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Reconstructing Constitutional Interpretation Beyond Textualism: Balancing Justice, Legal Certainty, and Utility in Contemporary Legal Systems

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Abstract

This study aims to establish a nexus between three important components of legal philosophy: justice, legal certainty and utility in legal interpretation. Legal interpretation occupies an important place in advancing justice and legal certainty, especially in this era when social changes have influence on the application of law. In legal interpretation, the problem of ambiguity of language and the gaps between the intent of drafters of laws and the evolving societal changes pose a significant question on how this can be addressed to provide justice. To uphold justice, legal certainty through interpretation is imperative. In this study, we adopt a normative research method through a conceptual approach with a view to analysing direct, golden and mischief rules required in interpreting legal texts, situating them to constitutional interpretation and establishing how they are beneficial to justice. The study examines constitutions, statutory texts and other legal materials to support our arguments, with cases from Indonesia's Constitutional Court. This study finds that the positions of judges on judicial activism and restraints should focus on clarity rather than complicating the law. Therefore, the nexus between legal certainty and interpretation suggests that laws and, in particular, judgements must be foreseeable. That is, laws must meet standards of clarity, consistency, and intelligibility so that individuals involved can reasonably predict the legal repercussions of their conduct.

Keywords: *Judicial Activism, Judicial Restraint, Legal Ambiguity, Legal Certainty, Legal Interpretation*

Abstrak

Penelitian ini bertujuan untuk mengidentifikasi hubungan antara tiga komponen penting dalam filsafat hukum: keadilan, kepastian hukum, dan kemanfaatan dalam penafsiran hukum. Penafsiran hukum memegang peranan penting dalam mewujudkan keadilan dan kepastian hukum, terutama di era saat ini, ketika perubahan sosial memengaruhi penerapan hukum. Dalam penafsiran hukum, masalah ambiguitas bahasa serta kesenjangan antara maksud pembuat undang-undang dan perubahan sosial yang terus

berkembang menimbulkan pertanyaan mendasar mengenai bagaimana hal ini dapat diatasi untuk mewujudkan keadilan. Untuk menegakkan keadilan, kepastian hukum melalui penafsiran menjadi hal yang mutlak. Penelitian ini menggunakan metode penelitian hukum normatif dengan pendekatan konseptual untuk mengkaji penerapan kaidah penafsiran harfiah (*literal rule*), kaidah emas (*golden rule*), dan kaidah mischief (*mischief rule*) dalam penafsiran teks-teks hukum, menempatkannya dalam konteks penafsiran konstitusional, serta menetapkan bagaimana hal tersebut bermanfaat bagi keadilan. Studi ini mengkaji konstitusi, teks undang-undang, dan bahan hukum lainnya untuk mendukung argumen kami, dengan contoh kasus dari Mahkamah Konstitusi Indonesia. Penelitian ini menemukan bahwa posisi hakim terkait aktivisme yudisial dan pembatasan harus berfokus pada kejelasan, bukan pada pemrumitan hukum. Oleh karena itu, hubungan antara kepastian hukum dan penafsiran menunjukkan bahwa undang-undang, khususnya putusan, harus dapat diprediksi. Artinya, undang-undang harus memenuhi standar kepastian, konsistensi, dan keterbacaan, sehingga individu yang terlibat dapat secara wajar memprediksi konsekuensi hukum dari tindakan mereka.

Kata kunci: *Judicial Activism, Ketidakpastian Hukum, Kepastian Hukum, Penafsiran Hukum, Pengekangan Yudisial*

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Introduction

Constitutional interpretation requires that laws be written in a clear and methodical manner in order to prevent ambiguity in interpretation and implementation. This principle is called legal certainty. Legal certainty is essential to maintaining stability, predictability, and public trust in the judicial system. It serves as a philosophical reflection of the independence and impartiality of the legal system in addition to serving as a procedural assurance to preserve the rule of law.[1] Justice is still up for debate due to the

[1] Itok Dwi Kurniawan and Souad Ezzerouali, "Revisiting the Principle of Legal Certainty: A Contemporary Analysis through the Lens of Legal Positivism" *Nusantara: Journal of Law Studies* 3, no. 2 (2024): 137, https://doi.org/10.5281/zenodo.17385496

lack of agreement among specialists. Since the law must undoubtedly help society, utility is another issue that merits consideration in society.[2]

The conflicts in legal interpretation, particularly between judicial activism and judicial restraint, are still being debated. In democracies, the judiciary is in charge of upholding the rule of law, guaranteeing accountability, and defending fundamental rights. While some jurisdictions have well-established political institutions, others frequently struggle with issues like institutional inefficiencies, poor legislative frameworks, and political instability.[3] Judicial activism is a proactive approach where judges are more inclined to interpret the constitution and legislation liberally, and it frequently results in policy changes or the acknowledgement of new rights. Judicial restraint, on the other hand, promotes a more conservative reading of the law and calls on judges to respect legislative and executive branch actions unless there is an obvious constitutional breach.[4]

