

The Existence Of Customary Institutions In Resolution Of Social Conflict In Indonesian Multicultural Society

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ABSTRACT

Indonesia is a country with a very high level of ethnic, religious, racial, and inter-group diversity, so that the potential for social conflict is always inherent in the dynamics of everyday social life. Amidst the limited reach, costs, and responsiveness of formal justice institutions, customary institutions continue to exist and play a strategic role as conflict resolution mechanisms based on deliberation, kinship, and local wisdom. This article aims to examine the existence, legal status, and effectiveness of customary institutions in resolving social conflicts in Indonesia's multicultural society, while also identifying the challenges they face in the contemporary era. This research uses a normative juridical method combined with an empirical juridical approach, by analyzing laws and regulations, court decisions, and various literature studies on customary conflict resolution practices in several regions in Indonesia. The results of the study indicate that customary institutions have a strong constitutional basis through Article 18B paragraph (2) of the 1945 Constitution and in practice are able to resolve conflicts more quickly, cheaply, and oriented towards restoring social relations (restorative), compared to formal justice processes that are adversarial in nature. However, the existence of customary institutions still faces challenges in the form of overlapping regulations, weak formal recognition in some regions, and shifting values due to modernization and digitalization. This article recommends strengthening derivative regulations, harmonizing customary law with national law, and revitalizing customary institutions as an integral part of a pluralistic national dispute resolution system.

Keywords: Customary Institutions; Social Conflict; Multicultural Society; Restorative Justice; Legal Pluralism.

INTRODUCTION

Indonesia is known as one of the most diverse countries in the world, with hundreds of ethnic groups, thousands of islands, and a diversity of religions, languages, and customs stretching from Sabang to Merauke. This diversity is both a wealth and a challenge for the Indonesian people in maintaining harmonious coexistence. On the one hand, cultural diversity is a source of national identity that enriches the nation's cultural heritage. On the other hand, differences in identities, interests, values, and norms that exist within a multicultural society have the potential to give rise to social friction and conflict, both latent and manifest. These conflicts can take the form of disputes between ethnic groups, religious-based conflicts, disputes over natural resources, and competing socio-economic interests, each with its own characteristics and intensity.¹

In such a social reality, the state, through its formal justice system, has actually provided various dispute resolution mechanisms, ranging from district courts and

¹ Arisjulyanto, D. (2024). The role of customary law in maintaining social harmony in Indonesian village communities. *Journal of Social and Education Research*, 2(1), 14-20.
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religious courts to alternative dispute resolution institutions regulated by law. However, in practice, the formal justice system often faces a number of structural limitations, such as lengthy processes, high costs, complicated procedures, and a win-lose (adversarial) approach, which makes it less accommodating to the need for post-conflict social recovery. These limitations are even more pronounced in areas far from the center of government, where public access to formal justice institutions remains very limited. This condition has encouraged communities in various regions to maintain and utilize customary institutions as a forum for conflict resolution that is closer, faster, and more in line with their local values. Customary institutions, therefore, are not merely a legacy of past traditions, but remain alive and functioning as relevant social instruments to the present day.

Constitutionally, the existence of customary law communities and their traditional rights has received explicit recognition in Article 18B paragraph (2) of the 1945 Constitution of the Republic of Indonesia, which states that the state recognizes and respects customary law communities and their traditional rights as long as they are still alive and in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia.² This recognition is also reinforced by Article 28I paragraph (3) of the 1945 Constitution, which emphasizes that cultural identity and traditional communities are respected in harmony with the development of the times and civilization. This constitutional provision serves as the highest legal basis for the existence of customary institutions in Indonesia, including their authority to resolve various forms of disputes and conflicts that occur within society. However, this constitutional recognition has not been fully followed by comprehensive technical regulations, so that its implementation in the field still leaves various problems, ranging from overlapping authority to uncertainty about the legal status of customary decisions before national law. This legal pluralism that coexists between state law and customary law is one of the unique characteristics of the Indonesian legal system compared to other countries.³

The phenomenon of the diversity of Indonesian society has long been the object of academic study, from the perspectives of sociology, anthropology, and law. A multicultural society is understood as a social order composed of diverse ethnic, religious, cultural, and linguistic groups living side by side in a single social space, where interactions between these groups reflect not only diversity but also a continuous process of integration and value negotiation.⁴ In this context, social conflict does not always have to be viewed as a completely destructive phenomenon. From a sociological perspective, conflict can also be a social mechanism that drives change, strengthens group solidarity, and increases inter-community integration if managed with appropriate resolution mechanisms. The effectiveness of conflict as a means of constructive social change depends heavily on the choice of resolution mechanism used, whether through dialogue, mediation, negotiation, the application of formal law, or an approach based on local values and wisdom. This is where the relevance of customary institutions becomes increasingly important to examine in depth, given their strategic role as a bridge between the interests of individuals, groups, and the broader social order.

²Republik Indonesia. Undang-Undang Dasar Negara Republik Indonesia Tahun 1945, Pasal 18B ayat (2) dan Pasal 28I ayat (3).

³Pradhani, S. I. (2021). Pendekatan pluralisme hukum dalam studi hukum adat: Interaksi hukum adat dengan hukum nasional dan internasional. *Undang: Jurnal Hukum*, 4(1), 81–124.

⁴Khilmi, D. A. K., Findy, R. A., Isviana, P. S., & Radianto, D. O. (2024). Multikulturalisme dalam kehidupan sosial masyarakat Indonesia. *Journal Sains Student Research*, 2(2), 167–172.

Various regions in Indonesia demonstrate concrete examples of how customary institutions actively play a role in mitigating and resolving social conflicts within their respective territories. The interaction between formal state law and customary law within communities often creates unique dynamics, both in the form of complementarity and tensions stemming from differences in principles and procedures for dispute resolution.⁵ In some regions, customary institutions have even become the primary forum, trusted more by the community than formal justice institutions, particularly for communal disputes such as customary land disputes, inter-community disputes, and violations of customary norms. This situation demonstrates that customary institutions are not merely ceremonial cultural symbols, but rather social institutions with real and ongoing legal functions. Therefore, a comprehensive study of the existence of customary institutions in resolving social conflicts in Indonesia's multicultural society is highly relevant, encompassing both normative and sociological aspects.

