

The Effectiveness of Restorative Justice in Resolving Criminal Acts: Interaction Between Ocu Customary Law and Positive Law

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Abstract

This study aims to analyze the effectiveness of restorative justice in resolving criminal acts at the Kampar District Police, focusing on the interaction between Ocu customary law and positive law. This study is urgent due to the legal system's increasing reliance on culturally grounded mechanisms for resolving minor crimes, particularly in regions like Kampar, Riau, where local customs remain influential. Restorative justice is considered a more humane and culturally adaptive approach, especially when involving traditional mechanisms. This study uses a qualitative normative method supported by case studies and interviews with customary leaders and police officials. The results show that restorative justice is effectively applied in Kampar with the involvement of the Ocu customary law, promoting reconciliation, victim recovery, and offender accountability. The synergy between customary institutions and the police plays a critical role in resolving disputes peacefully. However, challenges remain in harmonizing customary practices with national legal standards, requiring legal reform and capacity building among law enforcement and customary leaders. This study contributes uniquely by empirically demonstrating a functional hybrid justice model at the police level in a customary law context. It highlights how restorative justice, rooted in local traditions, can operate effectively within Indonesia's legal pluralism framework. This article recommends greater institutional support and legal recognition for customary-based restorative practices to enhance justice delivery in multicultural societies.

Keywords: Customary Law; Effectiveness; Legal Reform; Positive Law; Restorative Justice

1. INTRODUCTION

Indonesia's criminal justice system is gradually shifting from a retributive model to one that embraces restorative justice principles. This paradigm shift reflects a broader recognition of the limitations of punitive justice, particularly in addressing the social and psychological dimensions of crime. In this context, restorative justice offers a more inclusive and reconciliatory approach, focusing on repairing harm, restoring relationships, and involving all stakeholders: victims, offenders, and the community. The urgency of adopting restorative justice becomes even more evident in culturally rich areas like Kampar Regency in Riau Province, where local communities continue to uphold traditional dispute resolution mechanisms grounded in Ocu customary law. In these communities, the values of harmony, collective accountability, and forgiveness are deeply embedded in the local justice ethos.¹

The Kampar District Police (Polres Kampar) has begun incorporating restorative justice practices into its case handling procedures, especially in minor criminal cases. However, this integration raises important questions about the interaction between the formal legal system and customary law. While Ocu customary law offers culturally resonant methods for resolving conflicts, its

¹ Eva Achjani Zulfa, "Hybrid Justice System: Efforts Of Legal Internalization Living In The Criminal Justice System," *Baltic Journal of Law and Politics* 16, no. 3 (2023): 399–410, <https://doi.org/10.2478/bjlp-2023-0000034>.

alignment with national legal standards remains complex. This study focuses on examining how restorative justice is implemented within the Kampar police jurisdiction and how it interacts with Ocu customary practices, aiming to assess its effectiveness in real-world law enforcement contexts.²

Several recent studies have highlighted the growing interest in restorative justice across Indonesia. Riziq (2024) provided a critical analysis of restorative justice implementation, emphasizing the structural barriers faced by legal institutions and the inconsistency of restorative frameworks across jurisdictions. Dheny Wahyudhi et al. (2024) explored restorative justice in the juvenile justice system and underlined the importance of engaging all parties in dialogue and healing, yet noted the absence of clear regulatory guidelines. Nur Rochaeti et al. (2023) offered insights into how indigenous communities employ restorative principles effectively through traditional norms and rituals, demonstrating the potential of integrating these approaches into the state legal system. These studies confirm that while restorative justice has gained traction, it lacks uniform implementation and often overlooks the nuances of local legal cultures.³

Unlike Riziq (2024), who focused on national structural barriers, or Wahyudhi et al. (2024), who concentrated on restorative justice in the juvenile justice context, this article offers a distinctive contribution by focusing on the role of police institutions and their collaboration with customary leaders within the Ocu customary law framework. Furthermore, it expands the work of Rochaeti et al. (2023) by providing empirical evidence on how restorative mechanisms are implemented at the police level in rural, culturally embedded environments. This positioning highlights the research gap that this article seeks to address—namely, the lack of studies examining how law enforcement institutions engage with local customary systems in the practical implementation of restorative justice.⁴

This article attempts to address these limitations by presenting a contextualized study of restorative justice implementation at the Kampar District Police, where both formal legal actors and local adat authorities play integral roles. The uniqueness of this study lies in its empirical focus on law enforcement practices that are culturally adaptive, supported by the active participation of community elders, and legitimized through traditional norms. By documenting this interaction, the study seeks to contribute to the development of a pluralistic legal framework that honors both national and local legal traditions.⁵

² Moh. Fadhil, “Restorative Justice Paradigm,” *Al Daulah : Jurnal Hukum Pidana Dan Ketatanegaraan* 12, no. 2 (2023): 246–63, <https://doi.org/10.24252/ad.vi.33774>.

³ Nur Rochaeti et al., “A Restorative Justice System in Indonesia: A Close View from the Indigenous Peoples’ Practices,” *Sriwijaya Law Review* 7 (2023): 87, <https://doi.org/10.28946/slrev.Vol7.Iss1.1919.pp87-104>.

⁴ Kadek Cahya Susila Wibawa Nur Rochaeti, M. Hafidh Prasetyo, “Restorative Justice in the Customary Jurisdiction of the Dayak Tribe Communities of West Kalimantan,” *Russian Law Journal* 11, no. 3s (2023): 23–31, <https://doi.org/10.52783/rlj.v11i3s.733>.

⁵ Lisnawaty W. Badu and Julisa Aprilia Kaluku, “Restorative Justice in The Perspective of Customary Law: A Solution to The Settlement of Narcotics Crimes Committed by Children,” *Jambura Law Review* 4, no. 2 (2022): 313–27, <https://doi.org/10.33756/jlr.v4i2.11664>.

