



The Use Of Forensic Linguistics In Assessing The Truth Of The Accused's And Witnesses' Perspective Maqāṣid As-Syar'iyah

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ABSTRACT

The goal of law in Islam is to achieve the welfare of humanity. One of the ways to support the realization of justice is the use of forensic linguistics to assess the truth of testimony from defendants and witnesses in court. However, Indonesian legislation does not yet mandate the use of forensic linguistics in criminal cases. This study aims to analyze the application of maqāṣid as-syar'iyah in the use of forensic linguistics to assess the truth of testimony from defendants and witnesses. This is a normative legal research with a qualitative approach, focusing on primary data from the Indonesian Penal Code (KUHP) and court decisions that apply forensic linguistics methods. Data analysis was conducted using deductive reasoning based on the theory of maqāṣid as-syar'iyah. The findings show that the use of forensic linguistics to assess the truth of testimony from defendants and witnesses in criminal cases is part of the maslahat dharuriyyat. In particular, cases related to religion, murder, and corruption are crucial areas of maslahat dharuriyyat. Therefore, the presence of linguistic expert witnesses in court proceedings is an inevitability to ensure true justice.

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1. Introduction

Forensic linguistics has emerged as a multidisciplinary field that bridges linguistics and law, focusing on the application of linguistic theories and methods to resolve legal cases. In the increasingly complex landscape of criminal cases, particularly those involving corruption and organized crime, the accuracy of information becomes a pivotal element in

ensuring justice.¹ In this context, the credibility of testimony provided by defendants and witnesses plays a critical role, yet it often proves challenging to verify.² This situation underscores the necessity for more systematic methods of language analysis to support legal processes.

In Indonesia's legal system, the credibility of testimony is a cornerstone of evidence, as stipulated in Article 184 of the Criminal Procedure Code (KUHP).³ However, traditional methods often fall short in detecting manipulation or dishonesty in legal statements. Innovative approaches such as forensic linguistics offer solutions by analyzing linguistic patterns to evaluate the consistency and reliability of legal testimonies.⁴ For instance, violations of Grice's cooperative principle in language can indicate manipulation or deception, as evidenced by Momeni's (2012) research titled '*Fraud in Judicial System' as a Language Crime: A Forensic Linguistics Approach*.⁵

Despite its potential, the application of forensic linguistics in Indonesia remains limited, both in terms of regulatory recognition and judicial practice. In contrast, countries like Germany, the United States, and Australia have widely adopted linguistic analysis in criminal cases.⁶ One notable example is the use of forensic linguistics in assessing defendants' actions in a case of illegal car racing in Germany, where linguistic analysis differentiated between negligence and murder (Hess-Lüttich & Stehle, 2024).⁷ This disparity highlights the urgent need for Indonesia to adopt similar approaches to enhance the accuracy of its judicial processes.

This study aims to bridge this gap by exploring the application of forensic linguistics within the Indonesian legal framework, particularly in alignment with the principles of maqāṣid as-syar'iyah—the Islamic legal philosophy emphasizing justice, truth, and societal welfare. This research proposes that forensic linguistics can be

¹ Irfan Amir, "Constitutionality of Wiretapping by KPK in Optimization of Red-Handed Catch Operations," *Al-Bayyinah* 6, no. 1 (2022): 34–52, <https://doi.org/10.35673/al-bayyinah.v6i1.2625>.

² Udin Masagala, "Mengurai Kebenaran Di Antara Kebohongan yang Berserakan," <https://www.pn-palopo.go.id/>, 2011.

³ Riadi Asra Rahmad, *Hukum Acara Pidana, Rajawali Pers* (Depok, 2019), 89.

⁴ Tira Nur Fitria, "Forensic Linguistics: Contribution of Linguistics in Legal Context," *Article in PRASASTI Journal of Linguistics*, 2024, 117–33, <https://www.researchgate.net/publication/380066254>.

