| **RESEARCH ARTICLE**

Language as Evidence in the Judicial Process of Fake News of Ferdinand Hutahaean's Tweet Viewed from Indonesian Legal Provisions

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| **ABSTRACT**

As a means of communication, language plays a vital role in various disciplines. In the legal context, for example, the message conveyed through social media like Facebook, Instagram, Twitter, and WhatsApp can cause legal problems if it contains things prohibited by law, such as fake news and hate speech. For these facts, this current study focuses on the language of the fake news in Ferdinand Hutahaean (FH) 's tweet. With this focus, it explores the answers to such questions as which FH's statement in his tweet was considered fake news, why FH's tweet became fake news that led him to undergo a judicial process, and what legal process FH experienced. To answer these questions, the data constituting words, phrases, or sentences of FH's statement were collected from the authentic text of FH's tweet considered fake news. In addition, the collected data were analyzed using Miles and Huberman's data analysis model integrated into the thematic analysis recommended by Braun and Clarke. Based on the result of the analysis, it shows that FH was found guilty because his tweet was considered fake news because he violated such Indonesian legal provisions as Article 14, paragraph 1 and paragraph 2 and Article 15 of Law No. 1/1946 about Criminal Law Regulation.

| **KEYWORDS**

Fake news, language as evidence, legal process, legal provision, tweet

1. Introduction

Until now, fake news has still become an interesting topic to be used as an object of study. Therefore, many scholars devote their attention to this topic. Although many researchers discuss the topic of fake news, in this background, the current researchers only highlight a few. For example, Judith (2018) discusses fake news communication interactions on social media and how to anticipate them. In contrast to Juditha (2018), Lubis, Bahmid, and Suriani (2019) examine the legal arrangements for perpetrators of spreading false news through online media. Furthermore, Wulandari, Parman, Lubis, and Hamid (2021) discussed public knowledge about fake news and the legal consequences for those who spread fake news. Taking into account these three studies, it is also interesting for other researchers, including the current researchers, to conduct further studies on the same topic but with a different focus and purpose.

Although the current study has the same topic, namely fake news, it is certainly different from the previous studies because of the focus of the discussion. None of the former studies highlighted in this introduction discusses the role of language as evidence in the judicial process of fake news. However, concerning this focus, Supardi (2022) investigates language as evidence in the judicial process of the fake news of the seven voted ballots containers in Indonesia. This study certainly also differs from the current study due to the object of the study, namely, Supardi (2022), which is focused on the fake news of the seven voted ballots containers in Indonesia, whereas the current study is on the fake news case of Ferdinand Hutahaean's tweet. For these facts, there is a gap between the former studies and the latter study. To fill in the gap, the latter focuses its discussion more on the language as

evidence in the legal process of the fake news case of Ferdinand Hutahaean's tweet. To meet this discussion, the researchers explore the answer to such questions as which Ferdinand Hutahaean's statement in his tweet was considered fake news, why this tweet became fake news that led him to undergo a judicial process, and what legal process Ferdinand Hutahaean experienced.

To answer the questions above, this current study looks at such points as fake news, in brief, Indonesian legal provisions regulating fake news, language as evidence, and Ferdinand Hutahaean's tweet. These are discussed in the following literature review.

2. Literature Review
2.1 Fake News in Brief
Concerning fake news, Supardi (2022) states that it is defined differently by scholars. For example, Alcott and Gentzkow (2017) and Conroy et al. (2015), as cited in Molina et al. (2021), define fake news as news articles that are intentionally and verifiably false and could mislead readers. In the words of Mara (2019), it is a news story that has been released through the media and has information that is either greatly exaggerated or completely untrue. In addition, according to Al Zou'bi (2022), Fake news refers to deliberately false facts. Although these scholars define fake news in different ways, these definitions lead to the same understanding that fake news refers to a completely untrue or intentionally and verifiably false news story.