The findings are expected to provide a practical framework for evaluating restorative justice effectiveness in culturally governed regions and to inform policymakers on how to better support hybrid justice models. Beyond evaluation, this study also aims to propose a reformulation of current legal regulations to provide a more robust and inclusive structure for restorative justice, particularly by formally recognizing the role of customary law within national procedures. Such reform is essential for ensuring consistency, legitimacy, and sustainability in restorative justice practices.⁶

To answer the research objectives, this article applies a qualitative research method involving document analysis, field observations, and interviews with police officers, customary leaders, and parties involved in restorative cases. The use of qualitative techniques allows for a detailed exploration of how restorative justice functions on the ground and the dynamics between police discretion and customary wisdom in reaching equitable resolutions. Where available, this study also considers statistical data on restorative justice cases handled by the Kampar District Police in recent years.

This article aims to examine the effectiveness of restorative justice in resolving criminal acts through the interaction between Ocu customary law and Indonesia's positive legal system. It also seeks to identify legal reformulations necessary to strengthen the synergy between formal legal structures and customary practices, ultimately contributing to the development of a more cohesive and culturally responsive justice system.

2. METHOD

This study employs a qualitative normative approach, aiming to analyze the effectiveness of restorative justice in resolving criminal acts within the jurisdiction of the Kampar District Police, with a particular focus on the interaction between Ocu customary law and positive law. The normative aspect involves examining the legal frameworks that govern restorative justice and the recognized position of Ocu customary law, while the empirical aspect explores how these normative elements are implemented in practice through field observations and the experiences of stakeholders.⁷ The research is descriptive-analytical, seeking to systematically describe and interpret the interaction between state law and customary practices in restorative justice. It aims to understand both the existing legal mechanisms and their practical implementation, as well as the extent to which these mechanisms are effective in addressing and resolving criminal acts. Data collection was conducted using two primary techniques. First, document analysis was carried out by reviewing relevant statutory regulations, academic literature, police procedural guidelines, and customary law documents specific to the Ocu community. Second, fieldwork was conducted through in-depth interviews with key stakeholders, including police officers who

⁶ Maria Silvya E Wangga, "Implementation of Restorative Justice in Criminal Cases in Indonesia," *Law and Humanities Quarterly Reviews* 1, no. 3 (2022): 109–15, <https://doi.org/10.31014/aior.1996.01.03.25>.

⁷ Padlah RIYADI, "Restorative Justice Reconstruction With The Indonesian Criminal System After Law No. 1 Of 2023," *Journal Of Land And Environmental Law*, no. 1 (2024): 86–105, <https://doi.org/10.38142/pjlel.v2i3.1208>.

handle restorative cases, customary leaders (nirik mamak) who facilitate traditional mediation, and both victims and offenders who have participated in restorative processes. Additionally, participant observation was employed during restorative justice sessions facilitated by both police and customary figures, providing real-time insights into the dynamics of reconciliation and justice restoration.⁸

Data analysis employed qualitative techniques using a normative-empirical lens. The analysis was conducted through three main stages: (1) data reduction, where irrelevant or redundant information was filtered out while key themes were identified; (2) data display, where the categorized data were organized in thematic matrices or narrative descriptions to reveal the patterns of interaction between formal and customary justice systems; and (3) conclusion drawing and verification, where the researcher synthesized findings to form interpretations and tested their validity by cross-checking different data sources and applying triangulation. Triangulation was applied by comparing legal documents, observational data, and interview transcripts to ensure reliability and depth of analysis.⁹ This methodological approach allows for a comprehensive understanding of how restorative justice is operationalized within the hybrid framework of Indonesian formal law and Ocu customary law, while also evaluating the effectiveness of such practices in achieving reconciliation, offender accountability, and victim recovery

3. RESULT AND DISCUSSION

The application of restorative justice in Kampar District Police reveals a hybrid model of conflict resolution that blends formal legal processes with deeply rooted customary practices. This integration responds to the region's cultural context, where Ocu customary law plays a central role in maintaining social harmony and managing interpersonal conflicts. Initial findings show that the Kampar District Police actively incorporate restorative justice principles in selected minor criminal cases. The approach typically involves resolving disputes through non-litigation mechanisms that prioritize reconciliation and community restoration over punitive measures. Such practices are evident in theft cases, minor domestic violence, and youth delinquency, which are deemed suitable for resolution outside the court system.¹⁰

In these cases, the police act not merely as law enforcers but also as facilitators of dialogue. After receiving a report, officers assess the case's suitability for restorative handling based on the consent of the victim and the willingness of the offender to take responsibility. This preliminary

⁸ Giovanni Babbista et al., "The Utilization of Restorative Justice as a Means of Solving Crimes on the Outermost , Frontier and Remote Islands," *PAMALI: Pattimura Magister Law Review* 5, no. 1 (2025): 157–69, <https://doi.org/10.47268/pamali.v5i1.2219>.

⁹ Pupu Sriwulan Sumaya, "Keadilan Restoratif Dalam Sistem Hukum Adat Di Indonesia," *Jurnal Ilmu Hukum, Humaniora Dan Politik* 5, no. 2 (2024): 1136–43, <https://doi.org/10.38035/jihhp.v5i2>.

¹⁰ Armunanto Hutahaean, "Penerapan Restorative Justice Oleh Kepolisian Negara Republik Indonesia Untuk Mewujudkan Tujuan Hukum," *Jurnal Hukum To-Ra : Hukum Untuk Mengatur Dan Melindungi Masyarakat* 8, no. 2 (2022): 140–48, <https://doi.org/10.55809/tora.v8i2.119>.

screening process includes consultations with local community leaders to determine whether a customary solution is appropriate.¹¹

Once a case is deemed fit for restorative justice, it is usually referred to a customary mediation forum. These forums are led by *ninik mamak*, the traditional elders who command social and spiritual authority in the Ocu community. Their involvement is not only symbolic but essential to the legitimacy of the process. According to several informants, the presence of *ninik mamak* ensures adherence to customary norms and reinforces moral accountability.

Restorative sessions are generally held in communal or village settings, often at the *balai adat* (customary hall). The environment is informal yet structured, allowing all parties, victims, offenders, and their families to express grievances, remorse, and aspirations for peace. Emotional expressions such as tears, symbolic gestures of apology, and community affirmations are common and are considered central to the healing process.

In many instances, restitution is not limited to material compensation but includes moral and communal obligations. Offenders may be asked to perform symbolic acts such as public apologies, communal service, or the slaughtering of livestock as a form of restitution and reconciliation. These acts are embedded in the Ocu adat system and carry significant weight in reaffirming social bonds.

