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The role and opportunities of indigenous justice systems in promoting restorative justice

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Article Info

Article history:

Received Jun 24th, 2026

Revised Jul 10th, 2026

Accepted Jul 10th, 2026

Keyword:

Customary law,
Judicial integration,
Restorative justice,
Indigenous communities,
Dispute resolution

ABSTRACT

The Indonesian criminal justice system struggles to achieve substantive justice due to the dominance of a retributive approach, resulting in prison overcrowding and high recidivism rates. Restorative justice offers an alternative emphasizing reconciliation and social balance, consistent with long-standing indigenous justice practices in the archipelago. This study analyzes the juridical construction of customary justice recognition within the national legal system, explores the opportunities and challenges of integrating it as an instrument of restorative justice, and formulates an ideal synergy model between customary and formal justice systems. This systematic review examines the role, opportunities, and challenges of indigenous justice systems in promoting restorative justice in Indonesia. Operating under a rigorous systematic protocol to eliminate convenience sampling bias, electronic searches were conducted across the Scopus, Web of Science, and Garuda databases using the query (indigenous justice or adat) and (restorative justice) Indonesia. Strict, explicit selection criteria requiring peer-reviewed journal articles published between 2021 and 2026 that directly analyze Indonesian customary law and localized restorative values narrowed a total of 142 initially identified articles down to exactly five core publications. Synthesizing these five selected studies reveals that formal recognition remains a primary opportunity, while human rights standardization and statutory synchronization present significant hurdles. Furthermore, conflict resolution effectiveness is highlighted through comparative illustrative examples extracted directly from the reviewed literature specifically focusing on the customary practices of the Baduy community and dispute resolution in Peniti Village rather than through empirical field data collected by the author. Ultimately, rather than overreaching to formulate an absolute ideal model, this targeted review proportionately proposes a conceptual framework and identifies key design principles to guide policymakers in harmonizing customary mechanisms with Indonesia's national criminal justice reform.



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Introduction

The contemporary crisis within the Indonesian criminal justice apparatus extends far beyond superficial indicators like localized prison overcrowding metrics; rather, it is rooted in a fundamental systemic mismatch between retributive carceral sentencing and the societal demand for actual conflict resolution. Academic consensus within high-impact criminological literature over the past five years demonstrates that traditional punitive detention consistently fails to lower recidivism rates, reduce systemic state expenditures, or provide genuine psychological closure to victims (Zulfa, 2021). Recent comparative studies in international

criminology emphasize that purely retributive frameworks exacerbate social disruption by alienating offenders from their community dependencies, thereby demonstrating that the failure of state-sanctioned retaliation creates an urgent imperative to transition toward restorative alternatives. Within the Indonesian context, this transition has gained institutional momentum through the enactment of the new Penal Code (KUHP Baru) and institutional guidelines from the Attorney General's Office (Kejaksaan Agung) and National Police (Suhariyanto, 2022). However, current state-centric enforcement mechanisms remain deeply fragmented, treating restorative justice as a bureaucratic checkbox rather than a culturally rooted paradigm (Zulfa, 2021). This top-down implementation often ignores the historical, community-led tribunals that have managed localized harms for generations under the rubric of customary law.

While previous socio-legal literature has documented the conceptual overlap between adat institutions and restorative values in Indonesia, this study provides a distinct theoretical and empirical advancement by moving beyond mere descriptive cataloging to propose a structurally coupled, conditional integration model. This study directly challenges and distinguishes itself from two dominant, competing frameworks in contemporary Indonesian legal scholarship. First, it rejects the paradigm of Absolute Legal Centralism, which posits that customary justice mechanisms are archaic, extra-legal entities that must be fully absorbed or erased to preserve national legal uniformity under post-codification reforms. Second, it distances itself from Uncritical Adat Romanticism, an alternative framework that naively advocates for the wholesale, unregulated autonomy of traditional courts without addressing internal power asymmetries, gender stratification, or universal human rights benchmarks. By navigating the theoretical space between these two extremes, this study advances a model of Conditional Adat Integration (CAI). This framework establishes clear constitutional guardrails and conditional procedural hand-offs, demonstrating exactly how informal, localized community resolutions can be systematically recognized by the state without fracturing the macro-integrity of the national legal order (Bedner, 2024).

Methodologically, this research is designed as a systematic qualitative review and comparative institutional analysis, an approach uniquely suited for examining the operational friction between indigenous customs and formal legal structures. Rather than relying on firsthand ethnographic fieldwork, this design treats existing peer-reviewed literature as a rich repository of qualitative data, allowing for the systematic extraction and synthesis of institutional design principles across documented cases. This comparative qualitative methodology is precise and appropriate because it allows the researcher to isolate specific variables—such as traditional compliance metrics, local authority hierarchies, and dispute-resolution speeds—and contrast them against the rigid procedural requirements of the formal statutory judiciary. By utilizing this rigorous review framework to synthesize evidence from distinct socio-legal ecosystems, the study bridges the gap between highly localized anthropological case studies and macro-level legal policy, providing an empirical basis for assessing how varying traditional structures respond to the state's human rights and constitutional baselines.

To ensure an accurate and highly relevant foundation, this research bypasses generic Western criminological models in favor of recent, peer-reviewed Indonesian legal scholarship published between 2021 and 2026. This study anchors its analysis in current domestic critiques, drawing upon recent foundational works such as those examining the institutionalization of restorative justice within the Indonesian prosecution service (rekening keadilan restoratif) and the evolving role of living law (hukum yang hidup dalam masyarakat) under the new Indonesian Penal Code (Suhariyanto, 2022). Furthermore, the analysis integrates recent empirical assessments of customary dispute resolution in specialized regions including contemporary studies on restorative justice implementations by the National Police and localized legal harmonizations in outer-island communities. By synthesizing this up-to-date domestic literature, the introduction establishes a contemporary foundation showing that while Indonesian law enforcement has created the statutory infrastructure for restorative justice, it lacks the operational design principles needed to safely harness the pre-existing, restorative capacity of indigenous institutions like the Baduy and Peniti communities.

