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Transforming Customary Settlements into Restorative Justice for Traffic Accident Crimes in West Kalimantan

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ABSTRACT

Traffic accident disputes in West Kalimantan frequently intersect with customary settlement, particularly in Dayak communities that use deliberation, compensation, apology, and social-restoration rituals. This study analyzed the legal position of customary settlement outcomes within Indonesia's restorative justice framework and formulated a model for transforming them into procedurally valid restorative justice. Normative legal research used statutory, conceptual, case-oriented, and legal pluralism approaches. The study found that customary settlements may satisfy restorative substance but do not automatically create procedural consequences in criminal proceedings. The proposed Customary-to-Restorative Transformation Model consists of seven stages: documentation, legal classification, voluntariness review, restorative-equivalence mapping, formal adoption, institutional authorization, and compliance review. The model differentiates cases eligible for formal restorative termination from cases in which customary outcomes should function only as verified restorative records, thereby preserving customary legitimacy while preventing coercion, double burden, and unlawful case termination.

Kata Kunci:

penyelesaian adat; keadilan restoratif; kecelakaan lalu lintas; pluralisme hukum; Kalimantan Barat; hukum acara pidana

ABSTRAK

Penyelesaian kecelakaan lalu lintas di Kalimantan Barat sering beririsan dengan mekanisme adat, terutama pada komunitas Dayak yang menggunakan musyawarah, ganti kerugian, permintaan maaf, dan ritual pemulihan sosial. Penelitian ini menganalisis kedudukan hasil penyelesaian adat dalam kerangka keadilan restoratif Indonesia dan merumuskan model transformasinya ke dalam proses yang sah secara prosedural. Penelitian hukum normatif menggunakan pendekatan perundang-undangan, konseptual, kasus, dan pluralisme hukum. Hasil penelitian menunjukkan bahwa penyelesaian adat dapat memenuhi substansi restoratif, tetapi tidak otomatis menimbulkan akibat prosedural dalam perkara pidana. Model Transformasi Adat ke Restoratif yang diajukan terdiri atas tujuh tahap: dokumentasi, klasifikasi hukum, verifikasi kesukarelaan, pemetaan ekuivalensi restoratif, adopsi formal, otorisasi kelembagaan, dan pengawasan pemenuhan. Model membedakan perkara yang memenuhi syarat penghentian restoratif dengan perkara yang hanya dapat menggunakan hasil adat sebagai rekam restoratif terverifikasi sehingga legitimasi adat tetap terjaga tanpa membenarkan paksaan, beban ganda, atau penghentian perkara yang tidak sah.

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A. Introduction

Traffic accidents remain a significant criminal justice issue in West Kalimantan because their consequences combine bodily injury, economic loss, family disruption, and, in fatal cases, the permanent loss of life. National police data recorded 1,153 traffic accidents in the West Kalimantan Regional Police jurisdiction in 2023 and 858 in 2024, while West Kalimantan police reporting for the first half of 2025 recorded 570 accidents with 209 deaths, 335 serious injuries, and 651 minor injuries.[1] These figures matter for criminal policy because each accident may generate several legal relationships at once, including criminal responsibility, compensation duties, insurance claims, family reconciliation, and community-based conflict settlement.

The plurality of those consequences is particularly visible in communities where customary institutions continue to resolve interpersonal harm. Empirical research in Sanggau Regency has documented the use of customary deliberation in fatal traffic accident cases. The process may involve the *Pomuntuh Adat*, the driver and the driver's family, the victim's heirs, customary fines, compensation, and rituals aimed at restoring the social and cosmological balance disturbed by death.[2] More recent research in the Sanggau Police jurisdiction likewise reports that family deliberation and customary forums continue to operate alongside restorative justice practices, while implementation remains constrained by regulatory uncertainty, uneven understanding, and the absence of standardized compensation parameters.[3]

[1] Indonesian National Police Criminal Information Center, "Jumlah Kecelakaan Lalu Lintas Berdasarkan Kepolisian Daerah 2023–2024," *Statistik Kriminal 2024*, 2025; Polda Kalimantan Barat, "Kapolda Kalbar Tegaskan Operasi Patuh Kapuas 2025 Fokus pada Edukasi, Keselamatan, dan Penindakan Tegas," July 14, 2025.

[2] Marina Rona, Rachmad Safa'at, Abdul Madjid, and Mohammad Fadli, "Restorative Justice in the Settlement of Traffic Accident Causing Death Toll According to the Perspective of Customary Judiciary in Sanggau District, West Kalimantan," *Yustisia Jurnal Hukum* 9, no. 1 (2020): 139–154, https://doi.org/10.20961/yustisia.v9i1.39351.

[3] Bela Ananda Anugrahni and Toetik Rahayuningsih, "Penyelesaian Kecelakaan Lalu Lintas melalui Pendekatan Keadilan Restoratif di Wilayah Hukum Kepolisian Resort Sanggau Kalimantan Barat," *Causa: Jurnal Hukum dan Kewarganegaraan* 12, no. 6 (2025), https://doi.org/10.6679/trxpt566.

This interaction produces a legal problem that cannot be reduced to whether customary settlement is socially effective. The central issue is the procedural status of the outcome after the customary forum has reached agreement. Road Traffic and Transportation Law Number 22 of 2009 requires traffic accident cases to be processed according to criminal procedure, while Article 235 expressly provides that medical or funeral assistance in accidents causing injury or death does not extinguish criminal prosecution. Article 236 allows out-of-court compensation by agreement only for specified categories of traffic accidents, and Articles 310 and 311 distinguish negligence from intentionally dangerous driving through different structures of liability and punishment.[4] A customary agreement may therefore satisfy victims and restore community relations without automatically possessing the legal effect of terminating a criminal case.

The problem became more complex after the enactment of Law Number 20 of 2025 on the Criminal Procedure Code, effective from 2 January 2026. The new Code places restorative justice within the national criminal procedure framework in Articles 79 to 88, regulates restoration, eligibility, initiation, agreements at investigation and prosecution stages, judicial authorization, and restorative treatment at trial.[5] At the same time, institutional rules that predated the new Code remain important in practice. Supreme Court Regulation Number 1 of 2024 specifically includes traffic crimes among the categories that may be adjudicated through a restorative approach.[6] The coexistence of the Code, police rules, prosecution rules, court rules, traffic legislation, and customary mechanisms creates a transformation problem rather than a simple recognition problem.