⁵ Negar Momeni, "'Fraud in judicial system' as a language crime: Forensic linguistics approach," *Theory and Practice in Language Studies* 2, no. 6 (2012): 1263–69, <https://doi.org/10.4304/tpls.2.6.1263-1269>.

⁶ Subyantoro, *Linguistik Forensik: Sebuah Pengantar*, Cv. Farishma Indonesia, 2022, 6–7.

⁷ Tim Stehle, "Fahrlässige Tötung oder Mord? Zwei Urteile zu illegalen Autorennen aus der Sicht forensischer Linguistik," *Linguistische Treffen in Wrocław* 25, no. I (2024): 53–69, <https://doi.org/https://doi.org/10.23817/lingtreff.25-3>.

employed to ensure the honesty of defendant and witness testimonies while enhancing the integrity of Indonesia's legal system.⁸

The integration of forensic linguistics with maqāṣid as-syar'iyah represents the primary novelty of this research. In Islamic law, maqāṣid as-syar'iyah emphasizes the protection of religion, life, intellect, lineage, and property (al-usul al-khamsah).⁹ This study demonstrates that applying linguistic methods supports maslahat dharuriyyat by ensuring that the rights of defendants and victims are safeguarded based on objective truth. For example, cases such as religious blasphemy, murder, and corruption highlight how forensic linguistics can contribute significantly to guaranteeing justice in court proceedings.¹⁰

The importance of this research also lies in its contribution to the development of legal policy in Indonesia. In specific cases, such as the corruption scandal in Surabaya and the blasphemy trial involving Ahok,¹¹ forensic linguistics experts have been utilized to substantiate evidence. However, their application remains sporadic and has not yet become an integral part of the legal system. This research seeks to provide a stronger scientific basis for advocating broader adoption of forensic linguistics in national legal policies.

Beyond its national relevance, this research also offers valuable insights for the global context. Forensic linguistics, with its emphasis on honesty and objectivity, has the potential to become a universal tool for enhancing transparency and accountability in judicial systems worldwide. As such, the findings of this study are anticipated to serve as a reference for the development of linguistically-informed legal policies on an international scale.

As an evolving field, forensic linguistics also opens opportunities for integration with other disciplines, such as technology and data analytics. For instance, developing automated tools for analyzing linguistic patterns could accelerate the process of evaluating testimony and improve the accuracy of outcomes. This study paves the way for further exploration of how technology can support the application of forensic linguistics in modern legal systems.

Thus, this research not only addresses the existing legal gap but also offers innovative and relevant solutions to strengthen Indonesia's judicial framework. The integration of maqāṣid as-syar'iyah principles with forensic linguistic methods not only advances legal justice but also promotes broader societal welfare. Ultimately, this research

⁸ Yanti Amelia Lewerissa, "THE Urgensi Ahli Linguistik Forensik Dan Psikologi Forensik Dalam Sistem Peradilan Pidana Terpadu," *LUTUR Law Journal* 4, no. 2 (2023): 63–68, <https://doi.org/10.30598/lutur.v4i2.10183>.

⁹ Lukman Arake, "Agama dan Negara Perspektif Fiqh Siyasaḥ," *Al-Adalah: Jurnal Hukum dan Politik Islam* 3, no. 2 (2018): 79–116, <https://doi.org/10.35673/ajmpi.v3i2.200>.

¹⁰ Subyantoro, "Linguistik Forensik : Sumbangsih Kajian Bahasa dalam Penegakan HUKUM," *Adil Indonesia Jurnal* 1, no. 3 (2019): 36–50.

¹¹ LB Ciputri Hutabarat, "2 Perbedaan Kesaksian Ahli Bahasa di Persidangan Ahok," *Medcom.Id*, 2017.

aims to make a tangible contribution to building a more equitable, transparent, and knowledge-based legal system.