Historically, the existence of customary institutions in the archipelago is much older than the Republic of Indonesia itself, as customary institutions have grown and developed since the era of local kingdoms, long before the introduction of the colonial legal system and the modern national legal system. This legacy gives customary law a strong root of legitimacy in the eyes of society, as it emerged from a long process of social interaction, not simply a product of legislation formed top-down by the state.⁶ When the Dutch colonialists introduced the continental European legal system to the Dutch East Indies, customary law was retained as the law applicable to the native class, so that from the beginning the legal system in Indonesia has been pluralistic, namely the coexistence of customary law, religious law, and state law within the same jurisdiction. This legacy of legal pluralism was then maintained by the nation's founders after independence, while still providing space for customary law to continue to exist and develop as long as it does not conflict with broader national interests. Such a historical understanding is important to emphasize that the existence of customary institutions is not an anomaly in the modern legal system, but rather an integral part of the long journey of legal formation in Indonesia that remains relevant to study today.

The development of an era marked by globalization, urbanization, and digitalization has had a significant impact on the dynamics of life in Indonesia's multicultural society, including on the existence of traditional institutions themselves. Increasingly massive interregional migration has led to an unprecedented mix of cultures, creating new social spaces in which diverse cultural identities must learn to coexist harmoniously. While this enriches Indonesia's multiculturalism, it also increases the complexity of potential conflicts resulting from the intersection of diverse values, interests, and perspectives within a single social space. This issue becomes even more crucial when linked to economic disparity, competition for limited natural resources, and the polarization of identity politics, which can at any time trigger large-scale social friction. In such a dynamic situation, the existence of traditional institutions with long experience in managing diversity at the local level is a valuable social asset, proven to maintain social stability long before the arrival of the modern state with its full legal framework. Therefore, a study of how customary institutions adapt and remain relevant amidst

⁵Fatinah, A. P. (2024). Interaksi antara hukum formal dan hukum adat di Indonesia. *Legal System Journal*, 1(2), 34–41.

⁶Mawar, S., & Iqbal, M. (2025). Multicultural Dispute Resolution System in Aceh Before and After the Issuance of the Customary Institution Qanun. *Samarah: Jurnal Hukum Keluarga dan Hukum Islam*, 9(1), 560-574. <https://doi.org/10.22373/sjhk.v9i1.19767>

changing times is an important and inseparable part of the discussion on resolving social conflicts in Indonesia's multicultural society.⁷

Previous studies on customary institutions and social conflict resolution have generally been partial, focusing on a single region or a specific type of dispute, such as customary land disputes, customary criminal disputes, or inter-religious intolerance, without providing a comprehensive picture of the existence of customary institutions in general within Indonesia's multicultural society.⁸ These studies are valuable as empirical reference materials, but need further synthesis to provide a more complete picture of the general patterns, strengths, and challenges faced by customary institutions nationally. This article attempts to fill this gap by synthesizing and comparatively analyzing various customary institutional practices in a number of regions, thereby formulating general patterns that apply across regions as well as local specificities. The novelty of this article lies in its attempt to combine normative analysis of the legal basis of customary institutions with sociological analysis of actual conflict resolution practices in various regions, within a coherent framework supported by current literature. Thus, this article is expected to provide a new contribution to the development of studies on legal pluralism and restorative justice in Indonesia, particularly in the context of strengthening customary institutions as instruments for sustainable social conflict resolution.

Based on the background description, this article is written to answer two main questions. First, what is the position and existence of customary institutions within the legal and social structure of Indonesia's multicultural society as viewed from the perspective of positive law and legal pluralism. Second, what is the effectiveness and challenges faced by customary institutions in resolving social conflicts amidst the dynamics of modernization, digitalization, and rapid social change in the contemporary era. These two questions will be examined in depth through a normative juridical approach supported by empirical data from various literature and previous research results. Through this study, it is hoped that a comprehensive picture of the strategic position of customary institutions within the national legal system will be obtained, while also providing policy recommendations for strengthening customary institutions as instruments for sustainable conflict resolution. This article is also expected to enrich the academic discourse on legal pluralism and restorative justice in the context of Indonesia's multicultural society.

METHODS

The research that forms the basis for this article utilizes a normative legal research method (normative juridical) combined with an empirical juridical approach. The normative juridical approach is used to analyze written legal norms, whether sourced from legislation, court decisions, or legal doctrines relevant to the existence of customary institutions and the resolution of social conflicts. Meanwhile, the empirical juridical approach is used to capture the actual practice of implementing customary institutions' functions in various regions based on research results and case studies previously published by other researchers. The combination of these two approaches was chosen so that the resulting study is not only textually normative but also able to reflect the sociological realities that exist within society. This approach is commonly used in studies

⁷ Syafei, E. S., Habuddin, I., Asrizal, A., & Saputra, M. (2023, December). Mediation in Social Conflict Resolution at Tanjungpinang Malay Customary Institution, Riau Islands. In *Al-Risalah: Forum Kajian Hukum Dan Sosial Kemasyarakatan* (Vol. 23, No. 2, pp. 198-214). <https://doi.org/10.30631/alrisalah.v23i2.1361>

⁸ Mazya, T. M., Ridho, K., & Irfani, A. (2024). Religious and cultural diversity in Indonesia: Dynamics of acceptance and conflict in a multidimensional perspective. *International Journal of Current Science Research and Review*, 7(7), 4932-4945. <https://doi.org/10.47191/ijcsrr/V7-i7-32>

of legal pluralism, considering that customary law essentially grows and develops from social practices that cannot always be fully understood through the text of legislation alone.⁹

The choice of a normative juridical method combined with an empirical approach is also based on the characteristics of the object of study, namely customary institutions, which are spread across various regions with diverse patterns and practices. A statutory approach is used to examine various regulations governing the recognition of customary law communities, from the constitutional level to regional regulations, while a conceptual approach is used to understand basic concepts such as legal pluralism, restorative justice, and multicultural society, which serve as the theoretical framework in this article. Furthermore, a case approach is also used to a limited extent to examine a number of court decisions and customary conflict resolution practices documented in various scientific publications, in order to enrich the analysis with concrete factual context. These three approaches are used in a complementary manner so that the resulting study does not become trapped in a dry normative analysis, but remains grounded in the social realities that occur in society. This methodological combination is expected to produce a more comprehensive understanding of the position of customary institutions in Indonesia's pluralistic legal system.

