

Interpretation, Inclusiveness, and Ambiguity: A Critique of Rule Design in Modern Legal System

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Abstract

This paper analyzes three critical concerns in the formulation of contemporary legal regulations: the propensity for over- or under-inclusiveness, ambiguity in application, and interpretive difficulties. This study utilizes a normative-doctrinal legal methodology within an interdisciplinary framework, incorporating jurisprudence, legal linguistics, and regulatory theory, to argue that rules function not solely as normative instruments but as socio-linguistic constructs shaped by power dynamics and interpretive communities. The intrinsic abstraction and prescriptive characteristics of legal language led to ambiguity and practical uncertainty. This paper challenges the formalistic assumptions inherent in traditional rule-making through a conceptual examination of the difference between rules and standards and a multidimensional exploration of rule typologies, including

legal status, language structure, and normative power. The research moreover suggests strategic methods to enhance regulatory efficacy and flexibility, including the formation of interpretative communities and the implementation of goal-oriented regulatory frameworks. The findings seek to enhance the development of regulatory systems that are contextually adaptive and normatively consistent, providing insights for improved legal rule formulation in evolving social contexts.

Keywords

Legal rules; Modern legal system, Regulatory design; Lawmaking.

I. Introduction

In any extensive social collective, overarching norms, standards, and principles must function as the principal mechanisms for regulating behavior.¹ This contrasts with methods that depend on providing personalized directives to each individual. In the absence of explicit and communicative rules of conduct, the fundamental notion of law, as we see it, would cease to exist.² H.L.A. Hart asserted that rules are an indispensable component of law and, hence, of legal regulation.³ Nonetheless, despite their fundamental significance, rules have intrinsic limits that have been extensively recorded in legal and regulatory research.

¹ Naomi Ellemers, *Morality and the Regulation of Social Behavior: Groups as Moral Anchors* (London: Routledge, 2017), <https://doi.org/https://doi.org/10.4324/9781315661322>.

² Omri Ben-Shahar and Ariel Porat, *Personalized Law: Different Rules for Different People* (Oxford: Oxford University Press, 2021), <https://doi.org/https://doi.org/10.1093/oso/9780190949473.001.0001>.

³ H. L. A. Hart, *The Concept of Law* (Oxford: Clarendon Press, 1994).

Rules serve as normative devices dictating conduct and as reflections of power systems and social dynamics.⁴ Their existence is dynamic; laws evolve in conjunction with changes in political, economic, and social situations.⁵ Comprehending rules involves not just acknowledging their normative language but also examining their formulation, execution, and modification in practice.⁶ Rules inherently display ambiguity or indeterminacy.⁷ Furthermore, they often exhibit tendencies of being too inclusive or inadequately inclusive.⁸

According to Schauer, rules function as limitations on too sensitive decision-making.⁹ They constrain discretion, hence fostering regular and mechanistic decision-making processes. Schauer observes that inflexibly enforced regulations may obstruct adaptability and responsiveness in managing intricate social and economic processes. Regulatory tools, such as rules, encounter limits highlighted in both empirical and theoretical literature about legal enforcement and regulatory compliance.¹⁰ Often linked to ‘command and control’

⁴ Julia Black, “Critical Reflections on Regulation,” *Australian Journal of Legal Philosophy* 4 (2002): 10–20, <https://eprints.lse.ac.uk/35985/1/Disspaper4-1.pdf>.

⁵ Ibid.

⁶ Clement Guitton et al., “Identifying Open-Texture in Regulations Using LLMs,” *Artificial Intelligence and Law*, 2025, <https://doi.org/10.1007/s10506-025-09450-0>.

⁷ Christopher L. Kutz, “Just Disagreement: Indeterminacy and Rationality in the Rule of Law,” *The Yale Law Journal* 103, no. 997 (1990): 998, https://openyls.law.yale.edu/bitstream/handle/20.500.13051/8806/39_103YaleLJ997_January1994_.pdf?sequence=2.

⁸ Susanne Therese Hansen, “Taking Ambiguity Seriously: Explaining the Indeterminacy of the European Union Conventional Arms Export Control Regime,” *European Journal of International Relations* 22, no. 1 (2016): 192–216, <https://doi.org/10.1177/1354066115584086>.

⁹ Frederick Schauer, *Playing by the Rules: A Philosophical Examination of Rule-Based Decision-Making in Law and Life* (New York: Oxford University Press, 1991).

¹⁰ Christian Ståhl, Daniel Lundqvist, and Cathrine Reineholm, “Improving Work Environments through Regulation: A Literature Review on the Influence of Regulation, Inspection Practices and Organizational Conditions in European Workplaces,” *Safety Science* 191, no. May (2025): 106917, <https://doi.org/10.1016/j.ssci.2025.106917>; Jodi L. Short, “The Politics of Regulatory Enforcement and Compliance: Theorizing and Operationalizing Political Influences,” *Regulation and Governance* 15, no. 3 (2021): 653–85, <https://doi.org/10.1111/rego.12291>.

regulation supported by formal penalties, norms are occasionally condemned for their ineffectiveness in practice.¹¹ It is essential to investigate the design and implementation of regulations across various regulatory environments. One of the primary difficulties to the efficacy of rules is their applicability in practical circumstances.¹² In recent decades, legal academics and politicians have progressively altered their comprehension of regulations in practice.¹³

Empirical research on rule enforcement demonstrates that the existence of a rule alone is inadequate; the methodology employed in its creation and implementation greatly influences its efficacy.¹⁴ Some researchers advocate for a compliance-oriented strategy instead of a stringent sanction-based paradigm.¹⁵ Furthermore, there is an increasing advocacy for decentralizing rule-making authority, enabling independent entities or groups to formulate regulations within specified parameters. This facilitates enhanced adaptability and conformity with the particular requirements of several regulatory bodies. Nonetheless, this decentralization introduces specific issues, especially regarding standards and supervision.

This paper seeks to analyze the constraints of regulations using an empirically-informed theoretical framework, utilizing jurisprudential

¹¹ Short, “The Politics of Regulatory Enforcement and Compliance: Theorizing and Operationalizing Political Influences.”

¹² Laurenz Ramsauer, “The Efficacy Problem,” *Legal Theory* 30, no. 4 (2024): 255–72, <https://doi.org/10.1017/S1352325225000035>.

¹³ Ibid.

