The portrayal of defamation case defendant in court verdict

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ABSTRACT
In Indonesia, defamation is regulated not only in the Criminal Code but also in the Law of the Republic Indonesia Number 11 of 2008 on Information and Electronic Transactions (the ITE Law). From 2009 to 2014, the ITE Law has brought 71 defendants to court as the suspects of defamation case. These overlapping laws seem to be caused by many dimensions that can be used to see whether a person's name can be 'defamed' due to someone else's language productions. The complexity of defamation in Indonesia leads this study to look into its legal dimensions from a linguistic perspective. Conducted in the context of law in Indonesia, this research attempted to discover the portrayal of defamation case defendants in court verdicts. The data of the research were collected from the copies of court verdicts of two defendants of defamation case in Indonesia, settled in 2014 and 2015. The data were in the form of texts explaining the position of the defendants in their relation to the grounds for judge's final decision. This research employed van Leeuwen's (2004) Critical Discourse Analysis as a framework to reveal social semiotic features depicting the inclusion and exclusion of social actors in related discourses. Data interpretation and final conclusions unveil certain features that might violate the principle of presumption of innocence against defendants. This research also reveals marginalization of defendants. The study indicates that the defendants turned to be the target of victimization in the production of court verdicts, while in fact, the law should place all subjects in equal positions before the delivery of such consequential decisions.

Keywords: Court verdict; critical discourse analysis; defamation; legal linguistics

INTRODUCTION
Language and law relations have long been an interesting issue. Mostly, the interpretation of legal language is usually a topic that dominates the relationship between language and law. For instance, in Coulthard & Johnson (2016), the discussion of the relationship between language and law only revolves around a point related to evidence in police investigations, evidence in the courtroom, language performance of parties in courtrooms, and meaning of language products made by governmental institutions (such as the government and parliament) or court decisions. However, the current development has shown that the relationship may also cover various aspects and dimensions. The relationship between language and law does not only include the interpretation of legal language but also the aspects related to the law in practice such as proof, prosecution, renunciation, and final decision. For instance, cases of defamation place language as a tool of crime. In Indonesia, there are some laws, in addition to the Criminal Code, that regulate such cases. The most well-known is the Law Number 11 of 2008 on Information & Electronic Transactions (the ITE Law).

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Indonesia's legal perspective views the problem of defamation as a complex offense since the act of defamation is covered by several regulations. The Indonesian Criminal Code is not the only regulation that covers the act of defamation. To be precise, the Law Number 11 of 2008 on Information & Electronic Transactions also regulates the act of defamation. After the enactment of the Law in 2009, up to the end of 2014, it has placed 71 defendants convicted in court for alleged defamation. The fact that Indonesia is a state of law has clearly been stated in its constitution. According to the constitution, the implementation of law in Indonesia is obliged to take human rights into consideration. Some of the principles that respect human rights are, for examples, balanced restorative and retributive justice, equality before the law, and presumption of innocence.

To accomplish the aforementioned law principles and regulate criminal acts in Indonesia, the government has a guideline, namely the Criminal Code. One of criminal acts regulated in the Criminal Code is defamation. Defamation is known as the act of producing false or distorted statements about another which harms the person's reputation. Defamatory statements may be performed orally and/or printed in written form. The flourishing of social media use in 2009, particularly in Indonesia, had resulted in the rise of online defamation cases. Thus, this phenomenon had led to the enactment of the Law of the Republic Indonesia Number 11 of 2008 on Information & Electronic Transactions (the ITE Law). Therefore, there are two laws to refer to if a defamation case occurs: Criminal Code and ITE Law.

Previous studies have attempted to cover the problem of defamation based on the linguistic perspective. Various dimensions also have been covered from pragmatics, semiotics, to discourse analysis (see Author, 2015). It is in line with what is explained by Coulthard and Johnson (2007) that legal linguistics may include several levels such as acoustic phonetics, discourse analysis, and semantics. Lee (2012) conducted a study to explore defamation under a pragmatic perspective. By conducting a pragmatic approach, the study was able to identify the dynamicity of processing textual information and contextual intentions in communication. The study involved a deep analysis of the recipient's interpretation of offensive statements, essential in understanding defamation effects.

Reeck, Ames, and Ochsner (2016) argued that the theory of impoliteness provides the linguists with an analytical frame that can describe and explain the social emotions associated with offence and moral damages. Afterwards, Guillen Nieto (2020) examined defamation as language crime within the framework of impoliteness theory. The study showed that, in the High Courts of Justice of Spain, not all offences implying face damage is crime. Contrastingly, low-intensity insults, in fact, were de-criminalized by law in 2015. On the other hand, Cheng et al. (2016) have conducted studies on defamation cases in China. However, Cheng et al. (2016) focused the study on semiotic investigations in written texts of the court.

