

**Legal Semiotics Approach: Understanding Asymmetrical Symbols Behind Text of Positive Legal Norms**

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**ABSTRACT**

Legal language in the text of positive legal norms that appear ideal, neutral, and calm at the surface level, can store a variety of stresses and the accumulation of symbolic distortion behind them. The major premise that appears in the text of positive legal norms has the potential to be boarded or indeed deliberately offered to be ridden by certain interests. All forms of injustice and uselessness that occur, do not rule out the possibility of resting on a series of phrases in the major premise. Support by fusion of horizons philosophical study and intertextuality theory is able to bring legal semiotic approach network. The semiotic legal approach network can be used as an alternative reading capital to reveal the surface distorted symbolic elements behind the text of positive legal norms.

**Keywords:** Legal semiotics, Symbolic, Fusion of horizon, Intertextuality

**INTRODUCTION**

Legal ideals that contain the meaning of legal values can be distorted or boarded by symbolic elements, that are ideological, power relations, myths, and desires so that the meaning of its values becomes asymmetrical. The law that appears no longer represents or reflects the true meaning of legal values.

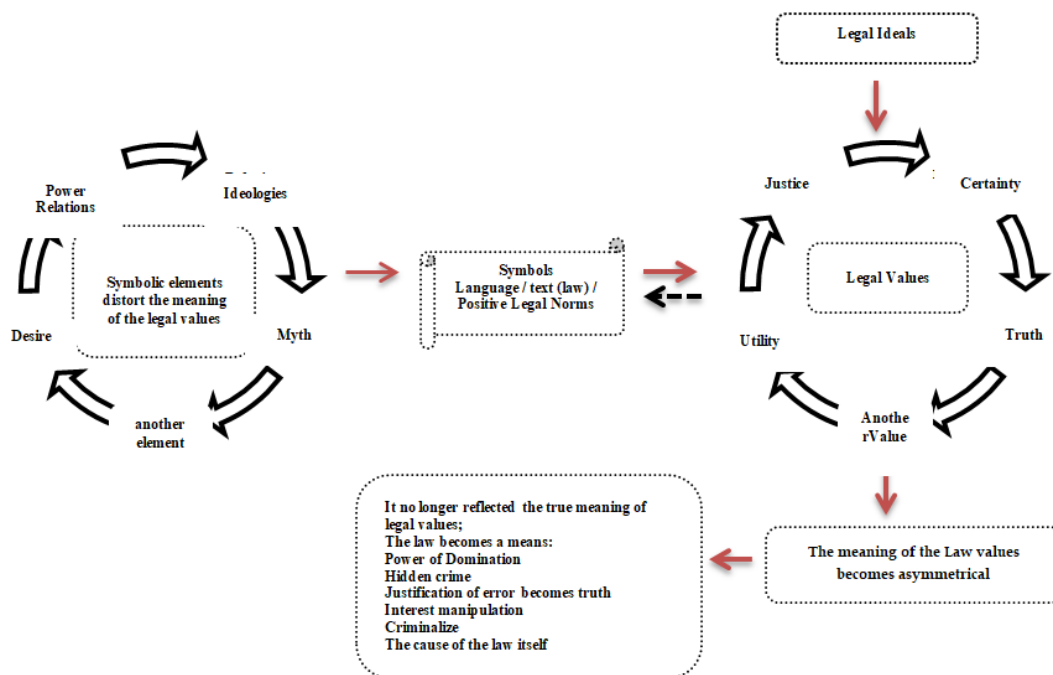


Figure 1. Symbolic Elements Distort the Meaning of Legal Values

The law in reality can be distorted, stressed, and bring an element of untruth. The symbolic meaning of asymmetrical legal reality reflects the ideals of the law which are far from the goal, tension, distortion, and pretense, but are represented as a reality and concepts of legal truth. Based on the brief explanation and illustration, shows the need to apply a specific study model. The symbolic and intrinsic meanings behind language (law) can be revealed by exploring legal objects as signs.<sup>(1)(2)</sup> Law are needed through the semiotics approach (legal semiotics).<sup>(3)(4)(5)</sup> The law is present and interpreted as a sign entity that has the meaning behind it.<sup>(6)</sup>

