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The Role of Traditional Leaders in Rote Ndao in Case Resolution through Restorative Justice

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Abstract

This study aims to analyze the role of traditional leaders in Rote Ndao in resolving cases based on restorative justice and to assess the effectiveness of traditional mechanisms in realizing restorative justice at the local level.

The method used in this study is a normative juridical approach supported by factual data obtained through literature study, analysis of legislation, and review of literature related to customary dispute resolution practices in Indonesia.

The novelty of this research lies in the integration model between Rote Ndao customary law and the principles of restorative justice in handling minor crimes. This model shows that customary mechanisms can serve as an alternative means of case resolution that is in line with substantive justice and local values.

The results of the study show that customary leaders play a strategic role as mediators and facilitators of deliberations who are able to resolve cases peacefully without going through litigation. This mechanism not only resolves conflicts but also restores social relations, strengthens community solidarity, and preserves local wisdom values.

Conclusion The role of traditional leaders in Rote Ndao is highly relevant to be strengthened as part of dispute resolution policies at the local level. This approach can be used as a model for other regions in integrating customary law and positive law to achieve substantive justice and social sustainability.

Keywords: Traditional Leaders; Rote Ndao; Restorative Justice

Abstrak

Penelitian ini bertujuan untuk menganalisis peranan tokoh adat Rote Ndao dalam penyelesaian perkara berbasis restorative justice serta menilai efektivitas mekanisme adat dalam mewujudkan keadilan yang bersifat memulihkan di tingkat lokal.

Metode Penelitian digunakan adalah pendekatan yuridis normatif yang didukung oleh data faktual yang diperoleh melalui studi kepustakaan, analisis peraturan perundang-undangan, dan telaah literatur terkait praktik penyelesaian sengketa adat di Indonesia.

Kebaruan penelitian ini terletak pada model integrasi antara hukum adat Rote Ndao dan prinsip restorative justice dalam penanganan tindak pidana ringan. Model ini menunjukkan bahwa mekanisme adat dapat berfungsi sebagai sarana alternatif penyelesaian perkara yang

selaras dengan keadilan substantif dan nilai-nilai lokal.

Hasil penelitian menunjukkan bahwa tokoh adat berperan strategis sebagai mediator dan fasilitator musyawarah yang mampu menyelesaikan perkara secara damai tanpa melalui jalur litigasi. Mekanisme ini tidak hanya menyelesaikan konflik, tetapi juga memulihkan hubungan sosial, memperkuat solidaritas masyarakat, dan menjaga kelestarian nilai kearifan lokal.

Kesimpulan Penelitian Peran tokoh adat Rote Ndao sangat relevan untuk diperkuat sebagai bagian dari kebijakan penyelesaian perkara di tingkat lokal. Pendekatan ini dapat dijadikan model bagi daerah lain dalam mengintegrasikan hukum adat dan hukum positif untuk mewujudkan keadilan substantif dan keberlanjutan sosial.

Kata Kunci: Tokoh Adat; Rote Ndao; Restorative Justice

1. INTRODUCTION

Indonesia's Criminal Procedure Code (KUHP)-based court system resolves criminal matters through retributive justice. This principle holds offenders accountable to the state and requires the imposition of clear and quantifiable sanctions in compliance with laws and regulations.¹ In this framework, the legal process emphasizes the demonstration of the components of criminal offenses and the imposition of commensurate penalties as a means of retribution against offenders, aiming to achieve both deterrent effects for the individual (specific prevention) and warnings for the broader community (general prevention).² Despite the robust legal legitimacy of this system, which serves as a fundamental component of criminal law enforcement in Indonesia, formal justice mechanisms frequently encounter multifaceted challenges. These include protracted case resolution timelines that may extend for months or years, comparatively elevated litigation costs, a backlog of cases resulting from court congestion, constrained resources among law enforcement officials, and diminished social cohesion between offenders and victims due to the adversarial nature of the proceedings that positions both opposition parties.³

While restorative justice has been extensively examined in Indonesian legal scholarship, the majority of studies have concentrated on its execution by formal law enforcement entities—such as the police, prosecutors, and courts—rather than its utilization within traditional or indigenous community frameworks. This gap highlights the necessity to investigate how local customary institutions, like those in Rote Ndao, implement restorative principles in the resolution of minor criminal cases. This research addresses the lack of explicit legal acknowledgment and systematic incorporation of customary dispute settlement within Indonesia's national restorative justice framework. This study seeks to evaluate the role and efficacy of traditional leaders in Rote Ndao in executing restorative justice, emphasizing the uniqueness of investigating indigenous leadership roles as a framework for localized and culturally rooted restorative practices.

Multiple previous studies have examined the status of customary communities within Indonesia's legal framework. Elucidate the risk of green grabbing arising from the enactment

¹ CSA Teddy Lesmana, 'Penal Mediation as an Alternative to Criminal Case Resolution in the Perspective of Reforming the Indonesian Criminal Justice System', *Journal of Rechten : Legal and Human Rights Research* 1, no. 1 (June 2019): 1–23, <https://doi.org/10.52005/rechten.v1i1.1>.

