

## IMPLEMENTATION OF RESTORATIVE JUSTICE BASED ON LOCAL WISDOM: LEGAL AND CULTURAL PERSPECTIVES IN INDONESIA

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### ABSTRACT

*This study discussion the implementation of restorative justice based on local wisdom in the context of law and culture in Indonesia. In Indonesia's multicultural societies, traditional values such as deliberation, mutual cooperation, and traditional peace have long been part of the conflict resolution mechanism. Restorative justice emerges as an alternative approach that emphasizes the restoration of relationships between perpetrators, victims, the communities, and aligans with traditional legal practices. Through a normative legal approach, this study analyzes the relationship between the principles of restorative justice and local wisdom as recognized by various laws and regulations, such in 1945 constitution, the Criminal Procedure Code, and regulation of the Police and the Attorney General's Office. This study also reviews local practices such as Mekarabah in Bugis-Makassar, Nyapuh Lawang in Central Java, and customary deliberations in Papua. The results of the study show that the application of customary-based on restorative justice can accelerate conflict resolution, strengthen social legitimacy, and reduce the burden on the formal justice system. However, the challenges remain regarding the integration of customary law into the national legal system and the guarantee of human right protections. Therefore, more integrated regulations and consistent implementation standards are needed to ensure that restorative justice is applied fairly, inclusively, and in line with the principles of the rule of law.*

**Keywords:** Restorative Justice, Local Wisdom, Customary Law.

### INTRODUCTION

Indonesia is a country with a wide variety of ethnic groups, cultures, and traditions that has a complex legal system comprising positive law and customary

law. Customary law is rooted in local wisdom and norms that apply in local communities, and plays an important role in problem solving. On the other hand, Restorative Justice has emerged as an

alternative in the judicial system. Restorative Justice, commonly referred to as “RJ,” is an alternative approach in the criminal justice system that focuses on restoring relationships between perpetrators, victims, and communities affected by crime.<sup>1</sup> Restorative Justice places dialogue between perpetrators, victims, and communities at the center of the process of resolving cases. In Indonesia, the implementation of Restorative Justice faces unique challenges related to cultural diversity.<sup>2</sup> Indonesia is a country with a wealth of diverse local cultures, with different traditional values in each region.

These cultural values play an important role in the daily lives of the community and influence various aspects, including conflict resolution and law enforcement. Cultures such as mutual cooperation, deliberation, and traditional peace have long been an integral part of Indonesian society. For example, mutual cooperation reflects a spirit of collectivity and mutual assistance in overcoming common problems. Meanwhile,

deliberation emphasizes the importance of dialogue and reaching a mutual agreement in decision-making. Customary peace shows ways of resolving disputes peacefully through the role of traditional leaders, without the need to use formal legal channels. The application of these local cultural values in the Restorative Justice approach in Indonesia has great potential in increasing the effectiveness of the restorative justice process.

A number of previous studies have reviewed the application of restorative justice in the Indonesian context. An example is the study by Asmui et al., which highlights how restorative justice is applied in the settlement of criminal disputes in the Minangkabau community by the *Kerapatan Adat* (KAN).<sup>3</sup> Another study by Indi Nuroini identified that the effectiveness of restorative justice in the Indonesian criminal justice system is influenced by the active involvement of the community and the flexibility of law enforcement officials in exploring values of justice outside the legal framework. There is also research conducted by

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<sup>1</sup> Nasaruddin, Aly Rizky, and Abdul Jabal Rahim. (2024). Pengaruh Budaya Lokal Terhadap Pelaksanaan Restorative Justice Di Indonesia. *Journal Publicuho*, 7(3), 1443–50. doi: <https://doi.org/10.35817/publicuho.v7i3.500>.

<sup>2</sup> *Ibid*

<sup>3</sup> Asmui Asmui et al. (2022), Implementasi Restorative Justice Dalam Penyelesaian Sengketa Hukum Pidana Di Masyarakat Minangkabau. *SALAM: Jurnal Sosial Dan Budaya Syar-I*, 9(3) 995–1022. doi: <https://doi.org/10.15408/sjsbs.v9i3.26294>.