On the one hand, fake news is created to deceive and mislead others into believing falsehood or to doubt verifiable facts (White, 2027), and on the other hand, it is used to damage the reputation of a person, group of people or organization (Mara, 2019). With this intention, fake news has finally raised growing global concerns (Pate, Gambo, & Ibrahim, 2019) due to the development of information technology that has caused fake news to spread so quickly (Maulana, 2017, Juditha, 2018). As a result, in Indonesia, for example, throughout 2021, the Ministry of Communication and Informatics found as many as 723 fake news around Covid-19 (Saptoyo, 2022). This number, of course, is not a small amount regarding the spread of fake news. Even though it is only about Covid-19, if not taken seriously, this fake news case can have negative impacts, including Indonesia's national problems, which can be in the form of national disintegration, political instability, and security disturbances. To avoid this impact, Indonesia, of course, has legal provisions that regulate fake news.

2.2 Indonesian Legal Provisions Regulating Fake News
The negative impact of fake news requires the existence of legal provisions governing fake news. Concerning the law of fake news, Wati (2020) stated that the legal provisions governing the spread of fake news are contained in Article 14, paragraph 1 and paragraph2 of Law Number 1 of 1946 concerning Criminal Law, and article 27, paragraph 3, Article 28 paragraphs 1 and 2 of Law Number 11 of 2008 concerning Information and Electronic Transactions. Each of these paragraphs reads as in the following tables.

Table 1. Law Number 1 of 1946 Concerning Criminal Law

Paragraph 1 Whoever, by broadcasting news or false notices, intentionally issues confusion among the people is punished with a maximum prison sentence of ten years. Paragraph 2 Whoever broadcasts news or issues a notification, who can publish confusion among the people, while he should be able to think that the news or notification is a lie, is punished with a maximum of three years in prison.

Source: Supardi (2022)

Table 2. Law Number 11 of 2008 Concerning Information and Electronic Transactions

Article 27, paragraph (3) Everyone intentionally and without the right to distribute and/or transmit and/or make access to Electronic Information and/or Electronic Documents that have content humiliation and/or defamation. Article 28, paragraph (2) Every person intentionally and without the right to disseminate information intended to cause hatred or hostility of certain individuals and/or groups based on ethnicity, religion, race, and between groups (SARA).

Source: Supardi (2022)

Furthermore, to find out whether a person is violating the provisions of the articles of the two Acts or not, of course, requires proper evidence.

2.3 Language as Evidence

Before discussing language as evidence, it is important to know what is meant by evidence in a legal context. According to Trisnawati (2020), evidence is everything that has something to do with an act, where the evidence can be used as evidentiary material to cause the judge's confidence in the truth of a criminal act that has been committed by the defendant. In addition, she added that the valid evidence, according to Article 184 paragraph (1) of the Criminal Procedure Code, is the testimony of witnesses, expert testimony, letters, instructions, and statements of the accused. However, according to Waruwu (2018), since the promulgation of Law Number 11 of 2008 concerning Electronic Information and Transactions (known as UUITE), there has been an increase in the type of evidence in the trial, namely electronic information and/or electronic documents, which in the general provisions of UUITE it states that types of electronic data such as writings, photos, sounds, images are electronic information while types of electronic information such as writings, photos, sounds, images stored on a flash disk that can be opened through a computer device are electronic documents.

In relation to evidence as discussed above, language as evidence in this study refers to UUITE Number 11 of 2008. Thus, what is meant by language as evidence is the language used in electronic information/documents, for example, voice messages, Twitter writing, and WhatsApp messages?

Evidence, as mentioned above, is indispensable in legal proceedings. In criminal cases, legal proceedings are regulated in the Criminal Procedure Code. Based on the Criminal Procedure Code, Simatupang (2020) stated that the stages of the legal process include investigation, investigation, prosecution, and trial.