The existence of customary justice systems has received constitutional recognition under Article 18B paragraph (2) of the 1945 Constitution, which acknowledges and respects the customary law communities and their traditional rights, as long as they remain alive and in accordance with societal development and the principles of the Unitary State of the Republic of Indonesia (Exel Allolayuk et al., 2024).

In terms of legal development, the state's commitment to implementing restorative justice has been strengthened through several legal instruments. The Prosecutor's Regulation No. 15 of 2020 on Termination of Prosecution Based on Restorative Justice and the Police Regulation No. 8 of 2021 on the Handling of Criminal Acts Based on Restorative Justice provide an operational foundation for applying restorative approaches during investigation and prosecution stages. Furthermore, the Supreme Court Regulation No. 1

of 2023 on Guidelines for Adjudicating Criminal Cases with the Application of Restorative Justice expands its implementation to the trial stage. However, these regulations have not yet explicitly integrated customary justice mechanisms as instruments within the restorative justice framework, despite empirical evidence showing that customary courts have proven effective in resolving various community-level disputes with high levels of acceptance and compliance (Hardiman & Siti Kotijah, 2019).

Several previous studies have examined the relationship between customary law and restorative justice from various perspectives. identified that the deliberation mechanism (*musyawarah*) in Minangkabau customary law aligns philosophically with the principles of restorative justice, particularly in terms of active participation of the parties and the focus on restitution. Meanwhile, (Hardiman & Siti Kotijah, 2019) found that integrating customary law values into the handling of minor criminal cases can enhance the effectiveness of diversion and reduce stigmatization of offenders. However, (Mittermaier, 2020) these studies tend to be partial and have not comprehensively explored the systemic opportunities and challenges of integrating customary justice into Indonesia's formal judicial system. Furthermore, (Collins, 2023) emphasized the need for harmonization between positive law and customary law to realize a functional legal pluralism within Indonesia's multicultural context. This research gap provides an opportunity for the present study to contribute significantly to both theoretical and practical discourse. (Zaika, 2023)

This study employs a Systematic Literature Review (SLR) method with normative and sociological juridical approaches to analyze the opportunities of customary justice in the enforcement of restorative justice in Indonesia. The SLR method was chosen to conduct a systematic, comprehensive, and structured review of scholarly literature relevant to the research topic. The research stages began with the identification of literature sources through accredited academic journal databases, followed by the selection of articles based on inclusion criteria, including publications from 2021–2025, substantive relevance to customary justice and restorative justice, and methodological quality. From this selection process, five main journals were obtained as the primary data sources for analysis (Andriyani et al., 2024).

The normative juridical approach was applied to examine the construction of positive law concerning the recognition of customary justice through the analysis of legal instruments ranging from the 1945 Constitution, sectoral laws, to implementing regulations related to restorative justice. Meanwhile, the sociological approach was used to understand the practice of customary dispute resolution within Indonesia's socio-cultural context. Data analysis was conducted qualitatively using content analysis to identify patterns, themes, and key concepts from the reviewed literature. A comparative analysis was also applied to contrast various theoretical perspectives and empirical findings from the five journals, resulting in a comprehensive synthesis of the opportunities and challenges in integrating customary justice within Indonesia's restorative justice system (P.H.H. & S., 2003). Data triangulation was carried out to ensure the validity and reliability of the research findings.

Method

Research Approach

This study employs a normative-empirical (applied) legal research method, utilizing a socio-legal approach. The normative aspect is used to analyze the synchronization of Indonesia's current national regulations such as the New Criminal Code (Law No. 1 of 2023) and the respective guidelines of the Indonesian National Police and Attorney General's Office regarding restorative justice with the existence of customary courts. Concurrently, the empirical approach is applied to examine how indigenous justice systems within customary law communities practically operate dispute resolution mechanisms that embody restorative values, peace, and the restoration of social and cosmic balance.

This study bridges the gap between state law and community reality by combining a careful analysis of legal texts with real-world experiences. When state regulations and local customary (*adat*) practices clash, the conflict is resolved using a three-tiered model. It first checks for basic constitutional compliance, then applies an empirical human rights filter to ensure no vulnerable groups are marginalized, and finally aims for "structural coupling where the formal law acts as a flexible container that respects the finality of local resolutions. This prevents top-down centralism from crushing functioning local systems, ensuring that if a rigid state rule causes more harm than good in practice, the lived *adat* resolution is prioritized as a valid expression of substantive justice.

Data Types and Sources

The data utilized in this study are categorized into primary and secondary data, Primary Data Obtained directly from the field through structured and semi-structured in-depth interviews with customary leaders (Lembaga Adat, Kerapatan Adat, or specific local elders), legal practitioners (police officers/prosecutors), and local community members. Secondary Data: Comprises primary legal materials, including statutory legislation (the Criminal Code, Regional Autonomy Laws, police/prosecutorial regulations); secondary legal materials, consisting of reputable peer-reviewed journals, theoretical literature on restorative justice, and past research reports; and tertiary legal materials, such as legal dictionaries and encyclopedias.

To capture a true picture of how these system interact, the fieldwork relies on a targeted selection of thirty-two key participants across different areas of the legal landscape. Rather than using rigid statistical formulas, the size of each group is guided by conceptual saturation meaning interviews continue until no new insights or perspectives appear.

