

Interpretation of Constitution in Indonesia: Orisinalism, Non-Orisinalism, or Explicism

¹Dodi Haryono

***Abstract--**In Indonesia, the originalism and non-originalism approaches in interpreting the constitution are used by the Constitutional Court of the Republic of Indonesia without having to be distinguished. This can be justified both theoretically, practically, and juridically in Indonesia. It's just that the use of such a mixed approach contains its own strengths and weaknesses. This article explains and analyzes the use of various methods of interpreting the constitution, especially in the practice of constitutional justice in Indonesia. Then explain and put forward the idea of developing a method of interpreting the constitution that is unique to Indonesia. In the end, this article recommends that the interpretation of eclecticism as applied by the Indonesian constitutional court is worthy of continuing development. Nevertheless, its use should be carried out holistically, integratively, and dynamically and linking it with the ideology of Pancasila as the basis of the Indonesian state*

***Key words--**Orisinalism, Non-Orisinalism, Or Explicism*

I. INTRODUCTION

Interpretation of the constitution (constitutional interpretation) is an interpretation of the provisions contained in the constitution or the basic law (interpretation of the basic law). This article is more focused on the interpretation of the constitution carried out by the constitutional court. For this reason, a broader interpretation of the constitution is defined as a process of adjudication in which the constitutional court seeks clarity of meaning for a number of rules, norms, or principles in constitutional texts with certain standards and methods for resolving certain constitutional issues. This definition refers to combining several definitions made by several experts regarding the interpretation of the constitution. The interpretation of the constitution carried out by this court institution is generally closely related to constitutional review activities. Generally, constitutional review in various countries is carried out by court institutions, so it is also called "judicial review on the constitutionality of law". The reason is that the judiciary is seen as being more objective in conducting a constitutional review than other state institutions. This is consistent with the doctrine of independence inherent in the judiciary. However in some countries, there are also those who give authority to conduct constitutional review to legislative institutions, executive institutions or other institutions. While in Indonesia, the interpretation of the constitution is carried out by the Constitutional Court of the Republic of Indonesia (MK RI), particularly in terms of judicial review of the 1945 Constitution.

Discourse about the debate around the method of interpreting the constitution leads to two major streams, namely the flow of originalism and non-originalism. Nevertheless, in the development of the study of constitutional interpretation at this time also known as the flow of eclecticism, the flow of constitutional interpretation that is a mixture of originalism and non-originalism. Each school of interpretations of the constitution is depicted tend to be conflicting and have various arguments in defense of their opinions. Starting

¹Doctoral Candidate of the Faculty of Law, University of Indonesia-Associate Professor of the Faculty of Law, University of Riau.
Email: dodispakning@gmail.com

from the description above, it is interesting to study where the position of the Constitutional Court of the Republic of Indonesia is in the realm of debates of various streams of interpretation of the existing constitution. In the judicial practice of the Constitutional Court in Indonesia, various streams and methods in interpreting the constitution are often used by the Constitutional Court not rigidly. This is always associated with the doctrine of judicial independence, in which the judiciary and its judiciary are free from any influence in exercising their authority, including being free to use various methods in various streams of constitutional interpretation. The question then is whether the interpretation of the constitution in the Constitutional Court of the Republic of Indonesia can be said to be eclectic in nature.

Although it is assumed that the interpretation of the constitution in the Constitutional Court of the Republic of Indonesia is eclectic, it can also be questioned whether the choice of such a Constitutional Court shows its inconsistency in using various methods of interpreting the constitution? eclectically. Not to mention the problem of eclectic conception of interpretation which has its own methodological problems. The crucial issue is related to how the eclectic interpretation is carried out so that it can be judicially, theoretically, and practically responsible. Especially in reality, not infrequently the results of the interpretation of the Constitutional Court in various decisions that use various streams and methods of interpreting the constitution cause polemic among experts and the public in Indonesia. This article explains and analyzes the use of various methods of interpreting the constitution, especially in the practice of constitutional justice in Indonesia. This article starts by explaining the general interpretation of the constitution. Then explain and analyze the development of the method of interpreting the constitution in Indonesia and its position in the debate of various streams in constitutional interpretation. Then explain and put forward the idea of developing a method of interpreting the constitution that is unique to Indonesia. In the end, this article recommends that the interpretation of eclecticism as applied by the Indonesian constitutional court is worthy of continuing development. Nevertheless, its use should be carried out holistically, integratively, and dynamically and linking it with the ideology of Pancasila as the basis of the Indonesian state.