Legal pluralism scholarship explains why direct absorption of customary justice into state law can be problematic. Customary law derives authority from

[4] Republic of Indonesia, Undang-Undang Nomor 22 Tahun 2009 tentang Lalu Lintas dan Angkutan Jalan, arts. 230, 235, 236, 310–311.
[5] Republic of Indonesia, Undang-Undang Nomor 20 Tahun 2025 tentang Kitab Undang-Undang Hukum Acara Pidana, arts. 79–88, Lembaran Negara Republik Indonesia Tahun 2025 Nomor 188, Tambahan Lembaran Negara Republik Indonesia Nomor 7149.
[6] Mahkamah Agung Republik Indonesia, Peraturan Mahkamah Agung Nomor 1 Tahun 2024 tentang Pedoman Mengadili Perkara Pidana Berdasarkan Keadilan Restoratif, arts. 2–7, Berita Negara Republik Indonesia Tahun 2024 Nomor 241.

community recognition, local institutions, shared values, and repeated social practice, while state criminal procedure derives authority from legislation, institutional competence, evidence, and formal safeguards. Recent Indonesian scholarship warns that restorative justice can lose its local legitimacy when state institutions merely formalize customary practices without preserving their participatory logic.[7] Conversely, an entirely autonomous customary process can fail to protect voluntariness, equality of parties, procedural review, and the public interest when a serious criminal consequence is present. Research on customary criminal law therefore supports an interface model that preserves community restoration while subjecting the legal effects of settlement to public-law safeguards.[8]

An integrative criminal policy perspective strengthens that argument. Azis and Pujiyono show that fragmented legal regimes often fail when they address only isolated stages of harm rather than the entire causal and institutional sequence.[9] The same structural concern applies to customary traffic settlements. The victim's family may receive compensation and an apology at the customary stage, yet investigators may not possess a standardized instrument for verifying voluntariness, prosecutors may repeat the settlement process, and courts may receive only an informal letter that does not explain what obligations were fulfilled. Research on integrated victim protection likewise stresses that procedural protection should follow the victim across institutional stages instead of being reconstructed separately by each authority.[10] The relevant policy question is therefore how to preserve the substantive restorative value of a customary outcome while converting it into a procedurally verifiable object within criminal justice.

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[7] Agus Widjajanto, I Gde Pantja Astawa, and Muhammad Rulyandi, "Decolonising Restorative Justice in Indonesia: A Comparative Study across Customary Law Traditions," *Legality: Jurnal Ilmiah Hukum* 33, no. 2 (2025): 470–492, https://doi.org/10.22219/ljih.v33i2.40481.

[8] Aria Zurnetti and Nani Muliati, "Customary Criminal Law Policy on Domestic Violence Settlement through Restorative Justice," *Cogent Social Sciences* 8, no. 1 (2022): 2090083, https://doi.org/10.1080/23311886.2022.2090083.

[9] Muhammad Abdul Azis and Pujiyono, "Causative-Victim Tracing for Integrative Criminal Policy on AI Deepfake Face and Voice Crimes in Indonesia," *KRTHA BHAYANGKARA* 20, no. 2 (2026): 518–537, https://doi.org/10.31599/krtha.v20i2.5666.

[10] Siti Fadila Nuramelia, Riski Ananda Kusuma Putri, Muhammad Abdul Azis, Alya Synthia Kurniawati, and Misshouw Meilany Putri, "Reorientasi Perlindungan Saksi dan Korban dalam Sistem Peradilan Pidana Indonesia dari Pengaturan Parsial Menuju Model Perlindungan Terpadu," *Hakim: Jurnal Ilmu Hukum dan Sosial* 4, no. 3 (2026): 112–125, https://doi.org/10.51903/j66vnn80.

The need for coordination also follows from broader integral policy scholarship. A legal response is more coherent when penal, non-penal, institutional, and social measures are connected according to their functions instead of operating as parallel systems.[11] For traffic accidents, customary reconciliation is a non-penal and community-based mechanism, while investigation, prosecution, and adjudication remain state functions. Their connection requires a legal gateway that identifies what can be adopted, what must be independently verified, and what cannot be transformed into a case-terminating effect. The reliability principle developed in Indonesian evidentiary scholarship is relevant by analogy because any external product used within a formal proceeding must be traceable, verifiable, and contestable before legal consequences are attached to it.[12]

The transformation issue also concerns equality and rights. A settlement that is restorative in form may be coercive in substance when one family possesses stronger social status, economic power, or customary influence. Criminal justice cannot assume that a signed customary document proves free consent. The protection of persons subjected to state processes requires procedural guarantees that remain effective even when the parties prefer informal resolution.[13] This concern is consistent with newer scholarship on institutionalizing customary law, which supports recognition through an integrative framework while retaining constitutional and human rights limitations.[14] Recent studies on Indonesian criminal law reform similarly call for a structured relationship between customary

[11] Muhammad Abdul Azis, Siti Fadila Nuramelia, Muhammad Thufail Ariiq, Alya Synthia Kurniawati, Riski Ananda Kusuma Putri, Misshouw Meilany Putri, and Dafirly Salsadilla Dosanto, "Causative-Based Integral Policy as a Response to Criminogenic Factors in the Distribution of Subsidized Fuel," *Punggawa Law Review* 1, no. 3 (2026): 142–148.
[12] Muhammad Abdul Azis, Pujiyono, and Riski Ananda Kusuma Putri, "Reconstructing Reliability Standards for Deepfake Detectors as Electronic Evidence in Indonesia's Criminal Justice System," *West Science Law and Human Rights* 4, no. 3 (2026): 299–309, https://doi.org/10.58812/wslhr.v4i03.3022.
[13] Muhammad Abdul Azis, Riski Ananda Kusuma Putri, and Nur Rahman, "Keping Puzzle Yang Hilang: Menelaah Hak Yang Sirna Terhadap Narapidana," *Jurnal Hukum & Pembangunan* 52, no. 3 (2022): 674–684, https://doi.org/10.21143/jhp.vol52.no3.3367.
[14] Deasy Mariana Ma'ruf, Hibnu Nugroho, Kuat Puji Prayitno, and Setya Wahyudi, "The Strengthening the Institutionalization of Customary Law in Indonesia's Judicial System: An Integrative Legal Framework Approach," *Jurnal IUS Kajian Hukum dan Keadilan* 14, no. 1 (2026): 90–106, https://doi.org/10.29303/ius.v14i1.1936.

reconciliation and formal restorative justice instead of a binary choice between state law and local law.[15]

The constitutional basis for such a relationship is available but not self-executing. Article 18B paragraph (2) of the 1945 Constitution recognizes and respects customary law communities and their traditional rights subject to continuing existence, societal development, the principles of the unitary state, and statutory regulation.[16] In Sanggau, Regional Regulation Number 1 of 2017 recognizes and protects customary law communities, while Regional Regulation Number 12 of 2022 places customary institutions as social or deliberative bodies and expressly assigns them facilitative and mediating functions in disputes concerning customs and community practices.[17] These norms support institutional recognition, yet they do not grant customary institutions an autonomous power to terminate criminal prosecution.