Lawful uncertainty is all about the natural instability or ambiguity that exists within legal texts, rules and doctrines. This stems from the complexities of language, the ever-changing nature of societal norms, and the limits of how we express ourselves. The ambiguity shows up in different ways, like semantic, syntactic, and practical uncertainties, all of which can affect how judges interpret and apply the law.[5] This relationship between justice, legal certainty and utility anchors on striking a balance between the judicial discretion necessary for individual justice and the requirement for legal uniformity.[6] This helps to secure flexibility in legal interpretation when necessary.

This is a crucial area where the aims of legal certainty and flexibility overlap. No law rules its own application, and the law cannot provide a rule to govern every circumstance. Therefore, laws must be implemented in logical and relatively predictable ways and must be interpreted to understand how they apply in novel circumstances. The

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[2] Karman et al, "Studi Tentang Konfrontasi Antara Gagasan Keadilan Dan Kepastian Hukum Dalam Filsafat Hukum" *IURIS STUDIA: Jurnal Kajian Hukum* 6, no. 3 (2025): 751

[3] Faiz Bakhsh et al, "Judicial Activism vs. Judicial Restraint in Developing Democracies: A Comparative Study" *Social Science Review Archives* 3, no. 3 (2025): 2319. https://doi.org/10.70670/sra.v3i2.1079

[4] Emily Baker, "Judicial Activism versus Judicial Restraint: Safeguarding Democratic Principles in Contemporary Constitutional Systems" *Law, Governance & Social Justice* 1, no.1 (2026): 2

[5] Manotar Tampubolon, "Decoding Legal Ambiguity: the Interplay between Law and Legal Semiotics in Modern Jurisprudence" *International Journal for the Semiotics of Law - Revue internationale de Sémiotique juridique* (2025): https://doi.org/10.1007/s11196-025-10271-2

[6] Gregorius Widiartana and Sajjad Hussain, "Judicial Pardon in Contemporary Criminal Verdicts: Balancing Justice, Legal Certainty, and the Utility of Law" *Nusantara: Journal of Law Studies* 4, no. 1 (2025): 3, https://doi.org/10.5281/zenodo.17346796

law must be understood and applied in the context of underlying social values since it is ingrained in society.[7] When a rule is ambiguous or expresses an open-textured standard, such as the requirement that someone conduct themselves properly, people can be directed in applying it by taking into consideration background societal and moral standards of what constitutes acceptable behaviour.

The significance of this study is premised on the intersection between justice, legal certainty and utility from a conceptual perspective to frame a position on constitutional interpretation. This is vital because in the context of constitutional law, legal certainty is the state in which all citizens of a nation have clarity and assurance about their rights and responsibilities. To put it another way, everyone can be aware of the laws that apply and the penalties for breaking them. This study will help in establishing justice and legal certainty to help constitutional law govern the composition, operations, and interactions of state institutions as well as the relationship between the state and its people.[8]

Previous studies have focused on the importance of legal interpretation and its philosophical underpinnings. However, bringing together justice, legal certainty and utility under one umbrella to clear ambiguities in constitutional interpretation remains unaddressed. In addition to being essential to the development of a country's civilisation, justice also contributes to social welfare initiatives and the equitable distribution of rights and responsibilities that each and every person must fulfil. Therefore, in an effort to raise awareness among all people and state officials, the principles of legal justice must be able to be put into practice. We must recognise that the question of justice frequently arises in the lives of those around us.[9]

An example is Indonesia's constitutional interpretation by the Constitutional Court *(Mahkamah Konstitusi)*. In order to provide a wide range of people and organisations who believe their constitutional rights have been violated with a way to acquire unmediated access to the means of obtaining remedy, the Indonesian Constitutional Court has interpreted its constitutional review powers broadly. The constitutional guarantee of legal certainty is one of the instruments the Court has

[7] Lord Philip Sales, "Certainty and flexibility in law" *Judicial Review* 30, no. 1 (2025): 8

[8] Zainal Abidin Pakpahan, "Justice and Legal Certainty as A Manifestation in the Context of Constitutional law" *Jurnal Ilmiah Advokasi* 13, no.1 (2025): 281.

[9] Yosep Copertino Apaut and Egiony Saunoah, "The Role of Legal Philosophy in Building a Fair and Just Legal System (Examining the Legal System in Lawrence M. Fiedman's theory)" *JURNAL RESTORASI: Hukum dan Politik* 3, no.2 (2025): 177

employed to expand its competence for constitutional scrutiny. Early implementations of this clause demonstrated an awareness that the need for legal certainty established a limited and fundamentally formal standard for the law's legitimacy.[10] However, the use of a claim of legal uncertainty to file a constitutional challenge inevitably increased, and plaintiffs can today use this clause to get judicial review of nearly any act for any reason.