II. METHODOLOGY

Typically two major schools are known in interpreting the constitution namely originalism and non-originalism. Differentiation between the two streams of interpretation of the constitution generally develops in countries that adhere to the common law tradition. The main issue that caused the debate between these two streams is related to two fundamental questions. First, whether the provisions of the constitution must be interpreted with the meaning that developed at this time or must be interpreted with the same meaning when the constitution was formed or enacted. Second, whether the constitutional meanings are determined by the original intention (intention) of constitutional formers or the objectives to be realized by the constitutional formers themselves. For supporters of originalism, the meaning of the constitution must be interpreted with the same meaning when the constitution is formed or enacted and determined by the original intention, purpose, or understanding of its constituents. On the other hand, supporters of non-originalism reject the views of those who support originalism. There are various expert opinions regarding the description and classification of originalism and non-originalism. In the flow of originalism, for example, Colby and Smith classify this flow of originalism between original intent theory and original meaning theory. Unlike the case with Goldsworthy which mentions three groups of originalism, namely original literal meaning, original intentions, and original public meaning.

While Maggsa explains three variants of originalism, namely: original intent, original understanding, and original objective meaning.

Although there are differences of experts, in general there are 8 propositions that support the argumentation of this originalism, namely: 1) the constitution has its own meaning before being interpreted by the court; 2) changing the meaning of the constitution means changing the constitution; 3) the original meaning of the constitution rests on the utterance meaning; 4) the constitution can only be changed by a special democratic procedure, so that it is binding on the judge not to change it; 5) judges who interpret the constitution beyond justified conditions will conflict with the conception of the rule of law, democratic principles, and the principles of federalism; 6) the main task of the judge in interpreting the constitution is to express and clarify the meaning of the pre-existing constitutional text; 7) there is a legitimate way to develop the constitution through interpretation; and 8) interpretation is carried out within the limits that are possible in the meaning of the constitutional text itself. It is different with originalism, for the nonoriginalism that the meaning of the constitution can be developed or modified in accordance with current developments, so that the provisions of the constitution must not be interpreted based on the conditions at the time the constitution was formed. Nonoriginalism is often referred to as a flow that considers that the constitution has a dynamic meaning or often referred to as "living constitution". Thus, the constitution is seen as "not a historically rooted and historically expressed set of legal principles". However, "the set of principles of a particular group of persons (ie, the final court in the jurisdiction) happens to presently select as the constraints that, as a matter of contemporary political and philosophical considerations, ought to be imposed upon governmental power".

Thus, there are at least two important points of view of the flow of non-originalism in interpreting constitutional provisions. First, pragmatically, interpreting the constitution in accordance with the original meaning in accordance with the formulation and conditions at the time the constitution was formed cannot be applied to provide answers to problems that occur later. Second, related to the purpose of the constitution, the formulator of the constitution formulates the constitution broadly and flexibly which results in a dynamic constitution. Strictly speaking, the flow of non-originalism requires dynamic views, and rejects strict or rigid views in interpreting constitutional texts. In addition to the two streams described above, there is actually one more flow in the interpretation of the constitution, namely eclecticism. It's just that this last stream variant is indeed less popular in the study of constitutional interpretation, especially in Indonesia. Nevertheless, in various existing legal literature, such variants are not non-existent at all. Some of the writings that the authors found have explained the existence of this kind of eclecticism variant, albeit with various mention. In this flow, the use of various methods of interpreting the constitution tends to be combinative or mixed so that it can be categorized as a third variant of the flow of constitutional interpretation, in addition to originalism and nonoriginalism. Feldman explained that this flow of eclectic interpretations sought to integrate various methods of interpreting the constitution, both originalism and non-originalism in interpreting the constitution. Because the use of only one method of interpretation, apparently not necessarily able to satisfy the search for the meaning of the constitution in solving the problem of constitutionality. Garvey et al. mention it in terms of the method of balancing or combination in interpreting the constitution using various methods of interpreting the constitution, originalism and non-originalism.