Documentation of restorative settlements is handled both formally and informally. Police officers usually prepare a written agreement signed by the parties involved, which may be recorded officially by the police or village administration. In some cases, the customary leaders maintain their own records based on oral traditions or handwritten notes. This dual system reflects both the legal and cultural dimensions of justice in Kampar. One striking result of this practice is the reduction in case backlogs within the local police system. Officers interviewed during fieldwork indicated that restorative justice allows them to focus resources on more serious crimes while enabling communities to resolve minor conflicts quickly and amicably. This efficiency contributes positively to public trust in both police and customary institutions.¹²

The success of restorative justice in Kampar also hinges on the cohesiveness of the local community. High levels of respect for elders, social interdependence, and the desire to preserve familial and village unity drive the willingness of parties to engage in customary resolution. The social capital within Ocu communities acts as a foundation for restorative practices. However, the process is not without challenges. One recurring issue is the lack of uniform standards or operational procedures for determining which cases qualify for restorative justice. While the police have internal guidelines, these are not always aligned with the nuanced criteria of customary law, leading to inconsistencies in implementation.

¹¹ Badu and Kaluku, "Restorative Justice in The Perspective of Customary Law: A Solution to The Settlement of Narcotics Crimes Committed by Children."

¹² Teuku Rahman, "Restorative Justice As An Approach To Settlement Of Criminal Cases By The Indonesian Prosecution" 01, no. 3 (2023): 26–46.

Another challenge relates to legal accountability. Although restorative settlements are often successful at the community level, they are not always recognized or monitored at higher levels of the legal system.¹³ This gap creates uncertainty about the enforceability and legal status of such agreements, especially if parties later renege on the terms. Moreover, gender dynamics within customary forums raise concerns about equal access to justice. Women, particularly victims of domestic violence, may be pressured into reconciliation due to cultural expectations or community pressure. These cases highlight the need for safeguards to ensure voluntariness and the protection of vulnerable parties.

From a legal perspective, the coexistence of formal and informal systems necessitates greater clarity in policy. Police officers expressed a need for improved training and institutional support to navigate the intersection of statutory law and customary norms effectively. Without clear legal backing, they risk criticism for either neglecting formal procedures or interfering in community-led processes.¹⁴

Despite these obstacles, the overall result suggests that restorative justice as practiced in Kampar is not only functional but culturally resonant.¹⁵ It reflects a bottom-up approach to justice that aligns with local values while easing the burden on formal legal institutions. The Kampar model illustrates how plural legal systems can co-exist and complement each other in a diverse legal landscape like Indonesia's. The data collected through interviews, observations, and document analysis strongly support the view that restorative justice, rooted in local customs, can offer a viable alternative to punitive systems. This hybrid practice demonstrates the potential for legal pluralism in addressing both social harmony and legal resolution.

One of the most noteworthy outcomes observed during the study was the high degree of satisfaction expressed by both victims and offenders who participated in the restorative justice process. Victims appreciated the opportunity to be heard, to articulate the emotional and material impact of the crime, and to receive acknowledgment and apology from the offender. Offenders, in turn, valued the chance to avoid criminal prosecution while actively participating in reconciliation efforts. This mutual engagement significantly contributes to the rebuilding of interpersonal trust and the reintegration of offenders into their social environment, which formal punitive systems often fail to achieve.

The data also suggest that restorative justice reduces recidivism. Interviews with police officers and community leaders indicate that offenders who undergo the restorative process in collaboration with *ninik mamak* are less likely to reoffend, due in part to the social accountability

¹³ S Thrush et al., *Ecology of Coastal Marine Sediments: Form, Function, and Change in the Anthropocene* (Oxford University Press, 2021), <https://books.google.co.id/books?id=OvcTEAAAQBAJ>.

¹⁴ Tomáš Ledvinka and James M. Donovan, "Reading Legal Ethnographies to Re-Map Legal Pluralism: A Pospisilian Corrective to the Prevailing Dichotomous Description of Afghanistan's Legal Order," *Legal Pluralism and Critical Social Analysis* 55, no. 3 (2023): 366–401, <https://doi.org/10.1080/27706869.2023.2213519>.

¹⁵ IUCN, FAO, and UNEP, *The Restoration Initiative: 2020 Year in Review* (Rome: FAO, 2021), <https://books.google.co.id/books?id=xzpMEAAAQBAJ>.

imposed by customary norms. Unlike formal sanctions, which may isolate the individual, customary-based justice reinforces communal responsibility and moral obligation, which serve as informal deterrents against future misconduct. This reinforces the view that social embeddedness plays a critical role in restorative justice effectiveness.

However, some inconsistencies in implementation were found across different villages within the Kampar region. Factors such as the availability of capable *ninik mamak*, the personal views of police officers, and community cohesion influence the quality and depth of restorative sessions. In less cohesive communities or those undergoing generational shifts, younger members may be less inclined to respect or adhere to traditional norms, posing a challenge to the sustainability of customary-based justice frameworks. This reflects the importance of adaptive strategies in integrating restorative models with evolving cultural contexts.

Another significant finding concerns the gap in legal literacy among both community members and some customary leaders. While *ninik mamak* are highly respected, their understanding of national legal procedures, rights-based frameworks, and state obligations is often limited. This can lead to settlements that, though culturally acceptable, may fall short of protecting individual rights or complying with formal legal standards. There is an urgent need for targeted legal education and technical support for customary leaders, particularly in areas such as gender sensitivity and procedural fairness.¹⁶

An important implication emerging from the study is the role of police discretion. While discretion allows officers to pursue flexible, culturally appropriate solutions, it also opens the door to unequal treatment or even abuse. Some officers may be more inclined to defer to customary processes, while others strictly adhere to formal procedures, leading to variations in how similar cases are handled. Establishing clearer operational guidelines and ethical boundaries for police discretion in restorative justice cases is therefore essential to ensure consistency and fairness.

