



The Dialectics of Legal Positivism and the Sociological Jurisprudence School in the Regulation of Human Rights under the 1945 Constitution: A Critical Legal Philosophy Analysis

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Abstract: The regulation of human rights in the 1945 Constitution of the Republic of Indonesia, particularly Chapter XA, reflects complex dynamics in legal philosophical thought. This study aims to critically analyze the dialectic between legal positivism and sociological jurisprudence in the normative construction of human rights and its implications for constitutional interpretation by the Constitutional Court. The research employs a normative juridical legal method with a critical legal philosophy approach, conducted through a literature review of constitutional norms, relevant statutory regulations, and Constitutional Court decisions related to human rights. The findings indicate that the regulation of human rights in the 1945 Constitution does not represent a single school of legal philosophy, but rather constitutes a paradigmatic synthesis between the normative certainty characteristic of legal positivism and the social responsiveness emphasized by sociological jurisprudence. This philosophical tension is reflected in the variation of interpretive methods adopted by the Constitutional Court, ranging from formalistic to progressive approaches. The study concludes that a constitutional interpretation model based on contextual positivism or responsive formalism is relevant for bridging legal certainty and substantive justice in the protection of human rights in Indonesia.

Keywords: Constitutional Court; human rights; legal philosophy; legal positivism; sociological jurisprudence.

1. Introduction

The constitution, as the supreme law of a state, plays a fundamental role in regulating national life, including ensuring the protection of human rights. The 1945 Constitution of the Republic of Indonesia, as Indonesia's written constitution, underwent significant transformation following the constitutional amendments, particularly through the explicit regulation of human rights contained in Chapter XA. These changes marked a strengthening of the state's constitutional commitment to human rights protection while simultaneously positioning the constitution as both a limiting instrument and a source of legitimacy for state power. Nevertheless, the regulation of human rights in the 1945 Constitution cannot be separated from the dynamics of legal philosophical thought that underpin it, particularly the dialectic between the paradigm of legal positivism and the school of sociological jurisprudence in shaping the normative and practical character of constitutional guarantees of human rights.

Legal positivism views law as an autonomous hierarchical system of norms, independent of moral and social considerations, whereby legal validity is determined by the formal procedures of its enactment. In the context of constitutionalism, this paradigm emphasizes the supremacy of the constitution as the basic norm that serves as the source of validity for the entire national legal system. These characteristics are reflected in the systematic arrangement of human rights provisions in the 1945 Constitution, which classifies civil and political rights, economic, social, and cultural rights, and establishes mechanisms for the limitation of rights through legislation as stipulated in Article 28J paragraph (2). Conversely, sociological jurisprudence emphasizes that law must be

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understood as a social phenomenon living within society, such that the effectiveness of human rights protection cannot be guaranteed solely through written norms, but requires legal responsiveness to the social, political, and cultural dynamics of a pluralistic society. This perspective affirms that law should not be understood merely as *law in the books*, but as an instrument of social engineering operating within social reality (Siahaan & Sinambela, 2024). Because this philosophical tension operates simultaneously at the level of constitutional norms, social realities, and institutional practices, the issue carries multidimensional significance.

The multidimensional significance of the issue is shown through three conceptual indicators. First, the legal dimension concerns the coherence of constitutional norms governing rights and their limitations, especially within Chapter XA and Article 28J of the 1945 Constitution. Second, the social dimension concerns the extent to which constitutional rights protection is responsive to plural social realities, moral values, and lived legal consciousness. Third, the institutional dimension concerns the interpretive role of the Constitutional Court and the regulatory role of legislators in translating constitutional rights guarantees into enforceable and socially legitimate legal arrangements. These three indicators also serve as the analytical basis for mapping prior scholarship and identifying the conceptual and methodological gaps addressed by this study.