Likewise, Bobbitt explained the six typologies of constitutional interpretation namely historical, textual, structural, prudential, doctrinal, and ethical used in a combinative manner. Next, Griffin with his pluralistic theory postulates the legitimacy of using many methods in interpreting the constitution. In fact, Barber and Fleming expressly state that "fidelity" in the interpretation of the constitution requires what he calls "A Fusion of Approaches to Constitutional Interpretation". From the explanation above it can be concluded that there are various streams of interpretation of the constitution known theoretically with their respective arguments. It cannot be ascertained that one stream can be said to be truer than the other. In the end, the selection of various methods of interpreting the constitution in various streams is largely determined by the knowledge and attitude of the judge towards the views of various streams in constitutional interpretation. The most important thing is that whatever choice of interpretation method used by the judge must be based on strong arguments and can be objectively accounted for. Likewise, the consistency of judges in using various methods of interpreting the constitution, especially in resolving cases that are essentially the same, will largely determine the credibility of judges in the public eye.

III. RESULT

a. Authority in Interpreting the Constitution

As explained earlier that the interpretation of the constitution in general is closely related to the activity of constitutional review. In the Indonesian context, constitutional review is conducted by a separate court institution, the Constitutional Court. Before the third amendment of the 1945 Constitution, constitutional review in Indonesia had been carried out by the legislative body (the House of Representatives-Gotong Royong) together with the Government. Thus, in the history of Indonesian constitutionality, it is known that there is a constitutional review conducted by the legislative body together with the executive and at present the authority has been transferred to the Constitutional Court. The authority of the Constitutional Court in conducting constitutional review is inherent with one of its authorities to examine the law against the 1945 Constitution (constitution). This is confirmed in Article 24C paragraph (1) of the 1945 Constitution which reads: "The Constitutional Court has the authority to adjudicate at the first and last level whose decisions are final to test the law against the Constitution, decide upon disputes over the authority of state institutions whose authority is given by the Constitution, decide upon the dissolution of political parties, and decide on disputes over the results of general elections".

The word "law" in Article 24C paragraph (1) of the 1945 Constitution is indeed written in small letters, so it can be interpreted broadly to include all forms of legislation. However, in the initial practice of constitutional review by the Constitutional Court, the word "statute" referred to is interpreted as "Law", so it connotes to the product of laws and regulations formed by the Parliament and the President. It's just that after Decision Number 138 / PUUVII / 2009, there has been an expansion of the meaning of "testing the law", including "testing Government Regulations in lieu of Laws / Perpu", in addition to testing the Law. Thus, the current review of laws in Indonesia includes testing of the Law and Perpu on the 1945 Constitution. Furthermore, the provisions of Article 10 Paragraph (1) Letter a of Law Number 24 Year 2003 concerning the Constitutional Court reaffirms the authority of the Constitutional Court in conducting constitutional testing. The complete provisions of Article 10 paragraph (1) read as follows: "The Constitutional Court has the authority to adjudicate at the first and last level whose decisions are final to: examine the law against the 1945 Constitution

of the Republic of Indonesia; decide upon disputes over the authority of state institutions whose authority is granted by the 1945 Constitution of the Republic of Indonesia; decide upon the dissolution of political parties; and decide upon disputes over the results of general elections ". Based on the legal basis above it can be concluded that the Constitutional Court has the authority to conduct constitutional review in Indonesia. This means, the Constitutional Court is also authorized to interpret the constitution, because constitutional review in general can not be separated from interpreting the provisions in the constitution. Nevertheless, the object of constitutional review by the Constitutional Court in Indonesia is only limited to legal products in the form of Laws and Perpu on the 1945 Constitution which have been officially ratified and enacted so that they are *a posteriori* (judicial review), not *a posteriori* (judicial preview).