It is understood that each legal semiotic approach will have a unique accentuation when applied in expressing the content of meaning. Understanding the asymmetric symbol behind the text of positive legal norms is complex. Variation in the range of abstraction is needed. Intensive interaction between the Legal semiotic approaches with the insight of Peirce, Lacan, Greimas, and Barthes is needed, so that the process of expressing meaning can take place in more depth. Each accentuation of the dialogue approach in revealing the content of meaning behind the text of positive legal norms that are placed as the object of the problem. Philosophical study and intertextuality theoretical as a sticking power are needed, so that the semiotic legal approach can be formulated into a complementary network of analytical tools. This research study will move to explore this matter.

### FORMULATION OF THE PROBLEM

Based on the brief description presented, the formulation of the problem in this study is, what kind of legal semiotic network model approach can be used to interpret the asymmetrical symbols behind the text of positive legal norms?

### RESEARCH PURPOSES

In line with the identification of the problem, the purpose of this study is to formulate a networked model of the semiotic legal approach that can be used to interpret the asymmetrical symbols behind the text of positive legal norms.

### RESEARCH METHODS

This type of research belongs to the philosophical qualitative research tradition.<sup>(7)(8)(9)(10)(11)(12)</sup> The object that is placed to be studied is the approach (thinking) of legal semiotics which will be formulated to interpret the asymmetrical symbols behind the text of positive legal norms. The legal semiotic approach is the result of epistemological waves in periods and research projects that continue to experience shifts.<sup>(13)</sup>

This research is analytical descriptive through literature study using secondary data. The method of data analysis uses interpretations that are in line with the semiotic approach itself as a science for interpreting signs. Through philosophical study of the fusion horizons (Horizontverschmelzung) from Gadamer and the intertextuality theory from Julia Kristeva. The legal semiotic approach with the insight of Peirce, Greimas, Lacan, and Barthes will be formulated as a network of analytical tools to interpret the asymmetrical symbols behind the text of positive legal norms.

### RESULT AND DISCUSSION

#### A. Legal Semiotics Approach in Interpreting Positive Legal Norm Texts

##### 1. Peirce's Legal Semiotics Approach in Understanding Positive Legal Norm Texts

Signs are 'something' that can be concrete, abstract, verbal, and nonverbal. The text of positive legal norms is one of the objects of study in the science of law that can be formulated into

the triadic of sign relation model (figure 2). The meaning of language can be explained through logic by using research methods to reveal the truth or validity of an opinion. The study of the role of thinking and language is closely related to identifying the achievement and delivery of meaning in language.<sup>(14)</sup>

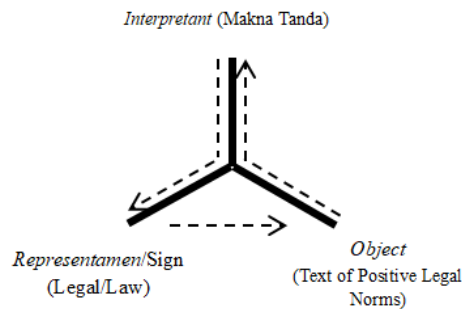


Figure 2. Text of Positive Legal Norms in Triadic Sign Theory

The triadic of sign relation model is a formal requirement that is used to interpret the meaning behind the sign. When law is placed as a representamen and positive legal norm text is placed as its object. Through the presence of the researcher/interpreter who perceives and interprets the sign by referring to the object, the meaning of the sign (interpretant) will be generated.<sup>(15)(16)(17)(18)</sup> Referring to the classification of first trichotomy, the law as a sign is at the level of legisign.<sup>(15)(19)</sup> Disclosure of the meaning of the sign of the course is adjusted to the problem and the purpose set for study by the researcher or interpreter.<sup>(20)(21)</sup>