The problem in intertwining justice and legal certainty in Indonesia's constitutional interpretation is that since some rulings still prioritise legal certainty over fairness and moral substance, the philosophical idea of justice has not been fully realised in every court decision.[11] This challenge is due to the Court's silence on which method to apply in its interpretation of the Constitution. The Constitutional Court has been revised, but it has not said anything about the technique of interpretation the Court should use. The court just states that legitimate parliamentary acts may only be examined in light of the Constitution, not other legislation. This clause appears to direct the Court to interpret in accordance with the original purpose of the Constitution's drafters.

However, the Court is free to disregard the original purpose factor in its ruling because it does not establish a particular standard interpretation approach. Therefore, the Court may arbitrarily employ alternative techniques of interpretation when it is not required to read the Constitution in accordance with its original design, provided that the final reading does not depart from the three principles of the law: fairness, legal clarity, and purposiveness.[12] While this system may be beneficial, there is a high tendency for unelected judges to substitute their own personal or political values for the original, agreed-upon meaning of the law. Also, if the Constitution's meaning can change based on a judge's perception of purpose, it destroys legal certainty. Citizens and lawmakers can no longer predict what is legal.

However, in existing studies, there is no agreement on the more fundamental question of what legal interpretation is and, specifically, what its constitutive goal is, which contributes to the disagreement. Does legal interpretation, for instance, look for

[10] Mark Cammack, "Legal Certainty in the Indonesian Constitutional Court: A Critique and Friendly Suggestion" in Melissa Crouch (ed) *Constitutional Democracy in Indonesia* (Oxford University Press, 2023), 275, https://doi.org/10.1093/oso/9780192870681.003.0014

[11] Christopher Elia Julio and Irwan Triadi, "Analisis Filsafat Hukum terhadap Asas Keadilan dalam Putusan Hakim di Indonesia" *Socius: Jurnal Penelitian Ilmu-Ilmu Sosial* 3, no.4 (2025): 168

[12] Mardian Wibowo, "Justices' Freedom of Constitutional Interpretationmethod in the Indonesian Constitutional Court" *Mimbar Hukum* 25, no. 2 (2013): 285

the linguistic meaning of legal documents, the best way to settle conflicts, or the contribution of legal provisions to the law's content? For example, in circumstances where the requirements for the validity of interpretive directives are ambiguous in terms of their definition and result in political disputes, reference can be made to the interpretive directives, whose application will determine the content of the law and the outcome of that political dispute.[13] Legal interpretation commences from particular texts and practices, as well as the mental state of some legal participants.

Although it is controversial as to exactly what the content should include, the basic argument is based on the outcome of the interpretation. In this article, it is argued that political influence on the judges is key to constitutional interpretation and therefore, judicial restraint is key to upholding justice. An interpretive method may be irrelevant even if it is democratic or just if the legal interpretation seeks to acquire linguistic meaning, but the same interpretation can be relevant if it is determined to resolve the dispute.[14]

Method

This research applies a qualitative method through library research with a descriptive-analytical approach to study the issue raised here. The main focus is to analyse academic literature on philosophy and constitutional interpretation. This research uses an interdisciplinary socio-philosophical approach, combining views from legal studies, sociology of law, and legal philosophy to examine the social, political, and philosophical values underlying the nexus between justice, legal certainty and utility in interpretations. Primary data like constitutions, statutes and cases are analysed to support the arguments. Peer reviewed journal articles and books are also used as secondary data in this study. The philosophical underpinning of legal interpretation and the legal sociological influence on judges' minds as the custodians of law and its interpretation is keenly assessed in this research.

[13] Robert Piszko, "Legitimization and Validity of Directives on Legal Interpretation on the Example of the Rule of Law Crisis in Poland" *International Journal for the Semiotics of Law* 35, no. 2 (2022): 565–581.

[14] Mark Greenberg, "Legal Interpretation" In E. N. Zalta (Ed.) *The Stanford Encyclopedia of Philosophy* (2021).

Results and Discussion

The Role of Legal Interpretation in the Judicial System

In modern society, the law is a powerful tool for promoting social change in addition to being a means of upholding order. Many of the most important changes in modern history have been largely attributed to the capacity of a legal system to affect behaviour, remodel institutions, and reorient communal values.[15] The evolution of legal systems ought to be accompanied by social changes, and sometimes these changes can cause changes in laws through interpretation.[16] While legal interpretation can be understood in this context as a tool of social change by changing laws to align with new realities of an evolving society, it should also be understood as a driving force towards maintaining order and harmony in society. Balancing these two sides of the law helps in understanding the relationship between law and society and how legal interpretation can operate together with legal certainty to produce an effective legal system. Due to the current global crisis, there is a need for flexibility in legal interpretations because judicial interpretations should play an important role in guiding legal responses to these challenges, determining whether a state progresses toward greater democracy or experiences democratic backsliding.[17]

For instance, in constitutional interpretation on same-sex marriage, judicial activism has been conspicuous in Europe, where the European Court of Human Rights (ECHR) has influenced constitutional interpretation in member states.

