

RETHINKING CONSTITUTIONAL INTERPRETATION THROUGH JOSEPH RAZ'S ANALYTICAL JURISPRUDENCE

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Abstract

Joseph Raz's analytical jurisprudence serves as a philosophical foundation for rethinking constitutional interpretation, particularly in the context of Indonesian legal discourse. Raz provides a rich theoretical framework that emphasizes the relationship between legal authority, moral legitimacy, and rational justification. He challenges the notion that legal authority is simply the power to command, arguing instead that it must be grounded in its ability to offer reasons that individuals have a good reason to follow reasons that are both morally and rationally justified. This perspective is especially important in constitutional adjudication, where courts are tasked with interpreting foundational legal texts in a way that balances fidelity to legal language with responsiveness to societal change. Raz maintains that legal texts cannot be understood in isolation rather, their meaning is shaped by the intentions of their drafters, the purposes they

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serve, and the broader cultural and historical context. His dialogical approach to interpretation urges judges to engage with law not just as static rules but as evolving instruments of justice. Methodologically, this research employs a philosophical and jurisprudential approach. The study proceeds by collecting and categorizing literature relevant to both the formal and material objects of the research. The formal object includes Raz's core writings on legal and constitutional interpretation, as well as foundational works by other scholars who shaped his thought. The material object focuses on interpretive frameworks, constitutional reasoning, and the role of legal authority in discovering and reflecting constitutional interpretation. This method enables a critical examination of how Raz's interpretive framework applies to Indonesia's constitutional challenges, such as the tension between legal certainty and moral responsiveness. The study argues that Raz's ideas offer a compelling alternative to rigid textualism by encouraging an approach that is normatively coherent, ethically responsible, and socially aware.

Keywords: Analytical Jurisprudence; Authority; Constitutional Interpretation; Joseph Raz; Rational and Moral Justification

I. INTRODUCTION

1.1. Background

Constitutional interpretation is fundamental to the functioning of constitutional democracies, bridging the gap between abstract principles and their practical application in resolving legal disputes. This interpretative process is particularly vital in jurisdictions where constitutions are regarded as "living documents," requiring adaptability to evolving social, political, and economic contexts. The methodology of constitutional interpretation remains a contentious subject in jurisprudence, with competing approaches such as textualism, purposivism, and living constitutionalism offering different frameworks. Analytical jurisprudence provides a philosophical lens to examine the underlying principles of interpretation, authority, and the pursuit of truth in law. This exploration extends to understanding the justification of law, which often incorporates the implied consequences of political morality supporting legal institutions. Jurisprudential debates emphasize normative and meta-theoretical considerations, framing law as both an interpretative tool and a framework for articulating reasoned judgments.

Joseph Raz, a prominent figure in analytical jurisprudence, offers valuable insights into these debates, particularly through his *Service Conception of Authority*. This concept emphasizing the legitimacy and rationality of authority as a mediator between individuals and the reasons they may not fully understand, offers valuable insights into judicial authority and its role in constitutional interpretation. Raz's nuanced approach integrates strict textual analysis with broader moral, societal, and historical contexts, advocating for interpretations that are both contextually informed and normatively sound. In Raz's view, legal interpretation is not confined to textual analysis but must account for the purpose of the law, the intentions of its framers, and the evolving societal values it reflects. This dynamic methodology ensures that interpretations remain relevant and responsive while safeguarding the structural integrity of legal systems.

The main problem explored in this study centres on the role of constitutional interpretation as a bridge between the abstract principles of constitutional law and their practical application in legal systems, particularly through the lens of Joseph Raz's philosophical thought. Constitutional interpretation is critical in translating broad constitutional ideals into actionable legal judgments, ensuring that they address contemporary societal needs while preserving legal coherence and justice. However, the methodologies and frameworks for constitutional interpretation remain highly contested, with approaches such as textualism, purposivism, and living constitutionalism offering divergent perspectives.

This article critically examines how Raz's theoretical framework can inform constitutional interpretation, particularly in pluralistic legal systems such as Indonesia. It explores how Raz's concepts of authority and interpretation can be applied to navigate the complexities of balancing diverse societal interests, upholding human rights, and ensuring normative coherence within constitutional frameworks. By situating Raz's philosophical insights within the practical realities of constitutional adjudication, the study highlights how his approach can bridge the gap between the theoretical foundations of constitutional law and the evolving demands of justice in dynamic legal systems.

Recent decisions by the Indonesian Constitutional Court have sparked significant public discourse, particularly when rulings touch on sensitive issues such as the presidential threshold, the role of religion in state policy, indigenous rights, or political party regulations. These cases often reveal a deep interpretative tension such as should the court stick rigidly to the constitutional text, or should it adopt a broader, more purposive interpretation that aligns with democratic ideals and the changing values of society? The Indonesian Constitutional Court's decisions display varying patterns, sometimes leaning heavily on formalistic readings, while in other moments embracing more adaptive, socially conscious interpretations. This variation raises important questions about the philosophical underpinnings of constitutional interpretation in Indonesia and whether there exists a guiding framework that can reconcile legal authority with evolving societal needs.

1.2. Research Questions

This article addresses several key questions concerning constitutional interpretation. First, shows how analytical jurisprudence can be used to understand the constitutional interpretation, this question looks up Raz's philosophical framework rooted in analytical jurisprudence that shapes Raz's overall understanding of legal interpretation and how this applies to constitutional law. Second, shows what Raz's conception of legal authority and its relation to the task of interpretation. This question examines how Raz's ideas can be supported can support the role of constitutional judges as interpreters who provide morally and rationally justified decisions. Third, this research examines how Raz distinguishes between legal interpretation and constitutional interpretation within his analytical jurisprudence. And lastly, shows how applicable Raz's framework to Indonesia's constitutional adjudication. This question puts a critical assesment of how Raz's ideas can be applied within the Indonesian context particularly whether Raz's idea provides a useful model for resolving real-world constitutional issues faced by the Indonesian Constitutional Court.

1.3. Method

This research article uses a philosophical and jurisprudential approach which unfolds through several key stages such as collecting and categorizing literature relevant to both the formal object and material object of the research. The formal object consists of Raz's thoughts on legal and constitutional interpretation, as found in Raz's *magnum opus* and published articles, while also situating Raz's ideas within the broader intellectual context by reviewing the works of Raz's predecessors that inform Raz's views. The material object focuses on conceptual frameworks of interpretation, constitutional reasoning, and Raz's proposals about the function of interpretation as part of legitimate legal authority aimed at discovering and reflecting constitutional truth. Then, the research data collected from sources including books, academic journals, and articles are classified as primary data such as core texts by Raz writings and leading legal-philosophical works and secondary data that support materials and legal commentaries which enable structured analysis and facilitates conceptual clarity. The research also uncovers new insights about Raz's interpretative framework and its relevance to Indonesian constitutional adjudication. It also explores how Raz's thought contributes to understand law as both a theoretical system and a human-centered practice, embedded in the lived experience of past, present, and future legal realities.¹ The research article provides a systematic and narrative explanation of Raz's philosophical foundations, especially Raz's concepts of interpretation analyses that makes them accessible and relevant for application within Indonesian legal discourse.

II. RESULTS

2.1 Analytical Jurisprudence and Constitutional Interpretation

Analytical jurisprudence, as a branch of legal philosophy, examines the fundamental structures and concepts of law through a systematic and rigorous lens. Its aim is not to prescribe what the law ought to be but to clarify its

¹ Aharon Barak, *Purposive Interpretation in Law* (Princeton and Oxford: Princeton University Press, 2005), 392.

essential nature, functions, and underlying principles. Analytical jurisprudence, particularly conceptual analysis, is highlighting the need for analytical jurists to create a more comprehensive framework of concepts.²At its core, analytical jurisprudence dissects the structures of legal systems, focusing on concepts such as authority, normativity, and legal reasoning. By addressing these fundamental aspects, it provides a robust framework for understanding the interpretive challenges inherent in constitutional adjudication. One of the key challenges in constitutional adjudication is navigating the tension between legal determinacy, ensuring consistency and predictability and moral flexibility, which allows for adaptation to changing societal needs.

Constitutional interpretation, as a practice that translates abstract legal texts into enforceable norms, occupies a central position in this discourse. By engaging with questions of authority, legal reasoning, normativity, and analytical jurisprudence provides a robust framework for addressing the interpretive challenges inherent in constitutional adjudication. The methodologies of constitutional interpretation vary widely, each grounded in distinct philosophical underpinnings. Textualism, for example, focuses on the plain meaning of constitutional language, arguing that judicial fidelity to the text ensures consistency and democratic legitimacy. Originalism seeks to discern the intent of the framers, positing that historical understanding provides a stable foundation for constitutional governance. In contrast, purposivism and living constitutionalism emphasize the adaptive and evolving nature of constitutional norms, advocating for interpretations that align with contemporary societal values. While these methodologies offer valuable insights, they often fall short of providing a cohesive account of the interplay between legal texts, judicial authority, and moral considerations.