A number of studies over the past five years indicate that scholarship on human rights in the 1945 Constitution tends to follow two main trajectories, namely the affirmation of constitutional norms as formal limits and an emphasis on the social effectiveness of rights protection. Yanlua et al. (2025) reveal that post-amendment human rights regulation continues to face challenges related to normative consistency and implementation in constitutional practice. Mujaddidi (2021) analyzes the constitutionality of human rights limitations through Constitutional Court decisions, emphasizing the importance of rationalizing such limitations in accordance with Article 28J of the 1945 Constitution. From an institutional perspective, Seroy et al. (2021) highlight the role of the Constitutional Court within the judicial review mechanism as a means of protecting citizens' constitutional rights. Meanwhile, Nurfadilah and Rachmadi (2024) emphasize the relevance of sociological jurisprudence in bridging normative certainty and substantive justice, whereas Gojali (2022), through a Critical Legal Studies approach, criticizes positivistic formalism that views law as a neutral and autonomous entity.

Despite these contributions, prior studies generally remain partial, as they focus separately on normative, practical, or theoretical aspects. There has been no comprehensive study that integrates the dialectic between legal positivism and sociological jurisprudence in the regulation of human rights under the 1945 Constitution through a critical legal philosophy perspective. This research gap indicates the need for a reflective approach that not only describes norms or practices, but also deconstructs the philosophical assumptions underlying normative constructions and constitutional interpretive practices concerning human rights, including judicial review decisions issued by the Constitutional Court (Aranta, 2025).

In response to this gap, this study aims to critically analyze the dialectic between legal positivism and sociological jurisprudence in the regulation of human rights under the 1945 Constitution and to identify the implications of this philosophical tension for constitutional interpretive practices. The novelty of this research lies in its use of a critical legal philosophy perspective to formulate a dialectical synthesis between legal certainty and social responsiveness as the foundation for developing an integrative and context-sensitive model of constitutional interpretation of human rights aligned with Indonesian realities (Kusuma et al., 2024). Theoretically, this study is expected to enrich Indonesian legal philosophy scholarship, while practically serving as a reference for constitutional judges and legislators in implementing constitutional guarantees of human rights in a more responsive manner without sacrificing legal certainty (Pelokilla, 2023).

This study positions itself within the broader discourse on the effectiveness of policy and regulatory implementation by providing a philosophical-constitutional framework for assessing how human rights norms are interpreted and operationalized in practice. Although this research does not empirically measure policy outcomes, it enriches the implementation discourse by clarifying the normative and interpretive conditions under which constitutional guarantees of rights can be translated into consistent legal and institutional practice. In this sense, the study contributes an evaluative lens for examining whether regulatory implementation remains merely formal compliance or substantively responsive to constitutional justice.

2. Materials and Methods

This study adopts a normative juridical legal research design with a critical legal philosophy approach to analyze the dialectic between legal positivism and sociological jurisprudence in the regulation of human rights under the 1945 Constitution. Normative legal research is understood as library-based research that relies on primary, secondary, and tertiary legal materials and is prescriptive in orientation, aiming to identify legal rules, principles, and doctrines in order to address the legal issues under examination (Soerjono Soekanto & Sri Mamudji, Chapter III on normative juridical research, 1990; Peter Mahmud Marzuki, exposition on normative legal research, 2007). The normative juridical design is employed because the focus of the study is directed at analyzing constitutional norms on human rights, the construction of their limitations, as well as patterns of interpretation and application in constitutional practice through Constitutional Court decisions, in line with the character of normative legal research as a scientific procedure for discovering normative truth based on legal reasoning (Asikin & Zainal, 2022).

Research data were obtained through a structured doctrinal and literature review process. The first stage involved identifying the legal issues and formulating the analytical focus, namely the relationship between normative certainty and social responsiveness, including the tension and potential synthesis between these paradigms in the regulation of human rights. The second stage consisted of inventorying and codifying primary legal materials, including the 1945 Constitution, particularly Chapter XA Articles 28A to 28J, Law No. 39 of 1999 on Human Rights, and Law No. 24 of 2003 on the Constitutional Court as amended by Law No. 7 of 2020. The third stage involved examining secondary legal materials in the form of Constitutional Court decisions on judicial review that intersect with human rights issues, legal philosophy doctrines, and relevant scholarly articles. At this stage, Constitutional Court decisions were selected based on explicit inclusion criteria, namely decisions containing considerations on constitutional rights guarantees, limitations on rights, or methods of constitutional interpretation. The analytical framework for examining these decisions took into account various methods of constitutional interpretation, including grammatical, systematic, historical, and teleological or sociological interpretation, as outlined in Constitutional Court interpretive materials (Isra, 2025).