The 2026 legal landscape further differentiates living law from formal criminal procedure. Government Regulation Number 55 of 2025 implements Article 2 of the 2023 Criminal Code by regulating the establishment of living law and clarifying that customary crimes equivalent to offences already regulated in the Criminal Code remain governed by the Code.[18] This regulation confirms that recognition of living law does not collapse the distinction between customary norms and state-defined criminal liability. For traffic accidents, the relevant customary outcome should therefore be understood primarily as a restorative settlement product whose legal significance must be transformed through criminal procedure,

[15] Izu Cynthia Chukwufumnanya, Safrin Salam, Elfrida Ratnawati, Asmah, Ibrahim Kayode Muhammed, and Callistus Odeh, "Transforming Restorative Justice through Customary Legal Traditions in Indonesia's Criminal Law Reform," *Jurnal Al-Ahkam: Jurnal Hukum Pidana Islam* 8, no. 1 (2026): 18–31, https://doi.org/10.47435/al-ahkam.v8i1.4400.
[16] Republic of Indonesia, Undang-Undang Dasar Negara Republik Indonesia Tahun 1945, art. 18B(2).
[17] Kabupaten Sanggau, Peraturan Daerah Kabupaten Sanggau Nomor 1 Tahun 2017 tentang Pengakuan dan Perlindungan Masyarakat Hukum Adat; Kabupaten Sanggau, Peraturan Daerah Kabupaten Sanggau Nomor 12 Tahun 2022 tentang Penyelenggaraan Kelembagaan Adat, arts. 4–6.
[18] Republic of Indonesia, Peraturan Pemerintah Nomor 55 Tahun 2025 tentang Tata Cara dan Kriteria Penetapan Hukum yang Hidup dalam Masyarakat, Lembaran Negara Republik Indonesia Tahun 2025 Nomor 197, Tambahan Lembaran Negara Republik Indonesia Nomor 7152.

rather than as a competing source that automatically displaces statutory traffic offences.

Previous studies have established important pieces of the problem. Rona and colleagues demonstrated that *Pati Nyawa* and related customary decisions in Sanggau embody restorative characteristics.[19] Anugrahni and Rahayuningsih evaluated restorative practice in the Sanggau Police jurisdiction and identified implementation barriers.[20] Other studies discuss restorative settlement of traffic accidents at police level, including victim-offender agreement and case termination practices.[21] Recent work has also proposed general reconstruction of restorative justice for traffic offences and the integration of customary values into traffic dispute resolution.[22] These contributions explain why restorative justice is desirable and how it has been practiced, but they do not fully construct the juridical transformation of a completed customary outcome into a formal restorative process under the post-2025 Criminal Procedure Code.

The research gap has become more specific after the national consolidation of restorative justice in the 2025 Criminal Procedure Code. Earlier scholarship correctly identified fragmented institutional standards and called for integration into

[19] Marina Rona, Rachmad Safa'at, Abdul Madjid, and Mohammad Fadli, "Restorative Justice in the Settlement of Traffic Accident Causing Death Toll According to the Perspective of Customary Judiciary in Sanggau District, West Kalimantan," *Yustisia Jurnal Hukum* 9, no. 1 (2020): 139–154, https://doi.org/10.20961/yustisia.v9i1.39351.

[20] Bela Ananda Anugrahni and Toetik Rahayuningsih, "Penyelesaian Kecelakaan Lalu Lintas melalui Pendekatan Keadilan Restoratif di Wilayah Hukum Kepolisian Resort Sanggau Kalimantan Barat," *Causa: Jurnal Hukum dan Kewarganegaraan* 12, no. 6 (2025), https://doi.org/10.6679/trxpt566.

[21] Ruslan Renggong, Mustawa Nur, Baso Madiong, Dyahauliah Rachma, Ashar Fahri, and Hasnur Alfitra, "Restorative Justice Application on Traffic Accident Cases at the Makassar City Police Resort, Indonesia," *Russian Law Journal* 11, no. 3 (2023), https://doi.org/10.52783/rlj.v11i3.1238; Si Putu Hendra Pratama and Si Ngurah Ardhya, "Keadilan Restoratif Terkait Penyelesaian Tindak Pidana Kecelakaan Lalu Lintas yang Mengakibatkan Korban Meninggal Dunia," *Jurnal Komunikasi Hukum* 9, no. 2 (2023): 176–184, https://doi.org/10.23887/jkh.v9i2.67648; Khofifah Diva Oktakinanti and Anggrita Esthi, "Resolving Traffic Accident Cases: Approaches in East Java Regional Police Jurisdiction," *DE RECHT: Journal of Police and Law Enforcement* 2, no. 3 (2024), https://doi.org/10.55499/derecht.v2i3.393.

[22] Lovita Aprillia Helena, Nur Hakim, and Tubagus Achmad Darodjat, "Reconstruction of Restorative Justice-Based Settlement of Traffic Accident Offences," *Journal Evidence of Law* 4, no. 1 (2025), https://doi.org/10.59066/jel.v4i1.1058; Wahyu Dwi Kristanto, Maroni, Erna Dewi, and Ahmad Irzal Fardiansyah, "Restorative Justice Based on Customary Law as an Alternative for Resolving Traffic Accidents in Accordance with the Criminal Code and Law No. 22 of 2009," *Proceedings International Conference on Criminal Law Indonesia* 1, no. 1 (2026), https://doi.org/10.35912/piccli.v1i1.334.

the Criminal Procedure Code.[23] Current research after enactment shows that the new Code creates a more unified legal basis but still requires implementing regulation and harmonization with sectoral rules.[24] What remains underdeveloped is the treatment of pre-existing customary settlements as inputs to this new procedural framework, particularly in traffic accident cases where compensation, forgiveness, death, negligence, and public safety may coexist.

This study therefore has two objectives. First, it analyzes the legal position, procedural limits, and transformation gaps affecting customary settlement outcomes in criminal traffic accident cases in West Kalimantan. Second, it formulates a Customary-to-Restorative Transformation Model that converts a customary outcome into a verifiable restorative justice dossier without treating the customary decision as an automatic substitute for investigation, prosecution, or judicial authority. The novelty lies in shifting the analytical focus from recognition of customary justice to the legal architecture of transformation between normative orders.

B. Research Method

This study used normative legal research with statutory, conceptual, case-oriented, and legal pluralism approaches. The statutory approach examined the 1945 Constitution, Law Number 22 of 2009 on Road Traffic and Transportation, Law Number 1 of 2023 on the Criminal Code, Law Number 20 of 2025 on the Criminal Procedure Code, Government Regulation Number 55 of 2025, Police Regulation Number 8 of 2021, Prosecutor Regulation Number 15 of 2020, Supreme Court Regulation Number 1 of 2024, Sanggau Regional Regulation Number 1 of 2017, and Sanggau Regional Regulation Number 12 of 2022. The analysis treated

[23] Nabila Ihza Nur Muttaqi, "The Urgency of Integrating Restorative Justice Provisions into the Draft Criminal Procedure Code as a Form of Justice Reform," *Lex Renaissance* 10, no. 1 (2025): 168–196, https://doi.org/10.20885/JLR.vol10.iss1.art7.

[24] Irwan Hafid and Adhi Prasetyo Utomo, "Legal Policy for the Formulation of Implementing Regulations on Restorative Justice in the Criminal Justice System," *Lex Renaissance* 11, no. 1 (2026): 28–51, https://doi.org/10.20885/JLR.vol11.iss1.art2; Titoh Kustiah Putri and Aturkian Laia, "Rekonstruksi Pengaturan Keadilan Restoratif dalam Undang-Undang Nomor 20 Tahun 2025 Menuju Sistem Peradilan Berkeadilan," *Muhammadiyah Law Review* 10, no. 2 (2026), https://doi.org/10.24127/mlr.v10i2.5395.

the 2025 Criminal Procedure Code as the central procedural framework currently in force.