One perspective that is often used to study the problem of defamation is discourse analysis. The research in this area is mainly focused in proving cases of defamation from a discourse perspective; both oral and written discourses. Kniffka (2007) focused on defamation case from a German legal perspective and showed that discourse analysis can be used as a linguistic working tool for the analysis of defamatory meanings. Shuy (2010) put attention to a selection of twelve exemplary cases in which linguistics fits into the analysis of defamation, e.g. grammatical referencing, speech acts, conveyed meaning, intentionality, malicious language, discourse structure, and framing.

King (2015) also attempted to depict the position of the defendant in the construction of a copy of the court decision. King's research was focused on investigating the defendants of war crime tribunals at the International Criminal Court in The Hague. The mapping of court discourse was also carried out by Ge (2015). Ge (2015) utilized texts outside the legal context as material for his analysis namely media coverage related to cases that were tried in Chinese courts. The study done by Ge (2015) was different from that of King (2015) who did use copies of court decisions.

The current study is to a certain extent try to bring together what has been done by several studies that have been mentioned in the context of Indonesian courts. To see the portrayal of defamation case defendants in court verdict, this study employed van Leeuwen's (2004) CDA. Theory proposed by van Leeuwen has a feature of social semiotics in which actors and/or a social group are portrayed in a discourse. According to the theory, the portrayal of actors' position can be unveiled from their existence in the discourse by excluding (exclusion) or including (inclusion) them to the topic being discussed.

Defamation cases show the importance of linguistic analysis in the realm of legal context. In this context, the representation of the crime perpetrators in the court decisions may explain a side of the complexity since investigation of language crime is one of the fields of specialization of legal linguistics as a science. This study attempts to give evidence of how the power of language can actually put the defendants into particular position in front of the court, which will also give specific insights for the portrayal of Indonesian legal practice and principles. To be precise, the study aims to answer the question *how is the representation of defamation case defendant in*

Indonesian court verdicts? This study is expected to provide a new perspective in understanding the language realization of the legal system and judicial institutions in Indonesia. According to the 1945 Constitution of the Republic of Indonesia, every citizen shall have an equal position before the law. Therefore, the Indonesian legal system adheres to the principle of equality before the law which must be manifested in legal products, which in turn, are reflected through language in discourse. In addition, it is expected that this study can show whether the principle of presumption of innocence to the defendant has also been realized through the use of language in court legal products, in this case, through court verdicts. To accomplish this objective, the present study analyses court verdicts of two defamation case defendants by using the framework of Critical Discourse Analysis (CDA) from van Leeuwen (2004).

Several studies in the field of law have discussed the implementation of the principle in Indonesian legal context. Sasmita (2011) concluded that, juridically, the presumption of the innocence has not been applied proportionally. This may cause the defendant's rights for protection are encountered with unfavorable situation. Putrajaya (2016) stated that there are still legal officers who abuse their authority that results in the renunciation of presumption of innocence. Even in the most recent study conducted by Rizkon (2019), the implementation of the principle has not been substantial. This condition is mainly influenced by the attitude and understanding of each legal officer regarding the definition of presumption of innocence.

Legal discourse of defamation

The notion of legal discourse, as well as discourse in general, is in line with the theory of language as a social phenomenon (van Dijk 2018). It shows the systematic relationship between language and its social context in which language plays an active role in interpreting and reflecting meaning (Fortuna & Nunes 2018). The theory of language as a social phenomenon is the main foundation in this study. It is a theory of language with a functional and meaning-oriented focus to provide a linguistic tool for narrative textual analysis and intertextuality through interpersonal semantics.

Legal process is a cognitive process that forms various discourses (Gibbons & Turrell, 2008). This idea is in line with the ideas of some discourse analysts, who view discourse as a lingual unit which is a form of semiosis of various language productions (e.g. van Leeuwen, 2008; van Dijk, 2008). In this case, a legal process, as a process with language production, forms a lingual unity with a unity of its own meaning. According to Heffer (2005), court discourse is a series of texts with a 'complex genre' which is characterized by various

events being discussed, as well as those that occur during the trial process. Heffer (*ibid*) refers to various events that compose court discourse as key events that can show an integral meaning of the court discourse.

In common law, defamation can be categorized as either slander (the defamatory message was conveyed through speech) or libel (the defamatory message was conveyed in writing). Defamation can be expressed in speech, writing, or digital communication (Lidsky & Jones, 2016). The distinction is based on the core content of the defamatory utterance rather than on the medium of expression. The issue of defamation can be an interesting focus of legal linguistic study because linguistics has many related dimensions to determine whether a person's name can be 'defamed' by another person's language productions. Defamation can be interpreted in several different forms depending on the legal system, community, and culture in which an offensive type of communication takes place and defined as intentional communication that damages the credibility or good name of another person.

METHOD

This study used van Leeuween's (2008) framework to reveal whether the representation of the defendant in a copy of the court's decision is in accordance with the principle of equality before the law and the presumption of innocence. This study was a qualitative study. It aimed to understand a phenomenon by using certain methods. Data source that was used in this study covered two court verdicts released to settle two defamation cases. To achieve the objective of the study, this study followed van Leeuween's framework of investigating social actors involved in the discourse. van Leeuwen (2008) has developed a model that is able to describe the way actors are featured in news texts. In further development of this conception, van Leeuween (2018) emphasizes that discourse analysis is to show what texts leave out. Then, texts may transform and evaluate the social realities they represent.

