

Language as Evidence: The Use of Voice Note in the Judicial Process of the Fake News of the Seven Voted Ballot Containers in Indonesia

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Abstract: In the case of fake news, language has an important role as evidence to determine whether a person has made fake news. This article provides a brief exploration and description of language as evidence in the case of fake news viewed from Indonesian legal context. It looks at the voice note concerning the fake news of the seven voted ballots containers written and spread by Bagus Bawana Putra (BBP) through social media on 1 January 2019, approaching the general election on 17 April 2019 in Indonesia. Adopting Miles and Huberman's data analysis model, the voice note is analysed to find which words of BBP are claimed as evidence in determining whether BBP has violated Indonesian legal provisions. The result of the analysis shows that BBP was found guilty of violating Article 14 paragraph 1 and paragraph 2 and Article 15 of Law No. 1/1946 concerning Criminal Law Regulation.

Keywords: fake news, language as evidence, legal proceeding, legal provision

I. INTRODUCTION

Up to the present time fake news has become an interesting topic that many scholars have devoted their attention to this topic for their studies. For this sense, some of them are highlighted in this current study. For example, MacGonagle (2017, p. 209) in his article *Fake news: False fears or real concerns?* concludes that this article is an attempt to dismiss fake news as a fake concept. Edson, et al (2018, p. 137), in the article *Defining "Fake News"*, address their discussion on the definition of fake news based on two dimensions: levels of facticity and deception. In her book *DECEPTION: Real or Fake News?* Rice (2019, pp. 4-47) teaches the readers how to make different between real and fake news. In addition, Robinson and Venzon (2019) take a little look at the case of Bagus Bawana Putra (BBP) as an example of his discussions in his article *Bots and the ballot box: Is Facebook prepared for Asia's elections?* Though fake news has been discussed in such studies, it still becomes a seminal topic for another further study.

This current study is certainly different from the previous ones although the formers and the latter have the same topic, namely fake news. The formers more focus on the term fake news viewed from the concept, definition, difference between real and fake news, and fake news in facebook. However, the later specifically focuses its analysis on the case of BBP viewed from linguistic and legal aspects. In this analysis, it

certainly becomes different from Robinson and Venzon's article that only highlights BBP case as an example of their discussions. As a result this latter study can be considered as interdisciplinary study of language and law.

Lately the interdisciplinary study of language and law focused on fake news is still in a small number and becomes under-researched. For this reason, concerning fake news in Indonesia, this current study is analysing the linguistic features that lead BBP to undergoing his legal proceedings. This analysis certainly gives a solid understanding of how the language can become evidence in the legal proceedings. To meet the analysis, the study is looking at the following points.

- Overview of Fake News
- BBP and the fake news of seven voted ballot containers
- Language used by BBP in the fake news of seven voted ballot containers
- Legal provisions regulating the fake news
- Other legal provisions relating to the case of BBP

II. OVERVIEW OF FAKE NEWS

Although the term "fake news" has been in use in newspapers since 1890s (Mara, 2019), it really blew up during the home stretch of the 2016 US presidential election (Barkclay, 2018). Since then, in the Post-Truth era we live in nowadays, fake news has become an inescapable part of our everyday lives (Haskins and Dixon-Milhouse, 2017). Because of the rise of Internet, fake news spreads so fast through e-mail and social media (Currie, 2017). As a result, these facts lead to such questions as what fake news is and why people create it.

Scholars define fake news in a different way. It is a phrase used to describe a news story that has been released through media and has information that is either greatly exaggerated or completely untrue (Mara, 2019). In the different words, it applies to news stories and social media posts posing, falsely, as genuine news items (Michael, 2019). Though fake news is defined differently, the two definitions of it lead to the same understanding that fake news refers to untrue or false news story.

In addition, in term of the reason of fake news creation, Mara (2019) and Miller (2019) have the same opinion. According to them, the purpose of fake news is to mislead the public either

as the readers or as the viewers. Furthermore, in term of the aim at creating fake news, both of them have the same arguments that fake news is created for such aims as making profit (for money), winning political favor (influencing voters), damaging the reputation of a person, group of people, or organization. Paying attention to the purpose and aim of fake news creation, fake news certainly has its impact on real world.

