

## CHAPTER I

### INTRODUCTION

#### 1.1 Background of the Study

Language is the primary way of communication and a means of interaction to each other. The interaction is done to express information to others, and from the interaction, it is expected there will be an exchange of information to each other for the purpose is to fulfill the needs of information. The needs are successful when there are the questions from the addresser and the answers from the addressee in their interaction as the interlocutor. The addresser usually proposes several questions to the addressee to obtain answers in terms of information needed by, and vice versa. This interaction may be seen in every discourse of human interaction; it also may be found in the daily activities. However, the interaction which has been explained above is different from the interaction in courtroom.

Cross-examination is one of the interactions that are done in courtroom. In term of courtroom interaction, the interaction is done between the lawyers or barristers and witnesses. It is the interrogation of a witness called by one's opponent in court. In terms of interrogation, the several questions are proposed by cross-examiner to witness for the purpose is to get the testimony and come to the real event or fact. Testimony which is expressed by witness expected becoming as the evidence for the case which is being discussed. Anyway, the main purposes of cross-examination are to elicit favorable facts from the witness, or to impeach the credibility of the testifying witness to lessen the weight of unfavorable testimony.

It frequently produces critical evidence in trials, especially if a witness contradicts with previous testimony. In courtroom cross-examination interaction, the barrister is expected using cross-examination strategy in which it is the skill to corner the witness in court. The barristers use their personal thought or ideas in courtroom cross-examination interaction with the witnesses. Furthermore, the interpretation of cross-examination interaction between the barristers and witnesses should be based on context of situation where it is being held. In other words, the meaning of questions proposed by barrister interpreted based on what has been recognized by witnesses. Hale (2004: 31) asserts that the discourse and the pragmatic function of cross-examination by lawyers has the main purpose not to elicit new information (information-seeking), but to discredit the previously elicited examination-in-chief's case.

Questions are usually discussed as syntactical forms to elicit information, used to attract attention of listeners in conversation or interaction for sustaining interest among interlocutors. The questions themselves are sentences, phrases, are used show that the speaker or writer wants the reader or listener to supply them with some information, perform a task or in some other way respond to request. Thus, various types of questions are delivered to the listener. However, the question asked by the speaker determines the response from the listener. Questions can be seen as syntactical forms with pragmatic functions. In discourse, questions are sometimes used strategically by interlocutors of greater authority against those without power (Fairclough, 2001). It means that more powerful persons tend to ask question than the powerless persons in which the powerless persons are required to provide answers to the questions asked. Similar with the

courtroom interaction in which the jury or lawyer tends to ask questions to witness. Thus, courtroom questioning differs markedly, in that lawyers usually have a particular version of events in mind that they are attempting to confirm with the witness. Usually the witnesses are compelled to answer, and do not have the right to ask questions (Gibbons, 2008: 115). In clear, he adds that these differences mean that courtroom questions are different from everyday questions along a range of linguistic parameters.

The cross-examination which is done by lawyers or barristers in court to witness has a particular purpose that is to discredit the witness's testimony or examination in chief. State Courtroom of Medan is one of the places that applying the interrogation to the witnesses by barrister or lawyer by questioning. Several questions are asked to witness in cross-examination session. The questions asked have their own particular function and are related to what context of case being examined. Purba (2009) states that question are most dominant type of speech function in court session. This is due to the fact that the judge as well as the prosecutor, and the lawyer are the seeker of information through probing or investigation. It is clear that the questions are dominant in courtroom cross-examination session in terms of interrogation.

As the cross-examiners, the lawyers or barristers have a multiple task: discredit the witness, propose an alternative approach to the events, and persuade the audience. This task is achieved purely by means of questioning, until they come to closing speeches. The syntactic form of questions helps to define the response boundaries and elicit type-conforming replies (Tkačuková, 2010: 339). It means that one of the ways coming to the fact or true event is by questioning to

witness and syntactical form of questions helps and determines the response from the witness. All of the tasks of barrister in courtroom cross-examination in Medan are expected done effectually. In fact, the barristers are not consistent of their tasks.

Barrister : *Pencairan uang itu langsung bapak kasih sendiri pada saat itu kepada terdakwa dan tidak ada tanda bukti pembayaran. Benarkah demikian?*  
 Witness : *Ya, benar.*

The phenomenon as drawn above displays that the barrister questions the witness in courtroom cross-examination in Medan. However, the function of the question constructed is not to discredit the witness, but only confirms about the event. It can be said that the barrister does not use the cross-examination strategy as stated by Cotterill (2004) that cross-examination strategy covers a wide range of tactics including lexical means (particular choices of words used in questions), whereas the task is to discredit the witness and to propose an alternative approach to events.