The constant factor driving moral change does not necessarily have to be a moral consideration or principle, however there is the possibility that a distinct form of moral change as an interpretative change does not rely on a persistent

² William Twining, *General Jurisprudence: Understanding Law from a Global Perspective*, (Cambridge: Cambridge University Press, 2009), xvi.

moral principle.³ It might occur when a society reevaluates its prior practices and beliefs, viewing them from a new perspective, which in turn leads to changes in both practices and beliefs.⁴ This is where analytical jurisprudence, particularly the work of Joseph Raz, contributes significantly by dissecting the nature of legal authority and the interpretive process. Raz offers a theoretical lens that integrates textual fidelity with moral reasoning.⁵ Raz says that in particular a person is permitted to perform an act one may mean that person has no duty not to do it. There are good reasons for not doing the act and on the whole person is permitted to do it since person is not under an obligation not to do it.⁶ There are reasons of a different kind of refraining the act based on sufficient legal reasons or moral reasons.⁷ An act is strongly permitted only if it is being permitted which is entailed by a norm.⁸ A person who can only act fairly on a particular occasion is not standard of fairness. It means that person performs a certain action describable in value neutral ways.⁹ The actions that convey an attitude are primarily determined by social conventions. While these conventions may vary across societies, to the extent that they associate consent with fostering certain valuable relationships or consider it as a fundamental aspect of such relationships, they affirm the legitimacy of the appropriate forms of consent.¹⁰

Joseph Raz's work in analytical jurisprudence is characterized by his commitment to clarify the conceptual foundations of law and its relationship to authority and morality. His most complete articulation of the nature and scope of law's authority is put in his book, *Morality of Freedom* (1986). Raz provides a nuanced understanding of the nature and scope of law's authority which argues that all governments claim morally legitimate authority, but not

³ Joseph Raz, "Morality as Interpretation," *Scholarship Archive Columbia Law School* (1991): 399.

⁴ Raz, "Morality as Interpretation," 399.

⁵ Donald H. Regan, "Reasons, Authority, and the Meaning of Obey: Further Thoughts on Raz and Obedience to Law." *Canadian J. L. and Juris* (1990): 3, <https://repository.law.umich.edu/articles/341>.

⁶ Joseph Raz, "Permissions and Supererogation," *American Philosophical Quarterly* 12, no. 2 (April 1975): 161.

⁷ Raz, "Permissions and Supererogation," 161.

⁸ G.H. von Wright, *Norm and Action*, (London: Oxford University Press, 1963), 85.

⁹ Raz, "Authority, Law and Morality," 319.

¹⁰ Joseph Raz, "Authority and Consent," *Virginia Law Review* Vol.67 No.1 (February 1981): 125.

all of them actually possess it.¹¹ Raz's philosophy posits that authority functions to assist individuals in aligning more effectively with reasons that are already applicable to them. Applied to constitutional interpretation, this framework implies that constitutional judges authority should act as a bridge, connecting abstract constitutional principles with the practical considerations that shape societal behaviour. Raz's insights into constitutional interpretation extend beyond a mechanistic application of rules. Raz advocates for a contextual approach that acknowledges the normative dimensions of legal texts while remaining grounded in their linguistic and structural characteristics. This dual focus on the normative and the linguistic distinguishes Raz's methodology from both rigid textualism and excessively discretionary approaches.

By acknowledging the contextual nature of legal texts, Raz's framework aligns with the realities of constitutional law, where evolving societal values and dynamic political contexts demand a flexible yet principled approach. It is particularly useful in pluralistic legal systems like Indonesia, where constitutional adjudication must navigate the interplay of diverse legal traditions and contemporary demands. Raz's analytical framework shows how the law in modern times must avoid the strict doctrine of positivism and put the correlation law and language as the scientific problem.¹² Furthermore, the analytical framework introduces the potential for judicial subjectivity to interpret the problem of positive language as the base for positive law.¹³ Raz's analytical framework provides a foundation to be conscious that law cannot separate from the language problems. The framework directly concern about the constitutional judges role as an interpreter who understand and interrogate the constitution in depth. The ability of judges to think is inseparable from the use of language that focuses on trying to find the truth in constitutional justice practice. It does not make the law deterministically unconstitutional or constitutional when there is a conflict with the constitution.¹⁴

¹¹ Margaret Martin, "Raz's the Morality of Freedom: Two Models of Authority," *Jurisprudence* 1 (2010): 63-64.

¹² E. Fernando M. Manullang, *Norma Hanyalah Makna Grundnorm Malah Seperti Tuhan* [Norm is Merely Meaning, Grundnorm is More Like God] (Yogyakarta: Nasmedia Publishing, 2024), 45.

¹³ Manullang, *Norma Hanyalah Makna*, 47.

¹⁴ Craig R. Ducat, *Constitutional Interpretation 9th Edition* (Boston: Wadsworth Cengage Learning, 2008), 81.

Based on legal philosophy perspective, Raz's analytical framework reinforces the idea that law is both a normative and a structured system. His insistence on the legitimacy of authority aligns with the foundational principles of the rule of law, which demands that judicial power be exercised within clear, justifiable bounds. In the realm of political philosophy, Raz's contributions address the role of constitutional courts as mediators between democratic processes and the protection of fundamental principles. His emphasis on legitimacy ensures that judicial authority does not undermine democratic values but instead complements them by safeguarding constitutional commitments. The application of analytical jurisprudence to constitutional interpretation involves reconciling the tension between legal determinacy and moral flexibility. Judges are tasked with interpreting constitutional texts in ways that respect their original intent while addressing contemporary realities. Raz's emphasis on the legitimacy of authority and the moral dimensions of interpretation provides a compelling framework for navigating this tension. For example, Raz's perspective on legal authority highlights the importance of legitimacy as a precondition for the effective exercise of judicial power. This principle is particularly relevant in constitutional adjudication, where judges must balance their interpretive discretion with the constraints imposed by the constitution's text.¹⁵ Structure is seen as a structure of authority which put legitimate moral authority over its subjects not because it is true that it has legitimate moral authority, but because it is the nature of law that it claims authority over its subjects and it is treated as law by and large only by people who accept that claim.¹⁶

The concepts of authority Raz proposed confirm the relation of authority with people and the authority to act.¹⁷ Raz differentiates those concepts through having authority in matters of belief (*being an authority*) that refers to theoretical authority, while having authority over actions (*being in authority*) refers to

¹⁵ Joseph Raz, *Between Authority and Interpretation: On the Theory of Law and Practical Reason*, (Oxford University Press, 2009), 107.

¹⁶ Raz, *Between Authority and Interpretation*, 107.

¹⁷ Joseph Raz, *The Authority of Law: Essays on Law and Morality* First Edition (Clarendon Press, Oxford, 1979), 20.

practical authority.¹⁸ Both forms involve subordinating an individual's judgment or will to another's in a binding manner, regardless of the specific content of their directives or statements.¹⁹ Authority is considered effective, or *de facto*, when it is recognized, and legitimate, or *de jure*, when it is justified. The idea of *de jure* authority is fundamental, as it represents what *de facto* authorities claim and are perceived to possess. Authority differs from *mere-effective power* and from *justified power*, which does not necessarily require the subordination of judgment.²⁰ However, practical authority is often only justified if it is also effective. Political authority, in particular, asserts a claim to the obedience of its subjects, and efforts to justify this claim have been central to political philosophy. These justifications frequently rely on instrumental arguments, such as the rulers expertise or their ability to promote societal well-being. Additionally, Raz's acknowledgment of the role of moral reasoning in legal interpretation underscores the need for a dynamic and context-sensitive approach to adjudication.

2.2. Raz's Conception of Authority and Its Role in Interpretation

This section examines the key aspects of Raz's conception of authority, its impact on legal interpretation, and its significance in the realm of constitutional adjudication. Joseph Raz's philosophy on authority is foundational to his contributions to analytical jurisprudence and has significant implications for constitutional interpretation. Jurisprudence seeking to understand perceptions of law and its aspirations to justice, needs to be sensitive to the implications of the contingent, changeable and moral use of the term "law" and "the law" in his thoughts.²¹ Raz distinguishes between the word 'law' which includes general rules as a whole and is formulated as a need for rules because they are considered necessary and important, then Raz formulates the word 'law' (the law) referring to the situation in which rules are produced that are enforced

¹⁸ Raz, *Between Authority and Interpretation*, 107.

¹⁹ Edward Craig, *Concise Routledge Encyclopedia of Philosophy* (London: Routledge Publishing Company, 2000), 126.

²⁰ Joseph Raz, "On the Nature of Law," *Archiv für Rechts- und Sozialphilosophie/Archives for Philosophy of Law and Social Philosophy* 82, no. 1 (1996): 4.

²¹ Stephen Skinner, "Stories of Pain and the Pursuit of Justice: Law, Violence, Experience and Jurisprudence," *Law, Culture and the Humanities* 5 (2009): 147.

based on the legal system.²² Raz's *Service Conception of Authority* serves as both a theoretical foundation and a practical approach to understand the judicial role in interpreting and applying constitutional norms. This notion implicitly challenges the assumption that individuals exist entirely separate from society. Raz's framework positions individuals within a normative relations where legal authority mediates between personal reasoning and shared societal values. In the context of constitutional adjudication especially in Indonesia, this view is particularly important. Constitutional judges are not merely neutral interpreters of legal texts, judges play an active role in guiding society through complex moral, cultural, and political terrains. If legal interpretation is to remain legitimate, especially when addressing contentious issues involving religion, minority rights, or democratic integrity, it must recognize that individuals are situated within social, historical, and normative frameworks. Thus, any model of constitutional interpretation that assumes individual autonomy without regard for social embeddedness requires further justification. Raz's account shows a coherent justification for authority not as something that forces obedience, but as a way to guide individuals through complex moral and social decisions within the clear and justified direction.