In practice, van Leeuwen (2008) is very sensitive to the possibility of marginalization or exclusion (an individual or a group) in the news texts. According to van Leeuwen (2008), there are two points that are important to be considered in the examination of social actors in text. First, the exclusion refers to the process to hide or eliminate social actors in texts, as well as to the strategy in hiding or eliminating the actors. Exclusion or removal of actors can protect subjects or other actors in a process of reporting. Second, inclusion refers to the process in which an actor (either individual or group) is included and described in texts. Suppose that the actors are not removed, the

process of marginalization of particular individuals or groups can still be executed in texts. Van Leeuwen gives a series of discourse strategies that can be used in a way that affects the meanings into the hands of readers.

To channel the objective of the exclusion and inclusion analysis above, this study interpreted and related the findings to legal practices in Indonesia, particularly in the implementation of the presumption of innocence. Presumption of innocent is a legal principle regulated in the Law Number 48 of 2009 concerning judiciary. It states that "every person who is suspected, arrested, detained, prosecuted, or tried before a court must be deemed innocent before a court verdict states his guilt and has obtained legal enforcement".

The study began by selecting two court verdicts, which were the result of two different court proceedings. In both verdicts, both defendants were found guilty of defamation offenses. This study paid attention to the narrative of the events that led to the two defendants being brought to court, resulting in the two court verdicts. The narrative of the incident was included in the consideration section of the panel of judges who decided the two cases. The two texts were published in 2017 (Text 1) and 2018 (Text 2).

The two texts were selected purposively with the consideration of up-to-date data. Since 2020, the number of defamation cases has decreased substantially, and most have been resolved by restorative justice, not in court process. Then the narrative section was chosen because of the consideration that the object in this analysis was the side of the judiciary's storytelling of actual events (facts), which represented the way the judiciary viewed the position of the subject and object, or in the context of this study: the defendant. The analysis then examined the sentences from the narrative section to investigate the features of exclusion and inclusion that affected the final image of the defendant in the narrative. Since exclusion is a strategy to exclude actors from texts, it covers passivization, nominalization, and substitution of clauses. Inclusion, on the other hand, is a strategy to include actors in a discourse. Inclusion consists of differentiation-indifferentiation, objectivity-abstraction, nomination-categorization, nomination-identification, determination-indetermination, assimilation-individualization, and association-disassociation. Both strategies can be used to protect or marginalize actors and/or social group and to expose injustices (van Leeuwen 2008, p. 23).

FINDINGS AND DISCUSSION
The analysis of court decisions of two defamation case defendants in Indonesia shows that the defamation case defendants were portrayed in two core strategies, namely exclusion (passivization and

nominalization) and inclusion (objectivation-abstraction, nomination-categorization, and nomination-identification).

The study found that the representation of the defendants can be traced from both features of exclusion and inclusion. In total, there were 13 sentences in the first Text (Text 1) and 12 sentences in the second text (Text 2). Of the thirteen sentences in Text 1, six of them were narratives with defendant as the main actor. In Text 2, of the twelve sentences, seven sentences display acts of defendant in the narrative.

Further, there were five exclusion features in Text 1, consisting of three passivization and two nominalizations. Text 1 also contained six features of inclusion including three forms of objectivation-abstraction, two nomination-categorization, and one nomination-identification. On the other hand, the analysis found that Text 2 contained six features of exclusion: four passivization and two nominalizations. Text 2 also had seven inclusion features: four objectivation-abstraction, two nomination-categorization, and one nomination-abstraction. The findings indicate that the defendant was the cause that moved the narrative in each text. The next discussion shows the ways in which the judiciary represented the defendant in court verdicts.

Representation of the Defendants based on Exclusion Features
Van Leeuwen (2008) indicated that that exclusion in the analytical framework refers to the formation of lingual products without involving certain actors/subjects in the discourse. The exclusions found in this study included passivization and nominalization. Some exclusion had no traces in the representation, excluding both the social actors and their activities.

Passivization
Passivization transforms an active form to a passive form. In passivization, a direct object of an active declarative sentence can become the subject of a passive sentence. Prior critical linguists have a tendency to posit a direct and automatic connection between surface linguistic form and underlying ideological meaning. Passivization is seen as necessarily expressive of reader obfuscation. As a matter of fact, passivization does not have such intrinsic meanings and only has a meaning-in-context, as constructed by each individual hearer or reader. Weber (1992) stated that meaning is always the result of a particular reader's inferential processing. The sample of passivization found in the two verdicts can be identified in the following analysis.