The type of research used is library research with a descriptive analytical nature. The legal materials used in this study consist of three types: primary legal materials, secondary legal materials, and tertiary legal materials. Primary legal materials include the 1945 Constitution of the Republic of Indonesia, Law Number 6 of 2014 concerning Villages, and Constitutional Court decisions relevant to the recognition of customary law communities. Secondary legal materials include books, national and international scientific journals, research results, and academic articles discussing the existence of customary institutions, restorative justice, and social conflict resolution in multicultural societies. Tertiary legal materials in the form of legal dictionaries and encyclopedias are used to clarify technical terms used in the discussion.

Data collection techniques were conducted through document studies and systematic literature searches of laws and regulations, court decisions, and academic literature published primarily within the last five years, to ensure the data's topicality and relevance to current legal developments and social practices. The collected data were then analyzed qualitatively using content analysis and legal interpretation methods, including grammatical, systematic, and teleological interpretations, to understand the meaning and purpose of regulations regarding customary institutions within the national legal system. Comparative analyses were also conducted on several customary conflict resolution practices in various regions, such as Riau, Lampung, Bali, Central Kalimantan, and West Nusa Tenggara, to obtain a representative picture of the diversity of customary-based conflict resolution models in Indonesia. The results of these analyses were then systematically compiled to answer the research problem formulation and formulated into conclusions and applicable policy recommendations. This methodological approach is expected to produce a comprehensive, systematic, and contextual study of the existence of customary institutions in resolving social conflicts in Indonesia's multicultural society.

This study also acknowledges a number of methodological limitations that need to be addressed honestly. Because it is a library research study, this article does not conduct direct field observations or in-depth interviews with traditional leaders. Therefore, the data and findings presented are entirely derived from research and scientific publications

⁹Pradhani, S. I. (2021). Pendekatan pluralisme hukum dalam studi hukum adat: Interaksi hukum adat dengan hukum nasional dan internasional. *Undang: Jurnal Hukum*, 4(1), 81–124.

conducted by previous researchers. Another limitation lies in the scope of the study, which cannot encompass the full range of traditional institutions in Indonesia, given their vast number and spread across thousands of islands. Therefore, the examples of practices discussed in this article are representative and illustrative, not comprehensive. Nevertheless, these limitations do not diminish the significance of this study, as the article's primary objective is to present a normative and sociological analytical framework that can serve as a foundation for more in-depth field research in the future. By transparently acknowledging these limitations, this article strives to maintain academic integrity while also opening up space for the development of more comprehensive, follow-up research on the existence of traditional institutions in resolving social conflicts in Indonesia.

RESULTS AND DISCUSSION

Existence and Legal Position of Customary Institutions in the Social Structure of Indonesia's Multicultural Society

Customary institutions are institutional structures that emerge from the collective awareness of customary law communities in regulating, maintaining, and preserving the social order and ancestral values they have held dear for generations. Their existence is inseparable from the existence of customary law communities themselves as social entities possessing territories, customary governance structures, assets, and distinctive normative systems that differ from one region to another. In Indonesia, the diversity of customary institutions is very high, ranging from the Riau Malay Customary Institution, the Perwatin Adat Institution in Lampung, the Kedamangan Institution in Central Kalimantan, the Customary Council in Bali, to the Tana Samawa Customary Institution in Sumbawa, each of which has its own management structure, court procedures, and customary sanctions.¹⁰ This diversity aligns with the principle that customary law is inherently pluralistic and contextual, growing out of the specific needs of local communities, and therefore cannot be standardized into a single model for all of Indonesia. Despite their diverse forms, all customary institutions share a fundamental function: maintaining social harmony, regulating citizen behavior, and resolving disputes among community members through deliberation and consensus.¹¹

From the perspective of constitutional law, the existence of customary institutions is expressly recognized through Article 18B paragraph (2) of the 1945 Constitution, which states that the state recognizes and respects customary law community units and their traditional rights, as long as they are still alive and in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia, which are regulated by law.¹² This provision indicates that the recognition of customary law communities is conditional (conditional recognition), that is, it only applies as long as the customary law community unit is factually still alive and does not conflict with the principles of a unitary state. At the legal level, this recognition is followed up through Law Number 6 of 2014 concerning Villages, which explicitly regulates the existence of Customary Villages as customary law community units that have the authority to regulate and manage the interests of the local community based on their

¹⁰ Alvindo, M. D., & Hasan, Z. (2025). Peranan lembaga perwatin adat dalam penyelesaian perkara konflik sosial masyarakat di Lampung.

¹¹ Tirtosudarmo, R. (2022). Managing Multicultural Society in Indonesia: with Jakarta as a Show Case. *Islam Nusantara: Journal for the Study of Islamic History and Culture*, 3(2), 21-38. <https://journal.unusia.ac.id/ISLAMNUSANTARA/article/view/311>

¹² Republik Indonesia. Undang-Undang Dasar Negara Republik Indonesia Tahun 1945, Pasal 18B ayat (2) dan Pasal 28I ayat (3).

original rights and traditional rights, including in drafting Customary Village Regulations that must comply with applicable customary law and customary norms.¹³ This regulation provides a more concrete legal space for customary institutions to carry out their functions, although in practice there is still a lack of clarity regarding the boundaries of authority between customary village regulations and nationally applicable laws and regulations.

