legal language lie in the specificity of its terms, composition, and style. Indonesian legal language is a modern language, the use of which must be fixed, clear, and monosemantic, and must meet aesthetic requirements. The symposium forum identified deficiencies in the legal language currently used. Especially in semantics, sentence form and composition (Massier, 2008).

Many ideas developed in the meeting of legal and language experts. The results are as follows: 1). It is necessary to take a thorough inventory of legal terms; 2). It is necessary to increase the skills of using language by drafters of legal regulations, legal practitioners and theorists, among others by incorporating Indonesian into the law faculty curriculum; 3). it is necessary to have a formulation in the field of law that prioritizes effectiveness so as to clearly reflect the main idea and achieve the exact target; 4). In making inventories, interdisciplinary cooperation is needed between various branches of science, especially groups of cultural sciences; 5). official translation of positive legal regulations that are still written in foreign languages should be carried out by legal experts together with linguists; 6). in the process of drafting legal regulations, Indonesian language experts should be included; 7). and at the end of the suggestion, it was stated that a workshop in various legal fields related to the Indonesian language be held as a follow-up to the symposium.

## **Use of Language in Legal Practice**

Legal language is different from other scientific languages. As a language, legal language has advantages in terms of its terms. Legal language is full of literal meanings and accurate restrictions, so it is hoped that ambiguity will be eliminated and legal certainty will be obtained. So the meaning of the word that is not carried over but is desired must be removed. This is done in order to support normative, institutionalized laws and have coercive power. The goal is to uphold truth and justice, so that life in society is orderly, orderly, peaceful, and peaceful (Hartini, 2014). Compared to other professional languages, the specialty of legal language is that apart from being technical in nature, its use also creates rights and obligations, which bind the parties concerned. It's not only about legal practitioners who understand the language of the law, but common people are also affected, so that all interested parties must understand what it means. Legal language in legal practice includes: 1). Language in the case file; 2). The language of the agreement letter; 3). The language in the notarial deed; 4). Language in statutory products.

As a comparison, in the United States, the issue of the use of language is very important to be able to determine the win or loss of a case in court. The following is traced from Westlaw's online legal databases:

*“Here, the declarations establish that there is no additional, reasonably segregable, non-exempt information. Holding that agency had demonstrated there was no reasonably segregable non-deliberative material when it had submitted an affidavit by an agency official confirming that “a line-by-line review of each document withheld in full [had] determined that ‘no documents contained releasable information which could be reasonably segregated from the nonreleasable portions. This segregability conclusion is borne out by the released documents: redactions have been taken narrowly and only where specific information protected by exemptions is at issue.”(Myers & Moynahan, 2019).*

## **CLOSURE**

### **Conclusion**

Legislation on language in positive law, regulated in Article 36 of the 1945 Constitution, Law no. 24 of 2009 concerning the State Flag, Language and Emblem, as well as the National Anthem, is further regulated by Government Regulation no. 57 of 2014 concerning Development of Language and Literature Guidance and Protection and Improving the Function of Indonesian. Then the stipulation of PUEBI through Permendikbud No. 50 of 2015. The proper and correct application of the Indonesian language for legal professionals should be Indonesian in accordance with the prevailing laws and regulations, which is guided by the language rules contained in the PUEBI. Using standard, scientific language and prioritizing adherence to principles to minimize multiple interpretations and ensure legal certainty.



### **Suggestion**

Legal professionals are expected not to be proud to use their mother tongue, namely Indonesian, properly and correctly. And there is no need to give the impression that the legal language is different from Indonesian in general. The point is that legal professionals must obey the principles and be subject to the rules and regulations regarding the Indonesian language. The National Legal Development Agency (BPHN) is deemed necessary to hold periodic symposiums on legal language to strengthen the use of Indonesian in legal products.

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