Sample 1:
*Terdakwa **ditahan** berdasarkan Surat Perintah/Penetapan Penahanan*

[The defendant **was detained** based on a warrant/detention order]

(Text 1)

Sample 2:
*Terdakwa **tidak ditahan***
[The defendant **was not detained**]

(Text 2)

Within this array of clause elements, the subject is inherently associated with specification of an animate entity (*terdakwa*/defendant). Syntactically, it is typically associated with a nominal phrase or clause. To the extent that the subject does most typically name a participant (*terdakwa*/defendant), the subject is considered as having by default a semantically nominal function, which in respect of the subject role, we will call a nominative nominal meaning. In the two examples above, both texts emphasize the defendant as the theme of the sentence in the structure of passive sentences.

In these sentences, it is clear that the two texts both chose not to display the 'actor' referred to in the two clauses. When the relevant actions (detained) are included, but some or all of the actors involved in them (e.g., the police) are excluded, the exclusion *does* leave a trace. This kind of information is common in the copy of the text of the court decision. However, it should be noted that the role of actors in discourse can change due to the use of passive sentences.

It has been common that sentences that have an active structure are usually straightforward to designate the main perpetrators of an event. In the two examples above, there is a lack of clarity about the perpetrators either the police (in the preliminary investigation) or the prosecutor's office (in the full investigation). It is reasonable, therefore, that Nunn et al. (2018) uncovered the fact that legal texts seem to use the passive voice more in the method section but transitive verbs and active construction in the main body.

Furthermore, it also shows the realization of suppression. The samples perform the classic realization through passive agent deletion. It is often difficult to know whether suppressed social actor is or is not supposed to be retrievable by the reader or, indeed, the writer. Is this because readers are assumed to have already known. Therefore, more detailed references would be over communicative, or is it to block access to knowledge of a practice which, if represented in detail, might arouse compassion for the actor who is "detained"? The point is that the practice is here represented as something not to be further examined or contested.
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Nominalization

Nominalization is viewed as a type of grammatical metaphor whereby processes which are congruently realized by verbs are metaphorically realized by nouns expressing the same process as those verbs (Juznic, 2012). Nominalization allows the exclusion of social actors. Grammatical metaphor is a functional way of explaining a certain form of linguistic phenomenon, whereas "nominalization" is a non-functional way of explaining a subset of it. The sample of nominalization found in the two verdicts can be identified in the following analysis.

Sample 3:
*Terdakwa pada pokoknya sependapat dengan pasal **tuntutan** Penuntut Umum akan tetapi tidak sependapat dengan lamanya **hukuman** yang dimohonkan oleh Penuntut Umum.*
[The defendant basically agreed with the article on the **prosecution** lawsuit of prosecutor, but did not agree with the length of **conviction** requested by the public prosecutor.]

(Text 1)

Sample 4:
*Terdakwa mengaku bersalah dan memohon **keringanan** hukuman dengan alasan terdakwa telah menyesali **perbuatannya** serta berjanji tidak akan mengulangi lagi **perbuatannya** tersebut.*
[The defendant pleaded guilty and asked for **relief** with reason that the defendant regretted **his actions** and promised not to repeat **his actions**.]

(Text 2)

Theoretically, nominalization changes verbs to nouns. Changing the verb into a noun can usually obscure the material processes in sentences. In sample (3) above, the text forms a *menuntut* (prosecuting) and *menghukum* (convicting) process. This is likely to be done with the assumptions that the process of prosecuting (certain penalties) and convicting (the defendants) have been explained elsewhere in the text. Similar nominalization techniques are also used in text 2 as shown in sample (4).

In sample (4), pre-modification (e.g., "his" in "his action") of nominalizations or process nouns can also realize activation. A frequent form of this is "possessivation," the use of a possessive pronoun to activate ("his action") a social actor. By comparison to participation, this backgrounds agency changed it into the "possession" of a process, which make it transformed into a "thing."

The use of 'his action' can also be categorized as genitive phrases. Genitive phrases are perhaps most readily associated with marking possession, and are also variously known in the literature as possessive phrases or genitive noun phrases. However, in the sample, there are no a possessive pronoun as the head of a genitive phrase. Rather, it does occur as a phrasal headword, as the head of a nominal phrase.

In the respective sample, genitive phrases are formed by adding marker, which specifies the possessor. They thus combined a nominal phrase together with a genitive morpheme. This genitive ending is a bound morpheme, which cannot stand on

its own but must be attached to an adjacent word. Contrary to some people's understanding, however, it is not a case inflection of the noun. It is attached to the rightmost word of the nominal phrase. The end word may indeed be the actual headword noun of the phrase but it may be the last word of a qualifying element within the nominal phrase. Some scholars label possessive genitive phrases as 'clusters' rather than phrases (groups) because they cannot fill elements of structure directly. Therefore, we can conclude that the sentence is filled by additional cluster.