2. Legal Material and Methods

The type of research used in this research is normative legal research (library study) with qualitative methods that attempt to investigate, formulate hypotheses, or clarify reality. The main data sources in this research consist of the Criminal Code (KUHP) and court decisions which utilize forensic linguistic techniques to assess their authenticity. Books or journals related to research will be used as secondary data sources for this research. In this research, tertiary data includes library catalogues, directories and legal dictionaries. After the data required for this research has been collected, the next stage is to carry out a thorough examination of the sources of the data obtained. This research uses deductive reasoning in data analysis using a qualitative normative analysis approach based on the theory of maqāṣid as-syar'iyah to interpret and relate to the legal facts in question so as to produce conclusive findings.

3. Results and Discussion

3.1. Linguistic Forensic Methodology in Assessing the Truth of Defendants' and Witnesses' Statements in Court

Forensic linguistics is the sub-discipline of applied linguistics that explores the relationship between language, law, and crime.¹² It involves the analysis of linguistic evidence from a crime using linguistic principles and methods for law enforcement purposes, applying knowledge from various linguistic theories to study language samples under investigation.¹³

In legal systems around the world, such as in Indonesia, Europe, the United States, Australia and other countries, language plays a very important role. All communications in the form of summons, orders, questions, testimony, approval, decisions, acceptance, etc.

¹² Aek Phakiti et al., "The Palgrave Handbook of Applied Linguistics Research Methodology," in *The Palgrave Handbook of Applied Linguistics Research Methodology*, 2018, 1–926, <https://doi.org/10.1057/978-1-137-59900-1>.

¹³ M.S. Mahsun, *Linguistik Forensik: Memahami Forensik Berbasis Teks Dalam Analogi DNA*, Rajawali Pers (Depok, 2018).

are carried out through language.¹⁴ Things that are not actually language can still be communicated using language. The field of ballistics, where professionals are required to provide testimony, also involves the use of language. This is the reason why forensic linguists handle various tasks such as plagiarism cases, insurance agreements, intellectual property rights, and discriminatory crimes in legal proceedings, depositions, and murder¹⁵

In the field of linguistics, language meaning is categorized into various types such as lexical, grammatical, contextual, idiomatic and connotative meaning. These five meanings are commonly applied when interpreting data that becomes evidence in legal proceedings¹⁶. Chaer explained that lexical meaning is identical to denotative or referential meaning. This means that the definition of a word is intrinsic, and does not depend on the surrounding context. On the other hand, the meaning of words from a grammatical perspective is called grammatical meaning, including affixation, reduplication, composition or phraseology, and paraphrase. However, usually the meaning of a word is only clear when seen from its relationship to the surrounding environment, and this is called contextual meaning. Meaning can also be understood in relation to other words, but the individual meaning of each element does not exist. This kind of meaning is called idiomatic meaning. The final definition is connotation, referring to the meaning that carries positive or negative emotions. Connotations can be associated with positive, negative, or neutral taste values. So the meaning of connotation does not conflict with the meaning of denotation, because denotation represents the true meaning, while connotation represents something outside the true meaning. To suggest that the connotation is a lie is inaccurate¹⁷.

The evidence presented at trial usually consists of communication in the form of spoken and written language. The evidence presented in court must be understood from a

¹⁴ Houtman Houtman dan Suryati Suryati, "The History of Forensic Linguistics as an Assisting Tool in the Analysis of Legal Terms," *Sriwijaya Law Review* 2, no. 2 (2018): 215, <https://doi.org/10.28946/slrev.vol2.iss2.135.pp215-233>.

¹⁵ Mahsun, *Linguistik Forensik: Memahami Forensik Berbasis Teks Dalam Analogi DNA*, 12.

¹⁶ Rui Sousa-Silva, "Fighting the Fake: A Forensic Linguistic Analysis to Fake News Detection," *International Journal for the Semiotics of Law* 35, no. 6 (2022): 2409–33, <https://doi.org/10.1007/s11196-022-09901-w>.