¹⁴ See, Lenka Fiala and Martin Husovec, “Using Experimental Evidence to Improve Delegated Enforcement,” *International Review of Law and Economics* 71 (2022): 106079, <https://doi.org/10.1016/j.irl.2022.106079>; Hanna Berkel, Christian Estmann, and John Rand, “Local Governance Quality and Law Compliance: The Case of Mozambican Firms,” *World Development* 157 (2022): 105942, <https://doi.org/10.1016/j.worlddev.2022.105942>.

¹⁵ See, Mary Condon and Poonam Puri, “The Role of Compliance in Securities Regulatory Enforcement The Role of Compliance in Securities Regulatory Enforcement,” Commissioned by the Task Force to Modernize Securities Legislation in Canada (Toronto, 2006), <https://digitalcommons.osgoode.yorku.ca/reports%0ARepository>; Özgür Özdamar and Evgeniia Shahin, “Consequences of Economic Sanctions: The State of the Art and Paths Forward,” *International Studies Review* 23, no. 4 (2021): 1646–71, <https://doi.org/10.1093/isr/viab029>.

and linguistic scholarship. The employed technique is a ‘back-to-basics’ framework: comprehending the essential nature of rules as regulatory tools, recognizing their limits, and investigating measures to enhance their efficacy. This study aims to enhance our comprehension of the optimal utilization of laws within contemporary regulatory frameworks.

Three principal solutions are suggested to mitigate the intrinsic constraints of regulations, each accompanied by distinct costs and ramifications. Initially, enhancing comprehension and implementation of diverse rule categories based on their settings. Secondly, focusing on the characteristics of the regulatory community addressed by the regulations. Third, tailoring regulatory approaches to align with the requirements and reality of the governed society. Comprehending the rule-making process is crucial, since rules serve both as normative standards and as reflections of the underlying social, political, and economic processes.

Rule creation frequently arises from intricate interactions among many parties, including the state, civic society, and the corporate sector.¹⁶ The efficacy of a rule is contingent not only upon its legal substance but also on its formulation process, implementation procedures, and ability to ensure compliance.¹⁷ A profound understanding of the essence and dynamics of regulations is essential. By comprehending their constraints and methods to enhance their efficacy, we may develop regulatory frameworks that are more responsive, equitable, and successful in attaining legal and public policy objectives.

Although legal principles are fundamental to contemporary legal systems, they frequently prove ineffective due to structural and language constraints that make them overinclusive, underinclusive, or ambiguous

¹⁶ Jonathan Fox, Rachel Sullivan Robinson, and Naomi Hossain, “Pathways towards Power Shifts: State-Society Synergy,” *World Development* 172, no. September (2023): 106346, <https://doi.org/10.1016/j.worlddev.2023.106346>.

¹⁷ Ramsauer, “The Efficacy Problem.” p.p. 125-130.

in their application. This is a crucial research inquiry: how may legal frameworks be formulated and organized to reconcile normative clarity with contextual adaptability, while also reducing interpretative uncertainty and regulatory shortcomings? This research aims to examine the fundamental attributes of legal norms, assess their constraints, and provide theoretical approaches for developing more adaptable and responsive regulatory frameworks.

II. Method

This study utilizes a normative legal methodology characterized by a conceptual and multidisciplinary approach. The study is based on a doctrinal approach that critically evaluates the theoretical basis, structural characteristics, and interpretation difficulties of legal laws, rather than depending on empirical facts or case studies. The research integrates viewpoints from jurisprudence, legal linguistics, and regulatory theory to uncover and assess the intrinsic constraints of rule-based governance, encompassing concerns of inclusivity, uncertainty, and semantic ambiguity.

Doctrinal elements, including legislation, legal principles, and scholarly commentary, are examined alongside significant theoretical contributions from academics such as H.L.A. Hart, Lon Fuller, Frederick Schauer, and Ludwig Wittgenstein, among others. The technique combines analytical reasoning and interpretative theory to examine the construction, comprehension, and implementation of legal standards within regulatory frameworks. This conceptual-legal framework facilitates a critical examination of the influence of legal language, rule structure, and institutional environment on the efficacy and legitimacy of legal regulation within contemporary legal systems.

III. The Nature of Rules

Within the realm of law and regulation, legal theorists have recognized three principal issues related to the application of rules: their propensity to be excessively inclusive or insufficiently inclusive, the intrinsic uncertainty in their enforcement, and the intricacy of their interpretation.¹⁸ These issues arise from two primary factors: first, the inherent qualities of the rules; and secondly, the nature of the language used to articulate them.

In legal systems, rules serve as normative standards regulating the behavior of people or organizations within society.¹⁹ Most rules are inherently prescriptive, delineating actions that should or should not be undertaken under specific circumstances.²⁰ Consequently, rules function as anticipatory and generalized abstractions, aiming to guide future conduct in accordance with pre-established standards.²¹ Upon receiving legal power, rules serve as a unique and authoritative form of communication within a normative framework.²² Legal norms, as linguistic constructs, are inherently influenced by the interpretative dynamics of language, including processes of understanding, application, and contextualization within social and legal frameworks.²³

¹⁸ Alexander Somek, *The Legal Relation: Legal Theory After Legal Positivism* (Cambridge: Cambridge University Press, 2017).

¹⁹ Michael Giudice, *The Normativity of Law* (Cambridge: Cambridge University Press, 2024), <https://doi.org/10.1017/9781009209854>.

²⁰ Robert Baldwin, "Why Rules Don't Work The Dimensions of Rules," *Review Literature And Arts Of The Americas* 53, no. 3 (2011): 321–37, <https://doi.org/10.1111/j.1468-2230.1990.tb01815.x>.

²¹ Tarunabh Khaitan and Sandy Steel, "Theorizing Areas of Law: A Taxonomy of Special Jurisprudence," *Legal Theory* 28, no. 4 (2022): 325–51, <https://doi.org/10.1017/S1352325222000192>.

²² Ibid.

²³ Roman Uliasz, "Cross-Cultural and Linguistic Dynamics in the Deterritorialization of Legal Concepts Through International Commercial Contracts," *International Journal for the Semiotics of Law* 38, no. 4 (2025): 1291–1313, <https://doi.org/10.1007/s11196-024-10207-2>.

Therefore, in analyzing the nature and constraints of rules, legal interpretive must be combined with linguistic investigation to reveal how the attributes of legal language influence the functionality and efficacy of rules.²⁴ This multidisciplinary approach enhances the knowledge of the issues associated with rule application, both conceptually and practically, thereby providing vital insights for the development of more flexible and responsive regulatory frameworks.