Table 1. Landmark Judicial Decisions and their Impact on Constitutional Law[18]

Jurisdictions	Landmark Decisions	Constitutional Issue	Interpretive Approach	Impact on constitutional law
Canada	Same-sex marriage (2004)	Same-sex marriage rights	Living tree doctrine: Constitution as a living document	The Affirmed Charter protects evolving conceptions of marriage equality.
South Africa	Minister of Home Affairs	Same-sex marriage; equality rights	Transformative constitutionalism	Mandated legal recognition; pioneering

[15]Wayan Kandia and Wayan Wiryawan, "Law as an Instrument of Social Transformation: A Theoretical and Empirical Study of the Role of Law in Driving Contemporary Societal Change*" International Journal of Education and Social Science Studies* 1, no. 2 (2025): 103

[16]E. A. Zulfa, Interpretation: A Model of Legal Adaptation to Social Change (2020).

[17]Rosalind Dixon and David Landau, *Comparative Constitutional law in Latin America* (Edward Elgar Publishing, 2021).

[18]Ujang Suratno, "Constitutional Law and Social Change: A Global Perspective" *Journal of Law & Social Politics* 3, no. 2 (2025): 116, https://doi.org/10.59621/jlsp.v3i2.61

	v. Fourie (2005)			LGBTQ+ rights jurisprudence
India	Navtej Singh Johar v. UOI (2018)	Decriminalisation of homosexuality	Progressive: Right to dignity and privacy	Overturned colonial-era law; expanded constitutional privacy rights
European Court of Human Rights	Oliari v. Italy (2015)	Recognition of same-sex partnerships	Evolutive interpretation of ECHR	Required legal recognition; influenced domestic constitutional law across Europe
United States	Obergefell v. Hodges (2015)	Same-sex marriage as a constitutional right	Substantive due process; equal protection	Nationwide recognition; significant social impact

Source: compiled by authors

Based on Table 1, it shows that the fundamental tenets of liberty, equality, representation, and the separation of powers have historically served as the foundation for constitutional law. However, its implementation takes place in a reality that is always changing. The legal frameworks that direct governance must unavoidably adapt as societies change due to demographic, technological, and economic changes. Even while constitutional law is based on fundamental principles, it must be flexible enough to adapt to the demands and complexity of changing social situations.[19] Therefore, when considering the application of a law, we must consider one of the central elements of legal interpretation. All democratic states use legal writings as a crucial building block. As a result, legal information must be as widely available to all parts of society as feasible to promote inclusivity and facilitate involvement in governmental decision-making. Finding the pertinent law is becoming more and more challenging for people, civil society, corporations, and all other concerned players in legal processes due to the sheer volume of legal norms, instruments, and interpretations found in court decisions, commentary, and other sources. The difficulty lies in connecting local legal information and in putting systems in place to enhance it through mass customisation and aggregation.[20]

For example, following World War II, two significant international military tribunals – the Nuremberg and Tokyo tribunals – were set up. This indicated that if a positive law reaches a level of extreme injustice, it ceases to be law. That is, an unjust

[19] Muchammad Catur Rizky et al, "Constitutional Law Adaptation in Response to Globalization and Urbanization in Contemporary Societies" *Journal of Social Science Studies* 2, no. 1 (2022): 195.

[20] Thomas J. Lampoltshammer et al. "Open Justice in Europe through Open Access to Legal Information" in C. E. Jiménez-Gómez & M. Gascó-Hernández (Eds.) *Achieving Open Justice through Citizen Participation and Transparency* (2017): 173–190.

law is not law. This is tied to the interpretation of law to secure justice and utility. The interpretation is that this anchors on the theory that law is fundamentally tied to morality because acts of the Nazi regime were deemed so universally abhorrent that they constituted crimes regardless of whether they violated a specific sovereign statute at the time they were committed.

The Justice Case (1947), formally *United States v. Josef Altstötter et al.*,[21] is one of Nuremberg's most legally significant trials. Sixteen Nazi judges, prosecutors, and attorneys were charged with crimes against humanity utilising the legal system. The prosecution claimed that through Draconian legislation and the "Night and Fog" edict, the defendants undermined the rule of law and turned courts into tools of political assassination and racial persecution. The defence, which claimed they were only upholding legitimate German laws passed by a sovereign government, mostly relied on legal positivism. This defence was dismissed by the tribunal. It decided that positive law loses its legal character when it transgresses universal human values. Ten defendants were found guilty. The decision permanently linked the rule of law with fundamental human rights by establishing the crucial precedent that the judiciary cannot commit international atrocities by hiding behind domestic law.