Strengthening the recognition of customary law communities is also apparent in the jurisprudence of the Constitutional Court, particularly through Decision Number 35/PUU-X/2012 which confirms that customary forests are no longer part of state forests, but are instead part of forests within the territory of customary law communities.¹⁴ This ruling marked a significant milestone in Indonesian legal history, correcting the previous paradigm that tended to subordinate customary law to state power. Through this ruling, the state legally recognized that customary law communities possess independent ancestral rights and are not solely dependent on government administrative recognition. The implications of this ruling also strengthen the legitimacy of customary institutions in carrying out their functions of regulating and resolving disputes over resources within their customary territories, including customary land disputes that frequently arise between customary communities and local governments and corporations.¹⁵ Thus, it can be said that the legal status of customary institutions in Indonesia no longer relies solely on unwritten oral traditions, but has received formal legal confirmation through the constitution, laws, and court decisions.

However, legal recognition of customary institutions at the normative level has not yet fully aligned with their implementation in practice. One fundamental issue that has emerged is the overlapping regulations regarding customary law communities, ranging from the constitutional level, sectoral laws, implementing regulations, to regional regulations, which have the potential to create legal uncertainty for customary institutions themselves. The interaction between formal state law and customary law that exists within the community often results in tension, particularly when customary institution decisions are deemed inconsistent with the legal procedures applicable in the formal justice system.¹⁶ This kind of tension is often found in cases involving communal customary sanctions, such as customary fines or social exclusion, whose legitimacy is often questioned when confronted with the principles of human rights and legal certainty upheld by the national legal system. Furthermore, not all regions have regional regulations that explicitly recognize the existence of customary villages and their customary institutions, resulting in many customary institutions still carrying out their functions without an adequate formal legal umbrella at the regional level. This gap between normative recognition and practical implementation is one of the structural challenges to the existence of customary institutions in Indonesia.

In the context of a multicultural society, customary institutions serve a much broader function than simply dispute resolution forums. They also act as a social glue, maintaining cohesion among citizens from diverse ethnic, religious, and cultural backgrounds, while also serving as a medium for transmitting noble values across generations. Multiculturalism in Indonesian social life fundamentally demands a space

¹³Republik Indonesia. Undang-Undang Nomor 6 Tahun 2014 tentang Desa, Pasal 96–111 mengenai Desa Adat.

¹⁴Mahkamah Konstitusi Republik Indonesia. Putusan Nomor 35/PUU-X/2012 tentang Pengujian Undang-Undang Nomor 41 Tahun 1999 tentang Kehutanan.

¹⁵Hadi, S., et al. (2024). Penyelesaian sengketa tanah ulayat masyarakat hukum adat Suku Ngalum dengan pemerintah daerah Kabupaten Pegunungan Bintang. *Socius: Jurnal Penelitian Ilmu-Ilmu Sosial*, 1(11).

¹⁶Fatinah, A. P. (2024). Interaksi antara hukum formal dan hukum adat di Indonesia. *Legal System Journal*, 1(2), 34–41.

for ongoing dialogue and value negotiation between groups, and customary institutions often serve as such a space due to their neutral, respected position and strong cultural legitimacy in the eyes of local communities.¹⁷ A concrete example can be found in the Jambi Malay community, which utilizes the values of the traditional *Seloko* as a guideline for living together amidst the heterogeneity of the population originating from various ethnic groups, such as Minangkabau, Palembang, Riau Malay, and Javanese, thus creating social harmony amidst high ethnic diversity. Similar practices are also found in the Samawa community on Sumbawa Island, where Samawa customary law functions as an instrument for resolving intolerance conflicts and at the same time as a principle of living together for the local multicultural community. These phenomena emphasize that customary institutions are not only relevant as legal institutions, but also as socio-cultural institutions that support the continuity of living together in a pluralistic society.

The function of customary institutions as conflict mediators is also clearly evident in various local practices in eastern Indonesia. Customary institutions in various villages play a crucial role as conflict mediators, guardians of cultural values, and strengthening social solidarity among residents, thus creating a peaceful atmosphere amidst the diverse religious and ethnic backgrounds of the local community.¹⁸ The role of customary institutions in this context is not limited to resolving existing disputes but also encompasses a preventive function through the internalization of values of propriety and adherence to customary norms from an early age in the younger generation. This preventive function is particularly important given that social conflict in multicultural societies often stems from a lack of cross-cultural understanding and empathy between community groups. Through various rituals, traditional ceremonies, and regular deliberation forums, customary institutions indirectly establish early detection mechanisms for potential social friction before it escalates into open conflict. Thus, the existence of customary institutions within the social structure of Indonesia's multicultural society can be understood as both legal and social institutions, serving dual functions: regulatory and integrative functions simultaneously.

Digitalization and modernization have also given new meaning to the existence of customary institutions in the contemporary era. A number of customary institutions have begun utilizing information technology to document customary laws, customary decisions, and dispute resolution practices, which have been largely passed down orally from generation to generation.¹⁹ The digitization of customary law documentation has dual benefits: preserving customary knowledge while simultaneously increasing the accessibility and transparency of dispute resolution processes within customary institutions, particularly for the younger generation, who are increasingly familiar with digital technology. However, the digitization process also presents its own challenges, particularly regarding the authenticity, validity, and authority in interpreting digitally documented customary law, given that customary law is inherently dynamic and highly dependent on the surrounding social context. Despite these challenges, digitalization efforts demonstrate that customary institutions are not static and resistant to change, but rather institutions that continually adapt to changing times without losing their core

¹⁷Khilmi, D. A. K., Findy, R. A., Isviana, P. S., & Radianto, D. O. (2024). Multikulturalisme dalam kehidupan sosial masyarakat Indonesia. *Journal Sains Student Research*, 2(2), 167–172.