² Ali Emrah Bozbayindir, 'The Advent of Preventive Criminal Law: An Erosion of the Traditional Criminal Law?', *Criminal Law Forum* 29, no. 1 (March 2018): 25–62, <https://doi.org/10.1007/s10609-017-9322-y>.

³ Indra Rahmatullah, 'Breaking the Barrier of Judicial Administration', *Legal Reflections: Journal of Law* 1, no. 2 (April 2017): 117–30, <https://doi.org/10.24246/jrh.2017.v1.i2.p117-130>.

of Law No. 32/2024, which highlights the normative inconsistencies between conservation policy and indigenous land policy. This research, however, omits the legal and rehabilitative procedures.⁴ Concentrate on legal certainties to evaluate the self-governing status of Balinese customary villages in relation to customary infractions, yet they neglect the mediation of criminal issues and the operational role of traditional authorities in restorative justice.⁵ The research by Jemarut examines the legalization of the Community of Customary Law (MHA) in North Lombok, focusing on the implementation of local bylaws concerning administrative matters, rather than on customary dispute resolution and its connection to the criminal justice system.⁶ Investigate the Bugis Dui' Papienre marital tradition in an effort to align it with customary practices and human rights; however, this pertains to family law and does not encompass an investigation of restorative criminal law. This correspondence analysis examines how the traditional leaders of Rote Ndao implement and adapt restorative justice principles in addressing minor offenses, and how these practices may be incorporated into Indonesia's positive law, despite existing normative and institutional constraints.⁷

A new paradigm has emerged in legal thought regarding criminal case resolution, known as restorative justice. This approach emphasizes the restitution of victim losses, the accountability of offenders, and the restoration of social relationships harmed by criminal acts, with active involvement from the surrounding community.⁸ Restorative justice posits that the resolution of criminal cases need not culminate in punitive measures via formal justice systems; rather, it can be achieved through a conciliatory agreement that rehabilitates the relationship between the offender and the victim, provided it aligns with legal standards, societal norms, and the community's sense of justice.⁹ The principles of restorative justice, highlighting deliberation, restoration, and community engagement, are well-known to Indonesians, as numerous indigenous communities have implemented them long before the colonial government introduced the contemporary national legal system, which has persisted under the post-independence state.¹⁰

Rote Ndao Regency, situated in East Nusa Tenggara Province and recognized as one of Indonesia's southernmost districts, exemplifies a community that upholds traditional values in everyday life, particularly in the resolution of criminal and civil matters at the local level. The Rote Ndao community has a longstanding history of conflict resolution, inherited through generations, founded on the values of debate, consensus, equilibrium, and social harmony.¹¹

⁴ Maulana Hendra Mandala, Maria Ana Muryani, dan M. Khoirur Rofiq, "The Threat of Green Grabbing to Indigenous Peoples' Rights in the Implementation of Law Number 32 of 2024," *JUSTISI* 11, no. 3 (September 2025): 874–88, <https://doi.org/10.33506/js.v11i3.4601>.

⁵ Dewa Krisna Prasada dkk., "Sacred Justice: The Autonomy of Traditional Villages in Resolving Customary Disputes in Bali," *JUSTISI* 11, no. 3 (Juli 2025): 796–814, <https://doi.org/10.33506/js.v11i3.4326>.

⁶ Wihelmus Jemarut dkk., "Analysis of the Implementation of the Legalization of Customary Law Communities (MHA) in North Lombok Regency," *JUSTISI* 11, no. 1 (Januari 2025): 218–29, <https://doi.org/10.33506/js.v11i1.3817>.

⁷ Muh Akbar Fhad Syahril, Arini Asriyani, dan Anatolijs Krivins, "Dui' Papienre Customary Law Reconstruction Based on Human Rights Values in the National Legal System," *JUSTISI* 11, no. 3 (September 2025): 1004–18, <https://doi.org/10.33506/js.v11i3.4409>.

⁸ Arpandi Karjono, Parningotan Malau, and Ciptono Ciptono, 'The Application of Restorative Justice in Criminal Law Based on Local Wisdom', *JOURNAL USM LAW REVIEW* 7, no. 2 (July 2024): 1035–50, <https://doi.org/10.26623/julr.v7i2.9571>.

⁹ Theo Gavrielides, *Restorative Justice Theory and Practice: Addressing the Discrepancy* (RJ4All Publications, 2020).

¹⁰ Howard Zehr, 'Evaluation and Restorative Justice Principles', in *New Directions in Restorative Justice* (Willan, 2005).