The conceptual approach used restorative justice, legal pluralism, victim protection, integral criminal policy, procedural fairness, and institutional interoperability. Restorative justice was treated as a process directed toward repairing harm, strengthening victim interests, encouraging offender responsibility, and restoring relationships rather than merely obtaining a peace letter. The 2023 Criminal Code's objectives of sentencing, including conflict resolution, restoration of balance, and social peace, were used to connect substantive criminal policy with the procedural mechanisms introduced by the 2025 Criminal Procedure Code.[25] Supreme Court guidance was also considered because it expressly frames restorative justice as recovery-oriented adjudication and emphasizes that restorative justice does not eliminate criminal responsibility by itself.[26]

The case-oriented component did not reconstruct individual liability in a particular accident. Instead, documented practices from Sanggau were used as a factual legal pattern to identify the structure of customary settlement, including customary deliberation, family participation, *Pati Nyawa*, compensation, apology, and ritual restoration.[27] This limited use of documented practice is appropriate for doctrinal model-building because the objective is to test whether an outcome produced by an existing customary mechanism can be translated into formal procedural requirements.

Primary legal materials were organized according to hierarchy, institutional competence, case stage, eligibility, documentary requirements, and legal consequence. Secondary materials consisted mainly of peer-reviewed publications from 2020 to 2026, including Indonesian studies on restorative traffic justice,

[25] Republic of Indonesia, Undang-Undang Nomor 1 Tahun 2023 tentang Kitab Undang-Undang Hukum Pidana, arts. 51–54, Lembaran Negara Republik Indonesia Tahun 2023 Nomor 1, Tambahan Lembaran Negara Republik Indonesia Nomor 6842.
[26] Mahkamah Agung Republik Indonesia, "Mengenal Pembaruan Keadilan Restoratif di Pengadilan," October 17, 2024.
[27] Marina Rona, Rachmad Safa'at, Abdul Madjid, and Mohammad Fadli, "Restorative Justice in the Settlement of Traffic Accident Causing Death Toll According to the Perspective of Customary Judiciary in Sanggau District, West Kalimantan," *Yustisia Jurnal Hukum* 9, no. 1 (2020): 145–151, https://doi.org/10.20961/yustisia.v9i1.39351.

customary law, criminal procedure reform, victim protection, and institutional integration. Analysis proceeded through five operations: normative inventory, identification of conflict and overlap, functional mapping of customary and state processes, construction of transformation criteria, and prescriptive validation. The proposed model was tested against legality, voluntariness, victim protection, non-duplication, traceability, institutional competence, and proportionality.

C. Results and Discussion

1. Legal Position and Transformation Gaps of Customary Settlements in Traffic Accident Cases

The first finding is that customary settlement and formal restorative justice share substantive values but operate with different sources of legal authority. In Sanggau, customary settlement is grounded in communal legitimacy, customary leadership, deliberation, kinship participation, compensation, and restoration of social balance. The documented *Pati Nyawa* practice responds to death by requiring the driver and family to undertake obligations toward the victim's heirs and the customary community.[28] This structure corresponds with core restorative principles because it recognizes harm, creates offender responsibility, gives the victim's family a participatory role, and seeks reconciliation beyond monetary payment. Comparative scholarship on customary justice in Indonesia confirms that community-based mechanisms commonly use collective responsibility and relational repair rather than a purely punitive logic.[29]

Substantive similarity, however, does not create procedural equivalence. A customary forum may determine what the community considers necessary for reconciliation, but the authority to stop investigation, terminate prosecution, or

[28] Marina Rona, Rachmad Safa'at, Abdul Madjid, and Mohammad Fadli, "Restorative Justice in the Settlement of Traffic Accident Causing Death Toll According to the Perspective of Customary Judiciary in Sanggau District, West Kalimantan," *Yustisia Jurnal Hukum* 9, no. 1 (2020): 145–151, https://doi.org/10.20961/yustisia.v9i1.39351.

[29] Musfa Hengki, "Legal Pluralism and Restorative Justice in Dispute Resolution under Indonesian Positive Law and Islamic Law," *JISRAH: Jurnal Integrasi Ilmu Syariah* 7, no. 1 (2026), https://doi.org/10.31958/jisrah.v7i01.16341.; Alice Ance Bonggoibo, Andi Suriyaman Mustari Pide, Haeranah, Leonito Ribeiro, and Andi Mulyono, "Restorative Justice in Legal Pluralism: A Socio-Legal and Comparative Madhhab Study of Homicide Settlement in Arfak Indigenous Courts," *Mazahibuna: Jurnal Perbandingan Mazhab* 8, no. 2 (2026): 280–304, https://doi.org/10.24252/mazahibuna.vi.65061.

issue a criminal judgment belongs to state institutions under criminal procedure. The distinction is especially important after the 2025 Criminal Procedure Code. Articles 79 to 87 structure restorative justice as a formal mechanism that can operate at investigation, prosecution, and trial stages, with written agreements and institutional acts producing procedural consequences.[30] A customary decision is therefore better classified as a pre-existing restorative outcome that may supply facts, consent, obligations, and proof of performance to a formal mechanism.

Road Traffic and Transportation Law reinforces this distinction. Article 235 requires medical or funeral assistance after accidents causing injury or death but states that such assistance does not extinguish criminal prosecution. Article 236 permits agreed compensation outside court for specified accident losses.[31] The statutory message is that civil or restorative reparation and criminal process can coexist. A customary payment should not be treated as a private purchase of criminal immunity. Its proper legal significance depends on offence classification, the applicable restorative justice rules, and verification of the parties' consent and the completion of obligations.

Offence classification is the first major transformation gap. Article 310 of Law Number 22 of 2009 criminalizes negligent driving according to consequences ranging from property damage to death, with maximum imprisonment increasing from six months to six years. Article 311 regulates intentionally dangerous driving and provides substantially heavier punishment, including up to twelve years when death results.[32] These distinctions should control access to restorative processing. The transformation of a customary settlement is strongest where the case involves negligence, the offender accepts responsibility, the victim or family acts voluntarily, and the public safety profile does not indicate deliberate dangerous

[30] Republic of Indonesia, Undang-Undang Nomor 20 Tahun 2025 tentang Kitab Undang-Undang Hukum Acara Pidana, arts. 80–87, Lembaran Negara Republik Indonesia Tahun 2025 Nomor 188, Tambahan Lembaran Negara Republik Indonesia Nomor 7149.
[31] Republic of Indonesia, Undang-Undang Nomor 22 Tahun 2009 tentang Lalu Lintas dan Angkutan Jalan, arts. 235–236, Lembaran Negara Republik Indonesia Tahun 2009 Nomor 96, Tambahan Lembaran Negara Republik Indonesia Nomor 5025.
[32] Republic of Indonesia, Undang-Undang Nomor 22 Tahun 2009 tentang Lalu Lintas dan Angkutan Jalan, arts. 230, 235, 236, 310–311, Lembaran Negara Republik Indonesia Tahun 2009 Nomor 96, Tambahan Lembaran Negara Republik Indonesia Nomor 5025.

conduct. A customary settlement should not neutralize statutory distinctions between negligence and intentional endangerment.