The prosecution of *General Hideki Tojo (1948)*[22] before the International Military Tribunal for the Far East remains the Tokyo Tribunal's definitive case. Tojo was accused of waging an aggressive war and allowing horrific crimes against civilians and prisoners of war while serving as prime minister of Japan during the war. Tojo first justified his acts as lawful state self-defence, in contrast to Nuremberg, where defendants accused Adolf Hitler. He maintained that Japan was compelled to go to war by Allied economic embargoes. His defence, which maintained that a head of state could not be held personally accountable for state actions under international law, mainly based on legal positivism and sovereign immunity. These arguments were dismissed by the panel. The court found Tojo guilty on several counts and sentenced him to death, rejecting sovereign immunity. The case demonstrated that heads of state cannot evade justice by claiming national sovereignty, solidifying individual criminal liability for world leaders.

[21] 3 T.W.C. 1 (1948)

[22] United States of America and others v Araki and others (Judgment) IMTFE (12 November 1948)

Constitutional and Statutory Interpretation

Constitutional interpretation is different from statutory interpretation, but in jurisdictions with a civil law system where emphasis is put on codified laws, theoretical debate between the constitutional and statutory interpretations is not contested adversely. The differences between constitutional and statutory interpretations of law are somehow mythical.[23] For example, in Indonesia, the 1945 constitutional amendments brought about the most significant changes through the adoption of provisions of constitutional rights**.** It is the court's duty to ensure that these rights are protected. No government policy should violate the rights of citizens. In many cases, provisions relating to the protection of fundamental rights do not require special interpretation. But Indonesia's Constitutional Court exercises restraint in interpreting international law that the state ratifies.

However, the Court sometimes adds a remark claiming Indonesia's "sovereignty" to its affirmations that the country is bound by the treaties it has ratified. For instance, the Court stated in decision 86/PUU-XIV/2016 that Indonesia was bound by the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) because it had ratified it, but it emphasised that the Constitution permitted the state to restrict rights that CEDAW might otherwise impose under Article 28J(2).[24] Additionally, the Court has noted that Indonesia is free to decide whether to participate in international agreements or not.[25] This, in our view, defines the country's alignment to judicial restraint in the court's interpretation of international law using the Constitution as its benchmark. The position in this research is that interpretation must be based on fidelity to the constitution or the law being interpreted and not just the conscience of the judge that may not be guided by law, considering economic and political influences judges sometimes face.

In the United States, the Supreme Court has a high level of discretion. The indeterminacy of precedents, the difficulty in identifying the ratio decidendi, the potential emergence of unreported new cases, and the underdetermination of analogical reasoning are a few factors that led to the decision.[26] Because the Constitution is purposefully

[23] András Jakab, "Judicial Reasoning in the Constitutional Courts: A European Perspective" *German Law Journal*, 14 no. 8 (2013):

[24] Constitutional Court Decision 86/PUU-XIV/2016

[25] Constitutional Court Decision 33/PUU-IX/2011 at [3.18].

[26] Federico José Arena, "Which Kind of Discretion in Constitutional Adjudication? A Discussion of Mher Arshakyan's The Impact of Legal Systems on Constitutional Interpretation: A Comparative

constructed in broad, flexible language and gives the Court the last authority to examine government activities, the Supreme Court has a great deal of discretion in constitutional interpretation. Lifetime appointments and the capacity to select its own cases serve to strengthen this interpretive independence.

This indicates that constitutions and statutes are the two main instruments that are subject to interpretation, but their judicial interpretations are not the same. Judges commonly refer to their duty to refrain from substituting their own policy preferences for those of the legislature when interpreting statutes. The push against the use of such extrinsic evidence of legislative intent as a statute's legislative history has been primarily driven by this notion known as "legislative primacy". Judges or anybody else willing to craft a narrative that supports one side or the other may choose to selectively use portions of this history.[27] Because most legislative enactments are vague, it is difficult to interpret and apply them in specific situations. Despite the apparent simplicity of statutory language, issues with word meaning may occur.