¹⁸Yasri, B., Lubis, A. R., Firmansyah, V., Gianto, G., Waras, N. G. T., & Aulia, K. N. (2024). Conflict Resolution Strategies in Kampung Naga Indigenous Community: Preserving Tradition in the Face of Modernity. *Jurnal Ilmu Sosial Dan Humaniora*, 13(3), 663-671.
<https://doi.org/10.23887/jish.v13i3.84817>

¹⁹Lubis, A. F. (2022). Digitalisasi dan hukum adat: Pemanfaatan teknologi dalam dokumentasi hukum adat. *Public Service and Governance Journal*, 3(1).

values. This kind of adaptation is key to the continued existence of customary institutions amidst the ongoing currents of modernization and globalization.²⁰

The position of customary institutions in the social structure of a multicultural society can also be analyzed through the perspective of the theory of legal pluralism, which views that in one state territory more than one legal system can exist simultaneously, whether state law, customary law, or religious law, each of which has its own scope and legitimacy in the eyes of its adherents. The legal pluralism approach differs from the legal centralism view which considers the state as the only legitimate source of law, because legal pluralism recognizes that customary law has autonomy and legitimacy that does not entirely depend on state recognition.²¹ In the Indonesian context, the interaction between customary law and national law is not always hierarchical, with state law above customary law. Rather, it is more accurately described as an interactive and mutually influencing relationship. This interactive relationship is clearly evident when a number of customary law values and principles, such as deliberation and restorative justice, are absorbed and adopted into the framework of national legal reform, as seen in the development of the concept of restorative justice in modern criminal law. This phenomenon of the absorption of customary values into national law confirms that customary institutions are not merely objects of state legal regulation, but also active subjects that contribute to the formation of more contextual national law.

The legitimacy of customary institutions in the eyes of multicultural communities is also strongly influenced by social trust, which has been built over many years through their track record of justice and consistency in addressing various community issues. This trust cannot be built instantly; rather, it is the result of the accumulated collective experience of communities who repeatedly witness how customary institutions resolve disputes fairly, transparently, and in favor of the common good, rather than unilateral interests. This high level of trust in customary institutions explains why many communities, particularly in rural areas and areas with limited access to formal justice, still choose to resolve their disputes through customary forums even though the state has formally provided official judicial institutions. In addition to trust, the legitimacy of customary institutions is also supported by the spiritual and cosmological dimensions inherent in many customary traditions in Indonesia, where violations of customary norms are viewed not only as a legal issue but also as a disruption to the cosmic balance between humans, nature, and ancestors. This spiritual dimension is what provides a strong moral binding force for the decisions of customary institutions, so that the level of community compliance with customary decisions tends to be higher than compliance with formal court decisions which are more procedural and impersonal in nature.

The existence of customary institutions in the context of Indonesia's multicultural society also needs to be understood within the framework of the relationship between custom and religion, given that the majority of Indonesians adhere to a particular religion that contributes to the color of customary practices and values. In many regions, religious and customary values exist in an intertwined and mutually reinforcing manner, so that customary institutions in carrying out their functions often involve religious leaders as part of the management structure and as advisors in the dispute resolution process. This synergy between customary and religious leaders has proven effective in strengthening the legitimacy of the resulting decisions, while also broadening the base of social support

²⁰ Aarsal, T., Setyowati, D. L., & Hardati, P. (2023). The inheritance of local wisdom for maintaining peace in multicultural society. *Journal of Aggression, Conflict and Peace Research*, 15(2), 137-151. <https://doi.org/10.1108/JACPR-01-2022-0673>

²¹ Pradhani, S. I. (2021). Pendekatan pluralisme hukum dalam studi hukum adat: Interaksi hukum adat dengan hukum nasional dan internasional. *Undang: Jurnal Hukum*, 4(1), 81–124.

for the conflict resolution processes carried out by customary institutions. This pattern of relations also reflects the religious character of Indonesian society, where a clear separation between customary and religious domains is often difficult to achieve absolutely, because both have long been acculturated to form a distinctive local cultural identity.²² Understanding this relationship between customary and religious values is important to avoid the misunderstanding that views customary institutions solely as secular institutions separate from the religious values embraced by the community.

Cross-regional comparisons show that the governance structure of customary institutions in Indonesia generally follows a traditional, hereditary hierarchical pattern, with a customary leader occupying the pinnacle position, possessing both moral and legal authority to resolve disputes within their territory. In Malay regions, customary leaders are often called Tuo Tenganai or Datuk, while in Central Kalimantan they are known as Damang Kepala Adat, and in Bali, the Majelis Desa Adat (Customary Village Council) oversees the customary village structure. Although the titles and appointment procedures vary, all customary governance structures generally require dual legitimacy: genealogical legitimacy derived from lineage or seniority within the customary community, and meritocratic legitimacy derived from the individual's capacity, wisdom, and track record in resolving various community issues. The combination of these two types of legitimacy gives the customary leader a position of authority that is not easily challenged, so that the resulting decisions tend to be voluntarily complied with by the disputing parties without the need for law enforcement officials to enforce them. This characteristic of voluntary compliance is one of the comparative advantages of customary institutions compared to formal law enforcement mechanisms which often require state coercive instruments to ensure the effectiveness of implementing their decisions.

The dimensions of inclusivity and representation of vulnerable groups are also important aspects that need to be considered in assessing the existence of customary institutions in a multicultural society that increasingly upholds the principle of equality. The management structure of customary institutions in several regions is still traditionally dominated by men and senior figures, so the representation of women and minority groups in customary decision-making processes remains relatively limited compared to their representation in modern formal institutions. This condition is an important evaluation material for the future development of customary institutions, considering that the principle of restorative justice, which is the spirit of customary conflict resolution, should also uphold the principles of equality and non-discrimination for all community members regardless of gender or other social background. Several customary communities in Indonesia have begun to implement internal reforms by opening wider participation spaces for women and the younger generation in customary deliberation forums, although these changes are generally gradual and not uniform across regions. Efforts for such inclusive reform are important to continue to encourage customary institutions to remain relevant to the values of equality increasingly upheld in contemporary Indonesian multicultural society, without losing their distinctive character and local wisdom.