¹¹ Ferdinandus Bani et al., 'Land Conflict Resolution Using Local Wisdom of Ngadhu-Bhaga in Ngada Regency', *Subject : Journal of Legal and Political Science* 2, no. 1 (2024): 172–85, <https://doi.org/10.51903/perkara.v2i1.1631>.

In this tradition, traditional leaders have a significant and esteemed position, serving not only as presiders over customary events but also as mediators and facilitators who guide the conflict resolution process to achieve a mutually acceptable compromise. Local customs such as sipa-sipa, which entails compensatory offerings of goods or livestock as a symbol of loss restitution and acknowledgment of transgressions; basa-basa, representing a customary apology before the community; and hule hula, a protracted deliberative process aimed at achieving consensus, serve as social mechanisms that significantly embody the tenets of restorative justice.¹²

The role of indigenous leaders in this mechanism is pivotal, as they facilitate meetings between perpetrators and victims, serve as moral guarantors for the execution of agreements, and oversee the implementation of agreed-upon sanctions or compensation. In fact, settling matters via customary processes is often more efficacious than formal courts, since they may be settled expeditiously, incur little expense, and circumvent the social stigma typically associated with the official criminal justice process. Customary choices possess socially binding authority, since they are enacted publicly within the community and are rooted in a collective consciousness aimed at preserving peace.¹³

However, a discrepancy exists between customary practices regarding this subject and the official recognition within the Indonesian criminal legal structure. In Rote Ndao, communities utilize traditional authorities, which ethnoculturally empower them to deliver resolutions at minimal expense and significant social cohesion. Conversely, the national legal policy, which is inherently repudiative and predominantly grounded in the criminal procedural law (KUHAP), fails to incorporate such settlement mechanisms, resulting in a contradictory legal system. This indicates the lack of legal alignment between live (positive) law and (customary) law in its more static manifestation.

Nonetheless, despite the considerable efficacy of the traditional settlement process in Rote Ndao, aligned with the principles of restorative justice, its acknowledgment and incorporation into the national legal framework continue to encounter several obstacles. Article 18B paragraph (2) of the 1945 Constitution of the Republic of Indonesia normatively guarantees the existence of customary law communities and their traditional rights, affirming that the state acknowledges and respects these communities and rights as long as they remain viable and align with societal development and the principles of the Unitary State of the Republic of Indonesia. Additionally, Law Number 6 of 2014 about Villages says that villages possess jurisdiction derived from the right of origin, which includes the regulation and management of community interests based on local initiatives, rights of origin, and customary practices. The National Police Regulation of the Republic of Indonesia Number 8 of 2021, about the Handling of Crimes Based on Restorative Justice, offers a technical legal framework for law enforcement officials to resolve cases extrajudicially through mediation among perpetrators, victims, and other relevant parties to achieve a conciliatory resolution.

Although the aforementioned papers bolster restorative justice initiatives, they have numerous normative deficiencies. Some documents lack specific norms; rules reference restorative techniques without describing the norms, the extent of power, or the involvement of indigenous leaders in implementing the procedures. There are legal loopholes, indicating

¹² Mufidah Mufidah, Rizal Maulana, and Lia Fauziyyah Ahmad, 'Customary Courts as a Framework for Restorative Justice in the Settlement of Criminal Cases in Indonesia', *Mizan: Journal of Islamic Law* 6, no. 2 (October 2022): 227–44, <https://doi.org/10.32507/mizan.v6i2.1623>.

¹³ Jolanda Woersok and Ricardo Freedom Nanuru, 'Living Together in Differences Based on Local Wisdom in Ohoidertawun and Its Relevance to the Kei Community', *Scientific Journal of Religiosity Entity Humanity (JIREH)* 6, no. 2 (December 2024): 254–71, <https://doi.org/10.37364/jireh.v6i2.335>.

that no local ordinance in Rote Ndao explicitly addresses the integration of the customary dispute resolution system in the prosecution of criminal cases. This regulatory void impacts community people and law enforcement officials, resulting in a lack of acknowledgment of customary agreements and diminishing the authority of these ABD leaders.

Despite the legislative structure allowing for the implementation of restorative justice, provisions that expressly include the involvement of indigenous leaders in the criminal case resolution process remain insufficient. Consequently, there sometimes exists an overlap or even a discrepancy between customary settlements conducted at the local level and formal legal procedures executed by law enforcement authorities. In many instances, agreements obtained via customary mediation lack recognition by law enforcement authorities, resulting in the continuation of the case in the courts, which eventually engenders dissatisfaction among the community and undermines the authority of traditional leaders as conflict mediators.