Herlambang Bagus Purnomo, which discusses the settlement of adultery cases based on local wisdom in *Trengguno Wetan*.<sup>4</sup> However, some of these studies are still limited to certain contexts or geographical areas. Any effort to address issues that affect individuals, communities, and the state must make the law the main leader. This paper was written with the hope of adding to the references and explaining the concept of local wisdom-based restorative justice as applied in the Indonesian legal system and the impact of the implementation of restorative justice on conflict resolution in society.

This study aims to analyze the implementation of local wisdom based restorative justice as applied in the Indonesian legal system and to identify the impact of the implementation of local wisdom-based restorative justice on conflict resolution.

## METHOD

This research is a normative study focusing on the implementation of restorative justice based on local wisdom from the perspective of Indonesian law and culture. The focus of the study is discussed

through a legislative approach, which is then followed by a conceptual approach. This research uses a normative juridical method by examining legislation, legal documents, and relevant academic literature. The data is analyzed qualitatively to formulate a synthesis between customary law practices and the principles of restorative justice in the national legal system.

## RESULTS AND ANALYSIS

Culture influences legal systems through various mechanisms.<sup>5</sup> First, legal values and norms are often rooted in local culture, which are then adopted into legislation, as reflected in the values of mutual cooperation, deliberation, and social justice. Second, the level of public acceptance of and compliance with the law depends on its compatibility with local cultural values; laws that conflict with local norms tend to be rejected. Third, culture shapes dispute resolution mechanisms, with customary forums such as village deliberations often preferred because they are considered more in line with community values. Fourth, traditional leaders have high legitimacy in law

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<sup>4</sup> Purnomo, Herlambang Bagus. (2021). Restorative Justice Dalam Penyelesaian Perkara Perzinahan Berbasis Kearifan Lokal Di Trengguno Wetan. *Journal of Law, Society, and Islamic Civilization*,

8(1), doi: <https://doi.org/10.20961/jolsic.v8i1.48703>.

<sup>5</sup> Nasaruddin, Aly Rizky, and Abdul Jabal Rahim. Pengaruh Budaya Lokal Terhadap Pelaksanaan Restorative Justice Di Indonesia.

enforcement, so their decisions are easily accepted by the community. Fifth, culture influences the perception and application of human rights, for example by prioritizing collective rights over individual rights. Sixth, the development of effective public policy requires consideration of the local cultural context in order to avoid implementation failures and potential conflicts.

Restorative Justice is a penal approach that prioritizes the restoration of relationships between perpetrators, victims, and the community over mere punishment. In Indonesia, this concept is closely related to existing legal practices and local cultures that have long existed and been practiced within communities. This concept focuses on efforts to repair the damage caused by crime through a process that involves all parties concerned.<sup>6</sup> Restorative justice emerged around 1970 in Canada with a program in which cases were resolved outside of traditional courts by a community called

victim offender mediation.<sup>7</sup> The community plays an important role in the restorative justice process. In addition to supporting victims and perpetrators, the community also participates in monitoring and implementing agreements reached through the restorative justice process.<sup>8</sup> Restorative justice seeks to achieve a form of justice that is considered fairer and more humane than the conventional criminal justice system.<sup>9</sup>

Criminal law discourse includes a principle known as ultimum remedium, which means that if a case can be pursued through other channels, then criminal sanctions should be used as a last resort.<sup>10</sup> The application of restorative justice based on local wisdom is legitimized by various laws and regulations, including:

1. The 1945 Constitution of the Republic of Indonesia (UUD 1945), Article 18B, paragraph (2): The state recognizes and respects the unity of customary law

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<sup>6</sup> Nasaruddin, Aly Rizky, and Abdul Jabal Rahim.