¹⁷ Abdul Chaer, *Linguistik Umum* (Jakarta: PT Rineka Cipta, 2019), p. 152.

linguistic and legal perspective.¹⁸ Linguistic analysis is carried out to find out whether the text contains elements that violate the law. The discussion of these topics is analyzed in their specific context, sometimes even at the sentence or word level. Legal understanding is carried out to classify a document accurately. This suggests that when determining whether a written work violates the law, it is important to thoroughly analyze (1) the linguistic aspects of the text and (2) the legal interpretation of the alleged content¹⁹

A forensic linguistic examination usually consists of several stages depending on the specific stage and depth of linguistic analysis. The process can start from phonetics, phonemics, morphemics, morphophonemics, intonation, tone, syllable stress, word formation, transitional categories, phrases, as well as simple and complex clauses by considering semantic, pragmatic and discourse meaning.²⁰ The idea of forensic phonetic research and the importance of forensic linguistic research also play an important role in examining the circumstances of victims, witnesses, and perpetrators during the analysis of language production. For example, the perpetrator's words show the impact of alcohol or certain substances which cause disturbances in the phonological aspects of speech creation. This means that linguistic principles can be used based on the nature of the crime and the needs of the investigation. The initial stages of an investigation involve identifying links between language patterns and the methods, motives, and direction of criminal activity.²¹

3.2. Utilization of Forensic Linguistic Methods in Judicial Practice

Forensic linguistics involves the application of linguistic techniques to analyze language samples in investigations, which is one aspect of using linguistic methods to

¹⁸ Roser Giménez García dan Sheila Queralt, "Grounds for Exemption from Criminal Liability? How Forensic Linguistics Can Contribute to Terrorism Trials," *International Journal for the Semiotics of Law* 37, no. 2 (2024): 623–46, <https://doi.org/10.1007/s11196-023-10049-4>.

¹⁹ Sriyanto, Various Types of Criminal Cases in Court Related to Forensic Linguistics, Center for Development and Protection of the Development and Books Agency of the Ministry of Education and Culture, p. 672

²⁰ Rui Sousa-Silva, "'We Attempted to Deliver Your Package': Forensic Translation in the Fight Against Cross-Border Cybercrime," *International Journal for the Semiotics of Law* 37, no. 4 (2024): 1323–49, <https://doi.org/10.1007/s11196-023-10102-2>.

²¹ Sawirman, Novra Hadi, M. Yusdi, *Forensic Linguistics* (Padang: Andalas University Press, 2014), p. 2

solve legal problems.²² Forensic linguistic experts can document findings from various fields such as language and memory studies, conversation and discourse analysis, grammar theory, cognitive linguistics, speech act theory, etc.²³ Essentially, they use linguistic skills to analyze legal cases, legal proceedings, or personal disputes that could lead to legal action.²⁴

In 2017, the North Jakarta District Court issued a decision Number 1537/Pid.B/2016/PN.Jkt.Utr which stated that Ir. Ahok alias Basuki Tjahaja Purnama was found guilty of committing religious blasphemy and sentenced to two years in prison after going through a thorough legal process. The panel of judges in making their decision considered various factors, including the opinion of the language expert witness Prof. H. Mahyuni, MA., Ph.D., and Ir.'s comments, as conveyed by Dr. Rahayu Surtiati. Ahok alias Basuki Tjahaja Purnama represents the opinions and emotions of the defendant.²⁵

3.3. Maqāṣid As-Syar'iyah's Analysis of the Role of Forensic Linguistics in Assessing the Truth of Accused and Witness Statements