Therefore, statutory interpretation includes choosing between uncertainties that allow the judges to use a number of techniques to determine the legislators' intent and determine what the law means in specific situations. Legislative history, for instance, frequently offers "accurate and convincing guides to legislative meaning". The value of using extrinsic aids to interpret statutes is real, not hypothetical. There have been judges who believe that, while not interfering with Parliament's powers, courts have a responsibility to interpret the law as fairly as possible for individuals and society as a whole. This perspective views the intrusion of the state and other powerful entities into the lives of citizens with distrust rather than serenity, upholding rather than undermining their civil freedoms.[28]

Constitutional interpretation differs from legislative interpretation. The legislative paradigm, however, is unsuitable for constitutional interpretation since it encroaches on the domain of constitutionality with the ontology of legality. As implied in the tradition

Analysis: The U.S. Supreme Court and the German Federal Constitutional Court" *German Law Journal* 14 no. 8 (2013): 1337–1344

[27] Lawrence M. Solan, "Precedent in Statutory Interpretation" *North Carolina Law Review* 94 no. 4 (2016): 1164–1234.

[28] Noor 'Ashikin binti Hamid and Rusniah Ahmad, "Judicial Interpretation: A Conceptual Analysis" In *Proceedings of International Conference on Public Policy and Social Science* (2012): 705–719.

of liberal democratic constitutionalism, understanding the constitution as an independent substantive category is necessary for understanding an object as a constitutional norm. This premise allows for the possibility of constitutional meaning and supports treating constitutional interpretation as an unusual phenomenon, greatly underestimating the role that form, language, structure, and historical conditions play in constitutional argument. When making rulings on cases, judges apply their logical thinking skills to determine what a specific statute means. Judges don't always agree on the meaning of the Constitution because they sometimes interpret it using various methods of reasoning.

The democratic balance of power is threatened by failing to distinguish between constitutional interpretation and legislative (statutory) interpretation because they serve essentially different legal hierarchies. Constitutions establish the fundamental rules of government and supreme law, whereas legislation consists of specific, day-to-day rules created by a Parliament.

Literal, Golden, and Mischief Rules of Statutory Interpretations

Examining the statute's text and literal meaning is the first and most important stage in the interpretation process. The construction of an act depends on the wording of an enactment because words in legislation have their own inherent effects. In the creation of statutes and in their interpretation, words should not be added or substituted. The principal focus is on interpreting words literally. It should be noted that the rule can only be put into practice when the meanings of the terms are clear, that is, when the words are basic enough that only one meaning can be deduced from the statute. Throughout the ages, there have always been challenges faced by judges as they try to unravel and decipher the hidden meanings of legal statutes that are placed before them for interpretation. In contemporary legal practice, lawyers are also constantly faced with the question of the effect a statute will impose on an existing real situation, that is, how words of statutes have a substantive nexus with existing issues in the world. In trying to interpret a statute, different rules of both simplistic and mechanistic approaches are applied by courts.

In the application of the literal rule, the act gives the outcome of the intention of the legislature. This is propounded in *Re Sussex Peerage Case (1844) 11 CL and Fin 85*, which provides that the only rule for the construction of Acts of Parliament is that they should be construed according to the intent of the Parliament which passed the Act. If the

words of the statute are in themselves precise and unambiguous, then no more can be necessary than to expound those words in their natural and ordinary sense.[29] While this is an act of decoding the text of a law, its impact carries weight that influences the thoughts of jurists in understanding the nexus between the intent of lawmakers at the time the law was made and the problem it is meant to solve.

The benefit of the literal rules is that they preserve parliamentary sovereignty by upholding the legislature's actual language and prohibiting unelected judges from making or changing laws out of personal prejudice. Second, it offers legal clarity, which is essential for achieving justice. The law becomes predictable and consistent as a result of its reliance on established definitions. Statutes can be taken at face value by both citizens and legal experts. Third, it promotes openness and rigorous conformity to written law by preventing judges from stretching or creating interpretations to fit a particular situation, thereby limiting activism. However, the following limitations may arise. First, a literal rule runs the risk of producing ridiculous results. Strictly interpreting a word or phrase literally can occasionally lead to outcomes that are wholly illogical, unfair, or at odds with what Parliament most likely intended. Second, because the norm presumes perfect legislative drafting and ignores the fact that a single word can have several meanings depending on its context, it misses linguistic nuances. Third, because strict adherence to particular terminology enables people or defendants to take advantage of technicalities and circumvent the meaning of the law, it creates loopholes.

For the golden rule of interpretation, it is opted for as a guiding concept to avoid any ambiguity or absurdity in the interpretation of laws. This method of interpretation is preferred when the literal rule of interpreting statutes results in a meaning that is ambiguous or does not appear to reflect the purpose for which the law was created. The term "vague" or "inconsistency" is used when an interpretation produces outcomes that the court deems to be below the standard for which the legislation was intended. The court can then depart from the statute's plain intention to properly interpret it and ensure that justice is done.[30] The rule's apparent benefit is that it enables the judge to change the meaning of words to eliminate absurdity and use the changed term correctly in the

[29] Maija Aalto-Heinilä, "Fairness in statutory interpretation: Text, purpose or intention?" *International Journal of Legal Discourse* 1, no. 1 (2016): 199.