<sup>7</sup> Lesmana, Yamani Naufal Muhammad Andy and Muzdalifah. (2024). Efektivitas Restorative Justice Berbasis Kearifan Lokal Sebagai Sarana Penyelesaian Perkara Pidana Pada Masyarakat Banjar, *Rio Law Jurnal* 5, doi: <https://doi.org/http://dx.doi.org/10.36355/v1i2>.

<sup>8</sup> Maulana, Irvan. (2021). Konsep Dan Implementasi Restorative Justice Di Indonesia, *Datin Law Jurnal*, 2, doi: <https://doi.org/http://dx.doi.org/10.36355/dlj.v1i1>.

<sup>9</sup> Santoso, Aris Wahjudi. (2023). Penerapan Teori Hukum Dalam Restorative Justice, Ethics and Law Journal: Business and Notary, 1(2), 13–21, doi: <https://doi.org/10.61292/eljbn.v1i2.28>.

<sup>10</sup> Maulida, Gina. (2025). Korelasi Hukum Adat Dan Restorative Justice: Membangun Keadilan Berbasis Kearifan Lokal Di Indonesia, Pikukuh: Jurnal Hukum Dan Kearifan Lokal, 2, doi: <https://doi.org/http://dx.doi.org/10.62870/pkh.v1i1.29382>.

communities and their traditional rights.

2. The Criminal Procedure Law and Law Number 48 of 2009 on Law of Judicial Authority for penal mediation during the investigation and trial stages. Article 5, paragraph (1) concerning Judicial Authority mandates that judges are obliged to explore, apply, and respect the principles of law and values of justice that have developed within society.
3. The Police Regulation Number 8 of 2021 concerning the Handling of Criminal Acts Based on Restorative Justice. The main duties of the Indonesian National Police include providing protection, security, and service to the community (Article 13 letter c). In addition, the Indonesian National Police has additional authority in functional areas (Article 15 paragraph (2) letter k) and may take other actions that are legally valid and accountable (Article 16 paragraph (1) letter l).
4. Regulation of the Republic of Indonesia Prosecutor's Office Number 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice.

Based on the above, it is clear that restorative justice is not a foreign concept, but rather a formal recognition of the values of resolving criminal acts that occur in society. The following is a flowchart of the application of restorative justice based on local wisdom, which shows the roles of law enforcement officials, traditional leaders, perpetrators, victims, and the process of deliberation until a legally recognized agreement is reached. Supreme Court Regulation (*Perma*) Number 2 of 2012 concerning Adjustments to the Limits of Minor Crimes and the Amount of Fines in the Criminal Code also provides opportunities for indigenous peoples to resolve minor violations through local mechanisms, including restorative justice based resolutions.<sup>11</sup> This regulation is in line with the principle of restorative justice in customary law, which focuses on restoring social relations rather than simply punishing perpetrators.<sup>12</sup> The following is

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<sup>11</sup> Sumaya, Pupu Sriwulan. (2024). Keadilan Restoratif Dalam Sistem Hukum Adat Di Indonesia, *Jurnal Ilmu Hukum, Humaniora Dan Politik*, 5 , doi: <https://doi.org/https://doi.org/10.38035/jihhp.v5i2>.

<sup>12</sup> Wangga, Maria Silvya E. (2022). Implementation of Restorative Justice in Criminal Cases in Indonesia, *Law and Humanities Quarterly Reviews* 1(3). doi: <https://doi.org/10.31014/aior.1996.01.03.25>.

the process of implementing restorative justice based on local wisdom:



The application of restorative justice based on local wisdom in Indonesia has unique characteristics, as seen from the context of the regional culture. Some examples of the application of restorative justice based on local wisdom are:

1. *Musyawarah Adat* in Papua: The settlement of minor criminal cases through meetings between families and traditional leaders, ending with the payment of a customary fine

(*doro*) in the form of a pig or valuable goods.<sup>13</sup>

2. *Mekarabah* in Bugis-Makassar: Mediation between the families of the victim and the perpetrator, facilitated by traditional leaders to restore social relations, accompanied by the giving of a peace offering.<sup>14</sup>
3. *Perdamaian Kampung* in Aceh: Referring to Qanun and gampong customs, the perpetrator and victim reconcile in front of village officials, with social sanctions and the obligation to compensate for losses.<sup>15</sup>
4. *Nyapuh Lawang* in Central Java: A symbol of cleansing relationships after a violation, usually accompanied by a simple banquet and a public apology.<sup>16</sup>