An exemplary instance of excessive inclusivity in Indonesian legislation is evident in Law No. 11 of 2008 concerning Electronic Information and Transactions (ITE Law), specifically Article 27(3), which forbids “any person who disseminates electronic information or documents that contain insults or defamation.” The clause, although designed to safeguard personal dignity, has faced significant criticism for its ambiguous and sweeping phrasing, which is seen excessively broad and includes valid expressions of opinion or public criticism.²⁵ The normative generalization inherent in the rule does not differentiate between malevolent assaults and constructive criticism, leading to a chilling impact on freedom of expression. This illustrates how excessively comprehensive legal design can inhibit favorable social behavior and disrupt the equilibrium between protection and rights:

a. Inclusivity

Rules inherently represent kinds of generalization.²⁶ The rule-making process entails identifying specific attributes of an event or object and abstracting them to establish categories or definitions that

²⁴ Mateusz Zeifert and Zygmunt Tobor, “Legal Translation Versus Legal Interpretation. A Legal-Theoretical Perspective,” *International Journal for the Semiotics of Law* 35, no. 5 (2022): 1671–87, <https://doi.org/10.1007/s11196-021-09837-7>.

²⁵ See, Mikhael Feka et al., “Navigating the Legal Minefield: The Impact of Articles 27A and 27B of Indonesia’s EIT Law on Freedom of Expression and the Path to Legal Reform,” *Journal of Law and Legal Reform* 6, no. 1 (2025): 265–304, <https://doi.org/10.15294/jllr.v6i1.19116>.

²⁶ Lon L. Fuller, *The Morality of Law*, Revised Ed (Virginia: Yale University Press, 1969).

are the operational foundation of the rule.²⁷ A librarian perturbed by a visitor's loud conversation may seek to implement a regulation to avoid like disturbances in the future. In establishing such a rule, the librarian must identify the features of the episode that are causally pertinent to the disturbance. It would be illogical to exclude all persons dressed in red or those with the same name as the disruptive guest. A more rational approach would identify noise as the source of the disruption and hence establish a regulation forbidding loud conversation in the library.

Although this example may seem straightforward, the process of rule-making is fundamentally intricate. Rule-makers must choose among numerous attributes of specific occurrences or objects, identifying those having a causal link to the rule's objectives to get favorable results or avert negative repercussions. Consequently, the objective of a rule serves as the primary criterion for selecting the generalizations that constitute its operational basis. In formulating such generalizations, only specific traits are extracted and applied to prospective situations. Thus, the generalization that forms the basis of a rule invariably simplifies a complicated reality, perhaps overlooking essential components in the process. Furthermore, due to the selective nature of generalization, a rule may incorporate extraneous attributes or omit relevant ones.

The connection between the rule's objective and its foundational generalization also influences the extent of inclusion.²⁸ A discrepancy between rule and goal may manifest in two principal ways: the rule may be overinclusive, including more than required, or underinclusive, neglecting to address critical components.²⁹ These

²⁷ Joseph Raz, *Practical Reason and Norms* (Oxford University Press, 2012), <https://doi.org/10.1093/ACPROF/OSO/9780198268345.001.0001>.

²⁸ Schauer, *Playing by the Rules: A Philosophical Examination of Rule-Based Decision-Making in Law and Life*.

²⁹ Ibid, p.p, 17-37.

flaws may stem from three primary sources. The generalization may exclude crucial elements or incorporate irrelevant ones. Secondly, the causal link between an occurrence and the risk or aim addressed by the rule is frequently probabilistic, resulting in a generalization that is only partially aligned with the rule's intended goals. Third, although a generalization may correspond with a rule's intent at a certain moment, subsequent contextual alterations may render it outmoded or ineffectual.

These discrepancies become more troublesome in dynamic or unpredictable contexts, particularly when rules are applied to varied scenarios with unknown causal links among objects, behaviors, or occurrences and the expected hazards. Furthermore, regulations intended to predict future occurrences are particularly susceptible to over- or underinclusiveness, owing to the constrained comprehension of developing causal patterns. This is especially apparent in proactive regulatory initiatives, such as market restructuring strategies, where regulations must oversee dynamic and unpredictable areas.³⁰

The inclusivity of a regulation might indicate its efficacy or ineffectiveness. In regulatory frameworks, particularly under legal governance, rules are essential for regulating social conduct. The efficacy of a regulation is assessed by its capacity to achieve the policy goals it is designed to support. In this context, an underinclusive regulation may not fulfill its intended policy objectives, whereas an overinclusive rule may create superfluous obligations. Bardach and Kagan have shown that excessively inclusive regulations, when strictly applied, can result in economic inefficiencies and negative

³⁰ Derek Ireland, "Behavioral Economics, Regulatory Compliance and Performance, and the Compliance Continuum" (Toronto, 2024), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4952636.

social outcomes.³¹ Inflexible application of regulations may be regarded as irrational, which can undermine compliance, cultivate views of unfairness, and incite legal or political resistance.

Posner has highlighted that, from an economic standpoint, both overinclusive and underinclusive regulations have a danger of generating inefficiencies.³² Excessively broad regulations may inhibit socially beneficial actions, whilst excessively limited regulations may allow detrimental behavior. They propose improving the specificity of regulations to more effectively prevent bad behavior while without hindering positive activities. In reality, augmenting rule accuracy is not always attainable, especially in intricate and dynamic social contexts. The ambiguity of causal links and the fluidity of social and economic transformations frequently render previously definitive norms ineffectual in the future. Consequently, the discourse over the optimal approach to tackle the issue of inclusivity continues to be a pivotal topic in legal theory and public policy.

b. Ambiguity

Rules inherently embody a certain degree of ambiguity.³³ This uncertainty originates from several factors, including the terminology employed in rule formation, the predictive nature of regulations, and their dependence on third parties for enforcement and interpretation. The importance of this ambiguity is heightened by the reality that legal laws serve as binding and authoritative directives designed to regulate behavior across an indeterminate array of situations, sometimes accompanied by penalties for non-

³¹ Eugene Bardach and Robert A. Kagan, *Going by the Book: The Problem of Regulatory Unreasonableness*, 1st ed. (New York: Routledge, 2002).

³² Richard A. Posner, *Economic Analysis of Law*, 3rd ed. (New York: Little Brown and Company, 1986).

³³ While ambiguity strictly refers to a word having two or more distinct meanings, the term is used interchangeably with uncertainty (or vagueness) throughout this discussion. This usage emphasizes the open texture of legal language, in line with H.L.A. Hart's critique, where both phenomena lead to a blurred 'penumbra' and necessitate judicial discretion.

compliance. It is crucial to ascertain if a certain factual scenario is encompassed by a particular rule.

