

## CHAPTER 1 INTRODUCTION

### 1.1. BACKGROUND OF THE STUDY

It is a common knowledge that how something is said may be more important than what actually is said. According to William M. O'Barr, one important component of the total message and its reception is form. In other words, form does communicate. It points out that unless form- including paralinguistic features (intonation, pitch, etc) as well as non verbal clues (gestures)- supports and buttresses content, people may question the validity and sincerity of the message (O'Barr, 1982:1). As a consequence, mannerisms can betray what a person might wish to keep secret; the way one speaks can communicate as much or more than what is actually said; and form may become so important on some occasion that its message overrides other content.

Some studies have shown that a person's speech characteristic affect the way in which he is perceived and evaluated by others. In short, the manner in which he speaks can be used as a basis of judgment. Indeed, there are some evidence which suggest that, for certain kinds of evaluation, non content cues under certain circumstances have a more significant effect or carry more weight than the content itself (Giles and Powesland, 1979: 2)

A court may take a witness' assertion that lacks a job as 'fact' and deal with it accordingly. But human being who are after all the decision-makers whether they be judges or jurors also hear the manner in which a witness presents this information. Most often, information is communicated by the manner of

responding. Receivers may then draw their own conclusions and proceed to inquire further. Then, they may find clues about trustworthiness, confidence, and faithfulness of recall and so on in paralinguistic and non-verbal mannerisms. However, it is important to recognize the non-obligatory and somewhat ambiguous information communicated by form. Such information, then is open to discussion and interpretation in a way that more 'overt content' is not. One may ignore it (not meaning, of course, that such message of form are not heard), or one may attempt to decipher their meanings by depending on their intuitions, asking for further information, checking perceptions against those of others, or using some other means. Customary and expected forms are monitored and heard as such. When expectation are not met, then, participants must determine what breaks in form indicate (O'Barr, 1984:2-3).

A trial might be thought of as a situation in which many people, often as many as 10 or more, present various versions of what happened. Their versions overlap to some degree and together tell a story. As the trial unfolds and opposing sides present evidence, it become clear enough that all versions cannot be equally correct. It is the role of the judge in a bench trial (or jury) to decide which witnesses to believe and whose testimony to hold above others in reconciling differences.

Since the law is a profession of words and since much of what legal processes involve is speaking, understanding how language operates is critical for understanding the legal process (O'Barr, 1982:28). In a court, it is customary that speakers manipulate forms or words, although not always consciously, to achieve

beneficial results. Thus, a decision as to whether speakers' utterances should be hold or not will be left to the judges.

William O'Barr (1982), an American linguist, investigates the importance of form in courtroom and seeks insight into the role of language in legal processes. He finds that, there are four basic forms or styles usually used by witnesses in giving their testimonies. Those are termed as powerful versus powerless speech style, narrative versus fragmented testimony, hypercorrect versus formal speech and the last, interruption and simultaneous style. In addition he also regarded silence as another way of giving testimony.

Based on the study of the speech styles used in American courtrooms done by O'Barr, this study is intended to investigate what kinds of form variation in speech styles occur in legal context. Afterward, it is designed to find out whether the speech styles used have some effects on legal decision making processes through an experimental study. Hence, the role of language in Indonesian legal processes can be explained.

## **1.2.STATEMENT OF THE PROBLEMS**

The problems of this study is formulated as follows:

1. What kinds of form variation in speech styles occur in legal context?
2. What are the effects of these form variations on legal decision making processes?

## **HYPOTHESIS**

**Ho. All form variations do not have the same effect on legal decision making processes**

**Hi. All form variations have the same effect on legal decision making processes.**

### **1.3. OBJECTIVE OF THE STUDY**

This study is designed to find out what kinds of form variation in speech styles that occur in legal context. This study is also aimed to investigate the effects of these form variations on legal decision making processes.

### **1.4. SIGNIFICANCE OF THE STUDY**

This study is conducted to give contribution to the sociolinguistic studies especially the ones dealing with language, styles and variation in language. It may also contribute to the forthcoming studies in language attitude, in term of attitude and evaluation toward speakers. The study is primarily expected to be a contribution to legal studies especially in term of the use of language strategies in courtroom during legal processes.