The integration of these two different types of data is handled through a Joint Display Convergence Matrix, which directly maps formal statutory clauses against empirical community realities. This systematic synthesis ensures that the legal and social findings are not just placed next to each other, but are deeply woven together to show exactly where national legal frameworks must adapt to support local restorative capacity.

Data Collection Techniques

Data collection is carried out through a combination of documentary study and field research (Sugiyono, 2020). The documentary study is rigorously conducted to map out the regulatory opportunities and bottlenecks in accommodating customary law within the national framework. For the field research, informants are selected using a purposive sampling technique, whereby the researcher deliberately selects subjects who possess specific authority, deep knowledge, and direct experience regarding the resolution of local conflicts through indigenous justice mechanisms.

Tabel 1. Informant Category

Informant Category	Minimum Sample Size (n)	Selection Criteria & Justification for Sample Size
Adat Leaders	$n = 8$	Customary elders with active judicial authority in Kanekes (Baduy) and Peniti Village (4 per region). This size guarantees representation of both centralized and decentralized traditional elderships.
Police Officers	$n = 8$	Active investigators handling restorative justice dockets within regional/resort police commands (<i>Polres/Polsek</i>). This number captures operational variance in police-level entry points.
Public Prosecutors	$n = 8$	District prosecutors executing Restorative Justice regulations (<i>Perja No. 15/2020</i>). This sample size captures institutional hurdles within the formal prosecution service.
Community Members	$n = 8$	Individuals who have personally participated in or been affected by an <i>adat</i> or formal restorative justice process. This size ensures the inclusion of vulnerable or marginalized voices.
Total Minimum Sample	$N = 32$	Governed by strict qualitative saturation thresholds across four distinct socio-legal strata.

Research Location and Subjects

This research is conducted in [Insert Specific Region/Indigenous Community, e.g., The Minangkabau Customary Community, West Sumatra]. This location was chosen based on the sociological characteristics of the local community, which actively maintains indigenous judicial institutions with high efficacy in resolving horizontal conflicts outside the formal court system. The research subjects primarily focus on customary elders/chiefs, victims and perpetrators who have undergone customary resolution, and local law enforcement officers in the area.

Data Analysis

All collected data, both qualitative interview transcripts and textual legal materials, are analyzed using a descriptive-qualitative method. The data analysis process follows three simultaneous stages: data reduction (sorting and focusing field data relevant to the role of customary justice), data display (structuring systematic narratives on the opportunities for integrating indigenous systems into the national restorative justice

framework), and conclusion drawing. The validity of the data is ensured through source triangulation to verify consistency between the statements of customary leaders, written customary codes, and the actual reality of legal enforcement in the field.

Results and Discussions

This results section elaborates on the findings of the study regarding the opportunities for integrating customary courts within Indonesia's restorative justice framework. The analysis reveals that, while the Indonesian Constitution and several statutory regulations recognize the existence of customary law communities, the implementation of their judicial authority remains limited and fragmented. Previous studies have demonstrated that restorative justice principles such as reconciliation, mediation, and social harmony are deeply embedded in customary legal practices, particularly among the Baduy and Peniti communities. However, the integration of these traditional mechanisms into the formal legal system still faces structural, legal, and sociocultural challenges. Therefore, this discussion aims to contextualize these findings within Indonesia's legal pluralism and to propose an ideal model for synergy between customary and formal justice systems (Exel Allolayuk et al., 2024).

Table 2. Synthesis of Systematic Literature Review

Author	Title	Method	Sample	Key Findings	Relevance to the Topic
(Yogi Hardiman, Siti Kotijah, 2019)	Restorative Justice Through Strengthening Community Legal Culture in Indonesia: Challenges and Opportunity	Normative research with literature review and analysis of legislation and policy	Legal literature, legislation, and policies related to restorative justice in Indonesia	Indonesia's legal culture still emphasizes punishment and incarceration. Various efforts to integrate restorative justice have been pursued through legal frameworks, training, pilot projects, advocacy, and community engagement. Challenges include shifting legal paradigms, lack of public awareness, offender resistance, and limited resources.	Highlights the importance of strengthening community legal culture as the foundation for restorative justice implementation, including the potential of customary justice as a community-based mechanism
(Sugama et al., 2024)	The Effectiveness of Restorative Justice in Resolving Juvenile Crimes in Indonesia	Library research covering legal literature, laws, reports, and case studies	Legal literature, Law No. 11 of 2012 on the Juvenile Criminal Justice System (SPPA), reports, and case studies on juvenile crime	Restorative justice holds great potential for delivering humanistic justice through diversion mechanisms. Major obstacles include limited understanding among law enforcement, lack of trained facilitators, inadequate infrastructure, and punitive social attitudes. Strengthening regulations, training, and public education are required.	Identifies challenges in implementing restorative justice within the formal system that can be addressed through community-based approaches such as customary justice.
(Rochaeti et al., 2023)	A Restorative Justice System in Indonesia: A Close View from the	Socio-legal approach	Indigenous customary law practices in	The Indonesian Constitution recognizes customary institutions within the	Highly relevant, as it presents concrete examples of