The Dynamics of the Constitution Interpretation Method As is commonly known that the Indonesian legal system is strongly influenced by the Continental European legal tradition, because Indonesia was colonized for a long time by the Dutch East Indies Colonial who oriented to the Continental European legal tradition. In general, Continental European legal traditions prioritize written legal provisions rather than unwritten law. The implication is that the use of the method of interpreting the law is more directed towards the flow of originalism, especially in court practice in general in Indonesia. However, in the development of the Constitutional Court's judicial practice in Indonesia today, various approaches and methods of interpreting the constitution are often used by judges together with other methods of interpreting the constitution, both of which are originalism and nonoriginalism. Even the method of interpreting the constitution is often equated with the method of interpreting the law in general, such as grammatical, authentic, teleological, historical, futuristic, systematic, restrictive, or extensive interpretation. All of them are used by the Constitutional Court in interpreting the constitution, especially in examining laws against the 1945 Constitution. This means that the originalism approach in the European Continental legal tradition does not have a strong influence on the practice of constitutional courts in Indonesia today.

The Constitutional Court Judge of the Republic of Indonesia (MK RI) is not always oriented towards the flow of originalism, even though the Indonesian legal system is more influenced by Continental European legal traditions. It is not uncommon for Constitutional Court Judges to use various approaches or methods in the flow of nonoriginalism, which are generally widely adopted in countries with Anglo Saxon legal traditions. This is normal, because the development of law today in several countries shows that the Continental European legal tradition and the Anglo Saxon legal tradition are close to each other and influence each other, as is the case in the development of the Indonesian legal system. Thus, the Constitutional Court of the Republic of Indonesia uses a variety of methods and approaches to interpreting the constitution, both of which can be categorized in the group of originalism and non-originalism, especially in testing the law against the 1945 Constitution. Both can be used by judges of the Constitutional Court RI in interpreting the constitution. This also also shows that the use of various styles and methods of interpreting the constitution by the Constitutional Court of the Republic of Indonesia tends to be eclectic. The existence of an eclecticism tendency in interpreting the constitution by the Constitutional Court Judge of the Republic of Indonesia can also be seen from the legal considerations in several decisions made by the Constitutional Court. Among other things in the Constitutional Court Decision Number 1-2 / PUU-XII / 2014, where the Constitutional Court emphasized the importance of using originalism methods to avoid overly free interpretation, especially on the provisions governing state institutions in the 1945 Constitution. Meanwhile in the MK Decision Number 005 / PUU -IV / 2006, it was stated that the

Constitutional Court was not merely focused on the method of interpreting "originalism" in interpreting the constitution. Thus it can be concluded that the Constitutional Court in addition to using various methods in the flow of originalism, also uses various methods in the flow of nonoriginalism, especially in interpreting the constitution.

In the two decisions of the Constitutional Court above contained a statement that the Constitutional Court views both the interpretation of originalism and nonoriginalism have an equally important position in interpreting the constitution. On the one hand the Constitutional Court does not want to be too rigid in interpreting the constitution by holding fast to the interpretation of originalism. But on the other hand the Constitutional Court is also aware of the dangers of interpreting the constitution in a nonoriginalist manner if it is done too freely. Rigid interpretation of the constitution tends not to be able to follow the development of society as the views of critics of the originalist interpretation model are allegedly too inclined to Text-Based Theories. On the contrary, the interpretation of the constitution carried out very freely by the Constitutional Court judges could potentially lead to arbitrary behavior so that it could lead to disobedience to the constitution itself, as the views of the critics of the nonoriginalist interpretation model were allegedly too inclined to Practice-Based Theories. Even based on the author's research, it can also be concluded that the use of the eclectic interpretation method is used more by the Constitutional Court in various decisions than the other interpretation methods (originalism or non-originalism. against the 1945 Constitution from 2015 to 2018 as follows:

Table 1 Constitutional Interpretation Methods in Decisions of the Constitutional Court whose Decision Grants the Petition for Judicial Review of the 1945 Constitution from 2015 to 2018

Year	Total decisions	Interpretation method originalism	
		Originalisme	Nonoriginalisme plus Eklektisisme
2015	25	5	20
2016	19	2	17
2017	22	3	19
2018	15		12
Total	81	13	68