This predicament is exacerbated by the divergent paradigms of law enforcement officers and traditional leaders about the idea of justice. Law enforcement officials, constrained by established legal protocols, perceive justice within a formal legal framework that prioritizes evidence and the imposition of sanctions in accordance with regulations. In contrast, traditional leaders conceptualize justice through a socio-cultural lens that emphasizes the restoration of relationships, peace, and the maintenance of social harmony. The divergent perspectives often generate conflict in the execution of restorative justice, as each side believes its methodology is the most suitable for attaining justice.¹⁴

In this setting, coordinated and integrated crime prevention actions are essential to reconcile these disparities by balancing social protection and social welfare initiatives. Criminal policy is fundamentally an integrated component of social policy, amalgamating both criminal and non-criminal initiatives to attain the objective of criminalization. By integrating crime prevention policies within the framework of criminal charge policy, the objective is to foster synergy between effective legal mechanisms and local wisdom, ensuring that law enforcement prioritizes not only formal legal aspects but also the preservation of social harmony, which is fundamental for indigenous communities.¹⁵

In Rote Ndao Regency, this disparity in paradigms often perplexes the community over the appropriate course of action for case resolution, particularly when the issue has significant legal consequences. Individuals prefer to resolve disputes via familiar and trusted customary methods, but they are concerned that the agreements achieved may lack legal recognition by the national judicial system. This scenario illustrates the need for a comprehensive study about the function of indigenous leaders in addressing restorative justice cases in Rote Ndao, aiming to reconcile established customary practices with relevant national legal principles.

This research formulates the issue by examining the role of Rote Ndao traditional leaders in settling cases via restorative justice, the customary methods used, and their effectiveness relative to formal legal procedures. This issue formulation highlights both the descriptive and analytical dimensions, specifically on the capacity of indigenous leaders to enhance the implementation of restorative justice within the context of Indonesia's heterogeneous legal system. This study will delineate the aspects of indigenous leaders' responsibilities from the pre-mediation stage through the mediation process to the post-agreement phase, along with

¹⁴ Ahmad Syahril Yunus, *Restorative Justice in Indonesia* (Guepedia, 2021).

¹⁵ Yenny Febrianty and Krisna Murti, 'Restorative Justice as a Non-Criminal Policy Vehicle in the Judicial System (Socio-Legal Analysis in Filling the Procedural Law Gap in Indonesia as an Effort to Recover Child Crimes)', *Pakuan Justice Journal of Law (PAJOU)* 3, no. 1 (2022): 24–45.

the elements that facilitate or impede the execution of these roles.

This study aims to thoroughly and comprehensively elucidate the role of indigenous leaders in resolving restorative justice cases in Rote Ndao Regency, analyze the mechanisms and procedures employed in the settlement of customary cases, and evaluate their relevance and efficacy in furthering the objectives of restorative justice as outlined in the national legal framework. This study seeks to elucidate the integration of local wisdom values into the positive legal system, since local wisdom plays a crucial role in shaping cultural and national identity. By maintaining and using local knowledge, a community may enhance its cultural identity, reinforce social cohesion, and contribute to the development of a strong national character and identity.¹⁶ Consequently, it is anticipated that this may serve as a reference for policymakers, law enforcement authorities, and legal practitioners in devising ways for the implementation of restorative justice that are more localized and grounded in local values.

The advantages of this study may be categorized into theoretical and practical aspects. This project aims to further the study of customary law and criminal law via the lens of restorative justice, while also enhancing the literature on the integration of customary law and positive law in Indonesia. This study may enhance the theoretical framework for developing conflict resolution models that integrate local values while upholding global ideals of fairness. From a practical standpoint, the findings of this research are anticipated to serve as a reference for indigenous leaders, law enforcement officials, and policymakers in enhancing the role of indigenous leaders in restorative case resolution, thereby minimizing the likelihood of enduring conflicts, expediting the case settlement process, and alleviating the burden on formal judicial institutions.

The imperative of this research is underscored by the fact that in numerous regions of Indonesia, including Rote Ndao, the formal justice system frequently fails to effectively serve all societal strata, attributable to geographical constraints, resource limitations, and the community's incapacity to navigate intricate and expensive legal procedures. In such circumstances, the function of traditional leaders is vital as a more expedient and cost-effective option for settling issues, aligning more closely with the local community's sense of justice. This study aims to elucidate the potential synergy between the customary law system and positive legislation in the pursuit of more effective and lasting restorative justice in Indonesia.

This study will investigate the role of local leaders in the restorative justice case settlement process, examining the adaptation of justice in Rote Ndao and evaluating the legal basis for assessing the potential alignment of such customs with Indonesia's positive legal norms. This study aims to develop a conceptual and policy framework that integrates local/customary justice into the national restorative justice system by merging the theory and practice of the interaction between customary law and contemporary legislation.

2. METHOD

The research is primarily jurisprudential, supplemented by minimal empirical data. The jurisprudential analysis examines the theories and doctrines of statutory law, emphasizing the relationship between the Criminal Procedural Code (KUHP) and National Police Regulation No. 8 of 2021 about Restorative Justice, as well as the customary legal practices in Rote Ndao. This indicates that the research can analyze the law not only in theory but also in its application

¹⁶ Yenny Febrianty et al., 'THE ROLE OF LOCAL WISDOM IN BUILDING CULTURAL AND NATIONAL IDENTITY', *E/ - Hekam* 7, no. 1 (October 2023): 168–81, <https://doi.org/10.31958/jeh.v7i1.10591>.

within a specific socio-cultural setting that continues to employ traditional methods for resolving local disputes.