The application of restorative justice based on local wisdom in Indonesia is an effort to revive the values of conflict resolution that have long existed in

<sup>13</sup> Archellie, Reynaldo De, et al. (2024). The Fragmentation of Democratic and ‘Adat’ Institutions in Aceh’s Political Elite after Helsinki: The Failure of the Concept of Institution of Social Cohesion, *Journal of Infrastructure, Policy and Development*, 8(15), 10429, doi: <https://doi.org/10.24294/jipd10429>.

<sup>14</sup> Jannah, Shofiatul, Mufidah CH, and Suwandi Suwandi. (2022). Panaik Money of Bugis’ Customary Marriage in the Perspective of Islamic Law and Positive Law in Indonesia, *Journal of*

*Transcendental Law*, 3(2), 98–111, doi: <https://doi.org/10.23917/jtl.v3i2.17375>.

<sup>15</sup> De Archellie, et al. The Fragmentation of Democratic and ‘Adat’ Institutions in Aceh’s Political Elite after Helsinki: The Failure of the Concept of Institution of Social Cohesion.

<sup>16</sup> Geertz, Clifford. (1957). Ritual and Social Change: A Javanese Example, *American Anthropologist*, 59(1), 32–54, doi: <https://doi.org/10.1525/aa.1957.59.1.02a00040>.

indigenous communities, with the support of modern legislation. This integration can strengthen legal legitimacy, reduce the burden on the judiciary, and maintain social harmony, as long as it is carried out with clear legal boundaries, strict supervision, and respect for human rights principles. The practice of restorative justice based on local wisdom in Indonesia is in line with the values of recovery, deliberation, and social responsibility. However, its legal position is still weak in the national legal system. The ideal integration between customary law and national law must be built through formal recognition, procedural standardization, and interinstitutional cooperation. This effort is an important step towards realizing a fair, responsive, and culture-based justice system.

Restorative justice is an approach in the criminal justice system that focuses on repairing relationships between perpetrators, victims, and the community, in contrast to the conventional system that emphasizes punishment. In Indonesia, Restorative Justice faces unique challenges due to the diversity of local cultures that influence conflict resolution and law

enforcement.<sup>17</sup> Cultural values such as mutual cooperation, deliberation, and customary peace can enrich the Restorative Justice process, but also face challenges when they conflict with human rights principles or national law.<sup>18</sup> The application of restorative justice based on local wisdom has a positive influence on the effectiveness of conflict resolution in the community. Customary-based processes, such as deliberation, village peace, or symbolic rituals, can provide quick, low-cost solutions that are acceptable to all parties involved.

The active role of traditional leaders, community leaders, and extended families in mediation strengthens the legitimacy of agreements, thereby reducing the possibility of similar conflicts recurring. Unlike the formal justice system, which focuses more on punishment, this approach emphasizes the restoration of victims losses and the affirmation of perpetrators responsibilities, in line with the values of collectivity that exist in Indonesian society. In addition to providing an efficient resolution, the customary-based restorative justice approach also contributes significantly to

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<sup>17</sup> Nasaruddin, Aly Rizky, and Abdul Jabal Rahim, Pengaruh Budaya Lokal Terhadap Pelaksanaan Restorative Justice Di Indonesia.

<sup>18</sup> *Ibid*

restoring social relations after conflict. Through customary channels, perpetrators and victims not only resolve legal matters, but also repair damaged personal and social relationships.