To ensure valid representation of the research object, the selection of legal materials followed explicit criteria. Primary legal materials were selected based on direct normative relevance to constitutional human rights regulation and constitutional adjudication. Constitutional Court decisions were included only if they (i) directly addressed constitutional rights guarantees or rights limitations, (ii) contained identifiable interpretive reasoning relevant to constitutional methodology, and (iii) had sufficient ratio decidendi for philosophical analysis. Decisions were excluded if they were procedurally dismissed or did not substantively discuss constitutional rights interpretation. Secondary materials were selected based on thematic relevance, scholarly credibility, and their contribution to either legal positivism, sociological jurisprudence, or constitutional interpretation discourse. This selection strategy was used to maintain analytical representativeness and avoid overreliance on isolated or non-comparable materials.

Data processing was carried out through thematic classification and analytical matrices. Primary legal materials and the reasoning contained in Constitutional Court decisions were classified into key themes, namely the formulation of rights, the limitation of rights, justificatory grounds for limitations, and patterns of interpretive argumentation. Subsequently, the analysis was conducted using a qualitative prescriptive-analytical approach with philosophical interpretation methods to uncover the theoretical assumptions underlying normative constructions and judicial reasoning. At the critical analysis stage, insights from Critical Legal Studies were applied to examine claims of legal neutrality and autonomy, alongside a Hegelian dialectical approach to map the thesis of legal positivism, the antithesis of sociological jurisprudence, and to formulate an integrative conceptual synthesis for a constitutional interpretation model of human rights (Pelokilla, 2023).

The measurement, testing, and evaluation of the research findings were conducted using four criteria. First, an internal coherence test assessing the consistency between philosophical premises, constitutional normative constructions, and the prescriptive conclusions formulated. Second, an assessment of the conformity of the arguments with patterns of constitutional interpretation in Constitutional Court decisions, including the accuracy of applying grammatical, systematic, historical, and teleological or sociological interpretation to the issues analyzed (Isra, 2025). Third, an assessment of the operational clarity of the synthesis, namely the extent to which the formulated synthesis generates interpretive principles applicable to understanding the limitation and protection of rights in a contextual manner without undermining legal certainty. Fourth, an evaluation of academic and practical relevance, namely the theoretical contribution to Indonesian legal philosophy scholarship and the practical relevance for strengthening the protection of constitutional rights in judicial review practices before the Constitutional Court (Pelokilla, 2023).

3. Results and Discussion

3.1. The Dialectic between Legal Positivism and Sociological Jurisprudence in the Normative Construction of Human Rights Regulation under the 1945 Constitution

The regulation of human rights within the 1945 Constitution of the Republic of Indonesia represents a complex manifestation of the dialectical interaction between the paradigm of legal positivism and the school of sociological jurisprudence, both of which have significantly shaped the architecture of contemporary Indonesian constitutionalism. The normative construction of Chapter XA of the 1945 Constitution, encompassing Articles 28A to 28J, demonstrates a strong adherence to formal and hierarchical legal systematics that reflect the spirit of legal positivism. Human rights are articulated through a relatively rigid categorization into civil and political rights, economic, social, and cultural rights, as well as specific or non-derogable rights, accompanied by structured mechanisms of limitation formulated through legislative instruments.

This positivistic orientation is explicitly embodied in Article 28J paragraph (2) of the 1945 Constitution, which stipulates that limitations on human rights may only be imposed by law and solely for the purpose of guaranteeing the recognition and respect of the rights and freedoms of others, as well as fulfilling just demands based on considerations of morality, religious values, security, and public order within a democratic society. This constitutional formulation clearly reflects the influence of Hans Kelsen's theory of the hierarchy of norms and formal legality, wherein the validity of human rights limitations depends upon the formal legitimacy of statutory law as a lower norm within a stratified legal system. From this perspective, constitutional supremacy functions as the ultimate source of validity, while statutory law operates as a legally authorized mechanism for concretizing constitutional mandates.