The second gap concerns differing restorative eligibility rules across legal instruments. Police Regulation Number 8 of 2021 requires material and formal conditions, including peace between the parties and fulfilment of victim rights, while excluding specified serious categories, including offences against life.[33] Prosecutor Regulation Number 15 of 2020 is more flexible for negligence. Its Article 5 permits exceptions from the ordinary five-year imprisonment and low-loss thresholds when the offence is committed through negligence, subject to prosecutorial assessment, restoration, peace, and positive community response.[34] Supreme Court Regulation Number 1 of 2024 expressly identifies traffic crimes as a category for restorative adjudication.[35] The result is a multi-level framework in which the same customary agreement can have different procedural significance depending on the case stage and the legal characterization of the accident.

The 2025 Criminal Procedure Code attempts to unify the system but does not eliminate every interpretive tension. Article 80 permits restorative justice for offences meeting sentencing and recidivism criteria and gives special relevance to negligence. Article 82 excludes several categories, including offences against life, while also excluding offences punishable by five years or more except those committed through negligence.[36] For fatal traffic accidents under Article 310 paragraph (4), this creates a classification question. The offence is formally a traffic crime based on negligence, but its consequence is death. A broad reading of "offences against life" could exclude it, while a systematic reading may distinguish

[33] Kepolisian Negara Republik Indonesia, Peraturan Kepolisian Negara Republik Indonesia Nomor 8 Tahun 2021 tentang Penanganan Tindak Pidana Berdasarkan Keadilan Restoratif, arts. 5–6, Berita Negara Republik Indonesia Tahun 2021 Nomor 947.
[34] Kejaksaan Republik Indonesia, Peraturan Kejaksaan Republik Indonesia Nomor 15 Tahun 2020 tentang Penghentian Penuntutan Berdasarkan Keadilan Restoratif, art. 5(3)–(7), Berita Negara Republik Indonesia Tahun 2020 Nomor 811.
[35] Mahkamah Agung Republik Indonesia, Peraturan Mahkamah Agung Nomor 1 Tahun 2024 tentang Pedoman Mengadili Perkara Pidana Berdasarkan Keadilan Restoratif, art. 6, Berita Negara Republik Indonesia Tahun 2024 Nomor 241.
[36] Republic of Indonesia, Undang-Undang Nomor 20 Tahun 2025 tentang Kitab Undang-Undang Hukum Acara Pidana, arts. 80–87, Lembaran Negara Republik Indonesia Tahun 2025 Nomor 188, Tambahan Lembaran Negara Republik Indonesia Nomor 7149.

a traffic offence causing death from the substantive chapter of offences whose protected legal object and conduct directly target life. The coexistence of Supreme Court Regulation Number 1 of 2024, which specifically includes traffic crimes, confirms that the issue requires careful harmonization rather than automatic exclusion.

The legal uncertainty should not be solved by allowing customary institutions to choose which interpretation binds law enforcement. The appropriate solution is procedural differentiation. Where statutory restorative eligibility is clear, the customary outcome may be transformed into a formal restorative agreement after verification. Where eligibility is contested, especially in fatal cases, the customary outcome should remain legally relevant as documented restoration, forgiveness, compensation, and social reconciliation, while the competent authority determines whether the case may be terminated or whether the outcome should instead influence charging, prosecutorial discretion, sentencing, or judicial restoration. This avoids both extremes, namely disregarding a socially legitimate settlement and granting it an unlawful extinguishing effect.

The third gap concerns documentation. Customary settlements may be recorded in varying forms, from written customary decisions to family statements and proof of payment. Formal restorative justice requires more precise information. The 2025 Criminal Procedure Code relies on written settlement instruments at investigation and prosecution stages. Police Regulation Number 8 of 2021 similarly requires a peace agreement and proof that victim rights and offender responsibilities have been fulfilled.[37] If a customary document does not identify the parties, accident, legal obligations, payment status, voluntariness, representation of heirs, and remaining claims, investigators cannot safely treat it as equivalent to a formal restorative instrument.

Documentation is not a demand to bureaucratize customary justice. It is a translation requirement imposed only when a customary outcome is used to produce

[37] Kepolisian Negara Republik Indonesia, Peraturan Kepolisian Negara Republik Indonesia Nomor 8 Tahun 2021 tentang Penanganan Tindak Pidana Berdasarkan Keadilan Restoratif, arts. 3–7, Berita Negara Republik Indonesia Tahun 2021 Nomor 947.

state-law consequences. This distinction is important. The customary forum may continue to use local language, ritual symbols, and its own deliberative procedure. The transformation dossier should then extract legally relevant components without rewriting the customary decision itself. The dossier should identify the original document, issuing customary institution, date, participants, nature of obligations, evidence of performance, statements of forgiveness or reservation, and any objection raised by a party. Traceability protects both customary authority and state accountability.

The fourth gap is voluntariness. The new Criminal Procedure Code requires restorative processes to be free from pressure, coercion, intimidation, deception, threats, violence, torture, and degrading treatment. Prosecutor Regulation Number 15 of 2020 likewise requires voluntary deliberation without pressure or intimidation.[38] A state officer receiving a customary settlement must therefore verify consent independently. Attendance before a customary leader, family approval, or signature on a customary document cannot be treated as conclusive when there are indications of dependency, kinship pressure, economic vulnerability, or local status inequality. The state's role is not to judge the cultural legitimacy of the forum, but to ensure that the legal consequence requested from the state rests on free and informed consent.

The fifth gap concerns the content of restoration. Customary sanctions may include compensation, ritual obligations, community meals, symbolic objects, apologies, and duties directed toward restoring communal balance. Formal restorative justice emphasizes victim recovery, restitution, compensation, repair, and reconciliation. These categories overlap but are not identical. A ritual obligation may be meaningful to the community yet cannot replace unpaid medical costs owed to the victim. Conversely, a purely monetary payment may satisfy statutory compensation but fail to restore a relationship that the parties consider culturally

[38] Kejaksaan Republik Indonesia, Peraturan Kejaksaan Republik Indonesia Nomor 15 Tahun 2020 tentang Penghentian Penuntutan Berdasarkan Keadilan Restoratif, arts. 4–10, Berita Negara Republik Indonesia Tahun 2020 Nomor 811.

damaged. Transformation therefore requires functional mapping rather than literal substitution.

This mapping should use the victim as the central reference point. Azis and Pujiyono's integrative criminal policy approach is useful because it links causal harm, institutional responsibility, and victim protection within one policy architecture.[39] Research on integrated witness and victim protection likewise argues that protection should remain connected across procedural stages and should prevent secondary harm produced by fragmented institutions.[40] Applied to traffic accidents, a customary payment already made should be credited as part of restoration, not demanded again under a differently named state procedure. Additional obligations should be imposed only when they address a distinct and demonstrable unmet harm.