Overall, the description in this sub-chapter confirms that the existence of customary institutions within the social structure of Indonesia's multicultural society rests on three main pillars: the constitutional pillar, which provides a formal legal basis; the sociological pillar, which provides cultural legitimacy and public trust; and the adaptive pillar, which enables customary institutions to remain relevant amidst changing times. These three

²² Asmara, T., & Noho, M. D. H. (2022). Religion and cosmopolitan society: religious conflict settlement based on legal culture. *Cosmopolitan Civil Societies: An Interdisciplinary Journal*, 14(3), 46-60. <https://doi.org/10.5130/ccs.v14.i3.8166>

pillars are interrelated and mutually supportive, so that the weakening of one pillar has the potential to affect the overall strength of the others. Constitutional recognition without strong social legitimacy risks rendering customary institutions merely paperless without any real function on the ground. Conversely, strong social legitimacy without a clear legal umbrella risks placing customary institutions in a vulnerable position when confronted with the interests of parties with greater formal legal power. Therefore, strengthening the existence of customary institutions in the future needs to be carried out simultaneously across all three pillars, so that customary institutions can continue to optimally function as both legal and social institutions within the framework of Indonesia's ever-evolving multicultural society.

The Effectiveness and Challenges of Customary Institutions in Resolving Social Conflicts in the Contemporary Era

The effectiveness of customary institutions in resolving social conflicts can be seen from a number of indicators, including the speed of the settlement process, the level of compliance of the parties with the decision, relatively affordable costs, and a resolution orientation that focuses on restoring social relations rather than solely on imposing punishment. The approach used by customary institutions generally prioritizes kinship relations and inter-community solidarity, rather than the adversarial approach commonly found in state justice systems, thus proving effective in preventing the social fragmentation that often arises from prolonged conflict. This characteristic makes conflict resolution through customary institutions aligned with the concept of restorative justice, which has recently been increasingly adopted in reforms to the national criminal justice system. The concept of restorative justice, as recognized in modern criminal law, has long been practiced in customary law peace mechanisms in various regions, as seen in the resolution of traffic accident cases through the Kedamangan Institution in Central Kalimantan, which prioritizes restoring relationships between perpetrators and victims over formal criminal proceedings. This philosophical similarity between customary law and restorative justice makes customary institutions have great potential as complementary instruments to the formal criminal justice system in Indonesia.

Customary-based conflict resolution practices in various regions have shown a high level of success, particularly for communal disputes involving long-term social relationships between residents. In Lampung Province, for example, the Customary Guardian Institution plays an active role in resolving various social conflicts through deliberation mechanisms involving customary leaders, religious leaders, and representatives of the disputing parties.²³ In Bali, customary institutions play a role in resolving customary criminal cases through a restorative justice approach that emphasizes restoring the social and spiritual balance of the community, in accordance with the Tri Hita Karana philosophy that has been adhered to by the Balinese people for generations.²⁴ In Sulawesi, traditional rituals are used as a means of resolving conflicts between residents and as a mechanism for restoring social values and norms disrupted by conflict, thus restoring peace within the community. This diversity of practices confirms that, although the forms and procedures vary across regions, the essence of conflict resolution through traditional institutions consistently focuses on three main

²³ Alvindo, M. D., & Hasan, Z. (2025). Peranan lembaga perwatin adat dalam penyelesaian perkara konflik sosial masyarakat di Lampung.

²⁴ Sinergilp, Z., Sahlepi, M. A., & Ismaidar. (2024). The role of traditional institutions in resolving Bali's customary criminal law using a restorative justice approach. *International Journal of Synergy in Law, Criminal, and Justice*, 1(1).

areas: restoring social relations, strengthening collective values, and preventing future conflict.

The effectiveness of customary institutions is also evident in the resolution of disputes related to natural resources and customary land, which have long been one of the most complex sources of social conflict in Indonesia. The resolution of customary land disputes between customary law communities and local governments, as occurred in the case of the Ngalum Tribe in Pegunungan Bintang Regency, demonstrates that customary institutions can be effective mediators in reconciling the interests of customary communities with those of regional development.²⁵ Several studies have even documented hundreds of cases of environmental conflict involving indigenous communities in the regions of Papua, Maluku, and East Nusa Tenggara, most of which are related to land disputes between indigenous communities and corporations in the plantation, mining, and national strategic infrastructure sectors. In many of these cases, customary institutions act as representatives of the collective interests of indigenous communities, fighting for the recognition of customary rights through both deliberation and formal legal channels simultaneously. The effectiveness of this role depends heavily on the extent to which customary institutions obtain formal recognition from both local and central governments, because without such recognition, customary institutions' bargaining position in negotiations with parties with greater economic and political power becomes relatively weak.

Despite these positive achievements, customary institutions in Indonesia continue to face a number of significant structural challenges. The first challenge relates to overlapping regulations and legal uncertainty regarding the status of customary institution decisions within the national judicial system, particularly when customary decisions conflict with nationally applicable criminal or civil law provisions. The second challenge relates to weak institutional capacity in a number of regions, both in terms of human resources, funding, and supporting infrastructure, which makes it difficult for a number of customary institutions to function optimally, particularly in areas experiencing rapid socioeconomic change.²⁶ The third challenge relates to shifting values resulting from economic globalization and external cultural influxes, which are slowly eroding traditional values that serve as the foundation of customary institutions' legitimacy in the eyes of the younger generation. This phenomenon is particularly evident in urban communities and areas experiencing massive population migration, where kinship ties and communal solidarity tend to weaken along with increasing individualism and social mobility in modern society. If these challenges are not seriously addressed, they have the potential to erode the relevance of customary institutions in the future.

Another equally important challenge is the relationship between customary institutions and the principles of human rights and legal certainty adopted by modern constitutional states. Certain forms of customary sanctions, such as social exclusion or large customary fines, sometimes give rise to debates about their proportionality and fairness for those subject to sanctions, especially when compared to the human rights principles guaranteed by the constitution. Such debates demand greater harmonization between customary law and national law, so that conflict resolution through customary institutions respects the fundamental rights of each individual without sacrificing the essence of restorative justice, the core strength of the customary approach. Furthermore,

²⁵Hadi, S., et al. (2024). Penyelesaian sengketa tanah ulayat masyarakat hukum adat Suku Ngalum dengan pemerintah daerah Kabupaten Pegunungan Bintang. *Socius: Jurnal Penelitian Ilmu-Ilmu Sosial*, 1(11).