However, the inclusion of phrases such as "just demands based on considerations of morality, religious values, security, and public order" within the same provision simultaneously signals the penetration of sociological jurisprudence into the constitutional text. These elements acknowledge the necessity of incorporating social and

moral values that are actively lived and practiced within society as an integral component of legal norm construction (Sulubar, 2024). This paradigmatic duality produces a productive tension between legal certainty, which constitutes the primary objective of legal positivism, and social responsiveness, which represents the core concern of sociological jurisprudence.

The influence of legal positivism within Chapter XA of the 1945 Constitution can be traced to the genealogy of modern constitutionalism, which emphasizes the supremacy of the constitution as a fundamental norm binding all subordinate legal products. The explicit enumeration of human rights within the constitutional text reflects the positivistic assumption that such rights derive their juridical validity from formal incorporation into the constitutional document, rather than from external sources such as natural law or universal morality. This view aligns with the separation thesis advanced by John Austin and later refined by Hans Kelsen, who conceptualized law as an autonomous and self-referential system of norms that does not require moral justification from outside the positive legal order.

Articles such as Article 28A, which guarantees the right to life and the right to defend one's life and existence; Article 28B, which affirms the right to form a family and continue one's lineage; and Article 28I, which recognizes non-derogable rights, are constitutional norms whose validity is grounded in the authority of the constitution-making power rather than in doctrines of natural rights. Nevertheless, a paradox emerges when these provisions are examined more closely, as their substantive content clearly draws upon international human rights instruments that are rooted in natural law philosophy and moral universalism. This convergence generates a paradigmatic hybridity within Indonesia's constitutional human rights framework, wherein positivistic form coexists with substantively universal moral values (Edo et al., 2025).

Such hybridity demonstrates that although the formal structure of human rights regulation follows the logic of legal positivism, the material substance of the rights themselves implicitly acknowledges the existence of universal moral values that transcend the boundaries of the national positive legal system. This condition challenges a strict positivistic reading of the constitution and underscores the necessity of interpretative approaches capable of mediating between formal legality and substantive justice.

On the other hand, the influence of sociological jurisprudence in the normative construction of human rights under the 1945 Constitution is evident in the recognition of legal pluralism and local wisdom, particularly as enshrined in Article 18B paragraph (2). This provision affirms state recognition and respect for traditional customary law communities and their traditional rights, insofar as they remain alive, align with societal development, and conform to the principles of the Unitary State of the Republic of Indonesia as regulated by law. This constitutional acknowledgment reflects a sociological understanding of law not merely as a set of state-created formal norms, but as a living phenomenon that includes norms operating within society, or what Eugen Ehrlich famously conceptualized as *living law*.

The constitutional recognition of indigenous peoples' rights thus constitutes a concrete manifestation of sociological jurisprudence, which emphasizes that the effectiveness and legitimacy of law depend upon its congruence with societal legal consciousness and the values embedded within specific social communities. Furthermore, Article 28I paragraph (3), which provides that cultural identities and the rights of traditional communities are respected in harmony with the development of times and civilization, illustrates the adoption of Roscoe Pound's perspective on law as an instrument of social engineering. This approach views law as a dynamic tool that must remain responsive to social change and capable of balancing competing interests within society.

The dialectic between the normative certainty promoted by legal positivism and the social responsiveness emphasized by sociological jurisprudence yields a constitutional

formula that recognizes traditional rights while simultaneously subjecting them to limitations related to societal development and national unity. This tension is further reflected in Article 28J paragraph (1), which stipulates that every person is obliged to respect the human rights of others in the orderly life of society, nation, and state. This provision indicates that human rights within the Indonesian constitutional framework are not conceived as absolute or atomistic entitlements, as often emphasized in individualistic liberal traditions, but rather as rights inherently bounded by social responsibilities and collective interests.