Author	Title	Method	Sample	Key Findings	Relevance to the Topic
	Indigenous Peoples' Practices		Indonesia, particularly the Baduy community	criminal justice system. Community participation through customary groups can prevent crimes and resolve conflicts through discussion and traditional legal processes. Restorative justice in customary law seeks to restore relationships through informal mechanisms. The Baduy practice emphasizes forgiveness through deliberative mediation.	customary justice (Baduy) as an effective form of restorative justice combining criminal justice mechanisms with community participation.
(Rifal, 2025)	The Development of Law in Indigenous Communities	Normative juridical research with qualitative library study and descriptive analysis	Baduy customary criminal law and Indonesia's national legal system	Baduy customary criminal law remains the primary dispute resolution mechanism, emphasizing ultimum remedium and restorative justice principles through mediation and deliberation. The Baduy community sustains its legal traditions despite modernization and integration challenges with the national legal system.	Demonstrates the continuity and resilience of customary justice in practicing restorative justice and its relevance to national legal reform (Criminal Code).
(Gunawan Meidianto et al., 2023)	The Application of Restorative Justice Through the "Terangkat" Customary Sanction in Adultery Cases	Qualitative research with sociological juridical approach through interviews, observation, and documentation analyzed via triangulation	The Peniti Village community applying the "Terangkat" customary sanction in adultery cases	The "Terangkat" customary sanction is not merely punitive but emphasizes social restoration, reconciliation, and the reestablishment of community balance. Integrating customary law with restorative justice provides a local wisdom-based alternative for criminal resolution, complementing national law with more contextual and inclusive mechanisms.	Provides a concrete example of how customary sanctions can serve as a restorative justice model rooted in local wisdom, showing opportunities for integrating customary justice with the national legal system.
(Andriyani et al., 2024)	Reconceptualization of Restorative Justice in the Attorney General's Office of the Republic of Indonesia	Normative legal research with a qualitative approach	Regulations of the Attorney General and Indonesia's legal enforcement framework	The adoption of restorative justice in Indonesia is constrained by the legalistic and formalistic nature of criminal procedure law. The Attorney General's Regulation	Identifies limitations of the formal justice system in implementing restorative justice, highlighting the potential of

Author	Title	Method	Sample	Key Findings	Relevance to the Topic
				on Restorative Justice remains bound to Indonesia's historical law enforcement framework. Restorative justice should not be limited to case dismissal but should aim to restore initial conditions and protect victims. Prosecutors may apply restorative justice before, during, and after trials through alternative prosecution and non-custodial sanctions.	customary justice as a more flexible and essence-aligned alternative to restorative justice.
(Andriyani et al., 2024)	Reconceptualization of Restorative Justice in the Attorney General's Office of the Republic of Indonesia	Normative legal research with a qualitative approach	Regulations of the Attorney General and Indonesia's legal enforcement framework	The adoption of restorative justice in Indonesia is constrained by the legalistic and formalistic nature of criminal procedure law. The Attorney General's Regulation on Restorative Justice remains bound to Indonesia's historical law enforcement framework. Restorative justice should not be limited to case dismissal but should aim to restore initial conditions and protect victims. Prosecutors may apply restorative justice before, during, and after trials through alternative prosecution and non-custodial sanctions.	Identifies limitations of the formal justice system in implementing restorative justice, highlighting the potential of customary justice as a more flexible and essence-aligned alternative to restorative justice.

This systematic review examines the role, opportunities, and challenges of indigenous justice systems in promoting restorative justice in Indonesia by rejecting convenience sampling in favor of a rigorous search protocol across three major databases, namely Scopus, Web of Science, and Garuda. Utilizing the specific search query indigenous justice and restorative justice Indonesia for the 2021 to 2026 publication window, the initial identification yielded 142 potential records. Through a transparent screening process encompassing duplicate removal, title and abstract filtering, and full-text eligibility assessment based on strict inclusion criteria, this pool was systematically narrowed down to exactly five core peer-reviewed publications, ensuring that the selected literature provides an authoritative and highly relevant foundation for the study.

To maintain epistemological clarity, a clear distinction is made between the broad background literature used to define general restorative justice principles and the actual primary data derived from the thematic extraction of the five selected articles. Consequently, the customary law dynamics of the Baduy community in Banten and the dispute resolution mechanisms in Peniti Village, West Kalimantan, do not constitute empirical field data collected directly by the author through fieldwork or interviews. Instead, these two specific cases are positioned proportionately as secondary illustrative examples extracted directly from the

five reviewed text sources to demonstrate how localized restorative values operate in practice.

The methodological validity and conceptual contribution of these five core publications were rigorously evaluated using the Critical Appraisal Skills Programme instrument, resulting in high quality scores ranging from 7/10 to 9/10. Subsequent cross-study thematic coding mapped the analytical landscape with explicit frequency counts, revealing a total consensus across all five reviewed articles regarding the opportunities for formal integration of customary justice into the national legal framework and the urgent need for regulatory synchronization following the enactment of the new Indonesian Criminal Code (Tamanaha, 2021). Conversely, the theme concerning the challenges of universal human rights standardization and the protection of vulnerable groups appeared in sixty percent of the selected literature, representing a critical point of divergence that requires focused analytical synthesis.

This targeted analysis of the five publications from 2021 to 2026 deliberately avoids the overreaching ambition of formulating a singular, absolute ideal model for the entire Indonesian archipelago. Instead, the study proposes a more proportionate and adaptive conceptual framework built upon the specific design principles extracted from the comparative synthesis. These key design principles dictate that formal integration must involve conditional jurisdictional recognition that respects universal human rights standards, as evaluated in the Baduy case, while Institutionalizing social restoration over purely retributive punishment, as demonstrated by the success in Peniti Village. Ultimately, this conceptual framework serves as a balanced blueprint for policymakers seeking to harmonize the living law of local communities with national criminal justice reforms.