Concerning the impact of fake news on real world, in term of winning political favour Chong Lip Teck (2017) states that fake news had an impact on the US presidential election in 2016, and so did in Malaysia. Nevertheless, Feraro and Chipman (2019) argue that fake news does not only influence the political world, but also the businesses practice. In addition, in the business context, they explain that trolls and profiteers use fake news to affect the market. For these facts, the creation and spread of fake news on social medias constitute politically-oriented and money-oriented agendas.

III. BBP AND FAKE NEWS OF SEVEN VOTED BALLOT CONTAINERS

BBP and the news of seven voted ballots containers are two main points that cannot be separated since they had become a trending topic in the media ahead of the 2019 Presidential Election in Indonesia. For this fact, this section firstly explores who BBP is.

BBP is a man who lives at Sukamahi Village, Central Cikarang Subdistrict, Bekasi Regency. He has a fairly advanced business. According to the people around him, he is a figure who is trusted by his boss in managing the restaurant business and other businesses. Neighbors around his residence know him as a good and sociable figure, even active in village activities.

His name suddenly became well-known after the fake news of seven voted ballot containers in Tanjung Priok, which he distributed initially through his twitter. BBP was then thought to be a supporter of one of the 2019 presidential candidates namely Prabowo-Sandi and became Chairman of the National Coordinator Council of Prabowo-Sandi. However, this was denied by Ferry Juliantono as Deputy Director of Volunteers of the Prabowo-Sandi National Winning Body. According to Ferry, BBP is not to be part of official volunteers from Prabowo-Sandi presidential candidate.

Ahead of the 2019 Presidential Election in Indonesia, many political issues are milling about and the latest news is fake news about seven containers containing voted ballots at Tanjung Priok port in Jakarta. Due to this fake news, BBP was

then identified as the person who created and disseminated the news.

After KPU (General Election Commission) and Bawaslu (General Election Supervisory Body) checked this news at Tanjung Priok port and found out that no seven voted ballot containers were at the port. For this fact, both KPU and Bawaslu urged the Police of the Republic of Indonesia to pursue every account spreading the issue on Facebook and Twitter since both social media were where the fake news first came up. As a result of this news, BBP was arrested by the Police at Sragen, Central Java. As an example of discussion in their article, Robinson and Venzon (2019) take a little look at the case of BBP as follows.

A couple of days into the new year, a mysterious voice recording started doing the rounds on Indonesian social media, including Facebook and WhatsApp. In the recording, a man claimed he had found evidence of vote-rigging for the upcoming presidential election.

He said seven ballot containers were found in Jakarta at Tanjung Priok, the country's busiest port, each containing 10 million voting papers for the April election. The ballot paper was already punctured next to "1" -- the candidate number for the incumbent President Joko Widodo and his Muslim cleric running mate Ma'ruf Amin.

"The ... cards were punched in number 1, punched by Jokowi," the recording said. "There is a possibility [these are] from China."

Indonesia's General Election Commission, KPU, denied these claims, and the police swiftly arrested the man who made the recording, along with three other people who disseminated it. The man was identified as Bagus Bawana Putra, chairperson for a support group for Prabowo Subianto and Sadiaga Uno, the opposition camp. The Prabowo-Sandi camp denies any knowledge of the man.

The fact, that BBP was arrested and decided as the suspect by the police, means that it is the beginning time for him to undergo his legal proceedings.

IV. BBP'S LANGUAGE IN THE FAKE NEWS OF SEVEN VOTED BALLOT CONTAINERS

In the previous section it is discussed that BBP was arrested by the Police of the Republic of Indonesia because of the language he used in the fake news about the seven voted ballot containers. His language in this fake news was sent into two ways. At the first time he sent it through voice note or voice message to WA group called *Prabowiseso* and to his friend Titi Setiawati and it can be seen in the following table.