The third level trichotomy explains the relationship between interpretant and representamen/signs.<sup>(15)(17)(22)</sup> At the level of argument Peirce conveyed the reasoning consisting of deduction, induction, and abduction (hypothesis). The first division of semiotic logic is speculative grammar which is related to the formal requirements of how a sign is interpreted (relation triadic theory of sign) and the second critical logic consists of deduction, induction, and abduction reasoning.<sup>(15)(23)(24)</sup> Kavelson as the principal exponent of peircian legal semiotics give opinion that the semiotic legal approach is dialogistical mode of reasoning.<sup>(25)</sup>

The investigation of legal semiotics provides an inherent space for the character, source, boundary, and validity of legal correctness when disclosure of the meaning content is done. Legal truth is not only based on the ability of the ratio (theoretical-normative abstraction), but can involve truth that refers to aspects of the facts on the empirical level or intuitive level.<sup>(5)</sup> Adapted to the pressure points of the problem and the flow of discussion that will be reviewed by researchers or interpreters.

Another consequence of this dialogical nature is the participation of non-legal variables when identifying the meaning behind the text of positive legal norms. The content of legal meaning is no longer seen in the autonomous region. Moral, psychological, sociological, political, and so on become elements of the content of meaning that may appear in the investigation of legal semiotics when the process of meaning is carried out. The text of positive legal norms is seen as system of sign. There is an relation, interaction, communication, and production of signs in the content of meaning behind the text of positive legal norms.

Dialogical nature presents intersystemic (intersystemic) communication between methods, disciplines and cultural subsystems. The methodological consequences of a dialogical semiotic approach is avoid the pitfalls of the methodological barriers. This includes utilizing various legal materials in the analysis process, both primary and secondary data. Use one of them or combine

according to the needs of the researcher or interpreter. The involvement of other areas of science related to the object being investigated through the legal semiotic approach cannot be ignored.

## 2. Greimas's Semiotic Approach to Revealing the Relationship of the Opposition's Meaning Behind the Text of Positive Legal Norms

Performative language that is transformed into the text of positive legal norms as an organized unit can be viewed as a narrative. Presenting certain meanings to be read, interpreted and explored their meaning.<sup>(26)(27)(28)(29)</sup> Semiotic square is an analytical tool that is at the level of deep semi-narrative level.<sup>(30)(31)(32)</sup> Used to identify the meaning through the opposition system.<sup>(4)(29)(33)</sup> The model is designed as a conceptual network as well as a visual representation for the logical articulation of an oppositional form.

The semiotic square model can be explored to identify the perspective of reason and bring up the tension or contradictory relations of meaning that might operate behind the text of positive legal norms. Texts of positive legal norms are not seen as representations as they are. Demonstration 3 is a visualization of the semiotic square model that is used to identify the conceptual relations of opposition meaning in the text of positive legal norms that are placed as the object of the problem.

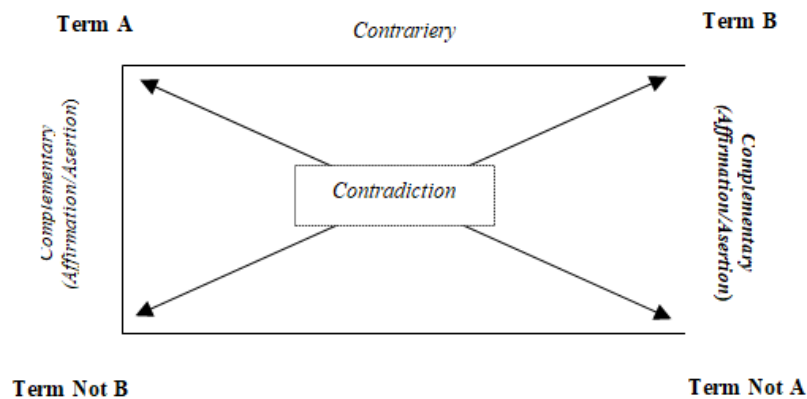


Figure 3. Semiotic Square Model

The problem for studied certainly needs to be examined and treated carefully before it can be placed into the semiotic square model. The application of the semiotic square model in identifying conceptual relations of oppositional meaning can be operated creatively and dynamically according to the problem to be studied. Identifying and anticipating positive legal norms that might be entered or exploited by certain interests can be used as initial ground to see how the model operates.<sup>(34)</sup>