²⁶Suwoko, S. (2022). Multiculturalism & democracy education in political and cultural based conflict resolution process in East Kalimantan. *Iseedu: Journal of Islamic Educational Thoughts and Practices*, 6(1), 28-38. DOI: 10.23917/iseedu.v6i1.20535

the incompletely harmonized interaction between formal and customary law also has the potential to lead to forum shopping, the tendency for disputing parties to choose the most favorable resolution forum for their interests, whether customary or formal courts, without considering overall consistency and legal certainty.²⁷ This situation emphasizes the importance of establishing a clearer relationship between the two legal systems, so that they can complement each other rather than weaken each other.

In an effort to address these challenges, a number of academics and legal practitioners are promoting the idea of revitalizing customary institutions as part of reforming the national legal system, particularly within the framework of developing a restorative justice system in Indonesia. Revitalizing customary institutions within the criminal legal system is seen as a strategic step toward realizing more contextual restorative justice rooted in local community values, while simultaneously reducing the burden of case backlogs in formal justice institutions.²⁸ This idea is becoming increasingly relevant with the adoption of the spirit of restorative justice in the reform of national criminal law, which opens up wider space for resolving cases outside the courts through mechanisms that are oriented towards recovery, not merely revenge.²⁹ The implementation of restorative justice in the national legal system in practice can strengthen the legitimacy of customary institutions as strategic partners of law enforcement officers in handling minor cases that have social impacts, especially at the community level.³⁰ Through this approach, the state not only formally recognizes the existence of customary institutions but also substantially integrates customary justice values into the broader framework of national legal reform that is more humane and just.

Strengthening customary institutions as instruments for conflict resolution in a multicultural society requires a number of comprehensive, cross-sectoral strategic steps. First, regulatory harmonization between national and regional laws and regulations is necessary to ensure clear legal certainty for recognition of customary law communities and their institutions and to avoid multiple interpretations in the field. Second, the capacity of customary institutions is strengthened through training, mentoring, and the provision of adequate resources, enabling customary institutions to carry out their functions professionally without losing their distinctive cultural character. Third, closer synergy is needed between customary institutions and formal law enforcement officials, particularly within the framework of developing a restorative justice system, so that the two systems can complement each other in addressing the various forms of social conflict that arise in society. Fourth, efforts are needed to preserve and transmit customary values to the younger generation through formal and non-formal education, so that the cultural legitimacy of customary institutions remains intact amidst the rapid flow of modernization and digitalization. Through these strategic steps, it is hoped that customary institutions can continue to exist and play an optimal role as instruments for resolving social conflicts effectively, justly, and sustainably within the framework of Indonesia's multicultural society.

A comparison between the conflict resolution model through customary institutions and the formal justice model reveals a number of fundamental differences

²⁷Fatinah, A. P. (2024). Interaksi antara hukum formal dan hukum adat di Indonesia. *Legal System Journal*, 1(2), 34–41.

²⁸Ismail, D. E., Mantali, A. R. Y., & Moha, M. R. (2023). The concept of revitalizing traditional institutions in the criminal law system to realize restorative justice. *Jambura Law Review*, 5(2), 220–234.

²⁹Supriansa, Rahman, S., Abbas, I., & Djanggih, H. (2024). The essence of restorative justice in the development of Indonesian law. *Revista de Gestão Social e Ambiental*, 18(8), e05780.

³⁰Supriyanto, A., Santiago, F., & Barthos, M. (2023). Implementation of restorative justice as a justice law enforcement in Indonesia. *Jurnal Indonesia Sosial Sains*, 4(5), 448–456.

that merit further analysis.³¹ Formal justice generally positions the state as the authority to issue imperative decisions, with standard, formal procedures, and a focus on upholding legal certainty based on evidence presented by the parties. Conversely, customary institutions position customary leaders as facilitators who encourage the parties to reach mutual agreements through a dialogical process, with an emphasis on win-win solutions, rather than win-lose solutions, as is common in litigation. This difference in orientation results in different outcomes: resolution through customary institutions tends to maintain post-conflict social relations, while resolution through formal justice has the potential to leave lasting social scars due to parties feeling legally defeated. However, the customary justice model also has limitations, particularly in handling serious cases with broad impacts or involving the interests of third parties outside the customary community. Therefore, a combination of the two models is considered the most ideal approach for Indonesia's pluralistic legal system.

Studies on the effectiveness of customary institutions cannot be separated from the role of local governments in providing policy, budget, and regulatory support for the continued functioning of customary institutions in their respective regions. Several local governments have demonstrated positive commitment by issuing regional regulations specifically regulating the recognition, protection, and empowerment of customary law communities and their customary institutions, thereby providing a stronger legal framework for customary institutions in carrying out their functions, including the resolution of social conflicts. This policy support should ideally be accompanied by adequate budget allocation for the operation of customary institutions, considering that many customary institutions currently carry out their functions independently without adequate financial support from the government. In addition to financial support, local governments also play a crucial role in facilitating synergy between customary institutions and local law enforcement officials, the police, and judicial institutions, to establish a clear referral mechanism regarding the types of cases that can be resolved through customary channels and those that must be forwarded to formal justice. Without consistent policy support from local governments, the effectiveness of customary institutions in the long term has the potential to decline as the social problems faced by Indonesia's multicultural society become increasingly complex.³²

Another aspect that requires attention is the importance of involving the younger generation in the leadership regeneration process and understanding the values of traditional institutions, given that the continued function of traditional institutions is highly dependent on the continuity of knowledge and trust between generations. The phenomenon of young people migrating to urban areas to pursue education and seek employment often creates a gap in understanding of traditional values between the older generation, who still adhere to tradition, and the younger generation, who are more familiar with global culture and modern lifestyles. If not managed properly, this gap can result in a break in the chain of traditional leadership regeneration, potentially weakening the capacity of traditional institutions in the long term. A number of traditional communities have attempted to address this issue through various innovations, such as integrating local content on customary law and values into the curriculum in local schools, or through the use of social media and digital platforms to