Table 1. BBP's Voice Note on the Seven Voted Ballot Containers

Indonesian Version	English Version
"Assalamualaikum Mbak Titi e saya posisi saya di Bogor, saya ditelepon temen orang Tanjung Priok seorang marinir katanya di sekarang ini lagi geger lagi heboh ditemukan satu kontainer surat suara ya surat suara yang sudah dicoblos nomor satu isinya itu 1 kontainer 10 juta berarti ada 70 juta surat suara tolong sam kalau ada akses tolong sampaikan ke Pak Joksana ya Mbak Titi ada akses sampeyan ke Pak Joksana atau ke Pak Prabowo untuk segera ngirim orang yang punya power untuk ngecek itu sekarang masih dibuka lagi geger katanya lagi dijaminin marinir gitu coba karena aku lagi di Bogor."	"Assalamualaikum Mbak Titi, I am in my position in Bogor, I was called by a friend of Tanjung Priok, a marine, who said that at this time there was a commotion with a container of ballots ya the ballots voted by number one, 1 container of 10 million, so there were 70 million ballots please sam if there is access please tell Pak Joksana ya Mbak Titi has access to Mr. Joksana or to Pak Prabowo to immediately send someone who has power to check it now it is still opened again the commotion, said it was guarded by the marines so try because I'm in Bogor."

Source: Umasugi, KOMPAS.com (4/4/2019)

At the second time, BBP also tweeted the information about the seven voted ballot containers through his Twitter account @bagnataral. It can be seen in the table below.

Table 2. BBP's Tweet on the Seven Voted Ballot Containers

Indonesian Version	English Version
"Ada info, katanya di tanjung priuk ditemukan 7 kontainer berisi surat suara yg sdh tercoblos gbr salah satu paslon. Saya tdk tahu ini hoax atau tdk, mari kita cek sama2 ke Tanjung Priok s ekarang cc. @fadlizon, @AkunTofa, @AndiArief ... @Fahrihamzah,"	"There is information, it said that in Tanjung Priok it was found 7 containers containing ballot papers which were voted for one of the candidate pairs ... I don't know, this is a hoax or not, let's check together at Tanjung Priok now ... Cc @fadlizon, @AkunTofa, @AndiArief_@Fahrihamzah".

Source: Bernie, tirto.id (4/4/2019)

V. INDONESIAN LEGAL PROVISION REGULATING FAKE NEWS

Indonesia as a constitutional state is certainly a country where law is the basis of power or the source of all power to regulate and hold the country. In term of fake news, it is regulated in Article 14 paragraph (1) and paragraph (2) of Law Number 1 Year 1946 about Criminal Law Regulations. Each of these paragraphs reads as follows.

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 a 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.

As well as Article 14 paragraph 1 and paragraph 2, fake news is also regulated in Article 15 of Law Number 1 Year 1946 about Criminal Law Regulations. It reads as follows.

Whoever broadcasts uncertain news or news that is excessive or incomplete, while he understands at least it is reasonable to suppose that such news will or will be easy to issue confusion among the people, sentenced to a maximum sentence of two years in prison.

VI. OTHER INDONESIAN LEGAL PROVISIONS RELATING TO THE CASE OF BBP

Due to being viral of the fake news of the seven voted ballot containers, as well as Law Number 1 Year 1946 about Criminal Law Regulations, there are some other legal provisions relating to this case. They are Article 45A paragraph (2) jo. Article 28 paragraph (2) and/or Article 45 paragraph (2) jo. Article 27 paragraph (3) of Law Number 19 Year 2016 about Amendment to Law Number 11 Year 2008 concerning Information and Electronic Transactions. Each of these articles and paragraphs reads as follows.

Article 45A paragraph (2)

Everyone who intentionally and without rights disseminating information intended for Article 45 paragraph (3) religion, race, and intergroup (SARA) as referred to in Article 28 paragraph (2) is punished by imprisonment no later than 6 (six) years and / or the most fine of Rp1,000,000,000.00 (one billion rupiah).

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).

Article 45 paragraph (2)

Every person who fulfills the elements referred to in Article 28 paragraph (1) or paragraph (2) shall be sentenced to imprisonment for a maximum of 6 (six) years and / or a fine of a maximum of Rp1,000,000,000.00 (one billion rupiah).

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.

VII. RESEARCH METHODOLOGY

This paper belongs to a descriptive research because it aims at describing the language used by BBP in his fake news of the seven voted ballot containers. To meet the description, the paper is then focused on two questions, namely "which

linguistic features does BBP use in the news of the seven voted ballot containers considered as fake?" and "are there any legal provisions of fake news he violated?"