To fulfill the objectives of this study, the researcher ethically gathered primary qualitative empirical field data, as much as feasible, in conjunction with normative data. This empirical qualitative data was obtained while maintaining normative order and was augmented by brief field observations and semi-structured interviews performed by the researcher in Rote Ndao Regency, East Nusa Tenggara province, over the period of [January-June]. The interviews were conducted with the following primary key informants: (1) traditional leaders overseeing customary alternative dispute resolution; (2) village administrators managing local governance and facilitating conflict resolution; and (3) local restorative justice police. Concerning study ethics, the informants were not identified by name in the paper but were instead referenced by their assigned responsibilities.

The legal instruments consist of core legal resources such as statutes, regulations, and case law, together with secondary sources like legal encyclopedias, textbooks, journal articles, and prior scholarly works, as well as tertiary sources. Research utilizes primary, secondary, and tertiary sources qualitatively to elucidate the nature and connection of legal norms and their significance to traditional conflict resolution processes in the Rote Ndao region. This elucidates the positive relationship between law and societal practices. The fundamental provisions of law are analyzed and compared to current reality in a pluralistic and progressive manner. This succinctly elucidates the research conclusions, which are both normative and factual regarding indigenous restorative justice practices.

3. DISCUSSION

Customary leaders have consistently played a crucial role as the initial avenue for dispute settlement beyond the legal framework, serving as a vehicle for social cohesion. Restorative justice emphasizes harm restitution and the involvement of the community, victims, and offenders, prioritizing social reintegration over punitive measures. These ideas are clearer and integrated within the legislative frameworks of adult and juvenile justice. Police Regulation No. 8 of 2021 incorporates traditional leaders in the resolution of criminal offenses, aiming for a peaceful and just settlement that restores the parties and community to their original (pre-dispute) status.¹⁷

Indigenous leaders, with an understanding of customary community dynamics and local authority, may facilitate the connection between official legal systems (such as law enforcement and prosecutorial offices) and indigenous customary practices. This accelerates settlement, reduces the formal burden, and enhances the satisfaction of both victims and perpetrators. In a research conducted in West Sumatra, customary institutions participated in a pact with the police and the prosecutor's office to facilitate resolution via restorative justice.¹⁸ Indigenous leaders assert that the resolution of cases aligns with local values, including discussion, kinship, social responsibility, and the repair of relationships. This method often reduces societal stigma against offenders and facilitates their reintegration into society.¹⁹

¹⁷ Eva Zulfa, 'RESTORATIVE JUSTICE IN INDONESIA: TRADITIONAL VALUE', *Indonesia Law Review* 1, no. 2 (August 2011), <https://doi.org/10.15742/ilrev.v1n2.81>.

¹⁸ Yoserwan Yoserwan et al., 'The Role of Adat Institution In The Settlement of Criminal Cases Through Restorative Justice In West Sumatra', *Nagari Law Review* 6, no. 2 (May 2023): 146–57, <https://doi.org/10.25077/nalrev.v.6.i.2.p.146-157.2023>.

¹⁹ Nur Rochaeti and Rahmi Dwi Sutanti, 'THE CONTRIBUTION OF CUSTOMARY JUSTICE AND RESTORATIVE JUSTICE IN THE REFORM OF CRIMINAL LAW IN INDONESIA', *Legal Issues* 47, no. 3 (July 2018): 198–214, <https://doi.org/10.14710/mmh.47.3.2018.198-214>.

Indigenous leaders in Rote Ndao have a pivotal function in adjudicating petty criminal cases, acting as both authoritative community representatives and intermediaries between customary law and statutory law. The misdemeanor criminal case pertains to crimes that inflict little harm or pose low criminal dangers, including petty theft, misdemeanors, small damage, and interpersonal disagreements. The Rote Ndao indigenous community often resolves such issues using traditional methods grounded in consensual discussion, whereby discourse serves as the primary method for achieving mutually accepted solutions. This aligns with the community's social traits that emphasize the harmony of familial ties and communal solidarity above retributive consequences that may disrupt social interactions.