### **1.5. SCOPE AND LIMITATION**

This study is limited to analyzing the form variations only as the part of speech styles used by witnesses and defendants in giving testimonies during either direct or cross examination and in both civil and criminal trials. The analysis will

be based on the speakers' statuses in trial processes, the context in which they involve and their social backgrounds such as age, sex, education, occupation, and social role.

However, this study will be limited to analyze the influences of the speakers' speech styles in giving their testimonies on legal decision making processes based on the speakers' way of speaking only. The analysis exclude the statuses of the speakers either as defendants, A-charge witnesses, De-charge witnesses or expert witnesses. The psychological states and social backgrounds of speakers as addition to the immediate surroundings of speaking as well as the speakers' sex and age are also neglected.

## **1.6. THEORETICAL FRAMEWORK**

According to William M. O'Barr (1982) there are four basic styles used in courtroom – powerful versus powerless, narrative versus fragmented, hypercorrection versus formal, and interruption and simultaneous style.

### **1. Powerful versus powerless style**

The phenomenon termed here as powerful versus powerless speech is related to gender differences. Powerless speech tends to be related to woman's language (WL) containing Lakoff's model of woman's language; hedges, (super)polite forms, tag questions, speaking in italics, empty adjectives, hypercorrect grammar and pronunciation, lacks of a sense of humor, direct quotation, special lexicon, question intonation in declarative contexts. Powerful speech is the opposite of it.

Powerful and powerless speech styles are in the continuum from high to low incidence of woman's language features. Some speech should conform rather closely to Lakoff's proposed model of speech characteristic of woman's language, then they are called more powerless. Others depart in critical ways from it, then they are called more powerful speech.

However, these speech styles are not only related to gender because not all women show these features. In fact, men may also show some of those features. Thus, social statuses or in more precise term, social power of speakers are involved in this case. The more social power they have the greater the tendency to avoid the features of woman's language.

### *2. Narrative versus fragmented testimony*

Narrative speech is a kind of style in which speakers tend to speak long and fully as if in narration. Fragmented, in contrast, deals with the brief, incisive and non-elaborate responses.

### *3. Formal versus hypercorrection speech*

Hypercorrect speech is likely to include more precise enunciation than is typical for most speakers so that it sounds overly correct; vocabulary choices can be more formal or technical than is normally expected with some choices altogether inappropriate or wrong, grammar can be 'bookish' beyond the patterns used by even those who normally speak in highly formal ways. It is, thus, the overapplication or misapplication (usually irregularly) of the rules of formal language.

#### **4. *Interruption and simultaneous speech***

Interruption and simultaneous speech occur when a witness or accused and the examining lawyer may become entangled in a verbal clash. It is characterized by many interruption and overlapping speech.

In addition, O'Barr also states that silence may be regarded as another way of giving testimony instead of saying something. The speaker may also keep quiet for a moment before giving answer or continuing to answer (O'Barr, 1982:98).

Hymes (1974a) calls style as a term of 'protean' which is the root sense of a way or mode of doing something (Hymes cited in Tannen, 1988:8). Ervin-Tripp (1972) defines style as the co-occurrent change at various levels of linguistic structure within one language and suggests that linguistic choices be made of two levels – syntagmatic and paradigmatic relations. Syntagmatic relations, following rules of co-occurrence, result in identifiable styles. Paradigmatic relations following rules of alternation result in choices among styles and make possible style-switching, on the model of code switching (Ervin-Tripp cited in Tannen, 1988:8). Tannen (1988) herself notes that style refers to no more nor less than a way of doing something. Thus, speech styles are simply ways of speaking. She adds that style is not something extra added on like frosting on a cake. It is the stuff of which the linguistic cake is made (Tannen, 1988:8).

Style, according to McIntosh (1963), is a matter of selection of particular grammatical patterns and sequences of patterns, and of particular items of vocabulary and sequences of items, and of course (by implication) the avoidance of others (McIntosh in Pride and Holmes, 1982:248).