In the framework of answering the two questions, this paper is presented qualitatively so that it belongs to a qualitative research because of its data constituting words, phrases, and sentences, not numbers. According to Bogdan and Biklen (1992), the research with such data is one characteristic of the descriptive research. With the document study technique, the data of this research were collected from the text of short message and voice notes concerning the news of the seven voted ballot containers spread out through social media by BBP. From this text, the collected data constituting words, phrases, and sentences were then reduced, simplified and transformed into the data display by identifying which data representing the fake news and leading BBP to be in legal proceedings. The data display concerning BBP's linguistic features (language) can be seen in Table 1 and Table 2 above. These procedures of data analysis are adapted from the data analysis model developed by Mile and Huberman as described in the following figure.

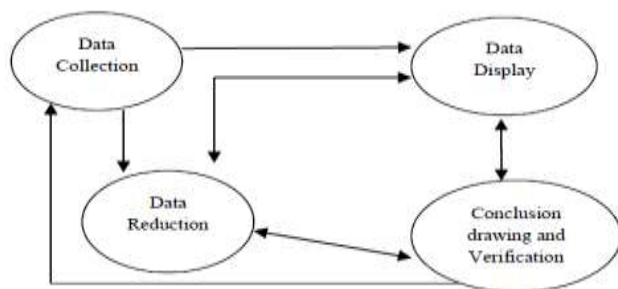


Figure 1. Data analysis model of Mile and Huberman (1994)

VIII. FINDING AND DISCUSSION

Linguistic Features Causing BBP To Undergo Legal Proceedings

Both Table 1 and Table 2 in the previous section show that there are the essential linguistic features that lead BBP to undergo his legal proceedings. In Table 1 they are reflected in such phrases or sentences as *ditemukan satu kontainer surat suaraya surat suara yang sudah dicoblos nomor satu* (it was found a container of ballots ya the voted ballots for number one) and *isinya itu 1 kontainer 10 juta berarti ada 70 juta surat suara* (one container consists of 10 million, it means that 70 million ballots). Such similar words as *ditemukan 7 kontainer berisi surat suara yg sdh tercoblos gbr salah satu paslon* (it was found 7 containers which contain the voted ballots for the picture one of the candidate pairs) are also shown in Table 2. These sentences in both Table 1 and Table 2 have the same form, the passive voice because of the verb *ditemukan* (was found) as it is recognised from the prefix *di* which in Indonesian language is used to form the passive voice.

With the use of passive sentence in this context, it indicates that BBP wanted to emphasize that the phrase *surat suara yang sudah tercoblos* (the ballots which have been voted) in both Table 1 and Table 2 are the most essential linguistic features because it is the subject of the sentence, which receives the action of the verb *ditemukan*. As the subject of the sentence, it then certainly becomes the topic of the message either in voice note or in the message tweeted in Twitter account @bagnataral. Finally it became viral after it was shared by Bagus Bawana Putra through such social media as Whatsapp and Twitter.

Because of being viral on 2 January 2019, these linguistic features, *surat suara yang sudah tercoblos* (the voted ballot) made a commotion among Indonesian people, especially those directly related to this news such as the commissioners of KPU (General Election Commission) and Bawaslu (General Election Supervisory Body). As the institutions are responsible for the realisation of General Election in Indonesia, both KPU and Bawaslu then checked the truth of these linguistic features (*the voted ballots*) at Tanjung Priuk, the place considered as the place where they were found, but they did not find *the voted ballots*. For this fact, they declared this news as the fake news. Due to this fake news, they immediately urged the Police of the Republic of Indonesia to pursue every account spreading the issue on Facebook and Twitter since both social medias were where the fake news first came up. Finally Bagus Bawana Putra was arrested by the Police at Sragen, Central Java on 7 January 2019. After this arrest he was then interviewed for investigation process concerning the fake news of the seven voted ballots containers. On 4 April 2019 this fake news case was tried at District Court, Central Jakarta and this trial was Bagus Bawana Putra's first trial he had to undergo.

On the basis of the fact that since he was arrested by the Police and that he underwent his trial, it was found out that BBP has undergone such three phases of legal proceedings as he had become the suspect, the defendant (the accused), and the convicted.