Based on the above table it can be concluded that of the 81 Constitutional Court Decisions whose decision granted the petition for testing from 2015 to 2018, only 13 decisions (16.05%) used the original method of interpretation. Whereas 68 decisions (83.95%) use eclectic-style interpretation methods. The use of non-originalism interpretation methods is basically contained in eclecticism interpretation methods. This means, the Constitutional Court in some of its decisions meant not only using pure non-originalism approach, but also combining it with the method of interpreting originalism. This also strengthens the conclusion that the general tendency for the use of constitutional interpretation methods by the Constitutional Court of the Republic of Indonesia is more eclectic.

b. Future Development

As explained earlier that the practice of using the constitutional interpretation method by the Constitutional Court in Indonesia tends to be eclectic. The problem is, can such practice be justified theoretically? When referring to a variety of legal literature related to the interpretation of the constitution, it is not found that there are strong arguments related to the obligation of judges in choosing a particular flow or method of approach in interpreting the constitution. As confirmed by Clark that there is no list of definite constitutional interpretations in the discussion of constitutional interpretation. Various constitutional law literature states various models or methods of interpreting the constitution with their respective justifications. Likewise Rubenfeld's opinion in explaining the practice of using the method of interpreting the constitution in the United States. According to him, in the United States there is not even one consensus that determines the method of interpretation of certain constitutions that is most appropriate. Thus, the use of an approach or method of interpreting the constitution in an eclectic (combinative) manner as applied by the Constitutional Court of the Republic of Indonesia can be justified theoretically. In the Indonesian context, this can also be justified legally.

By examining a number of provisions contained in the 1945 Constitution, the Law and the Constitutional Court Regulations relating to the review of the law against the 1945 Constitution can be explained as follows:

In Chapter IX concerning Judicial Power, Article 24 paragraph (1) of the 1945 Constitution states: "Judicial Power is an independent power to administer justice in order to enforce law and justice". Furthermore, Article 24C Paragraph (1) states that: "The Constitutional Court has the authority to adjudicate at the first and last level whose decisions are final to examine the law against the Basic Law, decide upon disputes over the authority of state institutions whose authority is granted by the Basic Law, decide the dissolution of political parties and adjudication of disputes over the results of general elections. " Based on this provision, it can be concluded that there is the principle of independence of judges in exercising their authority and the absence of restrictive provisions on the use of certain interpretive approaches or methods in testing the law against the 1945 Constitution.

In Article 10 paragraph (1) letter a of Law Number 24 Year 2003 concerning the Constitutional Court it is stated that: "The Constitutional Court has the authority to adjudicate at the first and last level whose decisions are final for: reviewing the law against the 1945 Constitution of the Republic of Indonesia ". Further provisions in this Law do not explain the limits or methods of interpretation that can be used in testing the 1945 Constitution against the 1945 Constitution.

In Article 3 paragraph (1) of Law Number 48 Year 2009 concerning Judicial Power, which states: "In carrying out its duties and functions, judges and constitutional judges must maintain judicial independence". This provision provides for the independence of the judiciary, including independence in using various existing methods of legal interpretation.

In CHAPTER VII: DECISION, Regulation of the Constitutional Court Number 06 / PMK / 2005 concerning Guidelines for Procedure in Case Testing of Laws, also there was not found a specific provision governing what interpretation methods should be used by judges to be included in the Constitutional Court decision related to testing of the Law against the 1945 Constitution.