## 3. Lacan's Semiotic Approach to Revealing the Desire of the Master in Power Behind the Text of Positive Legal Norms

Lacan argued that desire and the law are rather interdependent components of a single bipolar psychic system.<sup>(35)</sup> The emergence of non-empirical formal law in rational will does not eliminate desires, but only represses them.<sup>(36)</sup> Desire is simultaneously maintained and strengthened in it. The law in the symbolic order plays a role and works in many areas and activities.<sup>(37)</sup> The law resonates with the community.

The formulation of the discourse of the authorities can help understand and explain the articulation of desires that operate behind the text of positive legal norms.<sup>(38)</sup> The meaning of the master discourse formulation naturally experiences dynamic and associative forms of adaptation and so that it can be relatively applied when entering legal studies.<sup>(39)</sup> The text of positive legal

norms as master markers in the discourse of the authorities can be raised in the following formulation of form.

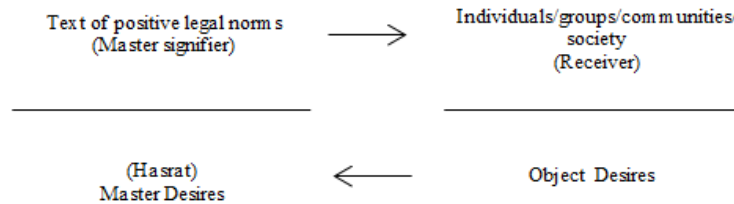


Figure 4. Text of Positive Legal Norms as Master Signifier

The text of positive legal norms since they have been enacted by the authority of the institution has the authority to be generally binding and demand (force) compliance. The text of positive legal norm becomes a sign of a ruling and dominating master in the territory he governs. Individuals/groups/society as recipients must follow (comply with) the norms stipulated in the text.<sup>(40)</sup> Shown by arrows from the text of positive legal norms that point towards the community.

The desire of the master (in power) who is in a position below the dividing line of positive legal norm text (master signifier). Shows the desires of the reigning master and becomes a hidden structure of truth. The position of the object of desire under the dividing line of the individual/group/society as divided subject. Showing that under certain conditions it turns out that the text of the positive legal norm flows the subject from the object of his desire. Individuals/groups/communities as divided subjects lose their fantasy over the object of their desires. More appropriate value experienced by getting castrated or failed to experience.

The text of positive legal norms in its most extreme form finally appears to be a means of justifying the desire of the master (in power).<sup>(41)</sup> The claim of truth becomes the claim of the desire of the master. The power of the legitimacy of the text of positive legal norms becomes an effective medium to conceal or at least disguise the desire of the master. On the other hand the ruling master needs a system of knowledge as shown in the university discourse to rationalize his desires.<sup>(40)</sup> The system of science and the legitimacy of the text positive legal norms is used as a justification tool that serves the desires of the master in power.<sup>(42)</sup>

#### 4. Barthes's Semiotic Approach to Revealing the Ideologies and Myths that Operate Behind the Text of Positive Legal Norms

Text has the ability to manipulate the reader. The ideological content behind the text can be observed by entering the content of meaning at the connotative level.<sup>(43)</sup> Demand to look at the law carefully and critically. Language that appears in the text of positive legal norms that appear to be ideal and neutral is able to deceive. Myth in the sense of distortion can be constructed as a medium to naturalize the ideological content of certain identities that operate behind the text of positive legal norms.<sup>(44)</sup>