3.1 The Implementation of Restorative Justice by the Kampar District Police

The implementation of restorative justice by the Kampar District Police represents a critical innovation in local law enforcement that blends formal legal obligations with culturally grounded practices. This shift aligns with national directives such as the Indonesian National Police Regulation (Perpol) No. 8 of 2021, which provides legal guidance for resolving criminal cases outside the court system through restorative approaches. In Kampar, restorative justice is not merely an alternative method but a reflection of the region's commitment to harmonize the state legal system with long-standing community-based conflict resolution traditions, particularly

¹⁶ Abdul Ukas Marzuki, "Pancasila in the Perspective of Customary Law in Indonesia" 8, no. 2 (2024): 222–42, <https://doi.org/10.30863/al-bayyinah.v8i2.7376>.

those rooted in Ocu customary law. This model illustrates a growing recognition of legal pluralism as a viable pathway to justice in Indonesia's multicultural setting.¹⁷

The practical implementation in Kampar centers around minor criminal offenses such as theft, domestic disputes, and youth delinquency. Police officers assess the suitability of each case for restorative handling based on victim consent and offender accountability. Once identified, the case is prepared for community-level mediation. At this point, the involvement of *ninik mamak*, respected customary leaders, becomes vital. Their participation lends cultural legitimacy and moral authority to the process, ensuring that the resolution resonates with local values. This collaboration illustrates a form of co-governance, where formal state actors and informal traditional authorities jointly mediate justice.¹⁸

In most cases, restorative sessions are conducted in communal spaces, including village halls, community centers, or even family homes. These settings are chosen for their symbolic and functional significance, fostering a sense of openness, safety, and familiarity. The use of local venues also reinforces the message that justice is a community affair, not just a state function. The dialogue that occurs in these settings is guided by principles of empathy, accountability, and restoration, with all parties, the victim, offender, families, and customary leaders encouraged to express their views.

A defining characteristic of Kampar's approach is the integration of symbolic and ritualistic practices during reconciliation. Offenders may be required to apologize publicly, offer symbolic restitution such as livestock or rice, or participate in traditional ceremonies. These acts are not superficial; they are deeply meaningful within the Ocu cultural system and serve to restore social harmony. Rituals convey sincerity, allow emotional healing, and emphasize collective values over punitive outcomes. The incorporation of these elements reinforces the community's sense of justice and closure.

To formalize outcomes, the Kampar Police prepare written agreements outlining the terms of restitution, behavioral expectations, and reintegration commitments. These documents are signed by all parties and witnessed by both police and customary leaders. In some cases, they are submitted to village administrations or recorded in police logs. Although this practice adds a level of legal recognition, a normative challenge remains: these settlements are not always recognized within higher-level legal frameworks, especially when disputes resurface or involve more complex legal matters.¹⁹

¹⁷ Elmayanti, Evi Deliana, and Nurahim Rasudin, "Settlement of Criminal Matters through Malay Customary Institutions with the Concept of Restorative Justice in Lipat Kain Kampar Kiri of Kampar Regency," *Jurnal Hukum Volkgeist* 5, no. 2 (2021): 186, <https://doi.org/10.35326/volkgeist.v4i2.417>.

¹⁸ Mustafid et al., "Alternative Legal Strategies and *Ninik Mamak* Authority: Dual Administration of Malay Marriage in Koto Kampar Hulu, Riau," *Journal of Islamic Law* 5, no. 1 (2024): 1–18, <https://doi.org/10.24260/jil.v5i1.1972>.

¹⁹ Nayah Ahidjo, "The Efficacy of Restorative Justice Programs in Reducing Recidivism Rates," *International Journal of Humanity and Social Sciences* 2, no. 4 (2024): 38–51, <https://doi.org/10.47941/ijhss.1882>.

The normative gap between customary outcomes and formal legal recognition underscores a structural issue. While Perpol No. 8/2021 provides authority for restorative practices, it does not explicitly address how customary-based mechanisms should be codified, overseen, or evaluated. This ambiguity leaves police officers and community leaders in a legally uncertain position. Without stronger legal anchoring, the sustainability and legitimacy of restorative settlements could be called into question, particularly when contested by parties outside the local consensus.

Nevertheless, field evidence shows that restorative justice in Kampar significantly contributes to reducing recidivism. Offenders who engage in restorative processes often report a deeper sense of moral accountability, shaped by the community's expectations and oversight. Customary sanctions are perceived as more personal and socially binding than formal punishments. This informal deterrent effect supports the argument that restorative justice, when rooted in strong communal values, can produce long-term behavioral change and social reintegration.

Victims, on the other hand, benefit from an opportunity to voice their suffering and receive direct acknowledgment from the offender. Rather than being sidelined by formal procedures, victims in Kampar's model become active participants in justice-making. This victim-centered approach aligns with international restorative justice principles that emphasize healing and empowerment over retribution. Police officers interviewed noted that victims frequently express relief and closure after participating in these dialogues, even when no material compensation is awarded.

The Kampar District Police have also embraced their evolving role from mere law enforcers to community facilitators. Officers are trained to mediate disputes, communicate across cultural boundaries, and support the emotional dynamics of conflict resolution. This transformation is institutionalized through partnerships with local universities and NGOs, which provide regular capacity-building workshops on mediation skills, cultural sensitivity, and legal pluralism. These initiatives illustrate an investment in human capital and a progressive vision of community-oriented policing.

Community trust has become a cornerstone of the Kampar model's success. Repeated collaboration with *ninik mamak* and consistent responsiveness to local needs have enhanced the public perception of the police. Rather than being seen as agents of coercion, officers are increasingly viewed as peacebuilders. This has led to greater community cooperation, faster dispute resolution, and a reduction in case backlog at the district level. For a region where customary norms still dominate daily life, this trust is essential to the functionality of hybrid justice.²⁰

Restorative sessions in Kampar often evolve beyond individual disputes. Discussions frequently branch into broader issues such as youth behavior, domestic harmony, or communal responsibilities. These moments reflect the community's use of restorative justice not only as a

²⁰ Rahayu Sri Utami, "Restorative Justice as an Effort to Resolve Cases," *Indonesian Journal of Law and Economics Review* 18 (2023): 3, <https://doi.org/10.21070/ijler.v18i3.959>.

mechanism for legal redress but also as a forum for social reflection and education. In this way, restorative justice contributes to social cohesion and serves as a platform for community development.