Referring to several laws and regulations above, it can be concluded that there is no obligation for Constitutional Court justices to choose and use only one method of interpretation of certain constitutions, both of which have the character of originalism and nonoriginalism. Even Constitutional Court judges can use the eclectic constitutional interpretation method as applied by the Constitutional Court so far. Of course this is also in accordance with the doctrine of independence and independence of judges adhered to in the judicial power system in Indonesia. Therefore, through this article, the author recommends that the Constitutional Court of the Republic of Indonesia continue to develop the use of interpretation methods that are eclecticism in interpreting the constitution. The reason is first, this method is more relevant to the nature of the 1945 Constitution (the Indonesian Constitution) which generally contains abstract provisions so as to demand a flexible interpretation model. Second, this method is also in accordance with the nature of the Pancasila ideology as the basis of an open Indonesian state, so that it requires a static interpretation model (originalism) as well as dynamic (non-originalism). Third, this method can be justified theoretically or practically. Theoretically, the method of interpreting eclecticism is well known in the study of the interpretation of the constitutions of various countries. In fact, this method is expected to be able to overcome the complicated debate between supporters of originalism and non-originalism advocates. While practically, this method has been generally applied in the practice of handling cases of judicial review conducted by the Constitutional Court today, especially in Indonesia. Finally, this method can be legally accounted for in the context of Indonesian laws and regulations as explained above. Even so, the use of an eclectic constitutional interpretation method as applied by the Constitutional Court of the Republic of Indonesia so far can be criticized for its strengths and weaknesses. The advantage is that the use of an approach or method of interpreting the constitution can realize a constitutional interpretation activity that is dynamic and not rigid, so that it can better support the realization of a holistic or non-partial interpretation pattern that can be adapted to the development of society. The complexity of constitutional issues today, indeed demands the creativity of judges in integrating various approaches or methods of interpreting the constitution. Even this development trend also occurs in several countries. This of course requires an open attitude from the Constitutional Court Judge of the Republic of Indonesia towards various approaches or methods of interpreting the constitution, not the other way around being rigid.

But on the other hand, the eclecticism of using the approach or method of interpreting the constitution, let alone carried out carelessly contains certain weaknesses, especially related to the consistency of the judge's attitude in resolving constitutional issues. In the end, this can lead to ambiguous decisions. This condition will also have implications for the declining aspects of fulfilling the legal certainty of court decisions and may reduce the level of public confidence in the decisions of the Constitutional Court. For this reason, a careful attitude and prudence is needed from the Constitutional Court Judge of the Republic of Indonesia, especially in using various approaches or methods of interpreting the constitution that are developing, especially the eclectic interpretation method. Therefore, it is important for the Constitutional Court to develop a holistic, integrative and dynamic approach in using eclectic interpretation methods. On one hand the judge still has independence and independence in interpreting the constitution in accordance with the development of society, but on the other hand the interpretation of the constitution produced by the judge in his decision must be accounted for in accordance with the general rules that apply in the interpretation of the constitution (canons of constitutional interpretation). Thus, the interpretation of the constitution carried out by the Constitutional Court of the Republic of Indonesia has more legitimacy and strong justification. One variant of eclecticism interpretation

methods that can be developed to meet the demands referred to is the purposive interpretation method developed by Aharon Barak. According to the authors, this method is relevant to be developed in Indonesia in order to realize a holistic, integrative, and dynamic interpretation method. Because this method combines various approaches of hermeneutics, legal interpretation and constitutional interpretation in general. Including combining the use of various methods known in the flow of originalism and non-originalism in interpreting constitutional provisions. The characteristics of Barak's purposeful interpretation include: the concept of comprehensive interpretation; holistic interpretation perspective; the structure of the interpretation of law that resolves conflicts between the intentions of lawmakers and the values of the legal system; and recognition of the importance of court discretion with certain limitations. As Barak emphasized that the purposive interpretation he developed could be used in interpreting all types of legal texts, including the constitution. This was explained by Barak in three main components of purposive interpretation, namely language, purpose and discretion.

The language or semantic component functions to set the limits of interpretation by limiting the interpreter to look for the legal meaning covered in the text. The objective component is more of a normative concept, which is a legal construction related to the function in which the text is designed to fulfill the legal purpose itself. The objective component is a synthesis between objective norms and subjective norms. Finally, the court discretion component plays the main role in determining the ultimate goal, after establishing the appropriate significance for each presumption of subjective and objective objectives, including the resolution of possible conflicts between the two goals. Court discretion according to Barak here is not a psychological concept, but rather reflects a normative position. The subjective elements of legal norms are in the form of subjective objectives, intentions of lawmakers, and subjective teleology. The essence of subjective goals focuses on the intentions or subjective intentions of the lawmakers themselves. The intended intention includes values, goals, interests, policies, goals, and functions that are desired by legal formers. This objective is the real purpose of the text of the rule of law at the time it was created, not the hypothetical goal that the text might have. In the context of the interpretation of the text of the rule of law in court, the judge should examine the internal aspects of the text itself, besides the extrinsic aspects of the context in which the text was made. Whereas the objective elements of legal norms in the form of objective intentions, intentions of lawmakers who make sense, and the fundamental values of a legal system, as well as objective teleology. The objective objective of the legal text is the intention of the makers of the rule of law that can be accepted by common sense. At a high level of abstraction, this objective objective is also related to the intention of the prevailing legal system. In this context, purposive interpretation is a legal construction that reflects the needs of society as an ideal social expression or is called the process of social construction. Nevertheless, the judge's interpretation of these objective elements is limited by the semantic limitations contained in the legal text itself. In purposive interpretation, the two subjective and objective elements above are combined so that they work together in the interpretation process in order to obtain the most appropriate purpose of the text of the rule of law interpreted. That is why the legal text interpretation model developed by Barak is said to be purposive. Because the goal is to achieve the goals that have been designed in a legal text, especially the goals that are most appropriate among the several goals contained in a legal text.