2.4 Ferdinand Hutahaean's Tweet

In general, language functions as a means of communication (Amberg and Vause, 2010). With this language function, Ferdinand Hutahaean, a former cadre of the Indonesian Democratic Party and a social media activist, communicated his statement via Twitter on January 4, 2022, on his personal Twitter account @FerdinandHaean3 and the statement went viral that it is resulting in a commotion in the community. This tweet can be seen in the following figure, and the English version of it can be seen in the table below.

Figure 1. Ferdinand Hutahaean's Statement in His Tweet

Table 3. Ferdinand Hutahaean's Tweet in English

Poor you, your God is evidently weak [and] must be defended. My God is amazing, [he] is everything. He is my defender, and my God does not need to be defended.

Source: Epa (2022)

3. Methodology

3.1 Research Design

This research was designed as descriptive research. In this design, the research aims to describe the language of fake news in Ferdinand Hutahaean's tweet and how it becomes evidence in the judicial process of the fake news case of Ferdinand Hutahaean's tweet. In order to describe the research is then reported qualitatively so that the research becomes qualitative research because the research data consists of words, phrases, or sentences, not numbers. According to Bogdan and Biklen (1992), research with such data is one of the characteristics of descriptive research. To meet the research report, this qualitative research was carried out in the following procedures.

3.2 Data Collection

In this procedure, the data of this study were collected by the technique of document study from the authentic text of Ferdinand Hutahaean's tweet. From this text, the data collected were in the forms of words, phrases, and sentences of Ferdinand Hutahaean's statement in his tweet that meet the elements of fake news according to Indonesian legal provisions.

3.3 Data Analysis Procedure

After data collection, the next step is to analyze the data. In this step, the researchers adopted the data analysis model developed by Miles and Huberman (1994), as mentioned in the figure below, as cited in Supardi (2022). As well as using this model, the thematic analysis developed by Braun and Clark (2005, 2012, 2014) was also applied in this study.
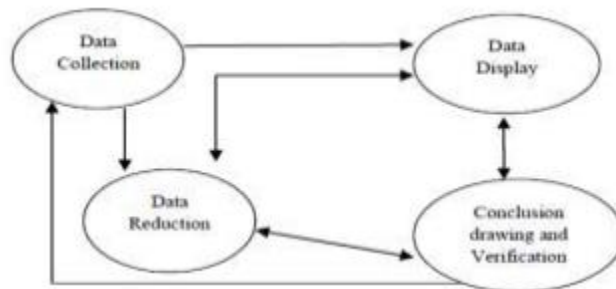

Figure 2. Data Analysis Model by Miles and Huberman (1994)

3.4 Data Reduction

The next procedure is data reduction. To carry out this procedure, researchers identified which data from the text of Ferdinand Hutahaean's tweet in Table 1 showed fake news according to the provisions of Indonesian law. The identification of this data was carried out using the thematic analysis of Braun and Clarke (2005, 2012, 2014), such as by coding or labelling which words, phrases, or sentences in Ferdinand Hutahaean's tweet led to fake news. The coded or labelled data were in a colour that could be seen in the following sub-section of the data display.

3.5 Data Display

This procedure is the next step after data reduction. In this procedure, the researchers displayed what had been done in the data reduction, as stated in the following figure.

Figure 3. Ferdinand Huttahaean's Statement as Fake News

Table 4. Ferdinand Hutahaean's Statement as Fake News in English

Poor you, **your God is** evidently **weak** [and] **must be defended**. My God is amazing, [he] is everything. He is my defender, and my God does not need to be defended.

3.6 Data Verification
This step is the final procedure of data analysis. In this step, the researcher describes the data displayed to be verified and draws conclusions of meaning. For example, based on the data shown in Figure 2 above, the data is interpreted using the question of what is meant by the displayed data. It is intended to maintain openness and avoid uncertainty. Clearly and in-depth, this step can be seen in the results and discussion section.