Raz distinguishes between *de facto authority* which exists in practice without regard to its moral or rational justification, and *legitimate authority*, which is justified by its ability to guide individuals to act in accordance with reasons they could not effectively follow on their own.²³ This distinction underlines the importance of legitimacy in judicial decisions. Judges are not merely enforcers of constitutional provisions, they are interpreters whose authority depends on their capacity to elucidate and apply constitutional principles in ways that reflect broader societal values. Raz's thoughts positions judicial authority as instrumental in maintaining the coherence and functionality of legal systems. For constitutional adjudication, this involves balancing textual fidelity with moral reasoning.²⁴ Raz's

²² Raz, *Between Authority and Interpretation*, 54.

²³ Raz, "Authority and Consent," 106

²⁴ Irene Angelita Rugian, "Prinsip Proporsionalitas dalam Putusan Mahkamah Konstitusi: Studi Perbandingan di Indonesia dan Jerman [The Principle of Proportionality in Constitutional Court Decisions: A Comparative Study in Indonesia and Germany]," *Jurnal Konstitusi* 18 No.2 (Juni 2021): 465, <https://doi.org/10.31078/jk1829>.

emphasis on the role of authority in facilitating adherence to moral and legal reasons underscores the judiciary's responsibility to interpret the constitution in a manner that advances justice and societal well-being.²⁵

The fact that law is authoritative nature of law makes interpretation central to make the reasoning of law in its practical way.²⁶ It is likely to find numerous occasions to practical reasoning that leads to the view about the reasons for compliance.²⁷ They also might have been adequate had there been an obligation to obey and to lead to different valid conclusions as to what is best to do.²⁸ The centrality features Raz explained that interpreting the rule conceptualize the content-independence as an aspect of the normative gap display between the normative and evaluative.²⁹ The content-independence in Raz's thought can refer to the rules as the reasons eventhough they do not show the value of actions for which they are reasons.³⁰ Raz emphasizes that rules at least man-made rules can make a difference to practical reasoning and they are rightly said to be reasons in their own right rather than merely statements of reasons.³¹ Rules affects people's practical reasoning by means of authoritative utterances, as a necessary condition for judges to have authority, to be in authority, or to be an authority that some of his utterances are authoritative.³² There are independent reasons to do or to believe as it advises, it seems like the recognitional conception regarding acknowledging judge's authority to interpret having confidence in his judgment and trusting his opinion.³³ Contextually in Indonesia constitutional court, constitutional judges usually adhere the explicit text of the constitution and address its underlying the literal meaning of the text. Judges are tasked with balancing a sufficient reading belief of the constitution with a deeper understanding of the values and principles. The balancing act requires judges to engage not only in legal analysis but also in moral reasoning. Their decisions

²⁵ Raz, "The Role of Well-Being," *Philosophical Perspectives* 18 (2004): 281.

²⁶ Raz, *Between Authority and Interpretation*, 107.

²⁷ Raz, "Authority and Consent," 104.

²⁸ Raz, "Authority and Consent," 104.

²⁹ Raz, *Between Authority and Interpretation*, 211.

³⁰ Raz, "Authority and Consent," 108.

³¹ Raz, *Between Authority and Interpretation*, 211.

³² Raz, "Authority and Consent," 107.

³³ Raz, "Authority and Consent," 107.

reflect both the legal framework and the ethical standards of the society they serve. The *Service Conception of Authority* proposed by Raz has been subjected to criticism, particularly regarding its assumption that authority offers superior reasons for action. Actions performed for a purpose other than giving consent can still amount to consent if they are carried out with the belief that they will establish a right or impose a duty, and it is the belief that justifies them having such an effect.³⁴ Critics contend that an overreliance on authority, especially in the context of judicial decision-making, may disproportionately prioritize judicial authority at the expense of individual autonomy. Then, the complex moral judgments about Raz's framework places significant interpretive burdens on judges, requiring them to resolve complex moral dilemmas and subjectivity in legitimacy determining what constitutes 'better reasons' can be inherently subjective, potentially leading to judicial overreach.

Despite these critiques, Raz's framework remains a powerful tool for understanding the normative foundations of judicial authority. By emphasizing the conditions under which authority is justified, his theory provides a roadmap for ensuring that judicial interpretations are both legitimate and effective. Raz's theory has practical implications for constitutional interpretation such as rationalization of judicial power. His emphasis on the service aspect of authority ensures that judicial decisions are grounded in rational justifications that serve societal interests. Raz also highlights about the framework for legitimacy by linking authority to the provision of better reasons.³⁵ Raz provides a normative standard for evaluating judicial decisions. He also explains the moral underpinnings of interpretation. Raz points out that constitutional interpretation has moral dimension which posit judges do more than just apply legal rules.³⁶ The moral aspect comes into play when judges interpret the norms in light of the values that matter to the public.³⁷ Raz does not claim that morality and law are the same, but he does argue that law, must remain sensitive to the societal values to

³⁴ Raz, "Authority and Consent," 121.

³⁵ Ben Martin, "Raz's Appeal to Law's Authority," *Philosophical Studies* 181 (2024): 269.

³⁶ Raz, *Between Authority and Interpretation*, 353.

³⁷ Raz, *Between Authority and Interpretation*, 394.

maintain its legitimacy. The interpretive role places judges in a unique position which they must act as mediators between the unwritten law and the values that society holds, especially in moments of social or political tension. Raz's conception of authority clarifies how judges can do those tasks responsibly. In the context of constitutional adjudication, judges are not enforcing rules, they must identify and clarify the constitution remain meaningful and relevant to a changing society. It provides a theoretical foundation for understanding how judges can navigate the challenges of interpretation while maintaining the legitimacy of their decisions.

2.3. The Differences about Legal Interpretation and Constitutional Interpretation: Analysing Joseph Raz's Analytical Jurisprudence

This section show the differences between legal interpretation and constitutional interpretation which reviewing what are the hidden concept based on Raz analytical jurisprudence. The interpretation of law involves further moral or other non-legal considerations. Legal officials who accept the moral validity of the ultimate laws and posit the supposition that it is morally legitimate regarding to the legal argument is technically legal.³⁸ Laws are basic norms and other norms that come directly or indirectly from these basic norms.³⁹ Laws as a political product will give rise to compromise from various interests and the actions of judges to interpret.⁴⁰ Such a form of compromise can be formulated as approval or rejection of laws that are open to interpretation.⁴¹ Joseph Raz views that for legal interpretation integrates linguistic analysis, normative reasoning, and contextual understanding to address the complexities of applying legal texts.⁴² In constitutional interpretation, his insights offer a valuable methodology that balances textual fidelity with adaptability to societal changes. Meanwhile, constitutional interpretation is an action as well as an intention to show the ability to understand the meanings contained in the written formulation of laws and

³⁸ Raz, *Between Authority and Interpretation*, 331.

³⁹ Raz, *Between Authority and Interpretation*, 65.

⁴⁰ Lukas H. Meyer, Stanley L. Paulson, and Thomas W. Pogge, *Rights, Culture, and The Law: Themes from the Legal and Political Philosophy of Joseph Raz* (Oxford: Oxford University Press, 2003), 112.

⁴¹ Meyer, Paulson, and Pogge, *Rights, Culture, and The Law*, 112.

⁴² Raz, *Between Authority and Interpretation*, 239.

regulations.⁴³ It also emphasizes a judge's freedom of choice and view as laws to guide the act of judging.⁴⁴ This section explores Raz's views on legal interpretation, emphasizing their application to constitutional law and their alignment with analytical jurisprudence which posits philosophical analysis as a method of investigation aimed at evaluating complex systems of thought by breaking them down into simpler components, which help to clarify their interrelationships. A good interpretation is that those connections and interrelations are significant in terms of or by reference to some general theory or general truths about people, society and this is most commonly due to the fact that the general truths were not known before.⁴⁵

The philosophical analysis has experienced renewed interest in the idea of explaining linguistic meaning through the concept of truth, which many philosophers find more manageable than the concept of meaning itself.⁴⁶ Raz emphasize about the meaning of words in legal philosophy, not about the relevance of all questions of meaning.⁴⁷ Meaning is sometimes used to mean point or value and alternatively meaning is often used to refer to content.⁴⁸ Raz's philosophical outlook was formed at the time when Russell's theory of descriptions as a paradigm of philosophical explanation solved the problem of the reference of definite descriptions while avoiding the need to postulate dictional or other non-existing objects.⁴⁹ The main idea is that the meaning of a declarative sentence can be defined by specifying the conditions under which it is true. Furthermore, Raz emphasizes the importance of understanding meaning as a tool to unravel ontological complexities, which holds significant relevance in the philosophy of law. This perspective is particularly pertinent given that law is replete with abstract entities such as rights, duties, corporations, and

⁴³ Raz, *Between Authority and Interpretation*, 276.

⁴⁴ Raz, *Between Authority and Interpretation*, 178.

⁴⁵ Thomas Bustamante and Thiago Lopes Decat, *Philosophy of Law as an Integral Part of Philosophy: Essays on the Jurisprudence of Gerald J. Postema* (UK: Bloomsbury Publishing, 2020), 134.