H.L.A. Hart, a prominent thinker, articulated the issue of uncertainty in legal principles, notably characterizing them as having a “core of settled meaning” and a “penumbra of uncertainty.”³⁴ This doubt arises not just from semantic ambiguity, but from the challenge of applying basic words to unique and occasionally unprecedented factual circumstances. Hart contended that real-world situations are not inherently self-classifying; they do not inherently indicate their alignment with a legal norm. The rule cannot autonomously restrict its own applicability.³⁵ There will invariably be instances when the applicability of a generic phrase is unequivocal, and others where it is disputable. Some factual circumstances may exhibit some, but not all, characteristics of a “paradigm case”.

This intrinsic ambiguity is encapsulated in what Hart, drawing from philosopher Friedrich Waismann, referred to as the open texture of language. This notion, subsequently elaborated by scholars such as Frederick Schauer, highlights the impossibility of completely predicting all future scenarios in which a rule may be implemented. Hart asserted that the necessity for interpretive judgment in the application of rules does not signify a flaw in the rule itself, but rather illustrates the intrinsic limitations of human foresight. Even when a phrase possesses a commonly accepted definition, unpredictable developments will always lead to marginal or irregular usage. For example, a traffic regulation prohibits cars weighing over 10 tons from traversing a specific bridge. The regulation seems exact; nonetheless, what is the stance on a truck weighing 9.8 tons that

³⁴ Hart, *The Concept of Law*.

³⁵ Dwanda Julisa Sistyawan et al., “The Development of Positivism’s Legal Theory: From Bentham To Hart,” *Petita: Jurnal Kajian Ilmu Hukum Dan Syariah* 9, no. 2 (2024): 777–801, <https://doi.org/10.22373/petita.v9i1.402>.

transports unstable cargo? Or a vehicle that complies with the weight restriction yet possesses atypically huge dimensions, so presenting a structural hazard? Such instances bring ambiguities not originally anticipated by the regulation.

In the Indonesian context, this open texture is particularly evident in statutes where key terms lack a single, fixed definition, such as the phrase “*merugikan keuangan negara*” (causing state financial loss) within the Law on Corruption Crimes (UU Tipikor). The ambiguity arises from the need to determine the nature of the loss; whether it is actual or merely potential, and the highly variable methodology used for its calculation by different authorized bodies. For example, in corruption cases involving resource management (e.g., illegal mining or unprocedural permits), judges must decide whether “loss” is limited to direct financial deficit or extends to broader, harder-to-measure economic and environmental damage. This lack of a settled meaning places the interpretation squarely within the penumbra of uncertainty, granting significant interpretative latitude to the judiciary and resulting in contested and non-uniform judicial outcomes for factually similar cases. This situation reinforces the argument that rules, despite their authoritative nature, delegate considerable creative power to the judging institution due to their inherent ambiguity.

Friedrich Waismann observed that even when regulations are explicitly articulated, reality frequently produces unexpected scenarios that test their limits.³⁶ He demonstrated this argument by asserting that if an entity is characterized by attributes a, b, c, and d, the emergence of an instance possessing just a subset of those properties leads to ambiguity.³⁷ Consequently, legal ambiguity stems not just from ambiguous language but also from the inherent

³⁶ Friedrich Waismann, *The Principle of Linguistic Philosophy*, ed. Rom Harre (New York: Macmillan, 1965).

³⁷ *Ibid*, p.p. 122-123.

generalization associated with the formation of rules. Even meticulously formulated norms are susceptible to interpretative difficulties when confronted with novel or unique factual circumstances.

c. Interpretation

The rule-making process inevitably entails simplification, selective emphasis, and judgment on potential causal links. This method is imperfect and frequently obstructs future advancements, leading to regulations that are either excessively inclusive or insufficiently comprehensive about their intended goals.³⁸ As previously articulated about ambiguity, regulations can never be entirely plain or sufficiently detailed to encompass every imaginable situation. Consequently, regulations necessitate an empathetic audience and participants who understand and implement them in accordance with their fundamental objectives. This interpretative alignment is fundamental to the teleological or purposive method of legal interpretation. Concerns about inclusivity and determinacy can frequently be alleviated by interpreting regulations in accordance with their fundamental objectives, whereas rigid literal interpretations may hinder the achievement of regulatory goals by disregarding the contextual generalizations inherent in rule-making.³⁹

³⁸ Robin Effron, "Reason Giving and Rule Making in Procedural Law," *Alabama Law Review* 65, no. 683 (2014): 40–45, <https://brooklynworks.brooklaw.edu/faculty>; Eric Halford, "On the Decision-Making Framework for Policing: A Proposal for Improving Police Decision-Making," *International Journal of Law, Crime and Justice* 79, no. September (2024): 100702, <https://doi.org/10.1016/j.ijlcj.2024.100702>.

³⁹ Ian Mcleod, "Issue 3 SYMPOSIUM: Creating and Interpreting Law in a Multilingual Environment Article 5 2004 Literal and Purposive Techniques of Legislative Interpretation: Some European Community and English Common Law Perspective, 29 Brook," *Brooklyn Journal of International Law* 29, no. 3 (2004), <https://brooklynworks.brooklaw.edu/bjil>.

Furthermore, the successful implementation of rules necessitates an audience with a profound comprehension of the contextual assumptions and institutional practices that underpin the rule.⁴⁰ As social and institutional processes advance, the interpretation and execution of legal norms must also adapt.⁴¹ Rules can never be completely clear, nor can they fully express the implicit understandings that inspired their formulation. A regulation barring trucks from accessing a certain route presupposes a mutual comprehension of what defines a “truck” and the rationale for the restriction, without delineating every definitional aspect. The degree to which a regulation delineates its words affects its inclusivity, formality, complexity, and legal certainty.

The quality and efficacy of a legal norm are ultimately dictated by its interpretation.⁴² According to Hart’s view, rules require external agents to impart them with functional significance. Correct implementation necessitates precise and contextually aware interpretation. McBarnet and Whelan’s research on accounting regulation demonstrates that regulated entities frequently employ “creative compliance”, a tactic of conforming to the explicit language of regulations but evading its fundamental purpose.⁴³ Consequently, although purposive interpretation might mitigate some constraints of legal principles, it is rarely consistently employed in practice.

⁴⁰ Nazhif Ali Murtadho et al., “Structure and Classification of Legal Norms: Institutional Challenges in Law Making,” *Indonesian Journal of Administrative Law and Local Government* 1, no. 01 (2024): 391–95, <https://doi.org/10.26740/ijalgov.v1i01.35853>.