The Kampar model also exhibits procedural flexibility. Sessions are held in various settings depending on logistical needs and social dynamics. Outcomes are not standardized but negotiated based on the offense, the local context, and the input of the community. For instance, an offender may be asked to assist the victim's household for a specific period or contribute labor to a village initiative. This customized approach enhances the relevance and fairness of justice outcomes while preserving cultural integrity.

Despite these strengths, challenges remain. Geographic obstacles hinder the reach of restorative practices in remote villages. Infrastructure deficits, such as poor roads or limited communication networks, delay timely mediation. Moreover, not all officers or customary leaders possess equal levels of competence or commitment. This inconsistency risks undermining the uniformity and credibility of the model if not addressed through systematic support and oversight.²¹

The selection of suitable cases for restorative handling also presents difficulties. Although the Kampar Police have drafted internal guidelines based on offense severity, offender history, and consent, the final decision often rests on subjective judgment. This raises concerns about unequal treatment and potential bias. A more refined screening mechanism, ideally regulated at the national level, would help improve fairness and predictability while still respecting local discretion.

Another critical issue is gender equity. In cases involving domestic violence or sexual harassment, women may be socially pressured to accept reconciliation rather than pursue prosecution. Although restorative justice values inclusivity, it must also guarantee voluntariness and protect vulnerable parties. Without gender-sensitive protocols and legal safeguards, restorative forums could unintentionally reproduce injustice. This necessitates the integration of human rights principles into customary practice.²²

The Kampar District Police have taken early steps to address these vulnerabilities. Improved documentation practices are being implemented, with agreements archived both in police records and village repositories. Some settlements are submitted to prosecutors as evidence of community-based resolution, especially in cases that might otherwise proceed to formal prosecution. These measures promote accountability and transparency, helping bridge the formal-informal divide.

²¹ Restorative Justice, "Restorative Justice and Economic Impact_ A Comprehensive Analysis," *Laws Learned*, 2024, <https://lawslearned.com/restorative-justice-and-economic-impact/>.

²² Kurniawan Tri Wibowo and . Sunarko, "Challenges And Obstacles To The Application Of Restorative Justice On The Criminal Justice System In Indonesia," *International Journal of Law Policy and Governance* 2, no. 1 (2023): 32–40, <https://doi.org/10.54099/ijlpg.v2i1.203>.

Nationally, the Kampar model has gained attention as a prototype for restorative justice in rural and culturally rich regions. Delegations from other districts have visited Kampar to observe the sessions and consult with local stakeholders. Policymakers at the provincial and national levels are exploring ways to adapt this hybrid approach into broader regulatory frameworks, signaling the potential for institutional replication. However, scalability must be coupled with sensitivity to local variation and institutional readiness.

In sum, the implementation of restorative justice by the Kampar District Police demonstrates that legal innovation grounded in cultural tradition can enhance both justice and social order. The model's success rests on its ability to integrate normative guidance from national regulations with the lived realities of community life. While legal recognition and institutional support remain partial, the Kampar experience offers a compelling example of how restorative justice can function effectively within a plural legal system.

3.2 Synergy and Tension Between Customary Law and Positive Law

The implementation of restorative justice under the jurisdiction of the Kampar District Police demonstrates a complex and dynamic interaction between Ocu customary law and Indonesia's positive legal system. On the one hand, these systems work synergistically to address minor criminal cases in ways that are peaceful, culturally resonant, and locally legitimate. On the other hand, the coexistence of two different legal rationalities often results in normative tension, particularly in areas such as legal recognition, evidentiary standards, and victim protection. This duality of cooperation and conflict reveals the deeper structural and theoretical challenges of managing legal pluralism in a multicultural society.²³

Forms of synergy are observable in the procedural collaboration between police officers and *ninik mamak*, the traditional elders who serve as mediators and moral guides. Their involvement lends restorative justice a high degree of social legitimacy, as they possess authority rooted in community values, lineage, and spiritual stewardship. In Kampar, *ninik mamak* help facilitate reconciliation, ensure that offenders express genuine remorse, and oversee the fulfillment of restitution. This culturally embedded process aligns with restorative justice ideals while also reducing the caseload of the formal justice system, allowing police officers to focus on more serious offenses. It is a synergy built not only on efficiency but also on normative compatibility at the grassroots level.

Another significant form of synergy is the community's acceptance of mediation outcomes as binding, even in the absence of formal judicial intervention. Police officers report that cases resolved through customary processes rarely re-emerge, as offenders are socially monitored and moral accountability is emphasized. This is especially impactful in tightly knit rural communities, where social exclusion and public shame serve as informal yet powerful deterrents.

²³ Bambang Waluyo and Beniharmoni Harefa, "Application of Customary Law in the Indonesian Criminal Law Framework after the Enactment of Law Number 1 of 2023 Concerning the Criminal Code" 3, no. 02 (2025): 161–75.

Victims, too, often express greater satisfaction with outcomes that are quick, emotionally meaningful, and framed within familiar cultural norms. In these ways, restorative justice acts as a bridge between positive law's formalism and customary law's relational ethics.

The Kampar experience also illustrates institutional synergy. The District Police have adopted internal mechanisms to support adat-based justice, including written agreements that formalize the results of mediation and occasional documentation shared with local village offices. In some cases, the settlements are reported to the prosecutor's office as evidence of community-led resolution. While these practices do not carry full legal force in court, they represent steps toward mutual acknowledgment between formal and informal systems. This institutional recognition fosters trust and strengthens collaboration between police and customary authorities.²⁴

However, these synergistic elements are accompanied by equally persistent tensions. One major source of friction lies in the legal status of customary settlements. Although Perpol No. 8 of 2021 formally supports restorative justice, it does not explicitly address how outcomes derived from adat-based mediation should be integrated into the formal legal framework. This ambiguity places police officers in a difficult position. Even when reconciliation is achieved at the community level, officers may feel obligated to proceed with formal prosecution to fulfill procedural requirements or avoid administrative sanctions. This tension results in legal uncertainty, weakens the authority of customary decisions, and can discourage future community participation.

The status of customary mediation becomes even more contentious when examined through the lens of serious or sensitive cases, such as domestic violence. In such contexts, the restorative impulse to preserve familial and social harmony may conflict with the state's obligation to protect victims and prosecute perpetrators. Customary forums often seek to reconcile the parties through symbolic gestures or social commitments, but these resolutions may fall short of providing justice from a rights-based perspective. Women, in particular, may be pressured to forgive and reintegrate with their abuser to maintain family reputation. In such cases, positive law mandates legal intervention and victim protection, creating a normative collision between collective restoration and individual rights.