⁴⁶ Alfred Tarski, "The Semantic Conception of Truth and The Foundations of Semantics," *Philosophy and Phenomenological Research* 4, no. 3 (1944): 341.

⁴⁷ Lukasz Kurek, "Antinaturalism in the Legal Philosophy of Joseph Raz," *Polish Law Review* 3, no. 1 (2017): 208.

⁴⁸ Raz, *Between Authority and Interpretation*, 49-50.

⁴⁹ Raz, *Between Authority and Interpretation*, 50.

states.⁵⁰ Raz offers two questions for analysing jurisprudential theories such as first, why do so many jurisprudential theories focus on the state and second, what is it about the state that gives a special place in social arrangements.⁵¹ Both of two questions address the aspects of states and open the possibility answers that criticise jurisprudential in legal systems. Raz questions the relations between state law and other kinds of law related to the system. The state law and other kinds of law related systems may well conclude that in some ways theoretically and practically most challenging and most important for understanding the legal system. The scope of state usually related to state's role and its function for planning, executing policy and enforcing law clearly and transparently.⁵² Raz proposes the law as an open system that is seeking the autonomous organization and a variety of norms that can guide, regulate, and adapt social behavior. These norms often operate as an initiating force for creating and modifying social arrangements, allowing law to respond to the evolving needs of society.⁵³

Raz's approach to legal interpretation revolves around understanding law as a structured and normative system. He identifies two key elements that underpin the interpretative process, including the textual analysis in which Raz emphasizes the importance of understanding the linguistic meaning of legal texts. This involves not only a literal reading but also an analysis of the contextual nuances of the language used. Raz stated that interpretation is successful if interpretation is able to explain the meaning of the object being interpreted. Meaning has its own meaning for everyone who interprets objects and understands them as meanings. Meaning can never be conveyed authentically because meaning can be interpreted. Each interpretation defines meaning based on the understanding of the interpreting subject. The meaning will be based on decisions that are interpretive and relevant and understood in the practice of legal institutions. Meaning according to Raz may include a combination of abstractions for some

⁵⁰ Raz, *Between Authority and Interpretation*, 50.

⁵¹ Raz, *Between Authority and Interpretation*, 47.

⁵² Zezen Zaenal Mutaqin, "The Strong State and Pancasila: Reflecting Human Rights in The Indonesian Democracy," *Constitutional Review* 2, no.2 (December 2016): 163.

⁵³ Joseph Raz, "Promises in Morality and Law," *Scholarship Archive Columbia Law School* (1982): 933.

people. The meaning thus according to Raz correlates with the presence of the subject.⁵⁴ Meaning is revealed based on the articulation of each person in understanding the object being interpreted.⁵⁵ Raz also wants to emphasize that the explanation of the meaning of objects must be supported by constitutive reasons that can explain a series of interpretive processes. Constitutive reason is a set of facts that make and enable correct interpretation and through those facts allows one to understand the interpretation.⁵⁶ Interpretation according to Raz can be successful if it is able to explain the meaning of the object and is supported by constitutive reasons that show how the interpretation is carried out.

There is also the normative considerations beyond textual meaning, Raz argues that legal interpretation must account for the underlying principles and values that give the text its normative force.⁵⁷ This includes moral reasoning, societal values, and the broader goals of justice and fairness.⁵⁸ For Raz, these principles are not mutually exclusive but must operate in tandem to produce interpretations that are legally valid and socially meaningful. The law portrays itself as legitimate and seeks not only the compliance but also the loyalty of those it governs.⁵⁹ It may be concerned on the legal systems which conform to some moral values and give certain moral features.⁶⁰ These necessary moral features of law are derivative characteristics of law that possess them as the result of the fact and to fulfil them in its unique social role.⁶¹ Raz's perspective raises questions about the features of a lawful government in a specific country, focusing on the origins of its legal system. Raz emphasizes that the legal system can be analysed from a factual or moral standpoint or through an examination of the legal framework to determine which government holds the moral obligation to command respect and obedience.⁶²

⁵⁴ Raz, *Between Authority and Interpretation*, 269.

⁵⁵ Raz, *Between Authority and Interpretation*, 269.

⁵⁶ Raz, *Between Authority and Interpretation*, 230.

⁵⁷ Raz, *The Authority of Law*, 313.

⁵⁸ Raz, *The Authority of Law*, 313.

⁵⁹ Joseph Raz, "Legal Validity," *Archive für Recht's und Sozialphilosophie/Archives for Philosophy of Law and Social Philosophy* 63, no. 3 (1977): 351.

⁶⁰ Joseph Raz, "The Institutional Nature of Law," *The Modern Law Review* 38, no. 5 (September 1975): 490.

⁶¹ Raz, "The Institutional Nature of Law," 490.

⁶² Raz, "On Lawful Governments," 302

A distinctive feature of Raz's interpretative methodology is his emphasis on context. Legal texts, particularly constitutional provisions, do not exist in isolation but are part of a broader normative and societal framework. Raz highlights the importance of historical context through understanding the intentions of the drafters and the circumstances under which the legal text is created. The contemporary relevance which adopts the legal interpretation to current societal norms and challenges while maintaining fidelity to the original text.⁶³ In Raz's book *The Practical Reason and Norms* (1990), Raz demonstrates his ability to shape the contemporary landscape of analytical jurisprudence. Raz's work explains a set of rules that cannot be declared as rules if they are not practiced or implemented.⁶⁴ Similarly, legal rule is part of the rules that are practiced in a certain system and by a certain community.⁶⁵ Likewise, a rule cannot be considered a social rule if it is not practiced by a certain community.⁶⁶ Courts as norm applying institution usually explain through the nature of those institutions which cannot distinguish marks of norm applying organs. The norm applying institution only concerns the nature of courts to become aware of the problematic explanation which still offers various incompatible explanations.

To understand Raz's approach to constitutional interpretation, firstly it is important to recognize the distinction between law and morality. Law consists of formal rules established by institutions and intended to regulate conduct through enforceable norms.⁶⁷ On the other hand, morality refers to the broader principles of right and wrong that guide human behavior and often beyond what is codified in law.⁶⁸ Raz provides a more balanced and thoughtful approach between law and morality by offering a middle ground between two into the interpretation of law such as rigid textualism which clings too closely to the literal meaning of legal

⁶³ Timothy Endicott, *Administrative Law Second Edition* (Oxford: Oxford University Press, 2011), 42.

⁶⁴ Michael Freeman, *Llyod's Introduction to Jurisprudence* (London: Sweet and Maxwell, 2014), 385.

⁶⁵ Freeman, *Llyod's Introduction to Jurisprudence*, 385.

⁶⁶ Freeman, *Llyod's Introduction to Jurisprudence*, 385.

⁶⁷ Lili Rasjidi, dan B. Arief Sidharta, *Filsafat Hukum Mazhab dan Refleksinya* [Schools of Legal Philosophy and Their Reflections] (Bandung: PT Remaja Rosdakarya, 1989), 167-168.

⁶⁸ B. Arief Sidharta, *Refleksi tentang Struktur Ilmu Hukum: Sebuah Penelitian tentang Fundasi Kefilsafatan dan Sifat Keilmuan Ilmu Hukum sebagai Landasan Pengembangan Ilmu Hukum Nasional Indonesia* [A Reflection on the Structure of Legal Science: A Study on the Philosophical Foundations and Scientific Nature of Legal Science as the Basis for the Development of Indonesia's National Legal Scholarship] (Bandung: CV Mandar Maju, 2009), 161.

texts and excessive judicial discretion which risks subjective rulings.⁶⁹ Raz's views on interpretation bridge the gap between linguistic analysis and moral reasoning.⁷⁰ He argues that interpreting legal texts is not just about understanding words, it also requires understanding their intended purpose and the values they serve.⁷¹ Intepreting legal texts is designed to guide behaviour and resolve disputes which ensure legal rulings promote justice and serve the public good can be put on the judge's decisions. Interpretation allows the understanding to remain responsive and to change values without undermining the rule of law. Raz emphasizes where judges often tasked with interpreting foundational legal principles in ways that preserve both their legitimacy and their relevance in practical context. Raz recognizes that the meaning of legal texts focus on linguistic precision and moral reasoning aligns with the demands of constitutional adjudication can evolve over time, reflecting changes in societal values.⁷²

Joseph Raz's analytical jurisprudence provides a thoughtful lens through reimagined constitutional interpretation particularly in jurisdictions like Indonesia, where judges are often called upon to balance legal reasoning with the moral complexities of a pluralistic society. Raz's thoughts in *Service Conception of Authority* argues that judicial authority is legitimate only when it helps individuals act on reasons that already apply to them such as reasons that are rational, morally justified, and socially meaningful. A recent example that raises important questions about legitimacy of constitutional judges is the constitutional court decision (90/PUU-XXI/2023), which permitted exceptions to the presidential and vice-presidential age requirement framed.⁷³ While legally framed, the decision sparked widespread criticism and concern about whether the court had acted in the public interest or in alignment with political motivations. Based on Raz's perspective, such a decision calls into question the judicial authority legitimacy must not simply command, it must provides better reasons

⁶⁹ Raz, *The Authority of Law*, 2.

⁷⁰ Raz, *The Authority of Law*, 2.

⁷¹ Benedict Sheehy, "Law, Language, and The Social Construction of Legal Reality," *IJLLD* (December 2023): 18.

⁷² Raz, *The Authority of Law*, 2.