In an article originally written in 1927, Sapir (1958:542) includes style as the fifth level of speech contributing to judgement of personality. He defines style as an everyday facet of speech that characterizes both the social group and individual. Here are raised two basic issues related to style. The first is the fact that conversational style, a person's way of talking, results in judgement about his or her personality. The second is the speech – the use of language in all its phonological, lexical, syntactic, prosodic and rhythmic variety- is one element of a range behavioral characteristics that make up personal style (Sapir cited in Tannen, 1988-8)

From social point of view, there are two important aspects of language behaviour: first, the function of language in establishing social relationships, and the second is the role played by language in conveying information about speaker (Trudgill, 1974:14). Based on the second aspect it can be inferred that whenever one speaks one cannot avoid giving his listeners clues about his origins and the sort of person he is. One may even gives some indication of his ideas and attitudes, and all of which can be used by the listeners to help them formulate an opinion about him.

Since it deals with speech style evaluation, social psychological theories of attribution, influence and justice may suggest hypothesis about the probable impact of speech style on decision-makers.

Studies have shown that responses to influence attempts are affected by beliefs about motivations and the situation in which the attempt occurs. Specific studies of speech style in non legal contexts repeatedly show listeners forming



strong impressions of speakers based on the manner of speaking. In some studies the degree to which others accept a person's arguments depends on his/her style of speaking. Many related studies in this area are reported in Giles and Powesland's *Speech Styles and Social Evaluation* (1979).

According to Giles and Powesland, our impressions of others can very often be based upon the characteristics of their speech style (Giles and Powesland, 1979:6). In addition, they state that almost certainly, nonstandard usage can also affect forensic situations such as police and courtroom decision making. Despite of that, they also concede that almost nothing is known about the effects of different language varieties in legal contexts (Giles and Powesland, 1979:111).

Theory of language attitude is also held as a framework. Fasold distinguishes language attitudes as different kinds of attitudes. Language attitudes are distinguished from other attitudes by the fact that they include precisely about language. Language attitudes are broadened to include not only attitude toward language but also attitude toward speakers (Fasold, 1982:146). The second view is employed in this study.

In addition to all theories, other theories concerning with language and context are also used as the baseline to analyze the influence of speaker's social backgrounds and speaking context on speaker's speech styles.

Labov (1966) states that there is a correlation between speakers, sociolinguistic variables and stylistic differentiation (Labov cited in Giglioli, 1977:283 and in Pride and Holmes, 1982:188). He adds speaking context can be categorized into the audience, hearer, topic, setting, etc. Meanwhile, Chamber

proposes that speaker's social backgrounds can be defined according to social class, sex, age, ethnicity, ambition, education, occupation and type of housing (Chamber, 1995:7).

Macaulay who states that there is linguistic evidence that distinguishes the member of each social class based on occupation divides social class into class I, IIA, IIB, and III. The division is based on occupation. Class I covers professional and managerial works. Class IIA includes white-collar and intermediate non-manual, while class IIB is for skilled manual. Then, class III is for semi-skilled and unskilled manual (Macaulay (1976) cited in Chamber, 1995:46). Labov (1966) classifies class into lower, working, lower –middle and upper-middle class (Labov cited in Chamber 1995:44).

Whereas, Trudgill (1974) indexes socioeconomic based on six components: occupation, father's occupation, income, education, locality and housing. Trudgill classifies social class into upper middle class (UMC), lower middle class (LMC), upper working class (UWC), middle working class (MWC) and lower working class (LWC). (Trudgill (1974) cited in Chamber, 1995:47).

## 1.7. METHOD OF THE STUDY

The study deals with the speech styles used in courtroom and their influence on legal decision-making processes. The data are taken from a descriptive and an experimental study. The result is generalized, in order to explain the investigated phenomenon, by using a statistical test, *Analysis of Variance*. Hence, the analitic quantitative method is employed.

### **1.7.1. DEFINITION OF KEY TERM**

***Civil trials*** : trials including claiming rights of properties, heritages and name's rehabilitation.

***Criminal trials*** : trials including misdemeanors and felonies; traffic ordinance violations, drug possession, robbery, manslaughter, kidnapping, money counterfeit, deception, embezzling, and rape.