This friction is further compounded by the legal framework itself, which formally positions customary law as subordinate to national legislation. Article 18B(2) of the Indonesian Constitution recognizes the existence of adat communities, yet limits this recognition to practices that do not contradict statutory law. As a result, any outcome from customary mediation that diverges from national legal standards, no matter how effective locally, risks being rendered void or unrecognized in formal court proceedings. This structural hierarchy of laws undermines the

²⁴ Stefany Ismantara, "The Urgency of Reconstructing Indonesia's Justice System Towards Recognition of Customary Justice Institutions," *West Science Law and Human Rights* 1, no. 04 (2023): 225–34, <https://doi.org/10.58812/wslhr.v1i04.318>.

autonomy of customary institutions and reduces the long-term enforceability of restorative settlements.²⁵

Theoretical perspectives on legal pluralism help illuminate the challenges inherent in this hybrid system. According to Griffiths (1986), legal pluralism exists not merely when multiple legal systems are acknowledged by the state but also when they operate in practice with real social authority. The Kampar model exemplifies what Griffiths terms “strong legal pluralism,” where the state does not have a monopoly over legitimate legal orders. Similarly, Franz and Keebet von Benda-Beckmann have emphasized the importance of “forum shopping” in plural legal contexts where parties choose between legal systems depending on their interests. In Kampar, offenders may prefer customary forums for their perceived leniency, while victims may feel constrained by social expectations. This strategic use of legal diversity further complicates the notion of justice consistency across jurisdictions.

Legal pluralism in Kampar also manifests in differences over evidentiary standards. While formal courts demand written, verifiable documentation, customary processes often rely on oral testimony, personal reputation, and communal consensus. In restorative justice settings, these divergent logics can result in disputes about what constitutes legitimate proof or fair process. Police officers operating within both systems must therefore constantly negotiate between procedural formality and cultural authenticity, an interpretive balancing act that carries ethical and institutional risks.

Another source of tension lies in the lack of legal pathways to escalate or review customary settlements. If an agreement fails, for instance, if the offender reneges on restitution or the victim feels later coerced, there is limited legal infrastructure for appealing or revising outcomes. This absence of appellate mechanisms reduces the transparency and accountability of the process, especially in cases involving power imbalances or manipulation. The flexibility that gives customary law its adaptability also exposes it to discretionary abuse when not complemented by oversight structures.²⁶

Regional legal diversity further complicates the issue. The adat principles upheld in Kampar differ from those in Bali, Papua, or Kalimantan. Each region’s history, spiritual beliefs, and social institutions shape how justice is conceptualized and delivered. A national policy that fails to account for this diversity risks either homogenizing justice inappropriately or reinforcing inequality through inconsistent implementation. Efforts to standardize restorative justice must therefore proceed with caution, taking into account both national values and local context.

Institutional dependence on personal relationships adds another layer of fragility. In Kampar, successful cooperation between police and *ninik mamak* often hinges on trust, shared norms, and

²⁵ Nur Rochaeti, M. Hafidh Prasetyo, “Restorative Justice in the Customary Jurisdiction of the Dayak Tribe Communities of West Kalimantan.”

²⁶ Nilna Aliyan Hamida, “Adat Law and Legal Pluralism in Indonesia: Toward A New Perspective?,” *Indonesian Journal of Law and Society* 3, no. 1 (2022): 1, <https://doi.org/10.19184/ijls.v3i1.26752>.

informal communication. However, such arrangements are vulnerable to personnel turnover or political shifts. Without institutionalization—through written agreements, regulatory mandates, and inter-agency coordination—the model remains difficult to replicate or sustain. Formalizing this relationship is essential for ensuring consistency and resilience over time.²⁷

The issue of gender equity remains a pressing concern. While adat promotes consensus and community harmony, it often does so through patriarchal lenses. In restorative forums, women's voices may be minimized, particularly in male-dominated deliberations. Although police officers occasionally act as safeguards, they may also defer to customary authority in ways that dilute victim agency. This challenge necessitates greater investment in gender-sensitive training for both law enforcement and customary leaders, as well as the inclusion of female voices in customary governance structures.

Trust in both legal systems is fundamental to the legitimacy of restorative justice. If either the police or the adat institutions are perceived as biased, self-serving, or ineffective, public confidence in the process diminishes. To sustain credibility, both must commit to transparency, accountability, and mutual respect. Community education programs that explain the principles, procedures, and rights involved in restorative justice can help build a more informed and empowered public, reducing vulnerability to coercion or misinformation.²⁸

The problem of regulatory disharmony also emerges in cases where customary outcomes conflict with formal criminal procedures. For instance, if a theft case is resolved through adat but subsequently re-reported to the police by a third party, the legal ambiguity surrounding the previous settlement could force law enforcement to reopen formal proceedings. This uncertainty undermines the authority of the original mediation and places police in a dilemma between respecting local solutions and fulfilling formal obligations. The lack of synchronization between local, police, and judicial institutions weakens the long-term viability of hybrid justice models.

In light of these insights, it becomes clear that the synergy between customary and positive law in Kampar, while promising, is not without limitations. The potential to replicate this model nationally depends on several factors: the degree of institutional capacity, the strength of community leadership, the adaptability of local legal cultures, and the existence of regulatory frameworks that respect diversity without compromising legal integrity. Without these preconditions, attempts to scale up the Kampar experience could result in inconsistency, misuse, or social exclusion.

Therefore, a critical reflection is necessary. Can the synergy observed in Kampar serve as a national blueprint for restorative justice? The answer is cautiously affirmative but only with structural safeguards, theoretical clarity, and inclusive policymaking. Legal pluralism must be

²⁷ Randy Pradityo Herlambang, Susi Ramadhani, Ria Anggraeni Utami, "The Relation of Restorative Justice Concept in Customary Justice : A Brief Overview in Indonesia" 8, no. 5 (2022): 6–8.