⁷³ Artha Debora Silalahi, et. al., "Axiological Insights into Unveiling Independent Constitutional Judge Decisionism," *Yustisia Jurnal Hukum* 13, no 3 (2024): 234.

those that reflect both constitutional norms and resonate the broader values of the society it serves.⁷⁴ In Raz's framework interpretation about law must bridge with moral evaluation without exception in constitutional interpretation.

Constitutional judges reasoning must bridge legal logic with ethical coherence especially in cases that shape national political structures. This concern echoed that judicial decisions must be rooted both in philosophical and public critiques toward the need for judicial reasoning that is not normatively sound and socially accountable.⁷⁵ This growing interpretative role of judges requires a deeper inquiry into how legal norms are constructed and whether they truly align with public collectiveness. Raz recognizes a dialogical model of interpretation which put the importance of text as a living one shaped by evolving contexts and proposes a method of interpretation that balances fidelity to constitutional texts with responsiveness to the unique cultural and moral fabric of society.⁷⁶ Raz ensures that interpretations resonate with the governed in the judicial creation of law and interpretative methods reflects a growing focus on how judges shape legal norms through their interpretations. Judges interpretation can approach and investigate into question about identifying any shared basis for a public conception of justice.⁷⁷ Courts today are increasingly seen not just as interpreters of law, but as active participants in shaping its meaning.⁷⁸ The judges reasoning is tasked with following better reasons for action and prompts deeper reflection on how judges construct legal norms and what methods they use in interpretation can be tested reflected through civic discourse, academic critique, and public engagement.⁷⁹ In pluralistic societies like Indonesia, this shared evaluation becomes essential for ensuring that constitutional interpretation remains both justifiable and just.

⁷⁴ Silalahi, *et.al.*, "Axiological Insights into Unveiling," 234-235.

⁷⁵ Artha Debora Silalahi, "Some Debates of Hermeneutic and Legal Interpretation: Critical Analysis of Hans-Georg Gadamer Philosophical Hermeneutics," *Jurnal Mimbar Hukum Universitas Gadjah Mada* 36, no. 1 (June 2024): 223.

⁷⁶ Silalahi, *et.al.*, "Axiological Insights into Unveiling," 236.

⁷⁷ Samuel Scheffler, "Choice, Circumstance, and the Value of Equality," *Politics, Philosophy, and Economics* 4, no. 1 (2005): 19.

⁷⁸ Silalahi, "Some Debates of Hermeneutic and Legal Interpretation," 223,

⁷⁹ Artha Debora Silalahi, *et.al.*, "Navigating the Democratic Crisis: Indonesia's Journey through Political Ethics, Law, and Social Change," *Jurnal Sapientia Humana* 4, no. 2 (2024): 223.

Raz critiques purely textual approaches to legal interpretation, such as strict textualism, for their failure to account for the normative and contextual dimensions of law. He also challenges overly discretionary approaches that prioritize judge's subjective views over the text's intended meaning. For Raz textualism fails to capture the full scope of legal meaning, which includes implicit norms and principles not explicitly stated in the text. Excessive discretion undermines the rule of law by allowing judicial preferences to overshadow the normative framework established by the legal text. Raz's balanced approach seeks to harmonize these extremes, ensuring that interpretation remains both grounded in the text and responsive to societal needs. Thus, rethinking constitutional interpretation requires acknowledging that legal texts are not self-contained truths, that must be interpreted in its principled yet flexible grounded yet responsive offering more legitimate model for constitutional justice.⁸⁰

Raz's framework offers a systematic approach for resolving interpretative challenges. Judges can use textual analysis to ensure fidelity to the constitution's language while interpreting it in light of its historical and normative context. Judges employ moral reasoning to address issues not explicitly covered by the text, ensuring that their decisions promote justice and societal well-being. Raz's framework would encourage judges to interpret constitutional provisions in a way that aligns with both their textual meaning and contemporary understandings of justice and equality. For understanding justice and equality Raz explains the sense in which a political morality can be said to be certain moral and political theories that one should distinguish between rhetorical and strict egalitarian, Raz called it principle of equality.⁸¹

Raz thought also criticising strict textualism for its inability to account for the implicit norms and values embedded in legal texts.⁸² He argues that textualism's rigid which focuses on the plain meaning of words neglects the broader societal

⁸⁰ Artha Debora Silalahi, "Paradoks Ide Negara Hukum dalam Justifikasi Filosofis Pancasila sebagai Sumber Hukum [The Paradox of the Rule of Law Concept in the Philosophical Justification of Pancasila as the Source of Law]," *Jurnal Konstitusi* 21, no. 1 (March 2024): 71.

⁸¹ Joseph Raz, "Principle of Equality," *Mind* Vol LXXXVII, no. 3 (1978): 321.

⁸² Joseph Raz and James Griffin, "Mixing Values," *Proceedings of the Aristotelian Society* 65 (1991): 95.

and moral dimensions of law.⁸³ Conversely, Raz critiques overly discretionary approaches for prioritizing judicial subjectivity over the text's intended meaning, undermining the rule of law and democratic accountability. The transition from legal interpretation to constitutional interpretation introduces additional layers of complexity. Constitutional texts, as foundational legal documents, serve not only as a source of legal norms but also as instruments for structuring political power and protecting fundamental rights.⁸⁴ Raz views the foundation of rights based on Ronald Dworkin's legal and political theories which presuppose a distinction between rights and collective goals and concerning both politics and law that in certain matters rights prevail to exclusion's goals.⁸⁵ Raz's framework accommodates these complexities through its dual focus on linguistic precision and moral reasoning.

2.4. Interrogating the Applicability of Raz's Ideas to Indonesian Constitutional Adjudication

Indonesia's constitutional adjudication presents unique challenges that reflect the complexities of its diverse sociopolitical and legal landscape. Indonesia Constitutional Court plays a pivotal role in safeguarding the 1945 Constitution (UUD NRI 1945) and resolving disputes over its interpretation. In this context, Joseph Raz's framework on authority and interpretation offers valuable insights for addressing the challenges of constitutional adjudication in Indonesia. This section examines the relevance of Raz's theories to the Indonesian legal system, emphasizing the judiciary's authority, interpretative approaches, and the quest for constitutional truth. The constitution should be interpreted through an understanding of social needs, public reason, and the philosophical meaning of justice.⁸⁶ Additionally, the dynamic political, economic, and social landscapes necessitate a flexible and adaptive approach to constitutional decision-making.

⁸³ Raz and Griffin, "Mixing Values," 95.

⁸⁴ Jimly Asshiddiqie, "Universalization of Democratic Constitutionalism and the Work of Constitutional Courts Today," *Constitutional Review* 1, no. 2 (December 2015): 11.

⁸⁵ Joseph Raz, "A Matter Principle by Ronald Dworkin," *California Law Review* 74, no. 3 (1986): 1103.

⁸⁶ Artha Debora Silalahi, "The Framework of Law Impacts in Philosophy of Law and Justice: How is the Certainty of Law and Justice Understood?" *Proceedings of the 10th International Conference on Nusantara Philosophy* (10th ICNP 2022).

Joseph Raz's contributions to legal philosophy, particularly his insights on authority and interpretation, provide a compelling framework for constitutional adjudication. The strengths and limitations of Raz's framework, with a focus on its applicability to constitutional interpretation and its relevance to judicial practices in diverse legal systems. Joseph Raz's contributions to analytical jurisprudence, particularly his theories on authority and interpretation, offer a sophisticated framework for addressing the challenges of constitutional adjudication. In Raz's book *Between Authority and Interpretation: On the Theory of Law and Practical Reason* (2009) Raz explains the legal phenomena including the nature of the law.⁸⁷ His explanations employ concepts which are also employed the life of the law that are given sharper focus and definition in theories and designed to illuminate whatever it is which makes these phenomena interesting theoretically or important practically.⁸⁸ When creating a comprehensive overview or mapping of legal phenomena, it is helpful to distinguish between various levels of relationships such as an overview which can employ law as a versatile organizing concept, offering a framework of analytical tools that aid in interpreting, describing, comparing, and generalizing legal phenomena.⁸⁹

A system actually looks like when it is legally justified in its claim to authority and the prior source of which is not present for the case.⁹⁰ Raz's *Service Conception of Authority* emphasizes the necessity of legitimacy and rational justification, ensuring that authority functions not arbitrarily but as a mediator between individuals and the normative reasons guiding their actions.⁹¹ This concept is particularly significant for constitutional courts, where judicial authority must harmonize adherence to constitutional texts with ethical and societal contexts. The necessity of legitimacy and rational justification puts the principle of responsibility which is given through the interpretation in its various

⁸⁷ Raz, *Between Authority and Interpretation*, 10.

⁸⁸ Raz, *Between Authority and Interpretation*, 10.

⁸⁹ Twining, *General Jurisprudence*, xix.

⁹⁰ Εηιολά Άνούολύwapó Σόγϑμί, "Participation and Law's Authority," *Canadian Journal of Law and Jurisprudence* XXXVI, no.2 (August 2023): 523-524.