Furthermore, in sample (4), the nominalization of *keringanan* (relief) does not elaborate the intention regarding the request for the panel of judges to alleviate penalties which is unfortunate for the text to be unsuccessful in explaining or elaborating the reasons for pleading guilty. In this case, sample (4) shows that in court text (2), plea bargain appears to be an insignificant focus. The social construction found in the context of sentence structure in the copy texts of defamation court decisions places the defendant as an instrument that gives less consideration to the judge in making decisions.

Representation of the defendants based on inclusion features

Inclusion refers to events or groups other than those directly related to the news. van Leuween (2008) believes that inclusion is actually a strong marker to represent a group or event in a discourse. The following are inclusion schemes that can be found in all four texts.

Objectivation – Abstraction

Objectivation refers to a situation when social actors are represented by means of reference to a place or thing closely associated with either their personals or their actions in which they are represented as being involved. In general discussion, objectivation is realized by metonymical reference.

Sample 5:
*Perbuatan tersebut dilakukan terdakwa **untuk membalaskan sakit hati terdakwa terhadap korban.***
[The defendant committed this act **to revenge on her for having resentment.**]

(Text 1)

In relation to inclusion strategy, sample (5) shows that the purpose of objectivation-abstraction strategy in portraying the defendant is to provide additional information about motive. However, the description mostly provides negative consideration by neglecting positive reasons from the defendant's background to induce the crime. In sample (5) above, it appears that the text (1) explains the motive of the defendant's actions. In this case, the text (1) tries to emphasize the actions of the

defendant through this explanation. However, one thing that is overlooked in this sentence is the possibility of the things that can relieve the defendant in the matter. In sample (5), social actor is impersonalized represented by concrete clause whose meanings do not include the semantic feature. The abstraction is realized through the practice of mentioning a quality assigned to the defendant in the representation.

Sample (5) is clearly an attempt to provide a motive. Motive is the term used to describe why an individual has committed a crime. It's not the same as the motive, which relates to whether the action is accidental or intentional. Purpose is an aspect in just about any crime, which ensures that the prosecutor must prove that the defendant intended to commit a criminal act. However, the motive is typically not a criminal element — the prosecutor does not have to prove it to the defendant. Instead, prosecutors are attempting to set down a motive to show the jury that the defendant is guilty. Therefore, it is not significant to put the motive in the sentence structure.

Nomination – Categorization

Social actors can be represented through either their specific and nominated identity, or roles that they share with others (categorization). It is, again, often of interest to investigate which social actors are categorized and nominated in a discourse.

Sample 6:
*Terdakwa **sebagai seorang lelaki** telah sengaja mempermalukan saksi korban dengan berpura-pura sebagai saksi korban yang menjual diri sebagai wanita panggilan.*
[The defendant **as a man** deliberately humiliating the victim witness by pretending to be a victim witness who is associated with a prostitute.]

(Text 2)

Grammatically, as indicated above, the sentence consists of one or more clauses, which are interrelated on a co-ordinated or subordinate basis. In terms of meaning, each clause expresses an idea or a proposal, then what the sentence does is to convey one or more ideas or proposals, interwoven in order to present a coherent whole (The claims used to abound regarding the notion of the completeness of concepts).

In sample (6) above, text (2) confirms the important characteristics of the defendant as a man. As explained by van Leeuwen (2008), the appearance of someone's important features in the text is a sign of respect or effort to display the advantages of one party to the reader. In this case, there is a tendency that the text tries to stigmatize how a man should behave. In fact, this categorization is not important if the sameness of all subjects, both men and women, in the eyes of the law is considered.

Sample (6) is the realization of biological categorization. Biological categorization uses standardized exaggerations of physical characteristics to connote the negative or positive associations evoked by the socio-cultural group depicted for the socio-cultural group for which representation is primarily made. The choice of this type of representation suggests that the features are known to be "biological," "in the blood," and thus inescapable. The unrealistic exaggeration of physical features suggests that they are intended not only to allow recognition, but also to have a symbolic meaning, that is fundamentally cultural and whose relationship with physical features must be discursively constructed and disseminated before it can be interpreted. This, in turn, means that biological characterization can only be completely understood if an aspect of historical iconography is introduced in the investigation.

Nomination – Identification
Sample 7:
*Bahwa terdakwa **secara tidak berperasaan** telah mempermalukan saksi korban.*
[That the defendant **inconsiderately** humiliated the victim witness.]

Text 1

In the sample above, it can be seen how text (1) directly identifies the defendant as someone who is *tidak berperasaan* (inconsiderate). It is interesting that the sample above also seems to be similar to the characteristic in sample (6) in the previous section where the defendant is also directly labeled.

Taken together, the findings firstly strengthen the classic discussions about judicial decisions and linguistic analysis. Solan (1995), one of the pioneers, shows that courts evaluate the meanings of disputed terms in two different ways in terms of definitions and in terms of how far the word strays from the prototypical use of the word. Different interpretation and representation can have serious jurisprudential ramifications. Regarding this phenomenon, Peruzzo (2019) believes that the range of available classifications is wide because of the multiple perspectives that can be adopted when observing the interaction between language and law.