This conception aligns with sociological jurisprudence's critique of legal formalism that neglects social context and the interdependent relationships among individuals in society. However, the incorporation of social responsibility as a basis for limiting rights also introduces the risk of relativism, which may undermine the universality of human rights as fundamental and non-negotiable norms. Consequently, a fair and proportional balancing mechanism is required to reconcile individual rights with collective interests. The dialectical interaction between these paradigms demonstrates that the normative construction of human rights regulation under the 1945 Constitution cannot be understood monolithically through a single philosophical lens. Instead, it must be viewed as the result of a complex synthesis of diverse legal traditions interacting within Indonesia's unique socio-historical context (Manurung et al., 2024).

Comparatively, the findings of this section are consistent with scholarly views asserting that effective human rights protection requires interpretative approaches that go beyond mere textual readings of the constitution and incorporate social, moral, and cultural dynamics within society (Siahaan & Sinambela, 2024). However, unlike studies that primarily describe the normative systematics of constitutional provisions and their legal consequences, this analysis emphasizes the paradigmatic hybridity of Chapter XA as the product of a dialectical process between normative certainty and social responsiveness. This is particularly evident in Article 28J paragraph (2), where moral and religious considerations explicitly open interpretative space for sociological reasoning (Sulubar, 2024). Consequently, while prior research tends to adopt partial readings that privilege either normative or sociological perspectives, this study expands the analytical focus to the conceptual relationships that simultaneously negate and complement each other within constitutional norm construction, thereby clarifying why Indonesia's constitutional regulation of human rights cannot be adequately explained through a single legal philosophy (Alfidyah, 2025).

3.2. The Influence of Philosophical Tension between Legal Positivism and Sociological Jurisprudence on Constitutional Interpretation by the Constitutional Court

The practice of constitutional interpretation by the Constitutional Court of Indonesia in judicial review proceedings represents an empirical arena in which the dialectic between legal positivism and sociological jurisprudence is concretely manifested through judicial reasoning and legal argumentation. The Court's authority to review statutes against the 1945 Constitution, as stipulated in Article 24C paragraph (1) of the Constitution and further regulated by Law Number 24 of 2003 as amended by Law Number 7 of 2020, positions the Constitutional Court as the *guardian of the constitution* with final authority to interpret constitutional norms, including those governing human rights.

In exercising this function, the Court frequently encounters methodological dilemmas between employing textual and grammatical interpretation characteristic of legal positivism and adopting sociological or teleological interpretation reflective of sociological jurisprudence. An analysis of Constitutional Court decisions concerning human rights-related judicial review reveals patterns of methodological inconsistency. In certain cases, constitutional justices adopt a strict formalistic approach emphasizing literal constitutional interpretation, while in others they employ progressive approaches that consider social context and substantive justice demands (Ginting et al., 2024).

These inconsistencies reflect unresolved philosophical tensions between the pursuit of legal certainty central to legal positivism and the aspiration for substantive justice

emphasized by sociological jurisprudence. The positivistic influence is evident in decisions that prioritize constitutional supremacy and normative hierarchy, whereby statutes deemed inconsistent with the Constitution are invalidated without extensive consideration of potential adverse social consequences. Such an approach aligns with positivist doctrine, which views the Court's primary role as ensuring vertical coherence within the legal system by eliminating unconstitutional norms, thereby safeguarding systemic integrity and predictability.

However, this formalistic approach has often attracted public criticism for being overly technocratic and insufficiently sensitive to societal justice concerns. The emergence of the phenomenon popularly described as "no viral, no justice" reflects a broader legitimacy crisis in which the judiciary is perceived as disconnected from public expectations of substantive fairness (Mareati, 2026). This criticism underscores the limitations of a purely positivistic approach in addressing complex human rights issues that cannot be reduced to technical legal reasoning alone.

Conversely, the influence of sociological jurisprudence is discernible in progressive Constitutional Court decisions that employ sociological and teleological interpretation methods. In such cases, the Court interprets human rights norms contextually by considering evolving legal consciousness, societal values, and the social implications of judicial outcomes. This approach resonates with Roscoe Pound's conception of law as social engineering and positions the Court not merely as a formal guardian of constitutional text but also as an agent of social transformation committed to substantive justice and the protection of vulnerable groups.