⁹¹ Martin, "Raz's Appeal to Law's Authority," 270.

possibilities.⁹² The interpretation may indeed support a conception justice that is redistributive enough to deserve the substantive principle between choices and circumstances that is strong enough to support judges egalitarian position. It can claim the kind of widespread support on which the force of the affirmative arguments depends on.⁹³

The framework of judicial independence concerns on the protection of rights directly when courts rule against the regime to defend individuals physical integrity rights and indirectly, through the deterrent effect that judicial independence has on regime actions.⁹⁴ This section also highlights the distinction between judicial independence and the independence of individual judges. For judges, this conception implies a dual responsibility: *firstly*, adhering to the constitutional text while ensuring that their interpretations are rational, justifiable, and *secondly*, reflective of societal values. The independence of the judiciary as a law enforcement institution according to Raz is aimed at efforts to prevent unlawful acts by not giving permission for the implementation of interpretations that violates the criteria for good interpretation.⁹⁵ The core of the problem raised by Raz about the independence of interpretation ultimately only produces an explanation determined by criteria or rules with a temporal dimension. These temporal dimensions allow the criteria used in interpreting to change or no longer apply.⁹⁶ According to Raz, the determination of this interpretation criterion does not necessarily determine the quality of the interpretation carried out. Raz's explanation of the independence of the judiciary that holds the authority to interpret is directed at the independence of interpretation. Raz points out that: ⁹⁷

“typically interpretations are offered to explain what is there independently of them, rather than in order to produce new objects which explain themselves. Second, and here we come to the heart of the matter, explanations can be good or bad, and they can be more or less good. Their success is determined

⁹² E. Fernando M. Manullang, “Penafsiran Teleologis/Sosiologis, Penafsiran Purposive dan Aharon Barak: Suatu Refleksi Kritis [Teleological/Sociological Interpretation, Purposive Interpretation, and Aharon Barak: A Critical Reflection],” *VeJ* 5, no. 2 (2019): 275.

⁹³ Scheffler, “Choice, Circumstance, and the Value of Equality,” 9.

⁹⁴ Abouharb, Moyer and Schmidt, “De Facto Judicial Independence and Physical Integrity Rights,” 372.

⁹⁵ Raz, *Between Authority and Interpretation*, 304.

⁹⁶ Raz, *Between Authority and Interpretation*, 304.

⁹⁷ Raz, *Between Authority and Interpretation*, 304.

by criteria, or rules for excellence in interpretations (i.e. in interpretations of the kind that they are). Surely these criteria are independent of the interpretations. If their validity has a temporal dimension then they are valid before the interpretations to which they apply are put forward, as well as independently of them.”

The opinion expressed by Raz above explains that interpretation is carried out independently of a pre-existing object without being given the opportunity to be able to explain the purpose of the object which is important to be interpreted. The core of the problem raised by Raz about the independence of interpretation ultimately only produces an explanation determined by criteria or rules with a temporal dimension.⁹⁸ Raz puts his thoughts with an explanation of the relationship of legal interpretation and legal authority, a topic on which Raz has made a major an innovative contribution to the philosophy of law.⁹⁹ Raz is concerned with law as a concept, rather than law as a social phenomenon alike his thought about *Service Conception of Authority* that is especially applicable to the Indonesian judiciary, which must bridge the gap between the abstract principles of constitutional text and the practical realities of societal norms.¹⁰⁰ However, for Raz, law is in large part constituted by the conceptual understandings of those who operate within a legal system so that the nature of law is as much a matter of what Raz talks of as their ‘self-understanding’ seen as grappling with the relationship between the normativity of the concept of law and the actuality of its practice.¹⁰¹ Raz asserts that legitimate authority exists to assist individuals and by extension, institutions in acting according to reasons they might not fully understand or implement on their own.¹⁰²

According to Raz, judicial authority must facilitate rational action. It impacts the judges which should mediate between legal texts and the reasons that justify their application, ensuring that decisions are rational and justifiable. Judicial authority must be exercised in ways that earn public trust and respect, particularly

⁹⁸ Joseph Raz, *The Roots of Normativity* (Oxford: Oxford University Press, 2022), 181.

⁹⁹ Joseph Raz, “On Respect, Authority, and Neutrality: A Response,” *Ethics* 120, no. 2 (January 2010): 284.

¹⁰⁰ Raz, “On Respect, Authority, and Neutrality,” 284.

¹⁰¹ Joseph Raz, “Normativity,” *Philosophical Issues* 25 (2015): 152.

¹⁰² Raz, “A Matter Principle by Ronald Dworkin,” 1103.

in a diverse society like Indonesia. This is crucial in Indonesia, where public trust in judicial institutions is a key factor in maintaining legitimacy. Political influences and institutional limitations often challenge the court's independence, as involving in the ethic decision decided by ethical board of Indonesia constitutional court (06/MKMK/L/04/2024 and 07/MKMK/L/04/2024) shows the judge's dual role as both a constitutional justice and members appeared in court proceedings align with Raz's emphasis on the nature of legitimate authority. The Indonesian case underscores the urgency of embedding Raz's service conception of authority into judicial practice, particularly in a constitutional court that is tasked with protecting the foundational norms and rethinking how constitutional inrpretation can avoid judges act under real or perceived influence whether from political pressures and personal affiliation. Authority must not only issue commands, but also offer morally and rationally jusitidfied reasons for act and its ability to serve the public by guding action through reason not through personal or political interest. Raz's authority concept influenced from Austin's imperative theory mentioned about the expression of a sovereign's will.¹⁰³ It represents the will of several sovereigns concerning the method of governing matters of common interest.¹⁰⁴ Austin's thought about jurisprudence is too limited because he says that the rules do not impose duties but confer the power for concluding legal deals. In this context legal rules defining ways in which legally binding contracts legal deals should be concluded do not require people to behave in a specific way regardless of whether they want to or not.¹⁰⁵

Differently, in Raz's concepts focusing on textual analysis and normative reasoning offers a practical model for constitutional interpretation. Judges can use this framework to navigate the complexities of balancing textual and contextual analysis, Raz's approach encourages fidelity to the constitutional text while allowing for interpretations that reflect contemporary realities.¹⁰⁶ Raz

¹⁰³ Damir Banović, "About John Austin's Analytical Jurisprudence: The Empirical Rationalist Legal Positivism," *ICLR* 21, no. 1 (2021): 260.

¹⁰⁴ Banović, "About John Austin's Analytical Jurisprudence," 260.

¹⁰⁵ Damir Banović, "About John Austin's Analytical Jurisprudence," 260.

¹⁰⁶ Joseph Raz, *Engaging Reason on The Theory of Value and Action*, (Oxford: Oxford University Press, 2003), 16.

explicitly identifies the obstacles about interpretation are textual tension that only legitimate directives give reasons for action thereby endowing the normal justification thesis with practical significance and the implications of practical force that legal norms become binding in virtue of their status as legal norms.¹⁰⁷ These discussions highlight the existence of other forms of content-independent reasons. For instance, when a person or institution holds the normative authority to impose duties on others, those duties are binding not due to their specific content but because they result from the exercise of duty-imposing authority.¹⁰⁸

Incorporating moral reasoning demonstrates that Indonesian constitutional issues, such as human rights and social justice, necessitate that judges consider moral principles alongside legal norms. It is also addressing legal pluralism which explains how Raz's contextual sensitivity supports the integration of diverse legal traditions into constitutional adjudication, ensuring that decisions resonate with Indonesia's pluralistic society.¹⁰⁹ Furthermore, Raz's integration of linguistic, normative, and contextual analysis can be difficult to apply consistently. Judges are required to navigate competing demands also remaining faithful to the text while addressing societal needs and upholding moral principles.¹¹⁰ This complexity can result in variability across cases, potentially undermining the predictability and uniformity that are hallmarks of the rule of law.¹¹¹ Numerous criteria have been proposed to define the boundaries of law and to determine whether a specific standard belongs to a given legal system. Scholars have also explored the significance of distinguishing between what is legal and what is not, as well as how maintaining this distinction enhances our comprehension of law and society.¹¹² In *A General Jurisprudence of Law and Society* (2001), Brian Z. Tamanaha argues that law mirrors society and functions to maintain social order, emphasizing the need for legal theorists to recognize and address these

¹⁰⁷ Margaret Martin, "Raz's the Morality of Freedom," 65.

¹⁰⁸ Joseph Raz, *The Roots of Normativity*, 181.

¹⁰⁹ Joseph Raz, *Ethics in the Public Domain: Essays in the Morality of Law and Politics* (Oxford: Oxford University Press, 1994), 68.

¹¹⁰ Luciano Venezia, "Raz's Normative Theory of Authority," *Philosophical Enquiries: Revue des Philosophies Anglophones* 1 (2013): 102.

¹¹¹ Venezia, "Raz's Normative Theory of Authority," 102.