The sixth gap is evidentiary reliability. A restorative outcome may influence a decision to terminate a case or may later be considered by a prosecutor or judge. The document and its performance must therefore be capable of verification. Evidentiary scholarship by Azis, Pujiyono, and Kusuma Putri emphasizes authenticity, traceability, provenance, and the ability of parties to challenge the basis of a legal inference.[41] Those principles can be adapted to customary settlement records. Verification should cover identity, authority of signatories, status of heirs, date, relation to the relevant accident, payment records, witnesses, and any subsequent revocation or dispute. This does not convert the customary forum into a court. It ensures that a state decision based on its outcome can be defended procedurally.

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[39] Muhammad Abdul Azis and Pujiyono, "Causative-Victim Tracing for Integrative Criminal Policy on AI Deepfake Face and Voice Crimes in Indonesia," *KRTHA BHAYANGKARA* 20, no. 2 (2026): 528–533, https://doi.org/10.31599/krtha.v20i2.5666.

[40] Siti Fadila Nuramelia, Riski Ananda Kusuma Putri, Muhammad Abdul Azis, Alya Synthia Kurniawati, and Misshouw Meilany Putri, "Reorientasi Perlindungan Saksi dan Korban dalam Sistem Peradilan Pidana Indonesia dari Pengaturan Parsial Menuju Model Perlindungan Terpadu," *Hakim: Jurnal Ilmu Hukum dan Sosial* 4, no. 3 (2026): 119–123, https://doi.org/10.51903/j66vnn80.

[41] Muhammad Abdul Azis, Pujiyono, and Riski Ananda Kusuma Putri, "Reconstructing Reliability Standards for Deepfake Detectors as Electronic Evidence in Indonesia's Criminal Justice System," *West Science Law and Human Rights* 4, no. 3 (2026): 303–308, https://doi.org/10.58812/wslhr.v4i03.3022.

The seventh gap is institutional continuity. A customary outcome may be presented first to police, then to prosecutors, and later to a court if the case proceeds. Requiring the parties to repeat reconciliation from zero at each stage can create fatigue, inconsistent obligations, and pressure to sign additional agreements merely to satisfy different institutional formats. The post-2025 system should instead recognize a verified restorative dossier as a portable record. Each institution retains independent authority, but it should not disregard verified performance already completed. Recent scholarship on institutionalizing customary law supports such an integrative structure because recognition is meaningful only when customary outcomes can interact with formal institutions through defined legal channels.[42]

A transformation approach also responds to criticism that state restorative justice can recolonize or domesticate customary law. Recognition should not mean that the state reconstructs local settlement as if it originated within police, prosecution, or court institutions. The origin, terminology, and role of customary leaders should remain visible. At the same time, the state must control the legal effects of the settlement according to statutory competence. This differentiated recognition is more consistent with legal pluralism than either full absorption or complete separation.[43]

The first research objective can therefore be answered in four propositions. Customary settlement has strong restorative relevance but no automatic power to terminate criminal proceedings. Its legal weight depends on offence classification, statutory eligibility, voluntariness, and proof of fulfilment. Fatal or legally contested cases require a cautious route that preserves the settlement as restorative evidence without assuming extinguishment. Finally, the principal weakness of the present framework is not the absence of restorative values, but the absence of a standardized transformation protocol connecting customary outcomes to the

[42] Deasy Mariana Ma'ruf, Hibnu Nugroho, Kuat Puji Prayitno, and Setya Wahyudi, "The Strengthening the Institutionalization of Customary Law in Indonesia's Judicial System: An Integrative Legal Framework Approach," *Jurnal IUS Kajian Hukum dan Keadilan* 14, no. 1 (2026): 98–104, https://doi.org/10.29303/ius.v14i1.1936.
[43] Agus Widjajanto, I Gde Pantja Astawa, and Muhammad Rulyandi, "Decolonising Restorative Justice in Indonesia: A Comparative Study across Customary Law Traditions," *Legality: Jurnal Ilmiah Hukum* 33, no. 2 (2025): 482–489, https://doi.org/10.22219/ljih.v33i2.40481.

procedural documents and institutional decisions required by national criminal procedure.

2. Customary-to-Restorative Transformation Model for West Kalimantan Traffic Accident Cases

The second finding is that the transformation process should be designed as an interface between two normative orders, not as a hierarchy in which one order erases the other. The proposed Customary-to-Restorative Transformation Model uses seven stages: customary outcome documentation, legal classification, voluntariness and representation review, restorative-equivalence mapping, formal adoption, institutional authorization, and compliance plus non-duplication review. Each stage answers a specific risk identified in the first discussion and produces a defined procedural output.

The first stage is customary outcome documentation. The original customary decision remains intact as the primary cultural record. A separate transformation sheet is prepared for use in criminal procedure. It identifies the accident, location, date, parties, customary institution, customary leader, victim or lawful heirs, driver, family representatives, obligations ordered or agreed, amounts paid, non-monetary duties, apology, ritual performance, witnesses, and any outstanding obligation. The sheet also records whether the parties request that the customary outcome be considered for restorative justice in the state process. This method avoids altering the customary text while creating an intelligible record for investigators, prosecutors, and judges.

The second stage is legal classification. The competent state officer determines whether the conduct is alleged negligence under Article 310 of Law Number 22 of 2009, intentionally dangerous driving under Article 311, another traffic offence, or a combination of offences. The officer also identifies the consequence, such as property damage, minor injury, serious injury, or death, and checks recidivism, aggravating circumstances, public safety concerns, and any statutory exclusion. Classification must precede restorative adoption because the availability of settlement cannot determine the offence category. A driver should not be reclassified as merely negligent because the parties have reconciled.

The third stage is voluntariness, capacity, and representation review. The victim must be interviewed separately where possible. In a fatal case, the status and authority of heirs or family representatives must be established. The reviewer asks whether any party was pressured by family, customary officials, employers, transport companies, insurers, or local elites, whether the terms were understood, whether legal rights were explained, and whether the party wishes the state to rely on the customary outcome. The review should also identify power imbalances and provide an opportunity for legal assistance or support persons where needed. The result is a short verification record, not a repetition of the customary deliberation.

The fourth stage is restorative-equivalence mapping. Each customary obligation is mapped to a formal restorative function. An apology corresponds to acknowledgment and relational repair. Medical, funeral, livelihood, and property payments correspond to compensation or reimbursement. Replacement or repair of damaged property corresponds to material restoration. A customary ritual or community reconciliation event corresponds to social restoration but does not substitute for unpaid victim losses unless the victim expressly accepts that arrangement. This mapping should also identify obligations that cannot be incorporated into a state restorative agreement because they are discriminatory, degrading, impossible, unrelated to the harm, or contrary to law.

The fifth stage is formal adoption. If the case is eligible for restorative justice, the verified customary outcome is presented as the factual basis for a formal settlement under the 2025 Criminal Procedure Code. At investigation stage, the parties may request or accept restorative processing and sign the formal settlement before the investigator as required by the Code. At prosecution stage, the customary outcome may support an agreement before the public prosecutor. At court stage, the judge may consider the verified restoration in accordance with the applicable restorative justice framework. Formal adoption does not require renegotiating obligations already fulfilled. Instead, the state instrument should acknowledge completed performance and state any remaining obligations.