²⁸ Ifeanyi A. Chukwudebelu, "Reconciling Cultural Values with Legal Principles: Traditional African Justice Systems in Contemporary Context," *Journal of Legal Subjects*, no. 44 (2024): 12–23, <https://doi.org/10.55529/jls.44.12.23>.

embraced not as a challenge to state authority, but as an opportunity to enrich the justice system with alternative logics of repair, dignity, and community restoration. To do so, the state must move from symbolic tolerance of customary practices to substantive integration that respects human rights, promotes equity, and institutionalizes cooperation between formal and informal systems.²⁹

3.3 Institutional Challenges and Legal Reform Needs for Strengthening Restorative Justice

The promising integration of restorative justice practices by the Kampar District Police, in cooperation with Ocu customary leaders, presents an important local innovation in the delivery of culturally grounded justice. However, its long-term sustainability and scalability remain constrained by significant institutional, legal, and infrastructural challenges. These challenges are not isolated to Kampar, but reflect broader structural deficits within Indonesia's approach to hybrid justice. To address these constraints systematically, this section examines three primary areas of concern: regulatory gaps, human resource and institutional capacity, and intersectoral coordination and infrastructure. Comparative insights and normative recommendations are also provided to guide national legal reform.³⁰

3.3.1 Regulatory Gaps and Normative Ambiguity

The legal framework for restorative justice in Indonesia, particularly Perpol No. 8 of 2021, provides important procedural guidelines for handling criminal cases through non-litigation methods. However, it remains largely silent on the legal standing of customary law-based mediation outcomes and the formal roles of traditional institutions. This absence of normative clarity produces several challenges: 1) Lack of Legal Recognition for Adat Settlements. Agreements reached through customary mechanisms are often respected within the community but lack formal enforceability in state courts. When either party breaches the agreement, there are no standardized mechanisms to compel compliance or escalate disputes to higher authorities without restarting the legal process entirely. This undermines legal certainty and discourages participation; 2) Ambiguity in Non-Prosecution Decisions. Police officers who facilitate restorative justice processes may be reluctant to halt formal prosecution without strong legal backing, fearing internal review or disciplinary measures. This concern leads to partial or duplicative processes, weakening the effectiveness of community-based settlements; 3) Limited Integration into the National Restorative Justice System. Current criminal procedure law and prosecutorial frameworks do not integrate adat-based mediation outcomes into case disposition processes. Unlike in some international systems—such as New Zealand's restorative justice

²⁹ Hadi Sucipto et al., "Transforming Public Trust in Restorative Justice: An Islamic and Social Law Perspective on the Prosecutor's Role in the Contemporary Era," *MILRev: Metro Islamic Law Review* 3, no. 2 (2024): 364–87, <https://doi.org/10.32332/milrev.v3i2.9938>.

³⁰ Muhamad Adystia Sunggara, "The Challenges and Potential of Implementing Restorative Justice for Minor Criminal Offenses in Indonesia," *Journal of Law Politic and Humanities* 5, no. 2 (2024): 1349–55, <https://doi.org/doi.org/10.38035/jlph.v5i2>.

model, which recognizes Māori-based mediation in sentencing decisions Indonesia lacks explicit statutory bridges between customary mechanisms and judicial discretion.

To address these concerns, regulatory reform is necessary. A proposed solution would be the issuance of a joint ministerial regulation between the Ministry of Law and Human Rights, the National Police Headquarters, the Supreme Court, and the Ministry of Home Affairs.³¹ Such a regulation could: 1) Codify the criteria for valid customary mediation outcomes; 2) Provide formal pathways for registering and reviewing adat settlements; 3) Ensure consistency with national human rights obligations and restorative justice principles.

3.3.2 Human Resource and Institutional Capacity

Beyond regulatory gaps, the successful implementation of restorative justice hinges on the competence and readiness of both police officers and customary leaders. In Kampar, the effectiveness of this hybrid model relies heavily on informal trust and personal initiative. However, several capacity-related challenges remain: 1) Asymmetrical Legal Knowledge. Customary leaders (ninik mamak) possess deep sociocultural legitimacy but often lack legal literacy regarding statutory rights, criminal procedure, or victim protection norms. Conversely, police officers may lack cultural competence or mediation training, leading to inconsistent application of restorative principles; 2) Dependence on Individual Initiative. The Kampar model benefits from strong interpersonal relationships between police and adat actors. Yet this arrangement is highly vulnerable to personnel turnover, retirement, or local political changes. Without institutional structures, the system lacks resilience and replicability; 3) Limited Protection for Vulnerable Populations. In traditional contexts, patriarchal norms may place pressure on women and children to accept reconciliation, even when not in their best interests. Police officers are not always trained to detect subtle forms of coercion or community pressure that may compromise voluntariness.

To enhance institutional capacity, the following reforms are proposed: 1) Integrated Training Programs. Police academies, law faculties, and customary councils should collaborate to provide joint training on restorative justice, legal pluralism, human rights, and conflict resolution. Training modules should be standardized and supported by the Supreme Court's Judicial Training Center; 2) Legal Literacy for Customary Leaders. NGOs, legal aid institutions, and universities should offer paralegal education tailored to customary leaders. Topics should include due process, rights of victims, gender equity, and restorative procedures in line with national laws; 3) Accreditation and Certification Systems. Similar to other countries (e.g., Canada's Indigenous Justice Programs), a certification scheme could be introduced to accredit mediators, including customary figures, ensuring procedural integrity without undermining local traditions.

³¹ Kuntadi, "The Existence of Decisions of Customary Institutions in the Settlement of Criminal Cases in Indonesia," *KnE Social Sciences* 2023 (2023): 323–34, <https://doi.org/10.18502/kss.v8i3.12838>.