Law is the active side of ideology. The role of law can strengthen the ideology prevailing in certain communities.<sup>(45)</sup> Myth in the sense of distortion plays among diverse ideological factions to justify, defend and convince. Myth naturalizes the ideological content it carries through the communication system. Making it look natural (natural) as part of the common interests of a diverse faction ideology.<sup>(46)</sup> The myths produced must discipline themselves, metamorphose, transform, and manage them flexibly while still prioritizing the ideological content they carry. Myth carries its ideological content by avoiding anxiety or threat from those who are different from it. Make the ideological content look neutral, valuable, precise, reasonable, and trustworthy.<sup>(47)</sup>

## B. The Network of Legal Semiotic Approaches in the Integration of Horizons and Intertextuality

The fusion of horizons in the process of text interpretation by researchers or interpreters does not occur outside the horizon. The process of interpretation moves between horizons. Interpretation of texts or socio-cultural objects is not only reproductive but also productive. The meaning does not only belong to the author (text) but also moves openly and dynamically in the contemporary socio-historical context of the researcher or interpreter.<sup>(48)</sup>

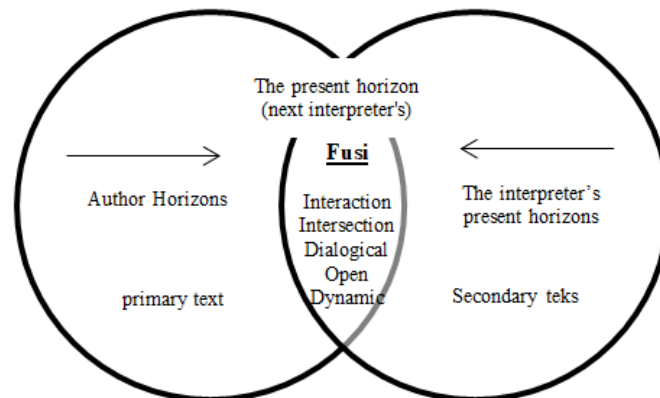


Figure 5. Fusion of Horizon Text and Interpreter

Interpretation in the fusion of horizons occurs by projecting the historical horizon of the text with the present of the researcher or interpreter. The present interpretations of researchers/ interpreters take place between the horizons of primary texts which were composed by the early writers and illuminated by various perspectives (perspectives) of the horizons of secondary texts, the results of previous interpreters or researchers. Interpreting a text while understanding the tradition of interpretation of the text and the interpreter brings his present in more dynamic (creative) interpretation activities. The fusion of horizons occurs in the process of interaction, intersection, and dialogue that provides an expansion of understanding for researchers or interpreters.

The fusion of horizon understanding proposed by Gadamer can lead to an exploration path in the fusion of perspectives (perspectives) from each horizon of the legal semiotic approach. Every legal semiotic approach interacts, interprets, shares, and dialogues in expanding the perspective (horizon) of the researcher or interpreter's understanding. Not to be contested or present conceptual chaos, but in the corridor of analytical tools that complement and enrich a process and results of semiotic analysis.<sup>(49)(50)(51)</sup>

The fusion of each legal semiotic approach horizon in analyzing the text of positive legal norms will present wider perspective of understanding. The breadth of this perspective is certainly needed so that the various related dimensions that will be studied and explored can be relatively more accommodated. Each horizon of the legal semiotic approach that has been built and mapped has its own characteristics and accents. If we look closely, there is a connected network that can complement each other when faced with analyzing the text of positive legal norms.<sup>(50)</sup>

Kristeva said an intertextuality in the space of a given text, several utterances, taken from other texts, intersect and neutralize one another.<sup>(52)(53)(54)(55)</sup> Moving from the previous sign system to new articulations and representations. The text is constructed as a mosaic of quotations, absorbed and transformed from others.<sup>(52)(53)(55)</sup> The text creativity is never pure but it comes from a pre-existing text. Transposition of sign systems can take place in the form of exchanging, permutation, and

repositioning.<sup>(52)(55)</sup> The element of interconnection, combination, and relational into a single unit in it.