In practice, traditional leaders will convene a customary conference with the complainant, the accused person, witnesses, and family members from both sides. These gatherings are often conducted in traditional residences or community assembly rooms to signify impartiality and transparency. Indigenous leaders serve as mediators who encourage conversations, ensuring all parties can articulate their viewpoints, and guide the dialogue towards achieving consensus. At this juncture, the primary focus is not on formal evidence, as is customary in judicial proceedings, but rather on the perpetrator's admission of guilt, the restitution of the victim's losses, and a pledge to refrain from committing the same offense again. This procedure demonstrates a substantive connection to the notion of restorative justice, whereby case resolution emphasizes reconciliation and repair rather than punishment.²⁰

In addition to serving as mediators, traditional leaders act as custodians of the cultural values that regulate individuals' lives. In adjudicating issues, customary leaders use traditional standards as a foundation for deliberation to ascertain the appropriate punishments or equitable recompense. In Rote Ndao, customary punishments are often reparative and symbolic, including the payment of fines in the form of animals (e.g., pigs or goats), agricultural output, or a mutually negotiated sum of cash. The fines aim not just to compensate the victims' damages but also to restore the family's dignity in society. Consequently, customary verdicts possess more significance than mere cash recompense, since they also reinstate confidence and social peace potentially disrupted by the case.

The involvement of indigenous leaders in adjudicating minor criminal matters is not entirely distinct from the national legal framework. Following regulatory advancements, particularly the promulgation of the National Police Regulation of the Republic of Indonesia Number 8 of 2021, police officers are empowered to pursue extrajudicial resolutions through a restorative justice framework under specific conditions, which may include the participation of traditional leaders. This formally acknowledges the practice that has been ongoing among the Rote Ndao indigenous community. Within this framework, indigenous leaders serve not just as community representatives but also as strategic collaborators with law enforcement in the execution of more compassionate and recovery-focused policies.

3.1. Synergy between Customary Law and Restorative Justice in the National Legal System

The interplay between customary law and the restorative justice framework within the national legal system is a phenomenon that is garnering increasing acknowledgment, particularly following the promulgation of the National Police Regulation of the Republic of

²⁰ Shannon Sliva, Mariah Shaw, and Tyler M. Han, 'Policy to Practice: An Implementation Case Study in Restorative Justice', *Contemporary Justice Review* 23, no. 4 (October 2020): 527–43, <https://doi.org/10.1080/10282580.2019.1700371>.

Indonesia Number 8 of 2021 regarding the Management of Crimes Based on Restorative Justice. This legislation specifically permits the incorporation of local norms, including customary law, that have been cultivated within the community as a foundation for settling specific instances outside formal judicial systems. This acknowledges that positive legislation cannot exist in isolation; it needs a linkage with local social and cultural norms to enhance its efficacy and acceptance within the society. In Rote Ndao, customary law emphasizing deliberation, restoration, and reconciliation aligns closely with the principle of restorative justice, which prioritizes the restitution of victims' losses, the active involvement of the perpetrator in the resolution process, and the reestablishment of social relations following the case.

This integration is apparent when traditional leaders and law enforcement personnel cooperate in managing minor criminal cases. Initially, the community often submits issues to traditional leaders for internal resolution. Upon reaching an agreement and securing acceptance from all parties involved, the traditional leader may thereafter convey the conclusion to the local police for documentation as a legal peaceful settlement. This procedure enhances the validity of customary judgments within the framework of positive law while simultaneously sparing the parties from protracted, costly, and sometimes contentious litigation. This synergy exemplifies the use of the concept of *ultimum remedium* in criminal law, when criminal punishments are employed as a last resort after the exhaustion of all non-criminal alternatives.²¹

This synergy is advantageous for both parties from a theoretical standpoint. Formal acknowledgment from the state enhances the existence and longevity of customary law amongst the currents of legal modernization. In the context of positive law, the integration of customary law enhances the scope of law enforcement, particularly in distant regions with restricted access to judicial institutions. This synergy embraces the notion of legal pluralism in Indonesia, acknowledging the coexistence of many legal systems that operate concurrently, provided they do not contravene the constitution and human rights.

Nonetheless, the interplay between customary law and restorative justice presents some complications. A primary difficulty is to guarantee that the traditional settlement process upholds the idea of equitable justice for all parties, particularly marginalized groups such as women and children. In some instances, gender-biased customary norms or those favoring certain groups may obstruct the attainment of substantive justice. Moreover, inadequate cooperation between traditional leaders and law enforcement officers may result in overlapping authority or jurisdictional disputes. A definitive method is required to govern the responsibilities of each participant, including written directives that amalgamate customary practices with state-regulated restorative justice criteria.

Enhancing this synergy may be achieved via several strategic measures. Initially, offering collaborative training for traditional leaders and law enforcement authorities on the ideas of restorative justice and its correlation with local customary norms. Secondly, recording effective customary case settlement processes to serve as a reference and example for application in other places. Third, promoting local governments to establish regional legislation that integrates customary law within the restorative justice framework, thereby enhancing legal certainty. Consequently, the interplay between customary law and restorative justice serves

²¹ Wagiman Wagiman and Didi Jubaiddi, 'Ultimum Remedium Principles: Realizing Restorative Justice For Children In Conflict With The Law', *KRTHA BHAYANGKARA* 18, no. 3 (December 2024): 685–701, <https://doi.org/10.31599/krtha.v18i3.2984>.

not only as an alternative mechanism for case resolution but also as a method for safeguarding local legal culture in accordance with national and international legal standards.