The exclusion strategy implemented in passivization provides a lack of clarity about the perpetrators. Therefore, the structure cannot be categorized as an effective way to display factual information. The finding confirms Faigley's (2006) study implying that passivization is a way to conceal who is responsible for an action rather than an effective way to communicate a world perspective. We may assume that the absent of actor (agent) in passive sentence is related to the implementation of agentless passive construction (Simpson, 1993). The construction shows that the impact of the action is much more important than the actor (agent).

Therefore, it is reasonable to defocus and remove institutional responsibility on the action.

Afterwards, through nominalization, a fundamental proposition comprising a subject, verb, and an object can be transferred into a much simpler entity or a noun phrase, as shown by samples 3 and 4. The examples show that the processes are rendered in entities. The consequence of nominalization is that core aspects of the process and some information are left unspecified. Specifically, the readers of legal verdicts cannot access the information about *who* or *what*. In legal context, the strategy of nominalization can be compared to a study conducted by Kazemian, Behnam, and Ghafoori (2013). The study formulates that nominalization is a resource language used to compact information by conveying concepts in metaphorical form which is very valued as a way of expressing objectification, abstraction, ambiguity, information density, formality as well as a mark of prestige and power. By looking at wordings, such as *tuntutan* (indicment) and *hukuman* (sentence), the terms clearly refer to specific entity that has power to prosecute and to convict someone.

Regarding inclusion strategies, those forms (abstraction, categorization, and identification) are related to additional information to construct specific nuance in defamation case. To some extent, as stated by Ahmad, Mian, and Hussan (2019), lexical and structural choices in legal domain maintain their simplicity, clarity, triteness and singularity of meaning due to specialized sense. We may assume that the objectivation-abstraction, presented by sample (5), depicts a motive as the cause that moves the defendant to induce a certain action. A curiously persistent controversy in criminal law concerns the importance of the defendant's intent to his or her criminal obligation. Specifically, the argument is if a positive or permissible motive can exculpate someone who has committed a criminal act.

The abstraction can be categorized as a personal motive (Garner, 2005). From the perspective of sentence structure, the structural choice of sample (5) maintains clarity and logical reason behind the action. By reading the whole sentence, three fundamental aspects (agent, action, and circumstance) can be identified. Furthermore, the analysis on objectivation-abstraction corroborates a study conducted by Bartley (2020). The study shows that particular language choices are crucial to maximize the credibility of the version of an event. Therefore, it can be assumed that the verdict is trying to persuade common people to construct logical reason of the case based on law enforcement agent's version.

Sample (6) portrays multi-interpretative structure. In formal sentence structure, the nomination-categorization (*sebagai seorang lelaki/*as a man) can be categorized as an adjective

clause which modifies a noun (the agent). Adjectival clauses are also known as relative clauses, though there is one type of relative clause which is better regarded as an adverbial. They are typically (but not necessarily) introduced by a relative word in the form of a pronoun or adverb. These clauses serve to qualify a foregoing (antecedent) noun headword, and in this specific case of sample (6), they fulfill a role, which potentially might be performed by a simple word. Indeed, the relative clause can provide the answer to a question of the type ''Which + antecedent headword?'. The term 'relative' denotes the fact that the clause relates back to the antecedent noun headword in the superordinate clause and is bound to it by the relative word (with or without a preposition), though this relative word can sometimes be omitted. In the analysis, the relative word is marked according to the class to which it belongs in the subordinate, relative clause, and this is not necessarily the same as the class of the antecedent in the superordinate clause. Sample (6) shows that there are different treatments for a certain party in the discourse of defamation cases. In this case, the differences in these treatments are recounted in the court verdict text. The Nomination-Identification category in the representation of the defendant in Sample (6) can at least be explained by the ideas put forward by Nagel & Barry (1994).

Sample (7) puts the defendant as someone who does not take into consideration the feelings of other people without exhibiting the defendant's reasons of doing such things. It is a fact that the defendant is constructed based on a specific ratio to the defendant. This is the practical application of curvilinear relationships (Moore & Tenbrunsel, 2014). Conway, Houck, Gornick, and Repke (2016) argued that the sentence structure should have alternative ways for a counter-example suggesting a more linear relationship between the defendant and the factual event. The present study takes a grammar to be a 'meaning potential'. The use of certain identification to modify 'the agent' should be underpinned by meticulous consideration in context, co-text, and pre-text in a complete legal text.

All samples show that most of structures in portraying defamation case defendant are in complex sentence. Simplicity and complexity have often-competing strengths and weaknesses (Conway et al., 2012). In general, simple sentence structure is often easier to understand and perceived as more powerful. Indeed, in communication, we are required to prefer simplicity over complexity. Many studies in varied areas show that complexity is not always effective. In legal domains, factuality can be presented in plain structure without promoting some multi-interpretative features, gender categorization, and personal ratio. A verdict, as a legal text, is plausible to have plain language (Flammer, 2010) and clear opinions (Benson & Kessler, 1987; Owens & Wedeking, 2011) since it will provide less

opportunity for ambiguity. In this sense, the present study believes that it is more crucial to portray defamation case defendant in his action specifically.