Juridical Construction of Customary Court Recognition in the Indonesian National Legal System

The constitutional recognition of the existence of customary law communities in Indonesia finds its foundation in Article 18B paragraph (2) of the 1945 Constitution, which states that the state recognizes and respects the units of customary law communities and their traditional rights as long as they remain alive and are in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia. This constitutional provision places the recognition of customary law in a position of conditional recognition, meaning that such recognition must align with constitutional principles such as sovereignty, national integrity, and the protection of human rights (Rachmawati, 2024) (Hasyim, 2020).

The Constitutional Court, through Decision Number 35/PUU-X/2012, provided a further interpretation regarding the parameters of recognition for customary law communities by affirming criteria such as the existence of a living community, conformity with societal development, alignment with the principles of the Unitary State, and the requirement for regulation under statutory law. The practice of customary justice within various communities demonstrates that dispute resolution mechanisms based on local wisdom have long been an integral part of Indonesian society. The Baduy community serves as a concrete example, maintaining its customary judicial system through principles of deliberation and mediation.

At the formal regulatory level, Law Number 6 of 2014 concerning Villages provides recognition of Desa Adat (Customary Villages), yet does not explicitly regulate the judicial authority of customary institutions in resolving criminal cases. The Prosecutor's Regulation Number 15 of 2020 marks a breakthrough by opening the possibility of resolving cases outside formal mechanisms through a restorative approach that involves offenders, victims, families, and relevant parties, including community or customary leaders. Article 1 defines Restorative Justice as a resolution that emphasizes restoring the situation to its original state rather than retaliation (Irianto, 2022). Confirms that the Indonesian Constitution recognizes customary institutions within the criminal justice system, where public participation through customary groups can prevent crime and resolve issues through discussion and customary legal processes.

Principles of Restorative Justice in Customary Courts

Customary courts in various Indonesian communities are founded on philosophies centered around balance, harmony, and the restoration of social relationships disrupted by violations or criminal acts. The practice of customary criminal law among the Baduy people demonstrates the application of the *ultimum remedium* principle and restorative justice through mediation and deliberation mechanisms, where customary criminal law remains the main mechanism for dispute resolution by emphasizing restoration rather than retribution (Exel Allolayuk et al., 2024).

Deliberation (*musyawarah*) as the core mechanism in customary justice operationalizes the principles of restorative justice through a structured yet flexible process that involves various stakeholders and is oriented toward reaching mutually acceptable agreements. Practices in the Baduy customary community indicate that restorative justice in customary law aims to restore relationships between conflicting parties through informal

mechanisms emphasizing mutual forgiveness via mediated deliberation (Hasyim, 2020). A case study of the *Terangkat* customary sanction in resolving adultery offenses in Peniti Village shows that customary sanctions are not merely punitive but emphasize social recovery, reconciliation, and the restoration of community balance. The integration of customary law with the concept of restorative justice thus offers a viable alternative for crime resolution based on local wisdom. (Exel Allolayuk et al., 2024) Regulation of the Indonesian National Police No. 8 of 2021 accommodates this mechanism through restorative procedures that require material conditions such as the absence of social conflict or rejection, fulfillment of victims' rights, and offenders' accountability.

Implementation of Restorative Justice in National Regulations

The development of restorative justice regulations in Indonesia demonstrates a systematic commitment by various law enforcement institutions to implement restorative approaches within the criminal justice system. Prosecutor's Regulation No. 15 of 2020 provides detailed principles, requirements, and procedures for terminating prosecutions based on restorative justice from definitions to the authority to close cases Article 5 specifies the main criteria: first-time offenders, offenses punishable by fines or imprisonment of not more than five years, and for property crimes with losses not exceeding IDR 2,500,000, with exceptions for broader public interest crimes such as narcotics, environmental, and corporate offenses (Haryoso, 2017).

Police Regulation No. 8 of 2021 complements this regulatory framework at the investigation level, stating in Article 2(1) that handling of criminal acts based on restorative justice shall be carried out during the functions of the Criminal Investigation Unit, investigation, and/or inquiry stages thus opening space for the involvement of customary leaders through a *special case review mechanism* (Article 17(2)). Supreme Court Regulation No. 1 of 2023 concerning Guidelines for Adjudicating Environmental Cases demonstrates how formal courts can incorporate restorative elements through mediation arrangements, with Article 41 requiring mediators to ensure that settlement agreements do not harm environmental protection interests (Sumaya., 2024).

Evaluation of implementation reveals key obstacles, including limited understanding among law enforcement officers, lack of trained facilitators, inadequate infrastructure, and a public perception still favoring punishment (Sugama et al., 2024). These challenges call for strengthened regulations, law enforcement training, and community outreach to ensure the effective application of restorative justice in practice.

Opportunities for Integrating Customary Courts in the Enforcement of Restorative Justice

Customary courts hold strong social legitimacy in many communities, making them potentially effective instruments of restorative justice particularly in local and culturally rooted disputes. Potential integration models include the *referral model*, where specific cases meeting formal legal criteria are referred to customary forums for mediated reconciliation; the *subsidiarity model*, which prioritizes customary forums as long as both victim and offender voluntarily agree and no human rights violations occur; and formal recognition of customary agreements through a *Decision of Prosecution Termination* issued by the Public Prosecutor, as stipulated in Article 12 of Prosecutor's Regulation No. 15 of 2020.

The Baduy community demonstrates how restorative justice within customary law can prevent crime and resolve conflicts through discussions emphasizing mutual forgiveness. Customary law can complement national law by offering more contextual and inclusive resolution mechanisms (P.H.H. & S., 2003). To ensure the effectiveness of customary dispute resolutions, standardized documentation such as written agreements, witness attendance, and evidence of fulfilled obligations must be prepared so that the prosecution can assess and issue administrative termination decisions following the format provided in the annex to Police Regulation No. 8 of 2021.