4. Results and Discussion
With the focus on the judicial process of the fake news case of Ferdinand Hutahaean's statement in his tweet, the researchers explore the answer to such questions as which Ferdinand Hutahaean's statement in his tweet was considered as fake news, why Ferdinand Hutahaean's tweet became fake news that led him to undergo a judicial process, and what legal process Ferdinand Hutahean experienced. The answers to these questions are presented in the following sub-sections.

4.1 Questions 1
This question constitutes *"which Ferdinand Hutahaean's statement in his tweet was considered as fake news"*. The answer to it can be seen in Figure 1. This figure indicates that there are such main linguistic features as words, phrases or sentences considered as fake news resulting in a commotion in the society, namely, "*Allahmu ternyata lemah harus dibela*" coded in blue colour (see Figure 2) and in English, it reads "*your God is evidently weak [and] must be defended*" (see Table 3).

4.2 Questions 2
To answer this question, it is important to pay attention to the answer to Question 1, that is. *Allahmu ternyata lemah harus dibela*" ("*your God is evidently weak [and] must be defended*").

In Islam, the word *Allah* is used as the term for *God*. As Allah refers to God; according to Drennan (2012); Allah is God who has ultimate power and dominion over all things. In the words of Jibouri (2013), Allah is solely The Almighty God. Although these two scholars state the attribute of Allah in different ways, such as using the words (phrases) *ultimate power* and *dominion over all things* on the one hand and the words (phrases) *The Almighty God,* on the other hand, their attention to it leads to merely one point that Allah is powerful over everything (omnipotent). In other words, Allah is *not weak* and *must not be defended,* unlike Ferdinand Hutahaean's statement in his tweet (Figure 3 and Table 4). From this point, the statement of Ferdinand Hutahaean that "*your God is evidently weak [and] must be defended*" (see Table 4) is false because it contradicts the attributes of Allah (God of Muslims) that Allah is powerful over everything (omnipotent). As a result, because the statement of Ferdinand Hutahaean is false or not true, it can be considered fake news, which means a *news story which is completely untrue or intentionally and verifiably false* (see Conroy et al. 2015; Alcott and Gentzkow, 2017; Mara, 2019; Molina et al. 2021).

4.3 Questions 3
After this false statement (fake news) was sent through Ferdinand Hutahaean's Twitter @FerdinandHaean3 on January 4, 2022, and went viral, it caused a stir in society, especially in the Muslim community. Due to this commotion in society, Ferdinand Hutahaean at least underwent four judicial processes, as in the following discussion.

Firstly, as reported by Tim detikcom (2022) on 5 January 2022, Brigade Mulsim Indonesia (BMI), a social organization in South Sulawesi, reported Ferdinand Hutahaean to police at the South Sulawesi Regional Police on charges that Ferdinand Hutahaean's statement hurt the feelings of Muslims containing hate speech. In addition to BMI, Chaterine (2022), a reporter for KOMPAS.com, reported that Haris Pertama, Chairman of the Central Leadership Council of the Indonesian Youth National Committee, reported Ferdinand Hutahaean to the Criminal Investigation Agency of the Republic of Indonesia Police on January 5, 2022, with allegations of spreading fake news that has the potential to cause chaos. In this first legal process, Ferdinand Hutahean became the reported.

Secondly, after being reported by the public, Dirgantara (2022), a reporter for detikNews, reported that on January 10, 2022, Ferdinand Hutahaean fulfilled the call of the Criminal Investigation Agency of the Republic of Indonesia Police for investigation. In this investigation, based on two pieces of preliminary evidence, the Criminal Investigation Agency of the Republic of Indonesia Police decided that Ferdinand Hutahaean Ferdinand was suspected of violating Article 14 paragraphs 1 and 2 of the criminal law regulations of Law Number 1 of 1946; then, Article 45 paragraph (2) juncto Article 28 paragraph (2) of the ITE Law. At this level of legal process, Ferdinand Hutahaean is called the accused.