The way to achieve the task of barrister by the means of questioning to witness, Gibbons (2003: 112) differentiates between idea-targeted and person-targeted pragmatic strategies. Idea-targeted pragmatic strategies challenge the testimony, whereas person-targeted pragmatic strategies cast doubt on the personal characteristics of witness.

Example 1:

Barrister : *Pencairan uang itu langsung bapak kasih sendiri pada saat itu kepada terdakwa dan tidak ada tanda bukti pembayaran. Bagaimana anda bisa memberikan uang itu sedangkan tanda bukti tidak ada?*  
 Witness : *Saya hanya memberikan uang itu kepada saudara terdakwa tanpa menghitungnya karena uangnya barusan saya ambil dari bank. Gak ada kwitansi juga pada saat itu. Itu saja pak.*

The example 1 as drawn above displays that the barrister elicits more information by challenging the witness about the event. It can be seen from the question constructed and particular choice of words “*Bagaimana anda bisa memberikan uang itu sedangkan tanda bukti tidak ada?*”. This question is very helpful to challenge the witness and sounds to trap the witness that he is involved in the case.

Example 2:

*Barrister: I just want to remind you and confirm that in this courtroom; previously you said that the defendant slapped the victim on her left cheek. You watched directly. But just now you said that the doctor cured her right cheek. Did you?*

The example 2 which is drawn above using the reverse polarity tag question, or modal verb tag question, where it challenges the witness's claim about the slap cheek.

Example 3:

*Barrister: I want to clarify. Tell me if I am mistaken. The money was sent into your account. And you say you didn't know how to earn money into bank. Did you?*

The example 3 which is drawn above using full verb tag question, displays how the barrister discredits the personality of witness of his or her testimony. From those examples which are illustrated above display that the barrister fulfills the tasks: to discredit the witness, to propose alternative approaches to the events, and to persuade audience. Anyway, the syntactical form of questions constructed helps to elicit testimony and is functional.

Those phenomena as drawn above show that barristers have different point of view to question the witnesses, because, in fact, some of the questions

constructed not to corner the witness. The phenomena indicate that the barristers have their own reasons of why constructing the questions so. However, it is expected that the barristers should keep focus on their tasks when the cross-examination is being held.

The barrister or lawyer uses many kinds of tactics or strategies in cross-examination particularly in questions in which encompass syntactical forms or grammatical forms of questions which are functional and helpful to elicit replies from the witness. Thus, in line with the theory which is proposed about questions by Tkačuková (2010) in relation to pragmatic strategies (Gibbon's theory), the researcher would like to research how question(s) constructed in courtroom in relation to pragmatic strategies in cross-examination in Medan. The researcher would like to research the question construction on criminal act.

## **1.2 The Problems of the Study**

Based on the background of the study which is explained above, the research problems are formulated as the following:

1. What are the types of questions in relation to pragmatic strategies in Courtroom Cross-Examination in Medan?
2. How are the question constructed in relation to pragmatic strategies in Courtroom Cross-Examination in Medan?
3. Why are the questions constructed in the way they are?

## **1.3 The Objectives of the Study**

In relation to the problems of the study, the objectives of this research are to describe:

1. The types of question in relation to pragmatic strategies in Courtroom Cross-Examination in Medan.
2. The question construction in relation to pragmatic strategies in Courtroom Cross-Examination in Medan.
3. The reason of subject constructs the question in the way they are.

#### **1.4 The Scope of Study**

This research will be focused on question in courtroom cross-examination in Medan. The focus of questions is on the declarative question, tag question, and amount information and pressure (polar yes-no question, choice question, wh-question, projection questions, and special formulas) in which related to pragmatic strategies. The analysis of this study is based on Tkačuková's theory about questions in Courtroom Cross-Examination in which it is related to pragmatic strategies (Gibbon's theory).

#### **1.5 The Significances of the Study**

The findings of this study offer theoretical and practical significance. Theoretically, it is expected that the findings of this research will give much contribution and insight to applied linguistics, particularly to forensic linguistics about question in courtroom cross-examination in relation to pragmatic strategies. In addition, the findings will add up more horizons to linguistic theory. Practically, it is also expected that the findings of this research will give more information to the readers, and particularly the lawyers or barrister in proposing or in constructing the question to witnesses in courtroom cross-examination in order that the case which is going on can be finished more effectively.