From a linguistic perspective, maqāṣid is the plural form of maqṣid which means deliberate or intentional action (qāṣada ilaih). Contemporary ushul fiqh scholars have defined maqasid sharia as the meaning and wisdom that is important for sharia in all legal contexts. Abu Zahrah also emphasized that all sharia law, whether sourced from the Koran or Sunnah, is basically designed to provide benefit. Al-Gazzali categorized the principles of qasid into three levels: emergency, hajjiyyat, and tahsiniyyat. Al-Gazzali stated that the Shari'a aims to protect five things (al-ulus al-khamsah): religion, soul, reason, lineage and property. Everything that supports these five things is called benefit, while everything that

²² Mark A Costanzo dan Marina L Costanzo, *False Confessions and Police Interragation*, ed. oleh Gerben Bruinsma dan David Weisburd, *Encyclopedia of Criminology and Criminal Justice* (New York, NY: Springer New York, 2014), <https://doi.org/10.1007/978-1-4614-5690-2>.

²³ Yasir Mubarak et al., "Abusive Comments (Hate Speech) on Indonesian Social Media: A Forensic Linguistics Approach," *Theory and Practice in Language Studies* 14, no. 5 (2024): 1440–49, <https://doi.org/10.17507/tpls.1405.16>.

²⁴ Hugo Warami, "Linguistik Forensik dalam UU Otsus Papua," *Kibas Cenderawasih* 14, no. 1 (2017): 1–14, <https://doi.org/https://doi.org/10.26499/kc.v14i1.114>.

²⁵ North Jakarta District Court Decision Number 1537/Pid.B/2016/PN.Jkt.Utr, p. 602.

weakens these five things is called mafsadat. Al-Gazzali places the fifth above at the local level²⁶.

Imam as-Syathibi stated that Allah sent down the Shari'a with the aim of achieving benefits and preventing evil. Simply put, the laws established by God are intended solely for the benefit of humans. Syathibi then divided these benefits into three crucial parts, namely dharuriyyat (essential), hajiyyat (important) and tahsinat (additional). Maqashid, or the necessity of dharuriyyat, is very important to achieve the benefit of religion and the world. If this is not done, it will cause harm and potential loss of life, as well as hampering activities such as eating, drinking, praying, fasting and other religious rituals. The five essential benefits or maqashid dharuriyyat include religion (al-din), soul (al-nafs), nasab (an-nasl), wealth (al-mal), and reason (al-aql)²⁷.

According to maqāṣid syar'iyah, the aim of using forensic linguistic methodology in assessing the credibility of defendants and witnesses in court is also to provide benefits. The benefit at stake is ensuring that the rights of victims or defendants are protected, so that they can be tried by a judge based on evidence that is in accordance with the truth. In court proceedings, linguistic expert witnesses will use linguistic forensic methodology to determine whether the information given by the defendant or witness is accurate or false. In Islamic law, judicial activities are considered muamalah activities that involve interactions between individuals in society. In the book *al-Ahkam as-Sulthaniyah*, Al-Mawardi highlights that the duties of the judiciary are included in the government function in the state structure²⁸.

In order for parties in court to obtain their requests or have their rights respected, they must demonstrate that they have rights or are in an advantageous position. Therefore, to be able to prove something, someone must have the ability to provide authentic evidence. The need for this evidence comes from Allah's teachings in the QS. Surah Al-Maidah verse 106 states the importance of not ridiculing other religions and beliefs:

²⁶ Al-Ghazali, *Al-Mustasfa Min'ilmiAl-Usul*, Vol. 1, (Beirut: Daral-Watin. 1997), p. 417.

²⁷ Ash-Syathibi, *Al-Muawafaqat fi Ushul al-Ahkam* (Beirut: Dar al-Kutub al-Ilmiyyah, t.th.), p. 7-8.

²⁸ Imam Al-Mawardi, *Al-Ahkam as-Sulthaniyah; Prinsip-Prinsip Penyelenggaraan Negara Islam* (Jakarta: Darul Falah, 2000), p. 122-142.