Intertextuality view opens space to cross, combine, use part, exchange, maintain or eliminate some concepts from each legal semiotic approach in terms of creativity and meaning productivity. The intertextuality chain in this context shows the crossing between approaches. Intertextuality views open up space to bring together liberating semiotic approaches to law so that they can exchange, combine, reposition, and mutate when identifying meaning. Based on the entire description above. Demonstration 3 present, networked the semiotic legal model approach for interpreting asymmetrical symbols behind the text of positive legal norms.

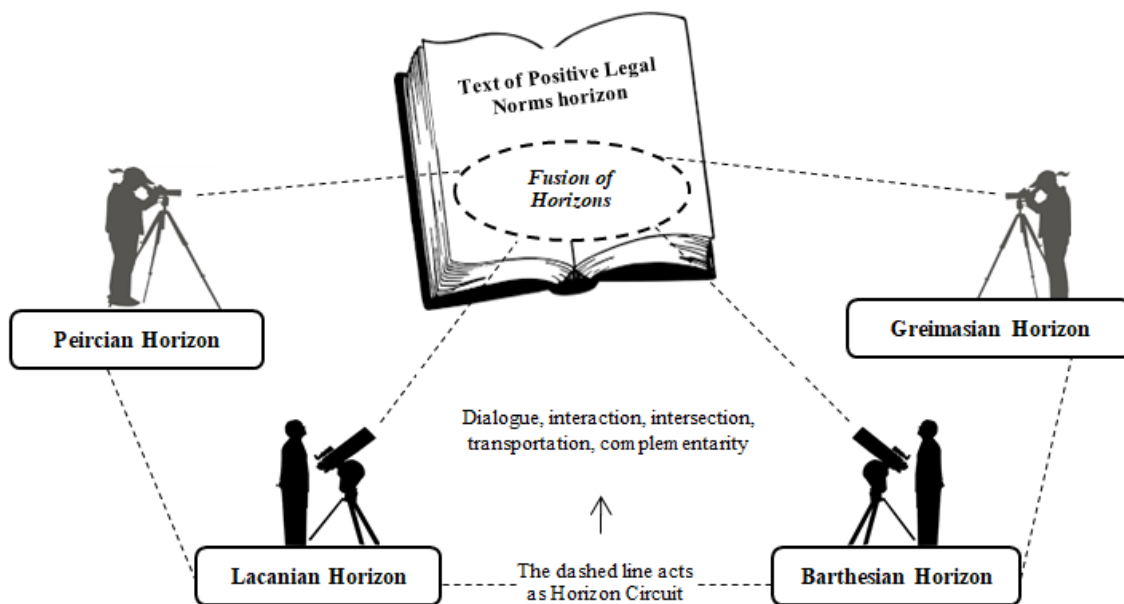


Figure 6. Legal Semiotics Model Approach in Meaning Symbols Asymmetric Behind Text of Positive Legal Norms

The researcher or interpreter can surf dynamically between the circuits (dashed lines) of the approach horizons. Interact, intersect, transpose, and dialogue the analytical tools of each approach, then the analysis process merges in it. The process of analyzing each legal semiotic approach in the fusion of the horizons and the framework of intertextuality can take place in mutually contradictory operations. Presenting dynamic process space for analysts. The portion of one legal semiotic approach can be so thick coloring, while the other approach is used as a complement. The elements of meaning revealed or raised by one approach can be complemented by another approach.

## CONCLUSION

Through the exploration results that have been mapped, the semiotic approach network can be used as a reading capital, to interpret the asymmetrical symbols behind the text of positive legal norms. The four approaches to legal semiotics that have been presented and explored support by the fusion of horizons philosophical study and the theory of intertextuality. Make it able to interact, intersection, transposition and complementing each other in analyzing the text of positive legal norms that are placed as the object of the problem.

The process of expressing symbolic elements, Ideological, power relations, myths, and desires operate behind the text of positive legal norms, takes place in the network of analysis of the four

approaches. Each legal semiotic approach collaborates in interpretation/expressing the content of meaning.

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