This progressive interpretative practice is particularly evident in decisions applying proportionality analysis to human rights limitations, wherein the Court assesses not only the formal constitutional basis of restrictions but also their rationality, proportionality, and non-discriminatory character within specific social contexts (Subhan, 2026). Such analysis reflects recognition that constitutional interpretation cannot rely solely on deductive formal logic but must incorporate contextual judgment to balance competing legitimate interests within a democratic society.

The tension between formalistic and progressive approaches generates complex dynamics in the development of Indonesian constitutional law. While formalism provides legal certainty and predictability essential for systemic stability, progressive interpretation offers flexibility necessary to adapt constitutional norms to social change. These competing approaches mirror a deeper philosophical tension between legal certainty and substantive justice. The Constitutional Court, situated at the intersection of law and politics, must navigate this tension carefully to maintain its legitimacy and authority. Methodological inconsistencies should thus be understood not merely as technical deficiencies but as reflections of inherent philosophical complexity in constitutional adjudication (Mareati, 2026).

Comparatively, this study aligns with research highlighting constitutional interpretation of Article 28J paragraph (2) concerning parameters of human rights limitation, particularly rationality and proportionality (Mujaddidi, 2021). However, unlike studies that focus primarily on enumerating such parameters, this research situates interpretative variation within a broader philosophical tension shaping judicial reasoning. Similarly, while prior studies emphasize the Constitutional Court's role as a human rights protection mechanism through judicial review, this analysis adds a critical evaluative dimension concerning interpretative methodology itself (Seroy et al., 2021). The incorporation of Critical Legal Studies further deepens this critique by exposing philosophical assumptions underlying constitutional interpretation practices (Gojali, 2022).

The similarity between this study and prior scholarship lies in the recognition that constitutional human rights protection in Indonesia cannot be understood solely through textual constitutional provisions. However, this study departs from previous works by demonstrating that the coexistence of formal constitutionalism and social responsiveness is not merely a descriptive feature, but a dialectical structure that shapes both norm

construction and judicial interpretation. Conceptually, this shifts the analysis from a binary opposition between legal certainty and substantive justice toward a structured framework of reconciliation, which later supports the proposed model of contextual positivism.

3.3. Dialectical Synthesis as a Theoretical Foundation for an Integrative Model of Constitutional Interpretation of Human Rights

Formulating a dialectical synthesis between legal positivism and sociological jurisprudence as a theoretical foundation for developing an integrative model of constitutional interpretation of human rights is imperative to address the philosophical tensions identified in both normative construction and interpretative practice. This synthesis is not conceived as an eclectic compromise but as a coherent theoretical construct integrating the strengths of both paradigms while overcoming their limitations through a process of determinate negation inspired by Hegelian dialectics.

The positivist emphasis on legal certainty, predictability, and constitutional supremacy must be preserved as foundational elements of constitutional interpretation, as the absence of legal certainty would undermine law's function as a mechanism of social coordination and protection against arbitrary power. Simultaneously, the sociological jurisprudence emphasis on social responsiveness, contextual interpretation, and substantive justice must be incorporated to prevent rigid formalism insensitive to real societal needs.

The proposed synthesis, termed "contextual positivism" or "responsive formalism," recognizes constitutional text supremacy as the starting point of interpretation while allowing rational and accountable interpretative flexibility to accommodate social context and substantive justice demands. This model is grounded in the principle that legal certainty and substantive justice are not mutually exclusive but reconcilable through sophisticated interpretative methodology.

Operationalizing this synthesis requires clear methodological criteria. First, the principle of normative hierarchy mandates that interpretation begins with constitutional text and deviates only when literal meaning produces manifest injustice or contradicts fundamental democratic constitutional principles. Second, the principle of proportionality requires that any rights limitation pursue legitimate aims, employ rational means, and ensure that societal benefits outweigh rights infringements. Third, the principle of non-discrimination ensures equal protection regardless of religion, ethnicity, gender, or socioeconomic status as guaranteed by Articles 27 and 28D of the Constitution. Fourth, the *pro libertate* principle dictates that normative ambiguity should be resolved in favor of maximal rights protection (Jitmau et al., 2025).