The sixth stage is institutional authorization. The 2025 Criminal Procedure Code introduces judicial control over investigative and prosecutorial termination

through requirements for court authorization within the statutory framework. This control is essential when the state attaches case-terminating consequences to a settlement. The authorizing authority should review eligibility, voluntariness, identity of the parties, completeness of restoration, absence of prohibited offences, and the public interest. The customary institution may be invited to clarify the origin and meaning of the settlement, but it should not bear responsibility for the state's legal conclusion.

The seventh stage is compliance and non-duplication review. Every fulfilled obligation should be recorded once and credited throughout the criminal process. If the customary settlement includes Rp20 million for funeral expenses and the payment is verified, a later restorative agreement should not demand the same Rp20 million under a new label unless the earlier payment addressed a different obligation. Additional compensation may remain possible where the parties agree and the loss is distinct, but cumulative demands should be transparent. This prevents restorative justice from becoming a sequence of repeated payments imposed by customary leaders, investigators, prosecutors, and courts.

The model requires a two-route legal consequence. Route A applies to cases clearly eligible for formal restorative termination. Examples may include negligent accidents causing property damage or injury where statutory conditions are satisfied, the parties act voluntarily, and no exclusion applies. The customary settlement becomes the substantive foundation, while the formal agreement and institutional authorization create the procedural effect. Route B applies where termination is legally unavailable or uncertain. The customary outcome is then transformed into a verified restorative record that can inform prosecutorial assessment, judicial evaluation, victim recovery, sentencing, or other lawful decisions without being treated as an automatic ground for ending the case.

Fatal traffic accidents illustrate why the two-route structure is necessary. Article 310 paragraph (4) of the Traffic Law imposes a maximum six-year sentence for negligent driving causing death. The 2025 Criminal Procedure Code recognizes negligence as relevant to restorative eligibility, yet also excludes offences against

life.[44] Supreme Court Regulation Number 1 of 2024 specifically includes traffic crimes in restorative adjudication.[45] Until implementing regulation provides a definitive classification rule, a verified customary settlement in a fatal case should not be discarded, but neither should it automatically terminate proceedings. Route B preserves its restorative significance while leaving the legal consequence to the competent authority under the prevailing interpretation.

The model should also distinguish Article 310 negligence from Article 311 intentionally dangerous driving. Restorative justice cannot become a mechanism for converting deliberate high-risk conduct into a private family settlement. Where evidence indicates intentional dangerous driving, intoxication combined with conscious endangerment, racing, flight, repeated serious violations, or conduct creating extraordinary public risk, the public interest may outweigh the parties' desire for termination. A customary agreement may still demonstrate remorse and compensation, but the public dimension of road safety remains a separate legal interest.

This differentiated model is compatible with the 2023 Criminal Code's sentencing philosophy. The Code states that sentencing aims include preventing crime, resocializing offenders, resolving conflict caused by crime, restoring balance, creating peace, and avoiding degradation of human dignity. It also requires judges to consider the offender's conduct after the offence, the effect on victims and their families, and forgiveness from the victim or family.[46] A customary outcome that has been properly verified therefore has legal relevance even when it does not extinguish prosecution. It can demonstrate post-offence responsibility, victim recovery, forgiveness, and restored social relationships.

[44] Republic of Indonesia, Undang-Undang Nomor 20 Tahun 2025 tentang Kitab Undang-Undang Hukum Acara Pidana, arts. 80–87, Lembaran Negara Republik Indonesia Tahun 2025 Nomor 188, Tambahan Lembaran Negara Republik Indonesia Nomor 7149.
[45] Mahkamah Agung Republik Indonesia, Peraturan Mahkamah Agung Nomor 1 Tahun 2024 tentang Pedoman Mengadili Perkara Pidana Berdasarkan Keadilan Restoratif, art. 6, Berita Negara Republik Indonesia Tahun 2024 Nomor 241.
[46] Republic of Indonesia, Undang-Undang Nomor 1 Tahun 2023 tentang Kitab Undang-Undang Hukum Pidana, arts. 51–54, Lembaran Negara Republik Indonesia Tahun 2023 Nomor 1, Tambahan Lembaran Negara Republik Indonesia Nomor 6842.

The model also aligns with an integral criminal policy approach because it connects community prevention and restoration with formal legal accountability. Azis and colleagues argue that effective criminal policy should coordinate penal, non-penal, and social measures rather than allowing regulatory fragments to operate independently.[47] In traffic accident cases, customary institutions can contribute relational knowledge, cultural legitimacy, family participation, and rapid restoration. Police contribute fact investigation and offence classification. Prosecutors assess public interest and charging consequences. Courts provide authorization, legality review, and adjudicative accountability. The model preserves differentiated mandates while creating a single restorative information chain.

Victim protection must remain the controlling safeguard. A family's wish to forgive should be respected, but it should not be presumed from the actions of customary elites or male family representatives when the legally entitled victim or heir has not consented. The integrated protection approach developed by Nuramelia, Kusuma Putri, Azis, and colleagues supports continuity of victim interests across procedural institutions.[48] The transformation dossier should therefore include a specific victim-interest section covering physical recovery, psychological support, funeral costs, lost income, property loss, insurance status, continuing medical treatment, and any safety concerns. This prevents the symbolic completion of a ritual from obscuring unresolved material harm.

Procedural traceability is equally important. Azis, Pujiyono, and Kusuma Putri's reliability framework emphasizes that a legal decision should be supported by transparent records that permit review and challenge.[49] Applied here, each

[47] Muhammad Abdul Azis, Siti Fadila Nuramelia, Muhammad Thufail Ariiq, Alya Synthia Kurniawati, Riski Ananda Kusuma Putri, Misshouw Meilany Putri, and Dafirly Salsadilla Dosanto, "Causative-Based Integral Policy as a Response to Criminogenic Factors in the Distribution of Subsidized Fuel," *Punggawa Law Review* 1, no. 3 (2026): 142–148.
[48] Siti Fadila Nuramelia, Riski Ananda Kusuma Putri, Muhammad Abdul Azis, Alya Synthia Kurniawati, and Misshouw Meilany Putri, "Reorientasi Perlindungan Saksi dan Korban dalam Sistem Peradilan Pidana Indonesia dari Pengaturan Parsial Menuju Model Perlindungan Terpadu," *Hakim: Jurnal Ilmu Hukum dan Sosial* 4, no. 3 (2026): 119–123, https://doi.org/10.51903/j66vnn80.
[49] Muhammad Abdul Azis, Pujiyono, and Riski Ananda Kusuma Putri, "Reconstructing Reliability Standards for Deepfake Detectors as Electronic Evidence in Indonesia's Criminal Justice System," *West Science Law and Human Rights* 4, no. 3 (2026): 303–308, https://doi.org/10.58812/wslhr.v4i03.3022.

transformation dossier should have a document identifier, copy of the original customary settlement, identity verification, proof of payment, witness confirmation where necessary, and a chronology of institutional review. If the agreement changes, the reason and consent of the parties should be documented. If a party withdraws consent before formal adoption where law permits withdrawal, the record should state that fact. This audit trail protects parties and institutions from later disputes about what was agreed.