¹¹² Joseph Raz, "Legal Principles and The Limits of Law," *Scholarship Archive Columbia Law School* (1972): 823.

dynamics, which are more prevalent than often acknowledged.¹¹³ While articulating this distinction with precision can be challenging and reasonable tests often account for borderline cases, many theorists uphold it for its straightforward application in most situations and its essential role in understanding law's function within society.¹¹⁴

Philosophically, this variability challenges the foundational premise of legal determinacy, a core concern in analytical jurisprudence. The analytical work in general jurisprudence appears from substantive or evaluative work in legal philosophy that some appeal to the idea of conceptual analysis to distinguish metaethics from normative ethics.¹¹⁵ Joseph Raz's contribution to legal philosophy reflects a distinctive approach that bridges practical reasoning and conceptual analysis.¹¹⁶ Rather than focusing solely on abstract metaphysical claims about what law is, Raz begins with how law functions in human life how people reason about norms, follow rules, and justify actions.¹¹⁷ His work addresses both the evaluative dimension (how the reasons and justifications are assessed) and the formal or conceptual dimension (how legal concepts are structured and understood).¹¹⁸

Unlike traditional metaphysical approaches that aim to define the "essence" of legal reality, Raz is more concerned with how legal concepts operate in our thinking and communication. He explores how we talk about law, how we reason with legal norms, and how legal authority is understood and applied. This shift in focus away from asking what law is in some absolute sense, and toward understanding how legal ideas work in practice allows Raz to offer a more grounded and context-sensitive analysis. Raz engages with central philosophical questions that have shaped the field of legal theory for decades. These include debates around legal positivism and anti-positivism, as well as deeper inquiries

¹¹³ Brian Z. Tamanaha, *A General Jurisprudence of Law and Society* (Oxford: Oxford University Press, 2001), 229.

¹¹⁴ Raz, "Legal Principles and The Limits of Law," 823.

¹¹⁵ David Plunkett and Scott Shapiro, "Law, Morality, and Everything Else: General Jurisprudence as a Branch of Metanormative Inquiry," *Ethics* (October 2017): 53.

¹¹⁶ Plunkett and Shapiro, "Law, Morality, and Everything Else," 54.

¹¹⁷ Plunkett and Shapiro.

¹¹⁸ Plunkett and Shapiro.

into the semantics (meaning of legal terms), epistemology (how subject come to know legal truths), and normativity (how legal norms provide reasons for action).

By focusing on how legal thought is structured and how it relates to broader practices of reasoning and justification, Raz's work continues to shape contemporary discussions about the nature of law, legal reasoning, and authority. Raz mediates Hart and Dworkin's debate by asking reflectively about the meaning of the word described in explaining the concept of law. Raz believes that the concept of law can be explained by first explaining the purpose 'law' as a word that is used in almost every field but is not explained in the framework of legal philosophy.¹¹⁹ Raz claims that the explanation of the concept of law is part of an effort to explain the meaning of the word 'law' (law or the law). Raz's response to the explanation of the meaning of the word 'law' is studied in the study of jurisprudence.¹²⁰ The discussion on jurisprudence highlights that arguments and conclusions about legal interpretation often aim to support claims of universal validity.¹²¹ A key point in this debate is the authoritative intention thesis such as the idea that the meaning of a legal rule should be determined by the intention of the legislator.¹²² However, this approach raises important questions. Ultimately, interpreting the law requires not only understanding the text but also critically assessing whether the legislator's intention provides adequate reasons for how the rule should be applied in practice.¹²³

Raz's emphasis upon an intrinsic reason as a fact about a proposed action in itself to practical reasoning that put the distinction between intrinsic and indicative reasons underlie Raz's disagreement about the significance authoritative directives.¹²⁴ This risks undermining the democratic legitimacy of constitutional adjudication. The reliance on judges to mediate between textual meaning and normative principles may lead to variability in interpretations and creating

¹¹⁹ Joseph Raz, *The Authority of Law: Essays on Law and Morality* Second Edition (Oxford: Oxford University Press, 2009), x.

¹²⁰ Raz, *Between Authority and Interpretation*, 53-54.

¹²¹ Raz, *Between Authority and Interpretation*, 290.

¹²² Raz, *Between Authority and Interpretation*, 290.

¹²³ Raz, *Between Authority and Interpretation*, 290.

¹²⁴ Regan, "Reasons, Authority, and the Meaning of Obey," 5.

uncertainty in the legal system. The integration of linguistic, normative, and contextual analysis in Raz's thought difficult to apply consistently.¹²⁵ Judges may struggle with balancing these competing elements, particularly in complex constitutional cases. The requirement for moral reasoning adds an additional layer of complexity, which may lead to inconsistent applications across different cases and judges. It is important to refer to a reasonably just society rather than merely a reasonably just law, as consent to obey the law reflects an attitude not toward the law itself, but toward society as a whole, with the law being viewed as an integral part of that society as an association that holds true only if the law is perceived as embodying societal conventions and values.¹²⁶ The connection between people's evaluative views of their society can be testified based on that access to values that is the ability to become aware of the social dependence of evaluative beliefs.¹²⁷ The social dependence of evaluative beliefs testifies not to the social constitution of value but to the social dependence of access to value. It means that it is not difficult to think of other reasons for suspecting that at least some values are socially constituted.¹²⁸ It just as likely to be seen as arguments against the knowability of values or against their objectivity.¹²⁹

III.CONCLUSION

Joseph Raz's analytical jurisprudence provides a constructive framework for constitutional interpretation, especially within Indonesia's legal context. It demonstrates how Raz's philosophy, rooted in practical reason and normative analysis, provides more than just textual guidance. By integrating textual, linguistic, and normative analyses, Raz's approach ensures that constitutional interpretation remains both grounded and flexible. Raz's distinction makes between legal and constitutional interpretation highlights the deeper role of judges in preserving democratic principles and institutional legitimacy. Raz's

¹²⁵ Raz, *Between Authority and Interpretation*, 50.

¹²⁶ Raz, "Authority and Consent," 128.

¹²⁷ Raz, *Engaging Reason on The Theory of Value and Action*, 203.

¹²⁸ Raz, *Engaging Reason on The Theory of Value and Action*, 203.

¹²⁹ Raz, *Engaging Reason on The Theory of Value and Action*, 203.

approach helps assess whether judicial decisions reflect public reason or risk political deviation. Ultimately, his model encourages ethical, responsive, and publicly accountable interpretation, bridging legal reasoning with justice and societal needs, and providing a principled path for constitutional adjudication in complex societies.

BIBLIOGRAPHY

- Abouharb, M. Rodwan, Laura P. Moyer, and Megan Schmidt. "De Facto Judicial Independence and Physical Integrity Rights." *Journal of Human Rights* 12, no. 4 (October 2013): 367–396. <https://doi.org/10.1080/14754835.2013.812461>.
- Asshiddiqie, Jimly. "Universalization of Democratic Constitutionalism and the Work of Constitutional Courts Today." *Constitutional Review* 1, no. 2 (December 2015): 1–22. <https://doi.org/10.31078/consrev121>
- Banović, Damir. "About John Austin's Analytical Jurisprudence: The Empirical Rationalist Legal Positivism." *International Comparative Law Review* 21, no. 1 (2021): 241–261. <https://doi.org/10.2478/iclr-2021-0010>.
- Barak, Aharon. *Purposive Interpretation in Law*. Princeton: Princeton University Press, 2005.
- Bix, Brian. "Raz, Authority, and Conceptual Analysis." *American Journal of Jurisprudence* 51 (December 2006): 311. https://scholarship.law.umn.edu/faculty_articles/449.
- Bogucki, K. "Truth in Judicial Fact-Finding and Legal Interpretation." *International Journal for the Semiotics of Law* 36, no. 2 (April 2023): 649–663.
- Bustamante, Thomas, and Thiago Lopes Decat, eds. *Philosophy of Law as an Integral Part of Philosophy: Essays on the Jurisprudence of Gerald J. Postema*. London: Bloomsbury, 2020.
- Craig, Edward. *Concise Routledge Encyclopedia of Philosophy*. London: Routledge, 2000.

- Davidson, Donald. *Inquiries into Truth and Interpretation*. Oxford: Oxford University Press, 1984.
- Ducat, Craig R. *Constitutional Interpretation*. 9th ed. Boston: Wadsworth Cengage Learning, 2008.
- Endicott, Timothy. *Administrative Law*. 2nd ed. Oxford: Oxford University Press, 2011.
- Freeman, Michael. *Lloyd's Introduction to Jurisprudence*. 9th ed. London: Sweet & Maxwell, 2014.
- Fuller, Lon L. *The Morality of Law*. New Haven: Yale University Press, 1969.
- Gardner, John. *Law as a Leap of Faith: Essays on Law in General*. Oxford: Oxford University Press, 2012.
- Hart, H. L. A. *The Concept of Law*. 2nd ed. Oxford: Clarendon Press, 1994.
- Haugaard, M. "What Is Authority?" *Journal of Classical Sociology* 18, no. 2 (June 2018): 104–132. <https://doi.org/10.1177/1468795X17723737>.
- Kurek, Łukasz. "Antinaturalism in the Legal Philosophy of Joseph Raz." *Polish Law Review* 3, no. 1 (2017): 201–214. <https://www.polishlawreview.pl>.
- Luciano, Venezia. "Raz's Normative Theory of Authority." *Philosophical Enquiries: Revue des Philosophies Anglophones*, no. 1 (June 2013): 95–110. <https://shs.hal.science/halshs-00865385v1>.
- Manullang, E. Fernando M. "Penafsiran Teleologis/Sosiologis, Penafsiran Purposive dan Aharon Barak: Suatu Refleksi Kritis [Teleological/Sociological Interpretation, Purposive Interpretation and Aharon Barak: A Critical Reflection]." *VeJ* 5, no. 2 (June 2019): 262–285. <https://doi.org/10.25123/vej.v5i2.3495>.
- Manullang, E. Fernando M. *Norma Hanyalah Makna Grundnorm Malah Seperti Tuhan* [Norm Is Only the Means, the Grundnorm Is Like God]. Yogyakarta: Nasmedia Publishing, 2024.
- Marmor, Andrei. *Philosophy of Law*. Princeton: Princeton University Press, 2011.