BBP as the Suspect

Being the suspect is the first phase of legal proceedings for BBP. Concerning this fact, Siddiq (2019), a reporter of TEMPO.CO, reported that BBP was arrested by the Police of the Republic of Indonesia on 7 January 2019 at Sragen and he was then determined as the suspect of the creator of the seven voted ballot containers at Tanjung Priok port. In addition, the reporter added that the arrest and the determination of being the suspect were based on the result of the investigation that BBP admitted that the idea of making, uploading, and spreading the content of the fake news for seven voted ballot containers at Tanjung Priok was purely from his own thoughts. From this point, it shows that the intentional element by BBP is fulfilled.

BBP as the Accused

On 4 April 2019 BBP underwent a hearing with the agenda of reading the charges in the Central Jakarta District Court. For this point, his status moved from being the suspect to being the defendant. In this trial he was accused that he was the creator of the fake news of the seven voted ballot containers. To be concerned with this trial, Lazuardi (2019), a reporter for Tribunnews.com, reported as in the followings.

The Public Prosecutor (JPU), Mangontan, said that Bagus Bawana Putra was the creator of false information on the seven voted ballot containers in the TanjungPriok, North Jakarta.

According to him, Bagus Bawana Putra was indeed not the first person to convey information about the 7 ballot containers being broken.

According to Hidayat (2019), a reporter of *detikNews*, it was reported that BBP dismissed the accusation as the creator of the 7 container hoax ballot numbered 01. However, he did not deny that he had spread the false information. BBP said as in the followings.

"Obviously (not as a fake news creator). (However) I admit to spreading. I am indeed careless not to cross-check (the truth of information)".

However the Prosecutor, Mangontan, who read the indictment, dismissed Bagus' refutation that he was not a creator. The Prosecutor called Bagus as the creator who compiled a series of words for the fake news. It was reported by the reporter as follows.

"Bagus Bawana Putra is a creator in making a series of words to spread this fake news. Because after he gets the news, the news is actually not widespread yet, only personally. Well, after he got it, he took the initiative to do a series of words for directing to false news or hoaxes,"said the prosecutor after the trial.

According to the Prosecutor it is clear enough that he has the initiative to make a series of words to spread the fake news through social media and WhatsApp. This is the first trial undergone by BBP and it will continued on the second trial on 11 April 2019.

The agenda of the second trial of BBP case was hearing the testimony of witnesses. Suci (2019), a reporter of Tribunnews.co, reported that there were six witnesses who were presented by the Prosecutor at the Central Jakarta District Court. They are from the General Election Commission (KPU), the Police of the Republic of Indonesia, and the Customs.

In term of proof by the Prosecutor at the trial, Umasugi (2019), a reporter of KOMPAS.com, reported that the Prosecutor played the recorded voice of the defendant who said that there were seven voted ballot containers as presented in Table 1 above. The reporter also reported that at the trial Head of the Legal Bureau of the Indonesian General Election

Commission (KPU), Sigit Joyo Wardono said, after receiving this recording, his party namely KPU, Bawaslu, and Customs checked the location in Tanjung Priok, North Jakarta. However, they did not find the seven voted ballot containers as claimed by BBP. For this fact, KPU then used this recorded voice as the evidence for reporting this fake news.

BBP as the Convicted

To become the convicted, BBP has undergone the legal proceedings such as the trial for reading the verdict in the District Court, the appeal hearing at the High Court, and cassation trial at the Supreme Court.

In term of the trial for reading the verdict in the District Court, Saputra (2019), a reporter of *detikNews*, reported on 25 October 2019 that it was held at the District Court in Central Jakarta on 15 August 2019 with the Verdict Number 344/Pid.Sus/2019/PN.Jkt.Pst. Based on the website (http://sipp.pn-jakartapusat.go.id/index.php/detil_perkara) it was stated that the court stated that BBP had been legally and convincingly proven guilty of committing a criminal act of broadcasting uncertain or incomplete news which was reasonably suspected of causing trouble among the people and sentenced him with imprisonment for two years.