⁴¹ Ibid.

⁴² Maris Köpcke, *Legal Validity: The Fabric of Justice* (Oxford: Hart Publishing, 2020).

⁴³ Doreen McBarnet and Christopher J Whelan, “Creative Compliance and the Defeat of Legal Control: The Magic of the Orphan Subsidiary,” ed. Keith Hawkins, *The Human Face Of Law: Essays in Honour of Donald Harris* (Oxford: Oxford University Press, March 27, 1997), <https://doi.org/10.1093/oso/9780198262473.003.0009>.

Interpretative issues encompass the authentic perplexity that individuals or organizations may have when applying regulations to unprecedented circumstances, so affecting the operational certainty of the law. This raises a basic question: How can rule-makers guarantee that their rules are read and enforced as intended? What is the connection between a rule and its interpretation? The theoretical literature on this topic is comprehensive and encompasses legal theory, linguistics, and literary analysis. This corpus of work is especially pertinent to comprehending the fundamental obstacles of rule interpretation and application, even by actors with sincere intentions.

In jurisprudential discourse, the matter of interpretation is intricately connected to decision-making theories and linguistic theories.⁴⁴ Although decision theory is beyond the purview of this work, linguistic and hermeneutic theories are of paramount importance. In the esteemed discourse between Hart and Fuller, the latter championed a teleological or instrumental method of interpretation, contending that the objective of a rule should direct its application rather than its linguistic representation alone. Fuller posits that if a literal application yields results that contradict a rule's intended purposes, then strict enforcement is unwarranted.

Conversely, formalists like Schauer argue that the language of a rule has meaning irrespective of its overarching objective, and that a literal application—though potentially undesirable from a normative perspective—can be analytically justified.⁴⁵ Modern legal discourse about rule interpretation increasingly utilizes linguistic and literary theory to examine issues of meaning and ambiguity in legal

⁴⁴ Stefan Th Gries and Tammy Gales, "Talking across the Interdisciplinary Aisle: A Guide for Legal and Corpus-Linguistic Scholars and Practitioners," *Applied Corpus Linguistics* 4, no. 1 (2024): 100086, <https://doi.org/10.1016/j.acorp.2024.100086>.

⁴⁵ Schauer, *Playing by the Rules: A Philosophical Examination of Rule-Based Decision-Making in Law and Life*.

texts.⁴⁶ A primary dispute revolves on whether language has objective meaning or if meaning is solely contingent upon the reader.

Three principal perspectives have emerged: *objectivism*,⁴⁷ which contends that meaning is inherent in language; *nihilism*,⁴⁸ which claims that meaning is solely determined by the reader; and *conventionalism*,⁴⁹ which says that meaning is derived from collective conventions, social practices, and cultural background. The conventionalist approach offers essential insights into the construction, interpretation, and implementation of meaning within legal regulations by regulated entities.

Ludwig Wittgenstein's philosophy has been impactful in this setting.⁵⁰ Although Wittgenstein did not explicitly discuss legal norms, his insights on rule-following in mathematics and language have influenced modern legal hermeneutics.⁵¹ Wittgenstein contended that adherence to norms arises from collective assessments of meaning and application within a society.⁵² This mutual comprehension is grounded in what he termed forms of life—the social, cultural, and practical settings that serve as the foundation for language utilization. From this viewpoint, rules are elucidated solely within a community of interpretation that possesses shared

⁴⁶ Zeifert and Tobor, "Legal Translation Versus Legal Interpretation. A Legal-Theoretical Perspective."

⁴⁷ Ronald. Dworkin, *Law's Empire* (London: The Belknap Press of Harvard University Press, 1986).

⁴⁸ Peter Goodrich, *Legal Discourse: Studies in Linguistics, Rhetoric and Legal Analysis* (New York: Palgrave Macmillan, 1987), <https://doi.org/10.1007/978-1-349-08818-8>.

⁴⁹ Hans-George Gadamer, *Truth and Method*, Second Rev (London: Continuum, 2004).

⁵⁰ Feng Lin, "The Two Philosophical Thoughts of Pluralism—Hegel and Wittgenstein's Reflections on Pluralism," *Futurity Philosophy* 3, no. 1 (2024): 4–22, <https://doi.org/10.57125/fp.2024.03.30.01>.

⁵¹ Pavel Arazim, "Rules in Motion: Rule-Following with Bergson and Wittgenstein," *Continental Philosophy Review* 58, no. 2 (2025): 247–63, <https://doi.org/10.1007/s11007-025-09693-3>.

⁵² Ibid.

normative assumptions regarding meaning and appropriate application.

This viewpoint has significant ramifications for the formulation and implementation of legal regulations. It emphasizes that the “literal meaning” of a law is not intrinsic, but rather influenced by the interpretative processes of certain groups. A term or phrase that is unambiguous in one context may be ambiguous or has varying implications in another. Secondly, it suggests that no legal rule possesses intrinsic clarity—legal certainty is not an objective characteristic of the rule but rather a product of interpretative agreement within the pertinent legal or regulatory community. The conventionalist method to interpretation provides a theoretical basis for comprehending how bureaucrats and regulated persons react to legal regulations in practice.

Empirical research on bureaucratic behavior indicates that administrative officials might interpret evaluative phrases in regulations in extremely precise manners.⁵³ Concurrently, regulated entities may resort to literalism to circumvent the fundamental objectives of regulation. Consequently, rule-makers must recognize that the implicit assumptions behind a rule cannot always be articulated, and that literal interpretations may considerably diminish the efficacy of legal standards.

Interpretive ambiguity is apparent in Law No. 11 of 2020 on Job Creation (Omnibus Law), especially with sections that modify many sectoral statutes with vague references and inadequate definitional precision.⁵⁴ Revisions to labor legislation include phrases

⁵³ Jamaluddin Ahmad, “The Behavior Of Bureaucracy in Formulation Annual Government Planning Process,” *Journal of Public Administration and Governance* 3, no. 3 (2013): 108, <https://doi.org/10.5296/jpag.v3i3.4383>.