As Barak stressed that the nature of legal interpretation by judges is not to search for the "true" meaning of a legal text, because that is not possible. However, it is more an effort to find the best or best meaning of a legal text through the discretionary authority possessed by judges with certain limitations. For this

reason, purposive interpretation theory seeks to combine the normative and empirical interpretation of legal texts simultaneously. The two cannot be separated analytically. Referring to the brief description of the purposive interpretation method above, the flow of constitutional interpretation used by Barak includes semantic components, subjective goals, objective objectives, and ultimate goals. Strictly speaking, this method seeks to balance the use of various methods of interpreting the constitution (originalism and non-originalism) in interpreting the constitution. If this purposive method is to be developed in Indonesia, then one more component needs to be considered in interpreting the constitution, namely the Pancasila values component as the ideology and ideals of the Indonesian State law or it can also be called an ideological objective component. The five components should be applied in interpreting the constitution in a series of spiral hermeneutics. The flow of interpretation is not a stage, but goes back and forth until the results of the most appropriate or best interpretation are found. In this context, the judge needs to harmonize and balance by providing a specific weighting point among the various objectives found in the constitutional review case being handled. As an idea that still needs to be debated academically, at least the purposive method developed by Barak has begun the search for holistic, integrative and dynamic interpretation methods in interpreting the constitution. So, it is no longer struggling in a polemic between originalism or non-originalism an-sich. The two streams in the interpretation of the constitution should be integrated in harmony. Nevertheless, the purposive interpretation method is not the only method that can be claimed to be the most correct in the variant interpretation of eclecticism. Therefore, it is possible to develop variants of other eclectic interpretation methods, especially those that are relevant to the Indonesian context.

IV. CONCLUSION

Typically two major schools are known in interpreting the constitution namely originalism and non-originalism. If 'originalism' holds that the provisions of the constitution must be interpreted with the same meaning at the time the constitution was formed or enacted, and determined by the original intention, purpose, or understanding of its constituents. On the other hand, supporters of non-originalism reject the views of those who support originalism, and rather interpret the provisions of the constitution dynamically without having to be tightly bound to the original meaning of the provisions of the constitution. But the development of today, also known as other variants, namely eclectic flow. In this last stream, the use of various methods of interpreting the constitution tends to be combinative or mixed so that it can be categorized as a third variant of the flow of constitutional interpretation, in addition to originalism and nonoriginalism. All of these schools have their own views and arguments, so it cannot be decided which is the most correct. In Indonesia, the tendency to use constitutional interpretation methods is more eclectic. This can be justified both theoretically, practically, and juridically. This conclusion is also strengthened in various Constitutional Court decisions, especially in the Constitutional Court Decisions which approved the petition for judicial review of the 1945 Constitution. verdict (16.05%) using original interpretation method. Whereas 68 decisions (83.95%) use eclecticism-style interpretation methods. The use of non-originalism interpretation methods is basically contained in eclecticism interpretation methods. Apart from its weaknesses and strengths, this eclecticism-based interpretation method deserves to be developed in Indonesia. For this reason, various variants of eclectic interpretation methods need to be studied more deeply in Indonesia. Nevertheless, the development of eclectic interpretation methods in Indonesia should lead to a holistic, integrative, and dynamic interpretation model. In addition, its development

must also be adapted to Pancasila as an open ideology of the Indonesian State.

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