3.2. Challenges and Strategies for Strengthening the Role of Indigenous Leaders in the Framework of Restorative Justice

Despite the advantages of integrating customary law with restorative justice, the practical application reveals certain problems that need systematic resolution.²² A primary difficulty is the variability of customary norms and processes among areas, which often diverge from the principles of universal justice, including non-discrimination, equality before the law, and the safeguarding of the rights of both victims and offenders.²³ In rare instances, longstanding customary standards may include biases against vulnerable populations, like women, children, or certain minorities. This prejudice may obstruct the attainment of substantive justice, despite the matter being nominally concluded via discussion. Consequently, the alignment of customary values with the ideas of restorative justice as delineated in national legislation is an imperative priority that must not be overlooked.

Furthermore, a significant obstacle is the inadequate ability of indigenous leaders to comprehend the favorable legal framework and restorative justice protocols as outlined in statutes and regulations. Certain indigenous leaders conduct settlement processes with traditional expertise and wisdom, bypassing officially recognized administrative procedures. This may lead to complications, particularly when the results of traditional resolutions need validation by law enforcement authorities to prevent any new conflicts. The absence of socialization and formal training for indigenous leaders creates a knowledge deficit, resulting in inadequate coordination between state authorities and traditional stakeholders.

A further impediment is the inadequate enforcement of rules at the regional level. Despite the stipulations of National Police Chief Regulation Number 8 of 2021 on the restorative justice system, not all local governments have incorporated it into regional rules that clearly recognize the importance of customary law. Consequently, on-the-ground execution often depends on the individual initiative of indigenous leaders and police personnel, who are susceptible to variability and subjectivity. The problem is aggravated by constrained resources, including facilities, financing, and access to legal advice, which might diminish the efficacy of custom-based settlement methods.

In light of these issues, a plan is required to enhance the role of indigenous leaders within the context of restorative justice. Initially, enhance capacity via comprehensive training that includes traditional leaders, law enforcement personnel, and other relevant organizations. The training encompasses both positive legal dimensions and a comprehensive grasp of human rights, restorative justice ideas, and proficient mediation skills. Secondly, enhancing regional legislation that specifically governs the use of customary law in adjudicating matters via restorative justice. This rule is essential for ensuring legal clarity, delineating the boundaries of power, and instituting a clear coordination system between customary parties and state authorities.

Third, the documentation and codification of customary law pertinent to restorative justice. This stage seeks to align customary norms with contemporary ideas of justice, while

²² Gina Maulida, 'Correlation of Customary Law and Restorative Justice: Building Local Wisdom-Based Justice in Indonesia', *Pikukuh : Journal of Law and Local Wisdom* 2, no. 1 (April 2025): 20–28, <https://doi.org/10.62870/pkh.v2i1.29382>.

²³ Penias Isba, Marius Suprianto Sakmaf, and Jumiran, 'Evaluation of Restorative Justice Implementation in Criminal Conflict Resolution: Victim and Offender Perspectives', *DELICTUM: Journal of Islamic Criminal Law* 3, no. 1 (October 2024): 14–30, <https://doi.org/10.35905/delictum.v3i1.10736>.

enabling the assessment and revision of norms in the future. Establish a platform for ongoing dialogue and collaboration among indigenous leaders, law enforcement authorities, local governments, and civil society. This platform may facilitate the exchange of experiences, case discussions, and the formulation of policies that address local needs.

The last technique, equally significant, is the empowerment of the community as an active participant in the customary-based dispute resolution process. Community involvement not only enhances the validity of customary judgments but also guarantees that the resolution process really embodies a sense of communal justice.²⁴ By integrating these strategies, existing challenges can be progressively addressed, ensuring that the role of indigenous leaders within the restorative justice framework not only endures but also evolves into a crucial pillar of Indonesia's humanistic, participatory, and equitable criminal justice system.

3.3. Legal and Social Implications of the Role of Rote Ndao Traditional Leaders in Restorative Justice-Based Case Resolution

The implementation of restorative justice by traditional leaders in Rote Ndao has a dual influence on both positive law and the community's social dynamics. Legally, the customary-based settlement mechanism exemplifies the principle of *ultimum remedium* in criminal law, wherein formal litigation is regarded as a last resort, while consensus deliberation with traditional leaders serves as the primary method for restoring balance and harmony.²⁵ This method aligns fundamentally with the legal objective articulated by Gustav Radbruch, which is to provide justice, clarity, and usefulness. In this environment, traditional leaders serve not only as symbols of tradition but also as mediators with significant social and moral validity within the society, therefore facilitating broader acceptance of the resultant choices by all parties involved.²⁶

Simultaneously, the engagement of indigenous leaders fortifies societal cohesiveness, mitigates division, and reduces the likelihood of more confrontations. The resolution of cases about local cultural values, including reverence for ancestors, the duty to uphold family reputation, and the notion of shame (*hili*) within the Rote community, is crucial for ensuring that the parties achieve not merely a formal reconciliation, but also the restoration of disrupted social relations. This allows the people to see justice not just as a legal ruling, but as the restoration of harmonious social connections.