يَا أَيُّهَا الَّذِينَ آمَنُوا شَهَدَةُ بَيْنِكُمْ إِذَا حَضَرَ أَحَدَكُمُ الْمَوْتُ حِينَ الْوَصِيَّةِ اثْنَانِ ذَوَا عَدْلٍ مِّنكُمْ أَوْ إِخْرَانٌ مِّنْ غَيْرِكُمْ إِنْ أَنْتُمْ صَرَفْتُمْ فِي الْأَرْضِ فَأَصْبَحْتُمْ مَصِيبَةَ الْمَوْتِ ۖ تَكْسِبُوهُمَا مِنْ ۚ بَعْدِ الصَّلَاةِ فَتُغْسِمَانِ بِاللَّهِ إِنْ اَرْتَبْتُمْ لَا نُشْتَرِي بِهِ تَمَتًّا وَلَا نُكْمِنُ شَهَدَةَ اللَّهِ إِنَّا إِذًا لَمِنَ الْآثِمِينَ

Meaning: "O you who believe, if one of you is on the verge of death and is making a will, then let two sensible people witness it, whether from among you or from different religious backgrounds. These precautions should be taken especially if you are traveling and are in a vulnerable position. After praying, you detain the two witnesses to be sworn in by saying the name of Allah. They promised not to sell their testimonies cheaply, even to family members, and they would not hide the truth. They are afraid of being labeled as sinners"

Forensic linguistics plays an important role in solving court cases, demonstrating its usefulness in the legal system. As in many of the criminal cases mentioned above, forensic linguistic methods are used by presenting linguistic expert witnesses to help solve the case. In case Number 1537/Pid.B/2016/PN.Jkt.Utr, the North Jakarta District Court used language expert witnesses to assess that the defendant's words reflected his personal beliefs regarding religious blasphemy. This special situation falls within the primacy of dharuriyyat within the framework of hifzhu ad-din because it involves the trial of a defendant of religious blasphemy. Moreover, the South Jakarta District Court Number 1532/Pid.B/2009/Pn.Jkt.Sel presented a language expert witness who confirmed that the conversation about the murder plan was heard in the defendant's voice from the telephone recording evidence submitted by the prosecutor. This example is clearly a result of the measures necessary to preserve life when trying a defendant in a murder trial. In investigating criminal acts of corruption in billing services (Japung) within the Surabaya City Government in 2014, the East Java Regional Police asked for help from language expert witnesses from Brawijaya University to obtain information. This situation certainly falls within the necessary benefits in terms of securing assets because it is part of a series of resolutions of corruption cases that can harm state finances.

4. Conclusion

Forensic linguistics investigations involve various stages of language analysis, ranging from phonetic, phonemic, and morphological levels to semantic, pragmatic, and discourse aspects. Each stage can be applied according to the type of crime and the investigative needs, whether in criminal cases or legal disputes. These linguistic concepts

play a critical role in analyzing the conditions of victims, witnesses, and perpetrators in producing relevant legal language statements. As a branch of science combining linguistic theory with legal practice, forensic linguistics enables experts to apply linguistic knowledge and analytical techniques to examine evidence in legal cases, both in court proceedings and in the resolution of legal disputes.

The use of forensic linguistics to assess the truth of testimony from defendants and witnesses in criminal court proceedings is an integral part of the *maslahat dharuriyyat* in *maqāsid as-syar'iyyah*, emphasizing the need for accurate and objective justice in the law. Cases such as religious blasphemy, murder, and corruption, which involve religious and moral dimensions, demonstrate that forensic linguistics plays a crucial role in ensuring the truth of the information presented in court. Therefore, the application of forensic linguistics in the legal process in Indonesia, particularly in criminal cases, is not only relevant but also an imperative for achieving legitimate justice. This study contributes to highlighting the importance of having forensic linguistics expert witnesses as part of a more just and transparent legal system. Further research is recommended to explore how forensic linguistics can be more broadly integrated into Indonesian legal policies, particularly in cases involving complex language interpretation.

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