The implementation of this integrative model necessitates paradigm shifts in legal education and legal culture, which remain dominated by legalistic positivism. Legal education must cultivate philosophical awareness and critical reflection alongside technical skills to foster jurists capable of balancing formal legality with social justice. Furthermore, political commitment to judicial independence is essential to safeguard constitutional interpretation from short-term political interests (Gali et al., 2024).

Finally, this model must accommodate Indonesia's distinctive legal pluralism by balancing constitutional supremacy with recognition of customary and religious legal systems, as mandated by Article 18B paragraph (2). Through the concept of "contextual universalism," universal human rights values such as dignity, equality, and non-discrimination can coexist with culturally specific implementation, provided their essential substance remains intact (Nurfadilah & Rachmadi, 2024).

This study is subject to limitations inherent in normative juridical research, including its argumentative and prescriptive nature, potential selection bias in judicial decisions analyzed, and interpretative subjectivity. Nevertheless, by emphasizing internal coherence and traceability of constitutional norms and judicial reasoning, this research offers a robust theoretical contribution while remaining open to refinement in response to evolving constitutional jurisprudence and social justice demands.

The findings are directly relevant to policy and regulatory implementation because they provide a structured interpretive framework for assessing whether statutory restrictions on rights are constitutionally justified in both formal and substantive terms. For policymakers and legislators, the proposed criteria (normative hierarchy, proportionality, non-discrimination, and pro libertate) can function as ex ante standards in drafting and harmonizing legislation. For the Constitutional Court, the framework offers an ex post review guide to improve methodological consistency in judicial review cases involving human rights limitations.

4. Conclusions

The dialectic between legal positivism and sociological jurisprudence in the regulation of human rights under the 1945 Constitution demonstrates that the normative construction of Chapter XA Articles 28A to 28J does not represent a single school of legal philosophy. Rather, it constitutes a paradigmatic synthesis combining the formal and hierarchical system characteristic of legal positivism with recognition of social values and societal responsiveness. Positivistic characteristics are reflected in the explicit enumeration of constitutional rights and statutory-based limitation mechanisms affirming normative hierarchy, while the influence of sociological jurisprudence is evident in the recognition of legal pluralism in Article 18B paragraph two and the emphasis on social responsibility in Article 28J paragraphs one and two, linking limitations on rights to moral considerations, religious values, and public order within a democratic society. These findings affirm that the tension between legal certainty and substantive justice is not dichotomous but dialectical, with direct implications for the Constitutional Court's interpretive practices, which demonstrate methodological variation between formalistic and progressive approaches. Accordingly, this study concludes that an interpretive model in the form of contextual positivism or responsive formalism is relevant for application, as it enables the constitutional text to serve as the primary point of departure while allowing controlled contextual flexibility through the principles of normative hierarchy, proportionality, non-discrimination, and pro libertate. This study is limited by its normative juridical design, which renders the findings argumentative and prescriptive rather than empirically measuring the effectiveness of human rights protection, as well as by potential selection bias in Constitutional Court decisions and interpretive subjectivity, mitigated through internal coherence testing and traceability of arguments grounded in constitutional norms and judicial reasoning. Practically, the proposed model has implications for several stakeholders. For constitutional judges, it offers a structured method for rights-based adjudication. For legislators and policymakers, it provides constitutional benchmarks for drafting and harmonizing legislation consistent with proportionality and non-discrimination standards. For legal education institutions and civil society actors, it offers a framework for strengthening constitutional literacy and rights-based legal advocacy in a plural democratic society. Future research may develop empirical socio-legal studies to examine how this interpretive model operates in regulatory and administrative practice, expand doctrinal analysis across different clusters of rights to test its consistency, and conduct institutional studies on how judicial culture and legislative dynamics influence interpretive choices in human rights adjudication.

Supplementary Materials: The following supporting information can be downloaded at: <https://legal.isha.or.id/index.php/legal/index>, Figure S1: title; Table S1: title; Video S1: title.

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