This implication also aids in the reform of national law, particularly in the integration of customary law into a criminal justice system that is more attuned to local knowledge. The acknowledgment of indigenous leaders' roles in the restorative justice mechanism can inspire the development of policies that embrace cultural diversity in Indonesia, as stipulated by Article 18B paragraph (2) of the 1945 Constitution, which affirms the state's recognition of the unity of customary law communities and their rights. The role of Rote Ndao traditional leaders is significant not just locally but also nationally, serving as an example for compassionate, successful resolutions grounded in the nation's noble principles. In addition to law and law enforcement, some aspects of law enforcement must not be overlooked, as neglecting them

²⁴ Febrian Chandra et al., 'Customary Rituals as Unwritten Legal Instruments of the Jambi Community in the Perspective of Legal Philosophy', *Legality: Journal of Law* 16, no. 2 (December 2024): 122–32, <https://doi.org/10.33087/legalitas.v16i2.699>.

²⁵ Barransyah Hendri Oktawan Ramsi, Hartiwiningsih Hartiwiningsih, and Ismunarno Ismunarno, 'Application of the Dominus Litis Principle by the Prosecutor's Office Through Restorative Justice at the Investigation Stage of General Criminal Cases', Atlantis Press, 24 December 2024, 449–54, https://doi.org/10.2991/978-2-38476-315-3_61.

²⁶ Kristi Warista Simanjuntak Wahab Aznul Hidayat, A. Sakti R.S. Rakia, Pengantar Hukum Indonesia (Batam: CV. Rey Media Grafika, 2025).

would hinder the attainment of effective law enforcement.²⁷

3.4. Challenges in Applying State Law as a Restorative Justice Mechanism

Despite the ethical recognition of restorative justice techniques under Indonesian law, significant problems persist regarding their implementation in community dispute resolution, as evidenced by the case of Rote Ndao. Initially, there exists a legal gap between the law's equitable restorative methodologies, as delineated in the nation's restorative justice regulations, and the primarily adaptable and relational dimensions of mediation. The law mandates a procedural framework, formal categorization of disputes, and the backing of law enforcement, whereas informal/customary approaches promote resolution without adherence to procedures, moral accountability, or community conflict. The absence of procedural justice often leads to uncertainty over the sufficiency of informal treaties in fulfilling legal obligations.

Secondly, there exist institutional deficiencies in collaboration among law enforcement, prosecution, and traditional authorities. In other cases, restorative treaties established with customary authorities lack legal status, leading to the escalation of the issue to the court, notwithstanding community consensus. This leads to a diminution of legal certainty and undermines the community's trust in the state's judicial system.

Third, socio-cultural and jurisdictional conflicts arise because state law prioritizes evidential and punitive frameworks, in contrast to the integrative and balancing methods of customary laws within the community. Law enforcement officials may perceive traditional settlements as devoid of legal significance. Conversely, traditional authority may perceive the lack of official procedures as a disruption of the social order.

The insufficient ability, characterized by the inadequate legal literacy of customary leaders and the limited understanding of local norms by law enforcement personnel, exacerbates the challenges of integration. The inadequate regional law, which allows for the discretionary recognition of customary restorative settlements, exacerbates the inequitable practices in the region.

The issues illustrate that the legislative procedure and restorative justice are incompatible. It must also integrate the indigenous systems of justice, which the community regards as both authentic and socially cohesive.

CONCLUSION

The research indicates that traditional leaders in Rote Ndao significantly influence restorative justice case settlement by mediating conflicts, interpreting customary norms, and reinstating social bonds more efficiently than formal litigation in applicable circumstances. Their culturally rooted authority facilitates outcomes that emphasize communication and relational harmony, demonstrating the possibility of reconciling customary and statutory law with constitutional acknowledgment of indigenous populations. Local governments are advised to codify the participation of traditional leaders via regional legislation that delineates their mediation authority, develop coordination protocols with law enforcement and prosecution entities, and provide explicit eligibility criteria for non-litigation resolution. Capacity-building initiatives must be instituted to enhance leaders' comprehension of national legal norms, so ensuring adherence to legal requirements in mediation. Subsequent research may investigate the applicability of this paradigm to other regions to promote substantive justice and sustainable social order.

²⁷ Yenny Febrianty, 'The Implementation of the Prosecutor's Authority as an Applicant in Filing for Bankruptcy in the Public Interest Based on Social Justice Values', *SEHASEN LEGAL JOURNAL* 2, no. 1 (May 2019), <https://jurnal.unived.ac.id/index.php/jhs/article/view/753>.

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