CONCLUSION

Data interpretation and final conclusions of this study reveal that in the court verdicts, it was found that there are features that have potentials to violate the principle of presumption of innocence. The construction of the defendant in the discourse should be made in a neutral form. However, in samples (6) and (7), it appears that the position was constructed based on a certain ratio to the defendant. It was also found from the identical samples that the court verdicts appear to place the defendant in a marginalized position. This can be unfortunate, considering that the court's products should be the result of efforts to balance justice retributively and restoratively.

In addition, samples (4) and (5) show the formation of the defendant's role and position in the defamation discourse without taking into account the aspects of defense, which are the right of the defendant. In this case, the objectivation was not elaborated as something that might be a relief for the defendant. Thus, it appears that the defendants seemed to be the target of victimization efforts in the production of court decisions while, in fact, the law should place all subjects in equal positions before the enforcement of the legal decision.

To conclude, there are two things that can be suggested. Firstly, the legal instruments should be more careful in viewing or treating the defendant in court proceedings. The treatment not only includes oral discourse during the trial process, but also the written discourse (such as the text of the court verdicts) involving the defendant. It implies that the principle of presumption of innocence needs to be upheld. Secondly, further research may be conducted with the focus on the oral discourse in the ongoing court process to confirm the validity of the data.

REFERENCES

Ahmad, A., Mian, M. S., & Hussan, S. (2019). A stylistic study of legal language in the verdicts of the supreme court of Pakistan. *Pakistan Journal of Social Science, 39*(2), 429-436. http://pjss.bzu.edu.pk/website/journal/article/5ed1079dc09eb/page

Bartley, L. (2020). 'Please make your verdict speak the truth': Insights from an appraisal analysis of the closing arguments from a rape trial. *Text & Talk*, *40*(4), 421-442. https://doi.org/10.1515/text-2020-2065

Benson, R. W., & Kessler, J. B. (1987). Legalese v. plain English: An empirical study of persuasion and credibility in appellate brief writing. *Loyola of Los Angeles Law Review*,

20(2), 301–321. https://digitalcommons.lmu.edu/cgi/viewcontent.cgi?referer=&httpsredir=1&article=1493&context=llr

Cheng, L., Cheng, W., & Li, J. (2016). Defamation case law in Hong Kong: A corpus-based study. *Semiotica*, *2016*(208), 203-222. https://doi.org/10.1515/sem-2015-0114

Coulthard, M., Johnson, A., & Wright, D. (2016). *An introduction to forensic linguistics: Language in evidence*. Routledge.

Conway, L. G., Gornick, L. J., Burfeind, C., Mandella, P., Kuenzli, A., Houck, S. C., & Fullerton, D. T. (2012). Does complex or simple rhetoric win elections? An integrative complexity analysis of U.S. presidential campaigns. *Political Psychology*, *33*(5), 599–618. https://doi.org/10.1111/j.1467-9221.2012.00910.x

Conway, L. G., Houck, S. C., Gornick, L. J., & Repke, M. A. (2016). Ideologically motivated perceptions of complexity. *Journal of Language and Social Psychology*, *35*(6), 708–718. https://doi.org/10.1177/0261927X16634370

Faigley, L. (2006). *The brief penguin handbook: Custom edition for the department of English at Marshall University (2nd ed.)*. Pearson.

Flammer, S. (2010). Persuading judges: An empirical analysis of writing style, persuasion, and the use of plain English. *The Journal of Legal Writing Institute*, *16*(1), 191–229. https://www.legalwritingjournal.org/wp-content/uploads/2015/07/volume16.pdf

Fortuna, P., & Nunes, S. (2018). A survey on automatic detection of hate speech in text. *ACM Computing Surveys (CSUR)*, *51*(4), 1-30. https://doi.org/10.1145/3232676

Garner, B. A. (2005). *Black's law dictionary* (8th Ed.). Thomson.

Ge, Y. (2015). Sensationalism in media discourse: A genre-based analysis of Chinese legal news reports. *Discourse & Communication*, *10*(1), 22-39. https://doi.org/1750481315602395

Gibbons, J., & Turell, M. T. (2008). *Dimensions of forensic linguistics* (Vol. 5). John Benjamins Publishing.

Guillen Nieto, V. (2020). Defamation as a language crime: A sociopragmatic approach to defamation cases in the high courts of justice of Spain. *International Journal of Language & Law, 9*(2020), 1-22. http://www.doi.org/10.14762/jll.2020.001

Heffer, C. (2005). *The language of jury trial: A corpus-aided analysis of legal-lay discourse*. Springer.