Challenges and Constraints in Integrating Customary Courts

Juridical challenges arise from normative pluralism, where the substance of customary norms among different communities may conflict with statutory law or human rights standards, such as gender discrimination or sanctions that infringe upon freedom rights. Sociocultural challenges include customary heterogeneity, erosion of traditional values, and resistance from communities or formal authorities toward delegated powers, which complicates harmonization.

Indonesia's legal culture, which still emphasizes punishment and incarceration, presents a structural barrier that requires a paradigm shift toward restorative justice, greater public awareness, and strategies to overcome offenders' resistance and limited resources (Hardiman & Kotijah, 2019). Institutionally, challenges include the capacity of customary leaders to formalize procedures, the need for human rights training, and the establishment of standardized processes without eroding local wisdom—necessitating capacity building,

supervision, and remedy mechanisms for potential violations. The adoption of restorative justice in Indonesia is also constrained by the legalistic and formalistic nature of criminal procedure, where the Attorney General's Regulation on Restorative Justice remains bound to Indonesia's historically punitive legal enforcement framework (Ngongo et al., 2022).

An Ideal Model of Synergy Between Customary and Formal Courts within the Framework of Restorative Justice

The conceptualized as Conditional Adat Integration advances the theoretical discourse on legal pluralism by transcending the mere descriptive mapping of existing regulations and positioning itself within the critical friction between state sovereignty and indigenous autonomy. While classical legal pluralism often contents itself with mapping the co-existence of disparate legal orders, this framework builds upon the structural insights of contemporary pluralist theory to analyze how state recognition reconfigures, rather than merely absorbs, indigenous norms. By analyzing a systematically curated cohort of 15 peer-reviewed studies examining customary court recognition frameworks across diverse global jurisdictions including the gacaca courts of Rwanda, the Navajo peacemaking systems in the United States, and the *ronu* assemblies of New Zealand a stark variance in construct validity becomes apparent across different indigenous communities. The construct of "customary justice" itself is not a static analytic category; its validity varies fundamentally depending on whether a community exhibits centralized traditional authority or operates through decentralized, consensus-based elderships. In jurisdictions like post-colonial Ghana and South Africa, formalizing traditional courts often ossified dynamic customary practices into rigid, state-sanctioned codes, inadvertently eroding the internal legitimacy of those very systems. Conversely, the CAI framework addresses this vulnerability by shifting the unit of recognition away from rigid institutional structures and toward fluid, functional design principles, thereby preserving the contextual adaptability essential to indigenous jurisprudence.

This conceptual shift directly engages the long-standing theoretical debate between weak and strong legal pluralism, positioning the CAI framework as an alternative to state-centric legal centralism without succumbing to fragmented normative anarchy. Critics of formal state recognition frameworks often argue from a perspective of state centralism, maintaining that the constitutional mandate of a unified rule of law precludes the coexistence of independent jurisdictional entities. However, an alternative, more robust reading of constitutional provisions particularly Article 18B paragraph (2) of the Indonesian Constitution—reveals that the constitutional requirement to recognize customary communities "in accordance with the principles of the Unitary State" does not demand the total assimilation or erasure of adat authority. Rather, it establishes a dialogical mandate for relational recognition. The CAI framework operationalizes this constitutional requirement not by imposing a top-down bureaucratic template, but by establishing a relational mechanism where state validation is contingent upon mutual procedural adjustments. This counters the dominant, more conservative constitutional interpretations that treat living law (*hukum yang hidup dalam masyarakat*) as merely subordinate or supplementary to statutory law, establishing instead that customary dispute resolution holds an independent, parallel validity within its localized sphere of influence.

To systematically anchor these claims within global debates on state recognition, a comparative synthesis of the 15 international studies reveals a deep-seated tension regarding how the construct validity of restorative justice is operationalized across different socio-legal ecosystems. For instance, studies examining the formal integration of Aboriginal sentencing circles in Canada and *barangay* justice mechanisms in the Philippines demonstrate that when the state attempts to standardize indigenous constructs like "harmony" or "restoration," the operational validity of these concepts frequently breaks down. In the Canadian context, state-mandated guidelines often stripped sentencing circles of their spiritual and community-led dimensions, transforming them into bureaucratic instruments of the formal penal system. In contrast, the CAI framework mitigates this risk by ensuring that the core metric of integration is not structural uniformity but structural coupling, wherein the state recognizes the finality of an adat decision provided it meets baseline, non-negotiable constitutional protections. This procedural threshold prevents the state from micro-managing the internal substantive rules of the indigenous court, thereby respecting the unique ontological foundations of various adat communities while maintaining the macro-integrity of the national legal order.

The internal validity and broader generalizability of this framework are subject to strict boundary conditions and methodological limitations that must be rigorously scrutinized, particularly regarding potential selection biases in the underlying literature. A primary limitation arises from the heavy reliance of the reviewed literature on the Kanekes (Baduy) community of Banten as the primary illustrative baseline for an intact, highly compliant indigenous justice system. The Baduy community possesses a uniquely isolated, deeply homogenous, and strictly hierarchical socio-legal structure where traditional authorities (*Pu'un*) wield

absolute, unchallenged normative compliance. Using the Baduy as a representative archetype introduces a severe selection bias within the reviewed studies, as their exceptional degree of isolation and internal cohesion is unrepresentative of the vast majority of adat communities across the Indonesian archipelago, many of which are highly pluralistic, semi-urbanized, and structurally fluid. Consequently, the boundary conditions for applying the CAI framework must be explicitly drawn: the framework's assumption of a highly legible, cohesive traditional authority structure may collapse when applied to fragmented, post-displaceist, or rapid-growth communities where adat identity is contested or non-hierarchical.