[30] Aniket Ojha, "Critical Analysis of Golden Rule of Interpretation" *Jus Corpus Law Journal* 1 no. 1 (2020): 4–9.

situation at hand. The golden rule intervenes to assist the court whenever the literal rule of interpretation does not yield clarity.

However, the application of this rule in interpretation faces constant challenges over the years. The first benefit is that it prevents irrational or unfair outcomes that go against public expectations and common sense, which can occasionally happen under a rigorous literal reading. Second, it ensures that laws are applied in a way that is consistent with the legislature's larger, rational goal by allowing judges to modestly alter the wording. Thirdly, it provides a compromise between strict textualism and going too far in judicial lawmaking. It can be applied generally (by changing the word to prevent absurdity) or narrowly (by selecting a different meaning for a word). The golden rule's setback is that there is not a clear legal standard to define what makes a conclusion "absurd". This can result in inconsistent and unpredictable decisions because it mostly depends on the judge's personal viewpoint. Second, the judiciary can essentially "rewrite" laws by altering statutory text. The distinction between the court (interpreting laws) and the legislative (creating laws) may become hazy as a result.

For the mischief rule, the Heydon's case of 1584 serves as the locus classicus in this regard. The Heydon's case, which was reported by Lord Coke and decided by the Barons of the Exchequer, established the following four guidelines that courts must follow before using the mischief rule of interpretation. That is, for the sure and true interpretation of all statutes in general, four issues are to be considered:

i. What was the law before the Act was promulgated?
ii. What was the mischief and defect for which the common law did not provide?
iii. What remedy has the parliament resolved and appointed to cure?
iv. The true reasons for the remedy.

Therefore, the interpreter needs pragmatics in addition to semantics, and he needs these pragmatics in order to comprehend the text from its inception as well as to resolve any ambiguities in it. The judges in the *Smith v. Hughes* case made an effort to comprehend the provision's underlying intent. The defendant engaged in prostitution while staying there. She was charged with violating section 1(1) of the Street Offences Act, 1959, by soliciting passersby from the balcony of her flat. She was creating noise to get the attention of males walking along the street so she could invite them to her

apartment. The defendant maintained that since she was on her own balcony, which was not a street, she did not commit the alleged act in the street. Section 1 states that it is unlawful for a common prostitute to solicit or loiter in a street or other public area for prostitution.

Literally, her defence was sound because she didn't commit the offence while on the street, either literally or in accordance with the golden rule. Lord Parker: "I begin by thinking about the harm that this Act is intended to cure. Everyone is aware that the purpose of this Act was to make the streets safer for individuals to go down without being harassed or approached by common prostitutes. When seen in that light, it does not really matter if the prostitute is soliciting in the street, in a doorway, on a balcony, or at a window or whether the window is closed, open, or partially open because in every case, her solicitation is directed at and projected toward a person who is walking down the street."

By examining the mischief rule, we contend that this approach of interpretation upholds the law's meaning and guarantees that court rulings are consistent with the legislation's actual goals rather than being undermined by literal or restrictive readings. Second, by concentrating on the fundamental issue that the legislation seeks to address, it advances justice and avoids absurdity. Third, it promotes adaptation and flexibility by enabling the law to change in response to evolving social situations, unanticipated circumstances, or novel ways to go around the law without necessitating an instant legislative modification. As long as the circumstance clearly falls within the intended scope of the remedy, this allows the court to handle issues that the literal wording might have overlooked.

Legal Justice, Certainty, and Benefit in Legal Interpretation

Using the Indonesian legal system as an example, the Constitution, the doctrine of Pancasila, and judicial practice all play a significant role in the relationship between justice *(keadilan)* and legal certainty *(kepastian hukum)*. Indonesian courts, particularly the Constitutional Court *(Mahkamah Konstitusi)*, sometimes struggle to strike a balance between attaining substantive justice and rigidly enforcing the law. Because of this, the discussion is extremely pertinent to Indonesian legal interpretation.

The Constitutional Court of Indonesia decided in Decision No. 35/PUU-X/2012 on Customary Forests that customary forests *(hutan adat)* belong to indigenous groups

rather than the state.[31] Substantial justice for indigenous peoples was given precedence above administrative certainty in the ruling. Indigenous claims were not acknowledged prior to this decision, and the state maintained centralised control over forests. The Court interpreted customary law and constitutional rights in a progressive manner. Although it safeguarded marginalised communities and advanced social justice, it raised questions about land administration and investment rights. This case shows that strict legal frameworks may need to be reinterpreted in order to achieve justice.