³¹ Setiawan, I., Wahyu, A. M., Rahman, A., & Sutrisno, A. (2024). Juridical study of customary law in the Indonesian national legal system. *Asian Journal of Social and Humanities*, 2(8), 1824-1831. <https://doi.org/10.59888/ajosh.v2i8.317>

³² Umar, A. (2026). Integration of Islamic law and customary law and its application in the Indonesia legal system: Opportunities and challenges. *Sortuz: Oñati Journal of Emergent Socio-Legal Studies*, 16(1), 89-111.

introduce traditional values to the younger generation in more engaging and contextual ways. These innovative efforts demonstrate that the sustainability of traditional institutions is highly dependent on the ability of the traditional communities themselves to transform the way they convey values without altering the essence and substance of the traditional teachings that underpin their legitimacy in the eyes of Indonesia's multicultural society.³³

The development of the national criminal law system through the new Criminal Code has also opened up broader opportunities for the integration of customary-based restorative justice values into Indonesia's formal criminal justice system. This reform of the national criminal law explicitly accommodates living law, or the law that exists in society, as a source of law that can be considered in the judicial process, as long as it does not conflict with the values of Pancasila and the principles of the rule of law. This development marks a paradigm shift in the national legal system, from a previously highly legalistic-positivistic approach to one that is more open to legal pluralism and local wisdom, including the role of customary institutions within it. Nevertheless, the implementation of the living law concept requires caution to avoid creating new legal uncertainties, particularly regarding the verification mechanism regarding the existence and validity of a particular customary law within a jurisdiction. The government and judicial institutions need to develop clear technical guidelines regarding the criteria and procedures for recognizing living law, so that the spirit of recognizing customary law does not lead to arbitrary implementation in practice.

Going forward, strengthening synergy between customary institutions and various stakeholders, from the central government and regional governments, law enforcement officials, academics, and civil society organizations, is key to the continued role of customary institutions as effective instruments for resolving social conflict in Indonesia's multicultural society. This multi-stakeholder synergy can be realized through regular dialogue forums, the development of an integrated database on customary law practices and decisions, and capacity-building programs designed in a participatory manner with the customary communities themselves, rather than unilaterally designed by the government without involving the aspirations of the customary communities. A participatory, bottom-up approach is considered more effective than a uniform, nationally imposed approach (top-down), given the diverse characteristics and needs of each customary community in Indonesia and the inherent challenges of being universalized. With the right approach, customary institutions have great potential to continue developing into strategic partners for the state in realizing a more humane, just, and equitable system for resolving social conflict rooted in the noble values of the Indonesian nation.³⁴ Optimism about the future of this traditional institution is not without foundation, considering that long history has proven the resilience and adaptability of traditional institutions in facing various changes of the times, starting from the kingdom era, the colonial era, to the current digital era.

To summarize this sub-chapter, it can be emphasized that the effectiveness of customary institutions in resolving social conflict in Indonesia's multicultural society is not static, but rather is strongly influenced by the dynamics of regulatory support, institutional capacity, and the ability to adapt to ongoing social change. The success of

³³ Warman, A. B., Alfian, D., Fadhl, A., & Nabilah, W. (2023). From Communal to Individual: Shifting Authorities of Family Dispute Resolution in Minangkabau Society. *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan*, 23(2), 161-183. <https://doi.org/10.18326/ijtihad.v23i2.161-184>

³⁴ Sukriono, D., Sudirman, S., Rapita, D. D., Al Atok, A. R., & Bramantya, A. (2025). Local wisdom as legal dispute settlement: how Indonesia's communities acknowledge Alternative Dispute Resolution?. *Legality: Jurnal Ilmiah Hukum*, 33(1), 261-285. <https://doi.org/10.22219/ljih.v33i1.39958>

customary institutions in resolving various forms of conflict, from customary land disputes to customary criminal cases, demonstrates that a deliberation-based approach and the restoration of social relations remain relevant within the modern legal system, which tends to be formal and procedural. Nevertheless, the various structural challenges outlined require serious attention and collaborative action from all stakeholders, so that the enormous potential of customary institutions as instruments of restorative justice does not stop at the level of discourse, but is truly realized in the practice of law enforcement and the resolution of everyday social conflicts. With proper management, customary institutions have the potential to become one of Indonesia's unique contributions to the development of restorative justice discourse globally, given that the richness and diversity of customary legal practices of the Indonesian nation truly constitute a valuable social laboratory for the development of more humane and sustainable conflict resolution models.

CONCLUSIONS

Customary institutions have a strong existence and legal standing within the social structure of Indonesia's multicultural society, both from constitutional and sociological perspectives. The recognition of customary law communities and their traditional rights through Article 18B paragraph (2) of the 1945 Constitution, which is further supported by Law Number 6 of 2014 concerning Villages and the jurisprudence of the Constitutional Court, demonstrates that customary institutions are not merely remnants of past traditions but remain relevant and functional legal institutions today. In Indonesia's multicultural society, customary institutions perform dual functions as both regulatory and integrative institutions that not only resolve disputes but also strengthen social cohesion among communities with diverse ethnic, religious, and cultural backgrounds. The diversity of customary institutional practices across regions confirms the pluralistic and contextual nature of customary law, which continues to play an important role in maintaining social harmony amidst societal diversity.

Customary institutions have also proven effective in resolving various forms of social conflict through restorative and deliberative approaches that prioritize the restoration of social relations and collective values. Nevertheless, their continued effectiveness is challenged by overlapping regulations, uneven institutional capacity, shifting social values resulting from modernization and globalization, and the need for greater harmonization with human rights principles and national legal certainty. For policymakers and local governments, these findings highlight the importance of strengthening institutional support through clearer regulatory frameworks, capacity-building programs, and stronger collaboration with formal law enforcement agencies. Establishing participatory mechanisms that actively involve customary leaders in conflict resolution processes may enhance both legal certainty and social cohesion in multicultural communities. Furthermore, preserving customary values through educational and digital initiatives is essential to ensuring the long-term sustainability and relevance of customary institutions as effective, just, and sustainable mechanisms for social conflict resolution in contemporary Indonesia.

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