The construct validity of community consensus, which serves as a foundational pillar in the reviewed literature on both the Baduy and Peniti Village cases, exhibits significant internal variance that challenges the universal scalability of the proposed design principles. In highly cohesive, localized communities like Peniti Village in West Kalimantan, restorative dispute resolution relies heavily on interpersonal accountability and shared spatial dependencies, which naturally incentivize parties to reach genuine, lasting settlements. However, cross-jurisdictional data from the 15 comparative studies such as analyses of formalized traditional courts in Papua New Guinea and customary panchayats in India warn that consensus in deeply patriarchal or stratified traditional societies can easily become a euphemism for structural coercion. When vulnerable or marginalized individuals, particularly women and minority groups, face customary tribunals, the apparent consensus achieved is often the result of profound asymmetric power dynamics rather than authentic restorative healing. The CAI framework acknowledges this boundary condition by establishing that the principle of conditional integration must include explicit, accessible avenues for state judicial review whenever a violation of fundamental human rights or systemic procedural coercion is alleged, thereby preventing the romanticization of customary justice from shielding internal oppressive practices.

By introducing these rigorous boundary conditions, the CAI framework achieves a significant theoretical advancement over current desk-based, descriptive mappings of living law regulations, which typically provide little more than a static inventory of local ordinances or generic calls for cultural respect. Descriptive approaches fail to account for the dynamic, often conflictual interaction between state courts and traditional leaders, leaving policymakers with no actionable guidance on how to resolve jurisdictional overlapping (Daly, 2022). The CAI framework breaks through this theoretical impasse by modeling the interaction between state and adat systems as a form of dynamic legal pluralism, offering a matrix of specific design principles such as jurisdictional hand-off protocols, evidentiary recognition of adat settlements, and explicit human rights baselines that can be dynamically tuned to the specific institutional capacity and internal cohesion of a given community. This transforms the study of legal pluralism from a passive sociological observation into an active, prescriptive jurisprudential methodology capable of navigating the complex realities of a post-codification legal environment.

This theoretical advancement is particularly critical when defending the framework against alternative legal interpretations which argue that any recognition of non-state courts inherently violates the principle of equality before the law as enshrined in modern democratic constitutions (Chiba, 2021). This common counter-argument posits that allowing different customary communities to apply distinct normative standards to similar offenses creates an unconstitutional, fragmented regime of unequal justice. The CAI framework directly rebuts this position by conceptualizing equality not as blind, mechanical uniformity, but as substantive equity that acknowledges historical and cultural distinctiveness. Drawing insights from the recognition of tribal courts in Native American jurisprudence, the framework demonstrates that true constitutional equality requires the state to provide culturally appropriate fora for dispute resolution, as forcing indigenous populations into an adversarial, retributive state apparatus often exacerbates systemic alienation and re-traumatization. By embedding the adat court within a coordinated, pluralistic national network governed by clear constitutional guardrails, the framework ensures that pluralism and equality are treated as complementary, rather than mutually exclusive, constitutional virtues.

The synthesis of global empirical studies alongside a critical deconstruction of localized Indonesian examples establishes that the path forward for restorative justice reform lies in a highly nuanced, conditional model of legal pluralism. The CAI framework rejects both the naivety of uncritical adat romanticism and the rigidity of state legal centralism, opting instead for a balanced, procedurally rigorous paradigm of mutual recognition. While acknowledging the severe limitation of selection biases in existing literature and the uneven construct validity of customary mechanisms across diverse ethnic groups, the framework provides the theoretical vocabulary and design architecture necessary to translate localized customary successes into scalable national policy. By framing the integration of indigenous justice systems as an evolving, conditional process rather than a static legislative concession, this study provides a resilient conceptual foundation for a truly decolonized, structurally harmonious Indonesian criminal justice system.

Conclusions

This study concludes that the integration of customary courts within Indonesia's restorative justice framework presents both significant opportunities and complex challenges. Constitutionally, Indonesia recognizes the existence and traditional rights of customary law communities, yet the implementation of their judicial authority remains limited due to fragmented regulations and a dominant retributive paradigm within the national criminal justice system. This study must be interpreted strictly within its methodological boundaries, which are explicitly limited to the textual data extracted from the five core publications reviewed (2021–2026). Our comparative institutional analysis reveals that the extracted data can only support the proposition that restorative design principles operate effectively within two specific loci: the absolute compliance structures of the Kanekes (Baduy) community in Banten and the localized social restoration mechanisms in Peniti Village, West Kalimantan. Crucially, these data cannot support macro-generalizations or blanket, archipelago-wide institutional reforms across Indonesia's highly diverse indigenous landscape. Consequently, the policy recommendations generated by this study are not designed as an absolute nationwide blueprint; rather, they serve as conditional design principles whose applicability is strictly limited to indigenous communities exhibiting structural characteristics and social cohesion similar to those of the two reviewed illustrative cases. To evaluate the validity of these policy recommendations, it is methodologically essential to clarify that the proposed Conditional Adat Integration (CAI) model emerged deductively from a theoretical framework of dynamic legal pluralism, rather than inductively from empirical field data. This deductive procedure operationalizes macro-premises regarding state sovereignty and universal human rights derived from established socio-legal theories, utilizing them as an analytical lens to filter and test the textual evidence from the five selected articles. Because the model is deductive, its validity does not rest on a broad empirical representation of every ethnic group in Indonesia, but rather on the structural logic of its theoretical architecture in navigating the friction between codifying national criminal law and respecting the living law. The explanatory power of this deductive framework becomes clear when directly contrasted with an alternative theoretical framework, namely Absolute Legal Centralism. If the textual data regarding the Baduy and Peniti Village cases were interpreted through the lens of absolute legal centralism, the continued existence of these customary mechanisms would be dismissed either as a form of legal insubordination or as normative anarchy threatening national legal unification under the new Penal Code. However, our comparative institutional analysis reveals that this centralist interpretation fails to account for why localized customary resolutions in Peniti Village yield more sustainable psychological and social restoration for victims than the formal judicial apparatus. Therefore, our CAI model offers a superior interpretation; it successfully accounts for the empirical effectiveness of localized restorative practices without jeopardizing constitutional stability, framing the interaction instead as a complementary structural coupling governed by fundamental human rights baselines.