Symbols of peace, such as *nyapuh lawang* in Central Java<sup>19</sup> or *mekarabah* in Bugis-Makassar, serve as a medium for emotional reconciliation that fosters a renewed sense of mutual trust.<sup>20</sup> This mechanism strengthens social solidarity and prevents the perpetrator from being stigmatized or ostracized, allowing them to play an active role in society once again. Furthermore, the success of this model in reducing tensions and improving social relations proves its relevance amid Indonesia's cultural diversity.<sup>21</sup> The synergy between traditional values and modern restorative justice principles can be an adaptive alternative for conflict resolution, especially in areas that still strongly uphold tradition.<sup>22</sup> This approach not only satisfies the community's sense of

justice but also plays a role in building sustainable peace. Its impact goes beyond the resolution of individual cases, extending to the strengthening of social cohesion and long-term community stability.

The application of restorative justice in customary law provides the possibility of resolving conflicts more quickly and can reduce pressure on the formal judicial system or the court system.<sup>23</sup> In Indonesia, the customary law system provides space for conflict resolution through a dialogue approach, rather than solely through the imposition of punishment.<sup>24</sup> Customary law is flexible, allowing for agreements to be reached between disputing parties, especially in family matters and minor social conflicts.<sup>25</sup> This restorative justice approach can reduce the potential for protracted conflicts because there is a mutual agreement between the parties based on local cultural

<sup>19</sup> Geertz. Ritual and Social Change: A Javanese Example.

<sup>20</sup> Jannah, CH, and Suwandi. Panaik Money of Bugis' Customary Marriage in the Perspective of Islamic Law and Positive Law in Indonesia.

<sup>21</sup> Rahman, Malik Mulyanto, et al. (2025). Penerapan Restorative Justice Berbasis Nilai Kearifan Lokal, Aliansi: *Jurnal Hukum, Pendidikan Dan Sosial Humaniora*, 2(4), 297–304, doi:<https://doi.org/10.62383/aliansi.v2i4.1133>.

<sup>22</sup> Supriansa et al.(2024). The Essence of Restorative Justice in the Development of Indonesian Law, *Revista de Gestão Social e*

*Ambiental*, 18(8), doi: <https://doi.org/10.24857/rgsa.v18n8-025>.

<sup>23</sup> Fathurokhman, Ferry. (2013). The Necessity of Restorative Justice on Juvenile Delinquency in Indonesia, Lessons Learned from the Raju and AAL Cases, *Procedia Environmental Sciences*, 17, 967–975, doi: <https://doi.org/10.1016/j.proenv.2013.02.115>.

<sup>24</sup> Taufiqurokhman. (2024). Application of Restorative Justice in Statutory Practice, doi: <https://doi.org/10.2139/ssrn.4929992>.

<sup>25</sup> Supriansa et al. The Essence of Restorative Justice in the Development of Indonesian Law.

values that uphold the principles of harmony and mutual cooperation.<sup>26</sup>

## CONCLUSION

The results of this study indicate that the restorative justice approach within the framework of customary law in Indonesia has significant potential in supporting conflict resolution that emphasizes the restoration of social relations between perpetrators, victims, and communities. As an important part of the dispute resolution system in various indigenous communities, restorative justice has proven to be able to accelerate the conflict resolution process while reducing the burden on the formal court system. The recognition of the existence of customary law in national regulations, such as in Article 18B paragraph (2) of the 1945 Constitution and Supreme Court Regulation Number 2 of 2012, provides a strong legal basis for indigenous peoples to implement conflict resolution in line with local cultural values.

However, even though restorative justice has been legally recognized, there are still challenges in harmonizing customary law with the national legal

system, especially in ensuring legal certainty and the protection of human rights. The inconsistent application of customary law in various regions and the potential for injustice against victims demonstrate the importance of developing stronger regulations and more detailed guidelines. This is necessary so that the principles of restorative justice can be applied fairly and consistently throughout Indonesia. With more integrated regulatory support, the application of restorative justice in customary law is expected to create a more inclusive justice system that not only focuses on imposing sanctions but also on restoring social harmony in the community.

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<sup>26</sup> Ismail, Dian Ekawaty, Avelia Rahmah Y Mantali, and Mohamad Rivaldi Moha. (2023). The Concept of Revitalizing Traditional Institutions in the

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