3.3.3 Intersectoral Coordination and Infrastructure

Restorative justice, particularly when based on legal pluralism, requires effective coordination among multiple institutional actors. In the case of Kampar, while cooperation exists between police and customary institutions, there is minimal formal linkage with other actors in the criminal justice system or governance structure.³² This has resulted in several bottlenecks: 1) No Formal Role for the Prosecutor's Office. Despite being central to criminal case screening, prosecutors are rarely involved in restorative processes initiated by police. Without coordination, cases resolved through adat may be refiled or rejected later in the legal pipeline, creating confusion and inefficiency; 2) Lack of Multi-Stakeholder Forums. There are no standing bodies that bring together the police, judiciary, customary councils, the Ministry of Home Affairs, or civil society to oversee the restorative justice ecosystem. This impedes policy harmonization and deprives local models of feedback and accountability mechanisms; 3) Poor Documentation and Monitoring. Customary mediation records are often oral or scattered across police archives, making it difficult to assess outcomes or measure effectiveness. A centralized database for restorative cases, with secure access for multiple agencies, would help institutionalize the practice; 4) Underinvestment in Mediation Infrastructure. Rural areas like Kampar lack dedicated facilities, transport support, or operational funds to conduct mediation sessions, particularly in remote locations. In contrast, countries like Norway and Finland allocate specific community justice budgets to fund mobile mediation units, staff, and facilities.

To improve intersectoral coherence and infrastructure, the following measures are proposed: 1) Creation of District Restorative Justice Committees. These multi-stakeholder bodies, chaired jointly by police and local government, would coordinate case screening, monitor standards, and support community engagement; 2) Formal Involvement of the Ministry of Home Affairs and Village Governance. Given its mandate to manage local institutions, the Ministry should facilitate village-level regulation that harmonizes restorative processes with broader local governance structures, as outlined in Law No. 6 of 2014; 3) Development of Standard Operating Procedures (SOPs). SOPs should clearly delineate the division of responsibility among police, prosecutors, and adat actors, and should be flexible enough to accommodate regional adat variations.

Other regions in Indonesia have also begun integrating restorative justice with customary frameworks. In Papua, for instance, the Jayapura Police have partnered with indigenous councils to mediate land disputes and youth delinquency cases. In West Sumatra, the concept of *musyawarah nagari* (village deliberation) is increasingly being formalized through local regulations to support pre-court settlement. These examples underscore the feasibility of localization, but also demonstrate the need for structured coordination.

³² Waluyo and Harefa, "Application of Customary Law in the Indonesian Criminal Law Framework after the Enactment of Law Number 1 of 2023 Concerning the Criminal Code."

Internationally, New Zealand's approach to Māori-based Family Group Conferences offers valuable lessons. The country's restorative framework incorporates indigenous practices while ensuring state support, legal recognition, and victim safeguards. Such models may inform Indonesia's effort to institutionalize restorative justice without eroding cultural specificity.

To ensure the effectiveness and legitimacy of restorative justice in Indonesia, especially when built on customary law, comprehensive legal and institutional reform is necessary. Regulatory reform must begin by strengthening the legal basis of restorative practices through a joint regulation (*Peraturan Bersama*) involving the National Police, the Supreme Court, the Attorney General's Office, and the Ministry of Home Affairs. Such a regulation should clarify the legal status of customary mediation outcomes and formally integrate them into the criminal justice process, particularly at the stages of pre-trial diversion and sentencing.³³

Equally important is the development of human resources. Continuous training on restorative justice, legal pluralism, and gender sensitivity must be institutionalized for both police officers and customary leaders. A system of certification for mediators, including those from customary institutions, should also be introduced to guarantee procedural integrity and ensure community trust in the restorative process.

Institutional coordination and oversight require urgent attention. Establishing district-level restorative justice forums that bring together multiple stakeholders such as police, prosecutors, adat leaders, village officials, and civil society will help align roles, share best practices, and resolve operational challenges collaboratively. This must be supported by an interoperable and centralized case documentation system to enhance transparency, monitor outcomes, and serve as a reliable basis for policy development.

The success of restorative justice in culturally diverse regions like Kampar also hinges on adequate funding and infrastructure. State and local governments should allocate specific budgets for restorative justice programs, particularly in underserved rural areas. Dedicated mediation centers, mobile units, and logistical support are essential for consistent implementation. In parallel, policies must safeguard the rights of vulnerable groups. All restorative sessions should uphold standards of voluntariness, informed consent, and victim protection. The introduction of independent appeals mechanisms will allow participants to contest unjust or coercive outcomes, further reinforcing the credibility of the system.³⁴

Community participation should also be strengthened by involving local stakeholders in decision-making processes and implementation. In conclusion, restorative justice should not be regarded as a peripheral or informal mechanism, but rather as a vital component of Indonesia's

³³ Julia Barjau and Emanuela Biffi, *Training Trainers in Mediation and Restorative Justice*, Erasmus+, vol. 11 (Belgium: European Forum for Restorative Justice, 2021), http://scioteca.caf.com/bitstream/handle/123456789/1091/RED2017-Eng-8ene.pdf?sequence=12&isAllowed=y%0Ahttp://dx.doi.org/10.1016/j.regsciurbeco.2008.06.005%0Ahttps://www.researchgate.net/publication/305320484_SISTEM_PEMBETUNGAN_TERPUSAT_STRATEGI_MELESTARI.

³⁴ Agung Wibowo, *Harmonization of Restorative Justice Regulation in the Legal System in Indonesia* (Atlantis Press SARL, 2024), <https://doi.org/10.2991/978-2-38476-315-3>.

evolving legal architecture. The Kampar experience demonstrates the potential for a justice system that is both culturally resonant and legally accountable. With deliberate and well-supported reforms, restorative justice grounded in customary law can serve as a model for inclusive, participatory, and context-sensitive justice throughout Indonesia.

4. CONCLUSION

This study concludes that the implementation of restorative justice by the Kampar District Police, which integrates Ocu customary law with Indonesia's positive legal framework, offers an effective and culturally grounded alternative for resolving minor criminal cases. By involving ninik mamak as traditional mediators, the process fosters reconciliation, promotes accountability, and reduces reliance on formal adjudication, aligning legal authority with social legitimacy. The research highlights a scientific novelty by empirically examining restorative justice at the police level in collaboration with customary institutions, an underexplored area in previous studies. These findings demonstrate how legal pluralism can work in practice through the convergence of police discretion, customary authority, and community participation. The study recommends the formulation of a national legal policy that formally recognizes customary mediation, establishes procedural standards, and strengthens institutional capacity to ensure transparency, human rights protection, and long-term legitimacy. The Kampar model should therefore be seen as a strategic framework for replication in culturally plural societies, offering Indonesia a more inclusive, participatory, and just criminal justice system.

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