Thirdly, after being suspected, Ferdinand Hutahaean underwent his third level of the judicial process in a trial at the Central Jakarta District Court on Tuesday, February 15, 2022. Concerning this trial, Guritno (2022), a reporter for KOMPAS.com, reported that the

Public Prosecutor charged Ferdinand Hutahaean with the charge that he broadcasted fake news, caused outrage and incited ethnic, religious, racial and intergroup hatred. In connection with this indictment, the journalist alleged that the public prosecutor charged Ferdinand Hutahaean with Article 14 Paragraphs (1) and (2) of Law Number 1 of 1946 concerning Criminal Law Regulations or Article 45A Paragraph (2) jo Article 28 Paragraph (2) of Law Number 19 of 2016 concerning amendments to Law Number 11 of 2008 concerning Electronic Information and Transactions or Article 156 or Article 156a letter a of the Criminal Code. In this legal process, Ferdinand Hutahaean is called the accused.

Fourthly, on Tuesday, April 19, 2022, Ferdinand Hutahaean underwent legal proceedings at a hearing on the reading of the judge's decision at the Central Jakarta District Court. With regard to the court's decision, Saputra (2022), a journalist for Tribunnews.com, reported that in his ruling, the judge stated that Ferdinand Hutahaean was found lawfully guilty of committing a criminal act, broadcasting fake news that caused a stir. To support this report, the journalist then quoted the words of Suparman Nyompa, Chief Judge of the trial of the fake news case of Ferdinand Hutahaean's tweet, as mentioned below.

> "*Adjudicating, declaring the accused Ferdinand Hutahaean, validly and conclusively proved guilty of broadcasting false news or notices by deliberately causing a commotion among the people.*"

This verdict is, of course, in accordance with the primary indictment submitted by the Public Prosecutor, which postulates Article 14 Paragraph (1) of the Republic of Indonesia Law Number 1 of 1946 concerning the Criminal Law Regulations (Yahya, 2022). Subsequently, Rozi (2022), a journalist for News Liputan6.com, reported that in this verdict, Ferdinand Hutahaean was sentenced to five months in prison which was lower than that of the public prosecutor, with a charge of seven months in prison.

5. Conclusion
This current research focuses its discussion on three research questions which Ferdinand Hutahaean's statement in his tweet was considered fake news, why Ferdinand Hutahaean's tweet became fake news that led him to undergo a judicial process, and what legal process Ferdinand Hutahean experienced. Paying attention to the answers to these three (see result and discussion), this current study provides a solid understanding of the vital role of language in society, both in general and in particular.

In general, language plays an important role as a means of communication (Amberg and Vause, 2010). In this role, Ferdinand Hutahaean used his language to communicate his thought in the statement, which he sent through his Twitter on January 4, 2022 (Figure 1 and Figure 2), and it became viral the day after. Unfortunately, because of the language he used in this tweet, Ferdinand Hutahaean was reported to the police by society; the police investigated him, he was prosecuted by the prosecutor, and the judge sentenced him to five months in prison. From this point, it leads to understanding that not only language can be used for general purposes, such as for communication, but also for a specific purpose, such as in legal proceedings. In this particular use, language is used as evidence. Both the whistleblower, the police, the prosecutor, and the judge used the language of Ferdinand Hutahean's statement in his tweet as evidence to bring Ferdinand Hutahaean into a judicial process that made him experience such four steps of legal proceedings as to be the reported, the suspected, the accused, and the convicted.

To end this conclusion, this study presents its two main limitations. On the one hand, this is related to the lack of previous research studies related to the topic of the fake news case of Ferdinand Hutahaean's tweet. Because this topic is so new that it emerged after the case went viral on January 4, 2022, and was tried at the Central Jakarta District Court in the following months, there has been no previous research discussing it. On the other hand, this deals with the limited time given by the research funder. This time limitation certainly did not prevent the researchers from conducting this research because no research discussed this topic. Taking into account the limitations of this research, it is necessary for the next researcher to conduct research on the same topic but with a different focus and certainly also with the wise use of time. This is intended to add to the repertoire of research on fake news.

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