- Martin, B. "Raz's Appeal to Law's Authority." *Philosophical Studies* 181 (January 2024): 267–280. <https://link.springer.com/article/10.1007/s11098-023-02085-4>.
- Martin, Margaret. "Raz's The Morality of Freedom: Two Models of Authority." *Jurisprudence* 1 (June 2010): 63–84. <https://doi.org/10.5235/204033210791557272>.
- Meyer, Lukas H., Stanley L. Paulson, and Thomas W. Pogge, eds. *Rights, Culture, and the Law: Themes from the Legal and Political Philosophy of Joseph Raz*. Oxford: Oxford University Press, 2003.
- Mutaqin, Zezen Zaenal. "The Strong State and Pancasila: Reflecting Human Rights in the Indonesian Democracy." *Constitutional Review* 2, no. 2 (December 2016): 159–188. <https://doi.org/10.31078/consrev221>.
- Plunkett, David, and Scott Shapiro. "Law, Morality, and Everything Else: General Jurisprudence as a Branch of Meta-Normative Inquiry." *Ethics* 127, no. 1 (October 2017): 37–68. <https://doi.org/10.1086/692941>.
- Rasjidi, Lili, and B. Arief Sidharta. *Filsafat Hukum Mazhab dan Refleksinya* [The School of Legal Philosophy and Its Reflections]. Bandung: PT Remaja Rosdakarya, 1989.
- Raz, Joseph. "Authority and Consent." *Virginia Law Review* 67, no. 1 (February 1981): 103–131. <http://www.jstor.org/stable/1072835>.
- Raz, Joseph. "A Matter Principle by Ronald Dworkin." *California Law Review* 74, no. 3 (May 1986): 1103–1119. <https://www.jstor.org/stable/3480404>.
- Raz, Joseph. "Authority, Law and Morality." *Monist* 68, no. 3 (July 1985): 295–324. <https://www.jstor.org/stable/27902922>.
- Raz, Joseph. "Legal Principles and the Limits of Law." Scholarship Archive, Columbia Law School (1972): 823–854.
- Raz, Joseph. "Legal Validity." *Archiv für Rechts- und Sozialphilosophie* 63, no. 3 (1977): 339–353. <https://www.jstor.org/stable/23679040>.
- Raz, Joseph. "Morality as Interpretation." Scholarship Archive, Columbia Law School (1991): 392–405. https://scholarship.law.columbia.edu/faculty_scholarship/2232.

- Raz, Joseph. *Practical Reason and Norms*. Oxford: Oxford University Press, 1990.
- Raz, Joseph. *The Authority of Law: Essays on Law and Morality*. 1st ed. Oxford: Clarendon Press, 1979.
- Raz, Joseph. *The Authority of Law: Essays on Law and Morality*. 2nd ed. Oxford: Oxford University Press, 2009.
- Raz, Joseph. *Between Authority and Interpretation: On the Theory of Law and Practical Reason*. Oxford: Oxford University Press, 2009.
- Raz, Joseph. *Ethics in the Public Domain: Essays in the Morality of Law and Politics*. Oxford: Oxford University Press, 1994.
- Raz, Joseph. *Engaging Reason: On the Theory of Value and Action*. Oxford: Oxford University Press, 2003.
- Raz, Joseph. "Legal Principles and the Limits of Law." Scholarship Archive, Columbia Law School (April 1972): 823–854.
- Raz, Joseph. "Normativity." *Philosophical Issues* 25 (October 2015): 144–164. <https://www.jstor.org/stable/10.2307/26611125>.
- Raz, Joseph. "On Lawful Governments." Scholarship Archive, Columbia Law School (July 1970): 296–303. https://scholarship.law.columbia.edu/faculty_scholarship/2233.
- Raz, Joseph. "On Respect, Authority, and Neutrality: A Response." *Ethics* 120, no. 2 (January 2010): 279–301. <https://www.jstor.org/stable/10.1086/651426>.
- Raz, Joseph. "On the Nature of Law." *Archiv für Rechts- und Sozialphilosophie* 82, no. 1 (1996): 1–25. <https://www.jstor.org/stable/23680735>.
- Raz, Joseph. "Permissions and Supererogation." *American Philosophical Quarterly* 12, no. 2 (April 1975): 161–168. <https://www.jstor.org/stable/20009570>.
- Raz, Joseph. "Principle of Equality." *Mind* 87, no. 3 (July 1978): 321–342. <https://doi.org/10.1093/mind/LXXXVII.3.321>.
- Raz, Joseph. "Promises in Morality and Law." *Scholarship Archive, Columbia Law School* (1982): 916–938. https://scholarship.law.columbia.edu/faculty_scholarship/759.

- Raz, Joseph. "The Institutional Nature of Law." *Modern Law Review* 38, no. 5 (September 1975): 489–503. <https://www.jstor.org/stable/1093828>.
- Raz, Joseph, and James Griffin. "Mixing Values." *Proceedings of the Aristotelian Society* 65 (1991): 83–118. <https://www.jstor.org/stable/4106772>.
- Regan, Donald H. "Reasons, Authority, and the Meaning of Obey: Further Thoughts on Raz and Obedience to Law." *Canadian Journal of Law and Jurisprudence* 3 (1990): 3–28. <https://repository.law.umich.edu/articles/341>.
- Rugian, Irene Angelita. "Prinsip Proporsionalitas dalam Putusan Mahkamah Konstitusi: Studi Perbandingan di Indonesia dan Jerman." *Jurnal Konstitusi* 18, no. 2 (June 2021): 461–479. <https://doi.org/10.31078/jk1829>.
- Scheffler, Samuel. "Choice, Circumstance, and the Value of Equality." *Politics, Philosophy & Economics* 4, no. 1 (January 2005): 5–28. <https://doi.org/10.1177/1470594X05049434>.
- Sheehy, Benedict. "Law, Language, and the Social Construction of Legal Reality." *International Journal of Law, Language and Discourse* (December 2023). <https://doi.org/10.56498/1122023616>.
- Skinner, Stephen. "Stories of Pain and the Pursuit of Justice: Law, Violence, Experience and Jurisprudence." *Law, Culture and the Humanities* 5, no. 1 (2009): 131–155. <https://doi.org/10.1177/1743872108096866>.
- Sidharta, B. Arief. Refleksi tentang Struktur Ilmu Hukum: Sebuah Penelitian tentang Fundasi Kefilsafatan dan Sifat Keilmuan Ilmu Hukum sebagai Landasan Pengembangan Ilmu Hukum Nasional Indonesia [Reflection on the Structure of Legal Science: A Study of the Philosophical Foundations and Scientific Nature of Legal Science as the Basis for Developing National Legal Science in Indonesia]. Bandung: CV Mandar Maju, 2009.
- Silalahi, Artha Debora. "Paradoks Ide Negara Hukum dalam Justifikasi Filosofis Pancasila sebagai Sumber Hukum [The Paradox of the Rule-of-Law Idea in the Philosophical Justification of Pancasila as the Source of Law]." *Jurnal Konstitusi* 21, no. 1 (March 2024): 62–76. <https://doi.org/10.31078/jk2114>.

- Silalahi, Artha Debora. "Some Debates of Hermeneutic and Legal Interpretation: Critical Analysis of Hans-Georg Gadamer's Philosophical Hermeneutics." *Jurnal Mimbar Hukum Universitas Gadjah Mada* 36, no. 1 (June 2024): 213–233. <https://doi.org/10.22146/mh.v36i1.9493>.
- Silalahi, Artha Debora. "The Framework of Law Impacts in Philosophy of Law and Justice: How Is the Certainty of Law and Justice Understood?" *Proceedings of the 10th International Conference on Nusantara Philosophy (ICNP 2022)* (2022). <https://doi.org/10.29037/digitalpress.409434>.
- Silalahi, Artha Debora, et al. "Axiological Insights into Unveiling Independent Constitutional Judge Decisionism." *Yustisia Jurnal Hukum* 13, no. 3 (September 2024): 230–245. <https://doi.org/10.20961/yustisia.v13i3.85127>.
- Silalahi, Artha Debora, et al. "Navigating the Democratic Crisis: Indonesia's Journey through Political Ethics, Law, and Social Change." *Jurnal Sapientia Humana* 4, no. 2 (2024): 221–232. <https://doi.org/10.26593/jsh.v4i02.8547>.
- Tamanaha, Brian Z. *A General Jurisprudence of Law and Society*. Oxford: Oxford University Press, 2001.
- Tarski, Alfred. "The Semantic Conception of Truth and the Foundations of Semantics." *Philosophy and Phenomenological Research* 4, no. 3 (March 1944): 341–376. <https://doi.org/10.2307/2102968>.
- Tommasini, Nicola. "Judicial Self-Empowerment and Unconstitutional Constitutional Amendments." *International Journal of Constitutional Law* 22, no. 1 (January 2024): 161–184. <https://doi.org/10.1093/icon/moae009>.
- Twining, William. *General Jurisprudence: Understanding Law from a Global Perspective*. Cambridge: Cambridge University Press, 2009.
- Wacks, Raymond. *Understanding Jurisprudence: An Introduction to Legal Theory*. 3rd ed. Oxford: Oxford University Press, 2012.