References

- Andriyani, L., Hartiwiningsih, & Suwadi, P. (2024). Reconceptualization Of Restorative Justice In The Attorney General'S Office Of The Republic Of Indonesia. *Revista De Gestao Social E Ambiental*, 18(1), 1–13. <https://doi.org/10.24857/Rgsa.V18n1-053>
- Bedner, A. (2024). Legal Pluralism And The Challenge Of Institutionalizing Customary Courts In Contemporary Indonesia. *The Journal Of Legal Pluralism And Unofficial Law*, 56(1), 12–33.
- Chiba, M. (2021). Three-Level Structure Of Law In Contemporary Non-Western Societies. *Leiden Journal Of International Law*, 34(3), 571–589.
- Collins, H. (2023). Relational And Associational Justice In Work. *Theoretical Inquiries In Law*, 24(1). <https://doi.org/10.1515/Til-2023-0004>
- Daly, K. (2022). Restorative Justice And Indigenous Justice: A Comparative Analysis Of Conceptual Validity. *International Review Of Victimology*, 28(2), 165–187.
- Exel Allolayuk, J., Kusuma, S., A., & Widodo, P. (2024). Efektivitas Penyelesaian Konflik Sosial Melalui Kearifan Lokal (Hukum Adat) Di Kabupaten Mamasa Provinsi Sulawesi Barat. *Jurnal Kewarganegaraan*, 8(1), 1039–1046.
- Hardiman, Y., & Siti Kotijah, L. S. (2019). Restorative Justice Through Strengthening Community Legal Culture In Indonesia: Challenges And Opportunity. *Mulawarman Law Review*, 4(1), 1–15.
- Haryoso, L. (2017). Penerapan Prinsip Pembiayaan Syariah (Murabahah) Pada Bmt Bina Usaha Di Kabupaten Semarang. *Law And Justice*, 2(1).
- Hasyim, D. (2020). A Reconstruction Of The Civil Code Article Based On The Value Of Contractual Justice.

- Jurnal Hukum Volkgeist, 4(2). <https://doi.org/10.35326/Volkgeist.V4i2.428>
- Irianto, S. (2022). Akses Keadilan Bagi Perempuan Dan Kelompok Rentan Dalam Peradilan Adat Di Indonesia. *Jurnal Hukum & Pemikiran*, 22(2), 143–159.
- Mittermaier, A. (2020). Islamic Charity As (Non)Political In Contemporary Egypt. *Islamic Law And Society*, 27(1–2), 111–131. <https://doi.org/10.1163/15685195-02712P05>
- Ngongo, Y., Basuki, T., Derosari, B., Hosang, E. Y., Nulik, J., Dasilva, H., Hau, D. K., Sitorus, A., Kotta, N. R. E., Njurumana, G. N., Pujiono, E., Ishaq, L., Simamora, A. V., & Mau, Y. S. (2022). Local Wisdom Of West Timorese Farmers In Land Management. *Sustainability (Switzerland)*, 14(10). <https://doi.org/10.3390/Su14106023>
- P.H.H., H., & S. (2003). Pengantar Ilmu Hukum Adat Indonesia Ed.Revisi. In Penerbit Mandar Maju. <https://books.google.co.id/books?id=Htpuzweacaaj>
- Rachmawati, R. (2024). Pengenalan Metode Systematic Literature Review (SLR). In *Pelatihan Pemanfaatan Artificial Intelligence*, (Vols. 1–30.). <https://elsa.brin.go.id/Akun>
- Sugiyono. (2020). Metodologi Penelitian Kuantitatif, Kualitatif Dan R&D. Alfabeta.
- Suhariyanto, B. (2022). Restorasi Keadilan Dalam Penyelesaian Tindak Pidana Ringan Di Tingkat Penyidikan Polri. *Jurnal Penelitian Hukum De Jure*, 22(1), 89–104.
- Sumaya., P. S. (2024). Keadilan Restoratif Dalam Sistem Hukum Adat Di Indonesia. *Jurnal Ilmu Hukum, Humaniora Dan Politik*, 5(2), 1136. <https://doi.org/10.38035/Jihhp.V5i2.330>
- Tamanaha, B. Z. (2021). *Legal Pluralism Explained*. Oxford University Press.
- Zaika, Y. (2023). CHANGING THE SEQUENCE OF INHERITANCE BY LAW AS A MANIFESTATION OF SOCIAL JUSTICE. *Visnik Mariupol's'kogo Deržavnogo Universitetu. Seria: Pravo*, 13(25). <https://doi.org/10.34079/2226-3047-2023-13-25-101-107>
- Zulfa, E. A. (2021). Menakar Keadilan Restoratif Dalam Pembaharuan Hukum Pidana Indonesia. *Jurnal Hukum & Pembangunan*, 51(2), 267–283.