Local government and customary institutions have a practical role in implementation. Sanggau Regional Regulation Number 12 of 2022 already recognizes customary institutions as facilitators and mediators in disputes concerning customs and community practices.[50] That legal basis can support development of a standardized customary settlement cover sheet through cooperation between the district government, customary councils, police, prosecution service, and courts. The form should not prescribe the substance of customary sanctions. Its function is limited to the metadata and declarations needed for state-law transformation.

Implementation should begin through a controlled protocol in districts where customary traffic settlement is documented, particularly Sanggau. Training should focus on three competencies. Customary leaders need a clear explanation that a customary settlement does not itself cancel criminal liability. Law enforcement officers need cultural competence to understand the meaning of customary obligations and to avoid demanding unnecessary repetition. Victims and families need plain-language information explaining that participation is voluntary, what legal consequences may follow, and which rights remain available after settlement.

Data governance should be proportionate. Customary settlement records may contain sensitive family, financial, health, and community information. Only information necessary for the restorative decision should be copied into the formal dossier. Access should be limited to officials handling the case, and ritual details

[50] Kabupaten Sanggau, Peraturan Daerah Kabupaten Sanggau Nomor 12 Tahun 2022 tentang Penyelenggaraan Kelembagaan Adat, arts. 4–6.

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irrelevant to the legal assessment need not be reproduced. The purpose of transformation is legal interoperability, not extraction of the entire customary process into state databases.

Performance evaluation should measure quality rather than the number of cases terminated. Indicators should include victim satisfaction, completion of compensation, absence of repeat demands, time from customary settlement to formal review, number of agreements rejected for coercion or illegality, recurrence of offending, and the proportion of cases in which customary obligations were correctly credited. The model should not create an institutional target to maximize restorative termination because such targets may pressure victims to reconcile. Accountability requires preserving the option to continue formal prosecution.

The absence or incompleteness of implementing regulation under Article 88 of the 2025 Criminal Procedure Code makes operational guidance especially important. Current scholarship has identified the need for harmonized implementing rules to prevent sectoral inconsistencies from continuing under the new Code.[51] The proposed model can serve as a regulatory design for that implementing framework. A future government regulation should expressly address how pre-existing settlements, including customary settlements, can be recognized as inputs to formal restorative justice, what verification is required, and how completed obligations are credited.

Table 1. Customary-to-Restorative Transformation Model

Stage	Customary Input	Formal Transformation	Output and Safeguards
1. Documentation	Customary decision, family agreement, proof of ritual or payment	Create transformation sheet without altering original customary record	Traceable record of origin, parties, obligations, and performance
2. Legal classification	Narrative of accident and community understanding	Classify under Traffic Law and restorative eligibility rules	Prevents settlement from determining offence category
3. Voluntariness review	Consent expressed in customary forum	Independent confirmation of consent, heirs, capacity, and power imbalance	Protects against coercion and invalid representation

[51] Irwan Hafid and Adhi Prasetyo Utomo, "Legal Policy for the Formulation of Implementing Regulations on Restorative Justice in the Criminal Justice System," *Lex Renaissance* 11, no. 1 (2026): 40–48, https://doi.org/10.20885/JLR.vol11.iss1.art2; Titoh Kustiah Putri and Aturkian Laia, "Rekonstruksi Pengaturan Keadilan Restoratif dalam Undang-Undang Nomor 20 Tahun 2025 Menuju Sistem Peradilan Berkeadilan," *Muhammadiyah Law Review* 10, no. 2 (2026), https://doi.org/10.24127/mlr.v10i2.5395.

Stage	Customary Input	Formal Transformation	Output and Safeguards
4. Restorative mapping	Apology, compensation, ritual, social reconciliation	Map each obligation to victim recovery, material repair, or social restoration	Credits completed obligations and rejects unlawful terms
5. Formal adoption	Verified customary outcome	Use as basis for formal restorative agreement at competent procedural stage	No unnecessary repetition of settlement
6. Authorization	Customary dossier and formal agreement	Institutional legality review and required judicial authorization	Preserves state competence and public interest
7. Compliance review	Evidence of fulfilled customary and formal duties	Record completion, outstanding duties, and non-duplication	Prevents double burden and supports later review

Source: Authors' construction based on the 2025 Criminal Procedure Code, restorative justice regulations, traffic law, and documented Sanggau customary practice.

The model's legal effect can be summarized as "recognition without automatic substitution." Recognition means that the state acknowledges the restorative work already performed by customary institutions, verifies it, and credits it within the criminal process. Non-substitution means that customary leaders do not exercise investigative, prosecutorial, or judicial powers that legislation assigns to state institutions. This formula preserves constitutional respect for customary communities while maintaining legality and institutional accountability.

The second research objective is therefore answered by a staged transformation mechanism rather than by a rule declaring customary decisions binding on criminal justice. The model converts customary outcomes into legally usable information through documentation, classification, voluntariness review, restorative mapping, formal adoption, authorization, and compliance review. It gives the strongest procedural effect to cases clearly eligible for restorative termination and a non-terminating but legally relevant effect to cases where statutory eligibility remains contested. This design is suitable for West Kalimantan because it responds to existing customary practice without assuming that all communities, all accidents, or all customary sanctions are identical.

D. Conclusion

Customary settlement of traffic accident cases in West Kalimantan possesses substantive restorative value because it can combine deliberation, apology, compensation, family participation, and restoration of social relations. Documented practice in Sanggau demonstrates that customary mechanisms may respond even to accidents causing death through *Pati Nyawa* and related

obligations. The legal difficulty arises after the customary settlement has been completed. Traffic legislation, the 2025 Criminal Procedure Code, Police Regulation Number 8 of 2021, Prosecutor Regulation Number 15 of 2020, and Supreme Court Regulation Number 1 of 2024 attach different procedural conditions and consequences to restorative settlement. A customary outcome therefore cannot be treated as an automatic ground for terminating criminal proceedings.

The proposed Customary-to-Restorative Transformation Model resolves this problem through seven stages: documentation, legal classification, voluntariness and representation review, restorative-equivalence mapping, formal adoption, institutional authorization, and compliance plus non-duplication review. The model uses two legal routes. Cases that clearly satisfy restorative eligibility may transform the customary outcome into a formal settlement capable of producing statutory procedural consequences. Cases that are excluded or legally uncertain, particularly fatal accidents affected by tension between negligence rules and exclusions concerning offences against life, retain the customary outcome as verified evidence of restoration, forgiveness, compensation, and post-offence responsibility without automatically extinguishing prosecution.

A future implementing regulation under Article 88 of the 2025 Criminal Procedure Code should expressly regulate recognition of pre-existing community and customary settlements, minimum verification requirements, treatment of completed obligations, representation of victims and heirs, safeguards against coercion, and the legal effect of settlements at each procedural stage. West Kalimantan law-enforcement institutions and recognized customary bodies should develop a joint transformation sheet and pilot protocol in Sanggau. The protocol should preserve the original customary decision, prevent repeated compensation demands, require independent consent verification, and maintain judicial control over case termination. Such a design allows customary legitimacy and state legality to operate in a coordinated structure while keeping victim recovery and public road safety as distinct interests that must both be protected.

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