The Rules Violated by BBP

To describe the rules violated by BBP, this article explores the result of the Police investigation and the Prosecutor's indictment. In term of the Police investigation, Rahma (2019), a reporter of *Tempo.co*, reported that in analyzing BBP's voice the Police used two test methods, automatically and manually. These two methods indicated that the sample voice was identical to BBP's voice. From this point, the reporter then reported that BBP has met the intentional element, preparing, spreading the news, and making it personally. For his deed, the reporter added that the suspect (BBP) was charged with violating Article 14 paragraph (1) and paragraph (2) of Law Number 1 of 1946 concerning Criminal Regulation.

Moreover, on 4 April 2019 the trial of the reading of the indictment was held at the Central Jakarta District Court. Based on the voice note as mentioned in Table 1 and short message in Table 1, the prosecutor accused BBP as the spreader of the fake news of seven voted ballot containers. In line with this indictment, Saubani (2019), a reporter of *REPUBLIKA.CO.ID*, reported that according to Mangontan, the Prosecutor, Bagus was the creator of a series of words to spread the fake news.

On the basis of the indictment, it is reported by Sutiawan (2019) that according to the Prosecutor, BBP violated Article 14 paragraph (1) and paragraph (2) of Law Number 1 of 1946 concerning Criminal Regulation. From this point, the legal ground used by the Prosecutor to accuse BBP is the same as that by the Police.

As well as Article 14 paragraph (1) and paragraph (2) of Law Number 1 of 1946 concerning Criminal Regulation, BBP was

accused of violating Article 45A paragraph (2) juncto Article 28 paragraph 2 of Law Number 19 Year 2016 concerning Amendment to Law Number 11 Year 2008 concerning Information and Electronic Transaction, or Article 45 Paragraph (3) juncto Article 27 Paragraph 3 of Law Number 19 Year 2016 concerning Amendment to Law Number 11 Year 2008 concerning Information and Electronic Transaction.

IX. CONCLUSION

On the basis of the discussion and analysis on the case of Bagus Bawana Putra above, this paper concludes that there are at least two main points concerning the language use viewed from legal discourse. On the one hand it deals with language as evidence (linguistic evidence) in legal proceedings and on the other hand it relates to legal influence on fake news (the maker or the person who disseminates fake news). These two essential matters finally become interesting topics for interdisciplinary legal studies.

In term of language as evidence, it has become the main concern of forensic linguists. For this fact, there are times when linguists are asked to give evidence on special vocabulary (Coulthard, 2007). For example, they are called upon by the courts, or by the police or solicitors Johnson, (2014). In addition, in various criminal and civil cases, Shuy (2006 & 2008) looks at such cases as trademarks, threats and blackmail, plagiarism and authorship, document complexity, voice identification, clarity of warning labels. Because language can be evidence in legal proceedings, BBP finally was charged of violating Article 14 paragraph (1) and paragraph (2) of Law Number 1 of 1946 concerning Criminal Regulation, BBP was accused of violating Article 45A paragraph (2) juncto Article 28 paragraph(2) of Law Number 19 Year 2016 concerning Amendment to Law Number 11 Year 2008 concerning Information and Electronic Transaction, or Article 45 paragraph (3) juncto Article 27 paragraph (3) of Law Number 19 Year 2016 concerning Amendment to Law Number 11 Year 2008 concerning Information and Electronic Transaction. These are therefore the facts of language as evidence which have made many scholars devote their attention to language as evidence as the topic in their interdisciplinary legal studies.

Moreover, in term of legal influence on fake news, many scholars have also devoted their attention to this topic. Klein and Wueller (2017), for example, in the article *Fake News: A Legal Perspective*, evaluate examples of fake news publications to present a workable definition of “fake news” for purposes of legal analysis and explore many of the legal and regulatory hurdles facing online fake news publishers. Different from Klein and Wueller, Björnstjern Baade (2018) argues that false news can be subject to repressive regulation in a sensible manner. In addition, Agatha (2018) states that in Indonesian legal context there are three categories of fake news that can be convicted based on Law No. 19 of 2016 about Amendment of Law No. 11 of 2008 concerning Electronic Information and Transaction, namely content that

contains affronts or defamation; fake and misleading news resulting in consumer loss; and content that contains provocation about discrimination of Ethnic Group, Religion, Race, and Inter-group.

Because language can become evidence in legal process and there is a legal consequence of fake news, it is suggested that everyone must be careful of using language through social media.

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