⁵⁴ Ahmad Ariawan Rahmat, “Legal Policy in the Formation of the Omnibus Law on Job Creation in Indonesia,” *Inaugural Hybrid International Conference on Law and Social Sciences* 2, no. 2 (2022): 1–15, <https://doi.org/10.20885/iustum.vol30.iss2.art1.3>.

such as “certain types of work” and “adjusted minimum wage” without explicit criteria, so granting considerable discretion to implementing agencies and local governments. This legal indeterminacy has resulted in inconsistent interpretations and unequal enforcement, eroding legal certainty and provoking social contestation. The uncertainty illustrates the intrinsic “open texture” of legal language and highlights the essential function of interpretative communities in ensuring consistency within regulatory systems.

IV. Using Rules

The preceding analysis above has shown that prior to facing the obstacles of decision-making, policy implementation, or law enforcement, rules include intrinsic constraints inherent to their nature. Nonetheless, certain regulatory challenges may be resolved by directly addressing these constraints and formulating solutions to alleviate them.

This section presents three ways that may be applied separately or in conjunction:

1. Deploying various types of regulations;
2. Cultivating and leveraging interpretative communities in regulatory processes; and
3. Embracing a “conversational model” of regulation.

These strategies are not designed as exhaustive solutions to all legal rule issues, nor do they tackle the substantive content of regulations or the technical mechanisms of regulation (e.g., licensing, disclosure mandates, franchising, price regulation, or command-and-control methods). They are suggested as viable approaches to enhance the efficacy of regulations by addressing their fundamental structural and language constraints, particularly concerning flexibility and legal clarity,

inclusiveness and adaptation, interpretative ambiguity, and strategic disobedience

a. Types of Rules

A method to mitigate the constraints of rules is in the intrinsic characteristics of the rules themselves, specifically regarding their form and classification. The discussion over the classification of rules has been essential in legal and administrative philosophy, particularly in the arguments concerning the adoption of hard rules, flexible standards, or discretion-based norms.⁵⁵ This discourse frequently arises from presuppositions on the implications of diverse normative frameworks on legal clarity, policy adaptability, and administrative efficacy.

In legal and bureaucratic institutions, two primary types of norms are usually identified: rules and standards.⁵⁶ Rules are typically characterized as explicit, prescriptive legal standards that associate specified factual situations with predetermined legal outcomes. Conversely, standards possess a more open-textured nature, permitting increased discretion and evaluative judgment in their implementation. Rules are frequently linked to formalist methodologies; adherence is grounded in stringent form and process, resulting in predictability and consistency, but occasionally at the expense of flexibility.⁵⁷ In bureaucratic theory, norms embody formal rationality, characterized by decision-making grounded in defined

⁵⁵ Samuel Ruiz-Tagle, "From Discretion To Expert Judgement: Recasting Sedimented Concepts in Administrative Law," *Cambridge Law Journal* 83, no. November (2024): 549–80, <https://doi.org/10.1017/S0008197324000473>.

⁵⁶ William H. Simon, "Legality, Bureaucracy, and Class in the Welfare System," *The Yale Law Journal* 1198 (1983): 323–94, <https://doi.org/10.4324/9781003073246-20>.

⁵⁷ Richard H. Pildes, "Forms of Formalism," *University of Chicago Law Review* 66, no. 3 (1999): 607, <https://doi.org/10.2307/1600419>.

prescriptions with limited discretion.⁵⁸ Standards, in contrast, are associated with substantive rationality; they prioritize aims and ideals, providing enhanced contextual responsiveness but sacrificing predictability and introducing possible hazards of arbitrariness or uneven treatment.⁵⁹ Consequently, norms and standards embody conflicting forms of rationality: one prioritizing predictability, the other emphasizing flexibility.

The primary difficulty in legal and administrative design is achieving a fair balance between these models to maintain normative clarity and contextual adaptation. The traditional distinction between rules and standards is frequently unnecessarily simplistic. Scholar like Diver have suggested a multifaceted examination of legal standards. Diver delineates three essential components of regulations:⁶⁰

1. Transparency refers to the consistent comprehensibility of a rule;
2. Congruence denotes the extent to which the rule effectively encompasses all pertinent conditions;
3. Accessibility or Simplicity pertains to the procedural intricacy involved in the application of the rule.

⁵⁸ Ulrik Roehl and Joep Crompvoets, *Inside Algorithmic Bureaucracy: Disentangling Automated Decision-Making and Good Administration, Public Policy and Administration*, 2023, <https://doi.org/10.1177/09520767231197801>.

⁵⁹ Igor Grossmann et al., "Folk Standards of Sound Judgment: Rationality versus Reasonableness," *Science Advances* 6, no. 2 (2020): 1–14, <https://doi.org/10.1126/sciadv.aaz0289>.

⁶⁰ Colin S. Diver, "The Optimal Precision of Administrative Rules," *The Yale Law Journal* 93, no. 1 (1983): 65, <https://doi.org/10.2307/796245>.

Baldwin et al. expands upon Diver by introducing two more dimensions:⁶¹

1. Legal form or status; identifying whether the rule is a law, administrative regulation, or private contract; and
2. Normative force; assessing the potency of its associated punishments or enforcement mechanisms.

Integrating legal and linguistic methodologies facilitates the delineation of four fundamental elements within the framework of legal rules:

1. Substantive breadth and coverage;
2. Normative nature and legal consequence;
3. Legal status and penalty regime;
4. Linguistic structure and clarity.

The initial two aspects represent the normative framework of the rule, usually articulated conditionally: “If X transpires, then Y ensues.” The “if” signifies factual conditions; the “then” indicates the legal consequence. The substantive scope encompasses the actual behavior being controlled, whereas coverage pertains to the degree of abstraction and its correspondence with the rule’s normative objectives. The rule’s normative nature may be obligatory, directive, permissive, or discretionary.

The third component pertains to the legal authority and enforcement of the regulation. A rule can be either obligatory law or a voluntary standard incorporated inside licensing agreements, codes of conduct, or professional association norms. Sanctions can be classified as criminal, civil, administrative, or reputational. The fourth dimension pertains to the language framework of the rule,

⁶¹ Robert Baldwin, Martin Cave, and Martin Lodge, *Understanding Regulation: Theory, Strategy, and Practice*, Second Edi (Oxford: Oxford University Press, 2012).

which includes: (a) terminological accuracy or vagueness, (b) structural simplicity or complexity, and (c) semantic clarity or ambiguity. Ambiguity can result from inadequate procedural detail, imprecise temporal or geographical indicators, ambiguous classifications (e.g., “fruit,” “financial instruments”), or subjective descriptors (e.g., “reasonable,” “fair”).