Juznic, T. M. (2012). A contrastive study of nominalization in the systemic functional framework. *Language in Contrast, 12*(2), 251-276. https://doi.org/10.1075/lic.12.2.08mik

Kazemian, B., Behnam, B., & Ghafoori, N. (2013) Ideational grammatical metaphor in scientific texts: A Hallidayan perspective. *International journal of Linguistics*, *5*(4), 146-168. https://doi.org/10.5296/ijl.v5i4.4192

King, V., (2015). Constructing victims in the international criminal court: A critical discourse analysis. *Pursuit - The Journal of Undergraduate Research at the University of Tennessee*, *6*(1), 129-139. https://trace.tennessee.edu/pursuit/vol6/iss1/12/

Kniffka, H. (2007). *Working in language and law: A German perspective*. Palgrave Macmillan.

Lee, S. (2012). A pragmatic analysis of defamation and slanderous remarks. *Korean Journal of Linguistics, 37*(2), 401-416. https://doi.org/10.18855/lisoko.2012.37.2.008

Lidsky, L. B., & Jones, R. A. (2016). Of reasonable readers and unreasonable speakers: Libel law in a networked world. *Virginia Journal of Social Policy & the Law, 155,* 156–178. https://scholarship.law.ufl.edu/facultypub/755/

Moore, C., & Tenbrunsel, A. E. (2014). "Just think about it"? Cognitive complexity and moralchoice. *Organizational Behavior and Human Decision Processes*, *123*(2), 138–149. https://doi.org/10.1016/j.obhdp.2013.10.006

Nagel, I. H., & Barry, L. J. (1994). The role of gender in a structured sentencing system: Equal treatment, policy choices, and the sentencing of female offenders under the United States sentencing guidelines. *Journal of Criminal Law and Criminology, 85*(1), 181-221. https://doi.org/10.2307/1144116

Nunn, R., Deveci, T., Khan. I., & Ayish, N. (2018). A transitivity investigation of *Nature* journal articles: Legitimizing first-person use. *The Linguistics Journal*, *12*(1), 192-220. https://www.elejournals.com/linguistics-journal/linguistics-journal-volume-12-issue-1-2018/

Owens, R. J., & Wedeking, J. P. (2011). Justices and legal clarity: Analyzing the complexity of US Supreme court opinions. *Law & Society Review*, *45*(4), 1027–1061. https://psycnet.apa.org/doi/10.1111/j.1540-5893.2011.00464.x

Peruzzo, K. (2019). *National law in supranational case-law: A linguistic analysis of European court of human rights judgments in English*. EUT.

Reeck, C., Ames, D., & Ochsner, K. N. (2016). The social regulation of emotion: An integrative, cross-disciplinary model. *Trends in Cognitive Sciences, 20*(1), 47–63. https://doi.org/10.1016/j.tics.2015.09.003

Rizkon, R. (2019). *Penerapan asas praduga tak bersalah dalam tahap penyidikan terhadap pelaku tindak pidana main hakim sendiri dalam kasus pencurian yang tertangkap oleh*

masyarakat [Unpublished master's thesis]. Universitas Muhammadiyah Palembang.

Sasmita, R. (2011). Penerapan asas praduga tak bersalah dalam praktek penanganan kasus tindak pidana pencurian (Studi kasus di kota Mataram). *Law Reform, 1*(7), 50-75. https://doi.org/10.14710/lr.v7i1.12501

Shuy, R. W. (2010). *The language of defamation cases.* Oxford University Press.

Simpson, P. (1993). *Language, ideology and point of view.* Routledge.

Solan, L. M. (1995). Judicial decisions and linguistic analysis: Is there a linguist in the court? *Washington University Law Review, 73*(3), 1069-1080. https://openscholarship.wustl.edu/cgi/viewcont ent.cgi?article=1670&context=law_lawreview

Tryan P. M. S., Putrajaya, N. S. & Pujiyono. (2016). Tinjauan yuridis terhadap pelaksanaan asas praduga tak bersalah dalam proses peradilan pidana. *Diponegoro Law Journal*, *5*(4), 1-13. https://ejournal3.undip.ac.id/index.php/dlr/artic le/view/13759/13313

van Dijk, T. A. (2018). Discourse and migration. In R. Zapata-Barrero & E. Yalaz (Eds.), *Qualitative research in European migration studies* (pp. 227-245). Springer.

Van Leeuwen, T. (2004). *Discourse and technology: Multimodal discourse analysis.* Springer.

Van Leeuwen, T. (2008). *Discourse and practice.* Oxford University Press.

Van Leuween, T. (2009). Discourse as the recontextualization of social practice: A guide. In R. Wodak & M. Meyer (Eds.), *Methods of critical discourse analysis* (pp. 117-126). Sage Publications.

Weber J. J. (1992). *Critical analysis of fiction: essays in discourse stylistics.* Rodopi.

Zifana, M. (2015). Pencemaran nama baik dalam perspektif hakim: Analisis linguistik forensik terhadap pemahaman wacana hakim dalam memutus perkara pencemaran nama baik. In Y. Yanti (Ed.), *Prosiding konferensi linguistik tahunan atma jaya ketiga belas* (pp. 555-560). PKBB Unika Atma Jaya.