***Cross examination*** : a trial process in which the accused's and witness's testimonies are crossed in order to get the true evidence. In this process one party will ask other party's witness. Yet, it is seldom performed.

***Direct examination*** : a trial process in which the judges ask either accused and witness directly one by one. Usually in this process each lawyer will question his own witness.

***Lawyers*** : a legal term covering judges, attorneys, defenders, and legal advisors.

***Listener*** : the one who captures verbal ideas/thought/information expressed by speaker.

***Speaker*** : the one who express idea/thought/information verbally.

***Speech style*** : the way of speaking in conveying testimony

### **1.7.2. LOCATION OF THE STUDY**

The sociolinguistic observation which is done to get the data about speech styles used in courtroom is conducted at Surabaya District Court on Jalan Raya

Arjuna Surabaya. Meanwhile, the experimental study to get listeners' responses is done mostly at Law Faculty of Airlangga University Surabaya.

### **1.7.3. SAMPLING**

#### **1.7.3.1. THE SPEAKERS AT COURTROOM**

The accidental sampling technique is used to define 30 speakers as the respondents. The respondents are accuseds and witnesses in civil and criminal trials. They are chosen accidentally due to the schedules of trials which are not always on time. Sometimes, a trial is postponed because not all parties are present. However, to avoid bias many trials are recorded, so that the patterns of speech styles used by speakers can be drawn.

#### **1.7.3.2. THE 'JUDGES'**

Since it is not possible to ask the real judges to be the respondents, other 30 respondents are taken as 'judges' who will evaluate speakers based on their speech styles as if they were the real judges in courtrooms.

In order to have closer similarities between the real judges and the experimental judges, the purposive sampling technique is used. The respondents are law faculty students and at least sitting at the fourth semester. By determining such requirements, it is intended to have respondents who have some legal knowledge and some description of legal processes.

#### 1.7.4. INSTRUMENT

Speech style in this experimental study is the independent variable that might influence the dependent variable, listeners' responses or evaluation.

Speech style here is the utterances of both accuseds and witnesses in trial processes that have been recorded from the chosen trials. The recording is under the permission of the judges of Surabaya District Court with specific proviso. The tapes will be used only for research and not made available to the parties in the cases. They also will not be played in public forum nor made available to members of the press or broadcasting services. In addition, it is asked to preserve the anonymity of persons and their cases.

Afterward, the recording are transcribed orthographically in order to be identified clearly based on O'Barr's classification of speech styles used in courtrooms. In each instance, an excerpt of testimony of 5 to 15 minutes in duration is selected. Those segments on which experiments will be based is selected after careful consideration of many possibilities. Then, those segments are manipulated in some way that they will be in different forms from the originals. For example, testimony delivered in the powerless style is rewritten so as to remove all powerless features, the originally narrative testimony of the speaker selected is revised to be less fragmented, and so on.

After deciding what to include in the experimental tapes, the reproduction is ready. Both the 'original selected excerpt' and 'the doctored excerpt' are re-recorded by using some actors. The actors are needed to avoid the influence of the 'the real speaker's accent' on the listeners' perception. If the 'real' speakers'

utterances are used, the listeners might evaluate them based on other aspects, such as their accents or the influences of regional dialects, not the form of the speech or utterances.

There are ten tapes used as the instrument to get data about listeners' perceptions. The tapes are not played by stage actors, in fact by some laystudents who are lacked of dramatic training. So they are expected to be able to reproduce more faithfully and more naturally. After having given directions for modifying, they are exposed to the original tapes and start to reproduce the needed versions.

Then, each tape is labeled. The powerful tape is labeled as A1 and powerless is as A2. B1 and B2 are the labels for narrative and fragmented tapes. Formal and hypercorrection are labeled as C1 and C2. D1 is for persisting accused/witness and D2 is for giving in accused/witness under the heading of interruption and simultaneous speech. Silence is distinguished. Silence tapes are made by manipulating pauses in utterances. Hence, there are two tapes, one with shorter and less frequent pauses labeled as E1 and the other is E2 with longer and frequent pauses.