The complexity of a rule is determined by the quantity of factual conditions and the evaluative judgments necessary for its application. Basic rules may restrict or allow activities based on a singular quantifiable criterion (e.g., staff count), whereas intricate rules encompass several, interconnected requirements or necessitate value-based evaluations. Consequently, a rule may be straightforward yet ambiguous, or intricate yet linguistically unambiguous. Ultimately, clarity is frequently subjective, contingent upon the interpretative community enforcing the norm. Terminology that is comprehensible to specialists may be obscure to non-experts. Conventionalist theories of language are crucial here, as meaning and clarity arise from a common knowledge within certain epistemic groups.

b. Choosing of Rule Type

The dimensions of a legal rules fundamentally signify pivotal decision points in the regulatory design process. The choice of a certain type of rule is a crucial element of normative policy-making. The dimensional approach to rule design previously mentioned facilitates a more thorough comprehension of the intricacies involved in such judgments.

The traditional differentiation between “rules” and “standards” frequently simplifies the normative process by condensing the structural diversity of rules to a certain language

characteristic, usually accuracy or textual clarity.⁶² This distinction is based on a faulty assumption that a deterministic association exists between the characteristics of rules, positing that rules are inherently prescriptive and clear, whilst standards are inherently ambiguous and implicit. In practice, no definitive analytical link exists between the dimensions.⁶³

A legal norm may be technically enshrined in law while being substantively vague; it may be straightforwardly articulated yet semantically obscure. Conversely, an ambiguous standard may yet demonstrate a significant level of operational precision. As a rule grows more exact, it is increasingly prone to losing inclusivity; nonetheless, inclusiveness is dictated not by the rule's structure, but by its normative objective. Therefore, no causal relationship exists between precision and inclusivity.

Furthermore, the correlation between accuracy and legal certainty is neither straightforward nor certain. Certainty frequently results from the interplay of many rule aspects. It can be improved by clarifying its essence, defining its temporal and geographical parameters, or refining its procedural implementation methods. Conversely, intricate writing may diminish legal certainty. Consequently, enhancing rule precision does not invariably augment certainty; it may instead complicate normative execution.

Likewise, regulatory flexibility is not characterized by a singular feature. This may arise from textual ambiguity, the legal character of the rule (e.g., non-binding advice), or the presence or nature of punishments.⁶⁴ A linguistically precise regulation can

⁶² Ricardo Marquisio Aguirre, "La Normatividad Como Objeto: Doctrina, Teoría, Metateoría," *Anuario Del Área Socio-Jurídica* 13, no. 1 (2021): 29, https://doi.org/10.26668/1688-5465_anuariosociojuridico/2021.v13i1.7448.

⁶³ Giudice, *The Normativity of Law*.

⁶⁴ Paul Daly, "How Binding Are Binding Guidelines? An Analytical Framework," *Canadian Public Administration* 66, no. 2 (2023): 211–29, <https://doi.org/10.1111/capa.12519>.

remain adaptable if it is presented as a non-binding advice or if infractions do not result in legal repercussions. Consequently, regulatory designers must possess both the power and capability to develop regulations with diverse characteristics—both substantive and structural.

However, the ability to formulate such varied regulations is frequently limited by the prevailing legislative framework. Rule drafters frequently function under stringent constraints established by superior legal authorities. For example, when a regulation is meant to be incorporated into legislation and enforced via criminal sanctions, the rule-maker's capacity to mitigate formalism or include inclusive design features is somewhat constrained. Therefore, optimizing the functional efficacy of rule types necessitates institutional capability and regulatory latitude in formulating rules across all pertinent dimensions.

V. Implication of Rule Types

A basic question arises: how may various types of rules be strategically employed, and what normative consequences ensue from such decisions? An entrance point exists via the legal status and penalty framework associated with a regulation. Both factors can address deficiencies in inclusivity, whether a regulation is too broad or inadequately comprehensive. When a norm serves just as advice without formal punishments, the risk of its overbreadth can be mitigated, as the rule lacks coercive power in contexts outside its intended scope.

Conversely, a stringent standard may acquire flexibility when utilized as a soft law mechanism, or if its breach incurs solely discretionary administrative repercussions. The diversity of regulatory frameworks facilitates the selective distribution of discretion or authority in decision-making processes. A standard characterized by

ambiguous language such as vague evaluative phrases or generic classifications, allows implementing officials to apply contextual judgment in assessing its relevance.

As previously said in the discourse on ambiguity and uncertainty, indeterminacy is intrinsic to all legal systems and cannot be wholly eradicated. The requisite level of interpretative discretion can be regulated by the structural architecture of the regulation. A regulation specifying “maximum speed of 30 km/h” permits less discretion than one articulating “a reasonable speed.” Likewise, ambiguous regulatory frameworks may be coupled with lenient normative outcomes to provide broader discretionary realms.

Legislation frequently confers extensive authority to officials through phrases such as, “The Minister may issue regulations regarding investment governance” or “may establish compensation schemes for investors.” This permissive construction is not exclusive to one jurisdiction; it is also present in Indonesia’s legal system. However, specific citations are often misrepresented. For instance, while one might incorrectly claim that Article 31, paragraph (1) of Law Number 25 of 2007 on Investment grants the President the power to establish an investment agency, the actual text of that article refers to the creation of Special Economic Zones. Similarly, it would be a misrepresentation to cite Article 37, paragraph (1) of Law Number 32 of 2009 on Environmental Protection and Management as allowing a minister to set stricter environmental quality standards, as that article details environmental permit procedures and the authority to set stricter standards is actually delegated to regional governments.⁶⁵

These examples illustrate how legislators deliberately establish discretionary latitude through ambiguous or permissive word selections. If the rule-maker intends to limit choice or enhance enforceability, they

⁶⁵ Yogi Prasetyo, “Social Reality as Legal Authenticity (Criticism of Bad Positive Laws in Legislation),” *Fiat Justisia: Jurnal Ilmu Hukum* 15, no. 3 (2021): 255–68, <https://doi.org/10.25041/fiatjustisia.v15no3.2194>.

may implement more specific, urgent, or prohibitive formulations; nevertheless, these also possess limitations in efficacy. The structure of rules also affects the interpretative tactics employed during enforcement.⁶⁶ The discourse around the rule-standard-discretion trio is predicated on the belief that highly prescriptive frameworks promote formalist interpretation, whereas open-textured frameworks facilitate purposive interpretation. Creative compliance is more probable to arise inside stringent, literalist frameworks.