In another case, the Constitutional Court of Indonesia's ruling on the Water Resources Law (Case No. 85/PUU-XI/2013) demonstrated how justice and legal certainty are intertwined in its interpretation of the constitution.[32] Because excessive privatisation endangered public access to water, the Constitutional Court invalidated the Water Resources Law. This case shows that fairness triumphs over rigid legal certainty. Businesses and investors depended on the legal clarity that allowed privatisation. Nonetheless, the court's position on constitutional rights, public welfare, and social fairness. Instead of merely interpreting statute text mechanically, the court used Pancasila principles to interpret the Constitution in a purposeful manner. This is in line with Indonesia's constitutional belief that social justice *(keadilan sosial)* must be served by the law, not only formal legality.

This relationship between legal justice, legal certainty and their usefulness in legal interpretation depicts a practical application of law. By analysing the above cases, we argue that legal certainty suggests that laws and, in particular, judgements must be foreseeable. Laws must meet standards of clarity, consistency, and intelligibility so that individuals involved can reasonably predict the legal repercussions of their conduct, in addition to the result of legal procedures. We, therefore, argue that legal certainty and the legitimacy of legal judgement on a logical level are related. In this regard, laws and decisions must be recognised by the relevant legal community in addition to being predictable. The traditional divide between legitimate norms and their validity as behaviour is related to the contradiction between prediction and acceptance.

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[31] I Nyoman Mulya Hadisaroso et al, "Constitutional Court Decision's Implication on the Traditional Forest Management Rights Recognition" in A. K. Jaelani et al. (eds.) *Proceedings of the International Conference on Law, Economic & Good Governance* (2023): 501 – 505.

[32] Simon Butt and Prayekti Murharjanti, "What constitutes compliance? Legislative responses to Constitutional Court decisions in Indonesia" *International Journal of Constitutional Law* 20, no. 1 (2022): 428–453, https://doi.org/10.1093/icon/moac014

For instance, the three components: legal justice, certainty, and benefit must all be upheld in Indonesian law enforcement. The legal upholders cannot maintain justice and legal certainty, but their benefit is left. Alternatively, justice and benefit are left for the sake of legal certainty, whereas justice is left for benefit and legal certainty. The jury's verdict should be centred on the following foundational court goals to attain legal certainty: first, providing a satisfactory solution, which means offering a way out of the legal issues that the parties are facing; second, efficiency, which also means that the procedure should be fast, easy, and inexpensive; third, adhering to the aim of the law that serves as the judge's basis for making decisions; and fourth, adhering to the intent of the law. The judge's decision states that a result based on the trial's facts that are legally significant and taken into consideration with conscience is legal certainty. Judges are required to constantly be able to interpret the laws.

The overall benefit of legal interpretation is to deliver justice according to law because legal interpretation brings clarity and removes ambiguities in the laws, which could have otherwise caused injustice. Considering the sociolegal framework of states and the myriad of statutes that are used, it requires requisite knowledge of the courts to deliver fair and lawful judgements. This can only be done through a good, effective, and transparent legal interpretation of the laws because the law is for people and not otherwise. Legal interpretation also creates judicial precedents.

Conclusion

This research finds that justice and legal certainty are complementary constitutional objectives rather than mutually exclusive. Indonesian courts, especially the Constitutional Court, are increasingly taking a purposeful and fair approach to interpreting the law. Cases pertaining to environmental protection, constitutional liberties, indigenous rights, and anti-terrorism measures show that Indonesian judges regularly balance substantive fairness against legal clarity. This study finds that excessive judicial activism may erode legal certainty and predictability while excessive formalism may jeopardise social fairness.

Therefore, the usefulness of both principles lies in their balance. Legal interpretation can only be fair when judges uphold legal certainty while ensuring that the law reflects the values of human dignity and social justice. It is absolutely obvious that legal interpretation is quite important in resolving disputes, as it helps judges to adjudicate

over legal issues and give clarity to some ambiguities in some laws. Injustice is a threat to democracy, good governance, and the rule of law. Therefore, the need for clarity in legal interpretation in courts should always be given much premium in order to reduce ambiguities. This research concludes that the nexus between legal certainty and interpretation suggests that laws and, in particular, judgements must be foreseeable. That is, laws must meet standards of clarity, consistency, and intelligibility so that individuals involved can reasonably predict the legal repercussions of their conduct. While this study is limited to constitutional interpretation, it does not examine the philosophical underpinning of constitutional interpretation as a theory neither does it attempt to point out the 'best rule' in interpreting a legal text.

Declarations

Author Contribution Statement

OM conceived and designed the research, providing the initial draft of the work. MJ contributed in analysing the cases on Indonesian law and providing translations from Bahasa Indonesia to English language.

Declaration of Interests Statement

The authors declare that they have no known competing financial interests or personal relationships that could have influenced the work reported in this paper.

AI Usage Statement

The authors used only QuillBot and Grammarly as Artificial Intelligence (AI) tools to correct grammar and spelling mistakes in this work. The authors revised this work as needed after using these tools.

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