Another instrument used in this study is semantic differential scale. The bipolar adjective scales are used to have data about listeners' perception and evaluation toward speakers based on their speech styles. The scales are in the continuum in which the listeners put marks about their evaluation. There are five scales categorized as trustworthiness, convincingness, competence, intelligence and truthfulness. The scales are constituted of point 1 to 7. 1 is the lowest point and 7 is the highest point. The lowest points are for being not trustworthy,

convincing, competence, intelligent and true. Meanwhile, the highest points are for being trustworthy, convincing, competence, intelligent and true.

#### **1.7.5. TECHNIQUE OF DATA COLLECTING**

Basically there are two stages in doing this study. First is the pre experiment stage and the second is experiment stage.

Pre experiment is begun by having pre-eliminary observation in courtroom to have a description of trial processes. Then, some trials are selected accidentally in which the recording processes take place.

Besides having recording, notes are also taken on courtroom interaction to have some gestures, demeanor and courtroom events, time or day, recesses and so on which are impossible to capture in he audio tape recordings.

Afterward, the instruments as the material for experiment are prepared, so that the experiment stage can be conducted.

The experiment is started by determining respondents as the 'judges' based on purposive sampling technique. There are 30 respondents who are divided into ten groups or experiment units randomly. Each unit consists of 3 respondents. So that the experiment is replicated 3 times for each tapes. The formula and computation determining the replication can be seen at Appendix G. The randomization is taken from the following steps. The first step is assigning sequence of numbers 1 through 30 to the respondents. The second is constructing corresponding numbered slips of paper and then drawing them from a tin. The first three numbers drawn are the experimental units assigned to the first

treatment, tape A1. The second three numbers are the experimental units assigned to the second treatment, tape A2, and so forth, until the last three numbers will be the tenth experimental units assigned to E2. Each subject hears only one experimental tape.

They are told that what they hear are the original trial process and they are asked as if they were the judges of the case. Having heard the tapes, they are given semantic differential scales in which they give points of their evaluation and judgement toward speakers based on the speech styles used.

In short, the steps of data collection can be summarized as follows:

1. Pre experiment
  - a. Doing pre-eliminary observation
  - b. Selecting some trials accidentally
  - c. Recording the selected trial processes
  - d. Noting some supplement data
  - e. Preparing instrument for experiment
2. Experiment
  - a. Getting respondents
  - b. Dividing respondents into ten groups based on random sampling technique
  - c. Asking them to listen to the experimental tapes. Each subject listen only to one tape.
  - d. Giving them semantic differential scales in which they give points of their evaluation toward speakers.



### **1.7.6. TECHNIQUE OF DATA ANALYSIS**

First, the recording are transcribed orthographically in order to be identified based on O'Barr's classification of the speech styles used in courtrooms.

Second, all marked semantic differential scales are tabulated. They are classified into each categories based on type of speech styles, such as to powerful, narrative, and so on.

After the responses have been classified, numbers are assigned to each of the space line in the scale. As the tabulation is made, the number of marks at each space are multiplied by the value for that space, and then divided by 3, the total number of respondents for each treatment. This number is the mean evaluation of the scale. Hence, there are 50 mean evaluation values.

These values will, then, be reported and subjected to statistical analysis. In this study the statistical test used in one technique of the Analysis of Variance (ANOVA), that is the Completely Randomized Design (CRD).

The statistical test is used to test which hypothesis will be accepted and which one will be rejected. If  $H_0$  is rejected and  $H_1$  is accepted, a significance test will be performed to test which differences are significant and which speech styles have the equal and which have different effects. The significant test used is the Honestly Significant Differences (HSD).

The next step is interpreting the results of the statistical tests and analyzing all obtained data either the result of descriptive observation or the experiment.

**In short, the data is analyzed according to the following technique:**

- a. Transcribing and identifying the recorded data**
- b. Tabulating semantic differential scales**
- c. Calculating the mean evaluation of each scale**
- d. Doing statistical tests of ANOVA**
- e. Doing significance test in case  $H_0$  is rejected and  $H_1$  is accepted**
- f. Interpreting and analyzing data.** ◦

# CHAPTER III

## GENERAL DESCRIPTION OF THE OBJECT OF THE STUDY