Consequently, altering the structure such as integrating more evaluative terminology, can transform the interpretative framework. Rather of implementing a categorical ban such as “*No vehicles permitted in the park*,” a policy may articulate, “*Activities that disrupt the tranquil enjoyment of the park are prohibited*.” The latter explicitly conveys the normative objective, rather than simply the intermediary behavior. The distinction here is between laws that specify proximate causes (e.g., cars) and those that articulate the regulatory purpose (e.g., preserving calm).

These formulations not only circumvent excessive formalism but also necessitate that enforcement officers contemplate the underlying meaning of the regulation throughout its application. By adjusting variables such as structure, status, and punishment, rule-makers may create adaptive regulatory systems that are sensitive to context while balancing legal clarity with flexibility, in accordance with their normative objectives.

⁶⁶ Chris Brummer, Yesha Yadav, and David Zaring, “Regulation By Enforcement,” *Southern California Law Review* 96, no. 6 (2023): 1297–1339, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4405036#.

VI. Tension and Trade-off in Rule Design

In the practical domain of legislation drafting, the choice of rule types frequently involves intrinsic conflicts and normative compromises. A significant contradiction exists between flexibility and legal clarity. Although earlier sections have delineated many dimensions for optimizing rules, the actual implications of selecting one sort of rule over another are often more intricate than theoretical models indicate.

Empirical research on administrative decision-making reveals that the assumptions connecting particular rule types to interpretative techniques or levels of discretion are not consistently valid.⁶⁷ A very specific regulation does not inherently diminish bureaucratic discretion; in many instances, it only reallocates discretion to different facets of enforcement or application. Conversely, a regulation that officially allows extensive discretion and necessitates purposive interpretation may, in reality, be narrowly interpreted due to institutional procedures, organizational culture, or established professional standards.

When regulations are established to regulate private individuals or corporate organizations, the dynamics change. Excessively rigid regulations may, paradoxically, enable creative compliance, allowing regulated entities to adhere to the precise wording of a law while evading its fundamental intent. This phenomenon, famously illustrated by

⁶⁷ Darkhan Medeuov et al., “Negotiating Science Funding: The Interplay of Merit, Bias, and Administrative Discretion in Grant Allocation in Kazakhstan,” *PLoS ONE* 20, no. 5 May (2025): 1–25, <https://doi.org/10.1371/journal.pone.0318875>; Shibaab Rahman et al., “Exercising Bureaucratic Discretion through Selective Bridging: A Response to Institutional Complexity in Bangladesh,” *Public Administration and Development* 44, no. 2 (2024): 61–74, <https://doi.org/10.1002/pad.2036>; Vanja Carlsson, “Legal Certainty in Automated Decision-Making in Welfare Services,” *Public Policy and Administration* 40, no. 2 (2023): 302–21, <https://doi.org/10.1177/09520767231202334>.

Oliver Wendell Holmes Jr. through the archetype of the “Bad Man,”⁶⁸ is further substantiated by the empirical research of McBarnet and Whelan on accounting regulation, which demonstrates how individuals utilize intricate rule systems as instruments to exploit regulatory loopholes for opportunistic advantage.⁶⁹ The efficacy of a rule type is influenced by the system and method of enforcement. In scenarios where enforcement is mostly privatized such as through litigation or individual claims, economic theory posits that enforcement is often consistent across violators. To prevent excessive enforcement and its related societal costs, such systems necessitate regulations that are explicit, succinct, and narrowly defined. In contrast, whereas enforcement prioritizes compliance-oriented strategies such as negotiation, consultation, and education, flexible and evaluative regulations may promote collaboration and foster normative alignment.

The regulatory designer frequently navigates opposing demands: restricting choice while fostering substantive compliance, guaranteeing enforceability while preserving flexibility, preventing overbreadth without creating undue complexity or rigidity. These trade-offs necessitate more than mere concessions; they require meticulously developed solutions that reconcile conflicting regulatory goals within a dynamic legal and social framework. The conflict between flexibility and certainty should not be viewed as a binary opposition.

As previously demonstrated using the dimensional method, these objectives may be concurrently achieved by adjusting several components of the rule, its formulation, legal status, enforcement mechanism, and normative function. Regulatory frameworks in the financial services sector frequently amalgamate ambiguous yet enforced regulations with explicit but non-binding recommendations that fulfill

⁶⁸ Oliver Wendell Holmes Jr, “The Path of the Law,” *Harvard Law Review* 457, no. 10 (1987): 194–96, <https://doi.org/10.4324/9780203077702-16>.

⁶⁹ McBarnet and Whelan, “Creative Compliance and the Defeat of Legal Control: The Magic of the Orphan Subsidiary.”

interpretative or educational functions.⁷⁰ Hybrid structures mitigate the conflict between adaptive flexibility and normative predictability.

A persistent issue is to interpretative control and the dangers of literalism, namely how to guarantee that discretion is applied constructively and aligns with the rule's intended objectives. A viable alternative is to implement rules that are explicitly goal-directed and amenable to evaluative reasoning. However, this technique presents additional issues, including how to guarantee that discretion is appropriately utilized and matched with regulatory principles. The efficacy of legal regulations is intrinsically linked to supportive institutional mechanisms, such as the development of interpretative communities that may harmonize field-level practices with the overarching objectives of the regulatory framework.

VII. Conclusion

An examination of the nature and structure of legal rules demonstrates that their intrinsic limits cannot be entirely eradicated; yet, they may be effectively handled. The three fundamental difficulties inherent in rules—over- or underinclusiveness, indeterminacy, and interpretative ambiguity—stem from their dual nature as prescriptive constructions and language tools. Legal and regulatory designers must acknowledge that a rule's efficacy is influenced by its normative content, form, legal standing, and language structure. This article has suggested many techniques to enhance the efficacy of rules within contemporary regulatory systems. Initially, by implementing several regulatory types customized to the particular environment and goals of regulation. Secondly, by cultivating interpretative communities that facilitate mutual comprehension and consistency in the implementation of rules. Third, by advocating for conversational regulatory models that facilitate

⁷⁰ Sharon Yadin, "The Hidden Nature of Regulation," *Harvard Negotiation Law Review* 31, no. May (2025): 1–64, <https://doi.org/https://dx.doi.org/10.2139/ssrn.5211248>.

discourse between regulators and the regulated, thereby improving legitimacy and responsiveness. The frequently presented conflict between flexibility and legal certainty should not be regarded as a binary or zero-sum decision, but rather as a dialectical tension that may be reconciled by meticulous and contextually aware rule formulation. By addressing the various elements that influence the formulation, interpretation, and enforcement of rules, legal systems can enhance their adaptability to societal change while preserving the integrity and normative authority vital to the rule of law.

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