



Negotiating Justice: Sewagheian as a Kinship-Based Restorative Justice Model in Lampung Customary Law

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Abstract

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This study examines Sewagheian, a kinship-based restorative justice mechanism embedded in the customary law of the Lampung indigenous community, and analyzes its relevance to the development of Indonesia's criminal justice system following the recognition of *living law*. Employing a legal ethnography approach and qualitative methods, data were collected through participant observation of three Rembuk Pekon (customary village deliberation) processes, in-depth interviews with fifteen key informants consisting of customary leaders, victims, offenders, police officers, and village officials, as well as documentary analysis of legal and customary sources. Data were analyzed using thematic analysis integrated with legal pluralism and restorative justice perspectives. The findings reveal that Sewagheian functions not merely as a dispute resolution mechanism but as a process of social identity transformation, converting antagonistic relationships into kinship through the rituals of Angkon Mewaghei, customary compensation (*nyukak*), and collective community recognition. This transformation strengthens offenders' moral responsibility, restores victims' dignity, and reinforces social cohesion within the indigenous community. Furthermore, the recognition of *living law* under Law Number 1 of 2023 on the Indonesian Criminal Code, Supreme Court Regulation Number 1 of 2024, and Law Number 20 of 2025 on the Criminal Procedure Code provides formal legitimacy for the practice of Sewagheian, although its implementation still requires clear operational guidelines to ensure legal certainty and human rights protection. This study proposes the concept of kinship-based restorative justice as a theoretical contribution to legal anthropology, legal pluralism, and criminal justice reform.

Keywords: Sewagheian, Kinship-Based Restorative Justice, Lampung Customary Law, Legal Pluralism, Living Law.

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INTRODUCTION

The crisis of the legitimacy of retributive justice in the modern post-colonial criminal justice system has given rise to a wave of global criticism of the state-centered sentencing paradigm (*State-centric justice*). (Padlilah et al. 2023) For decades, formal criminal justice mechanisms that rely on the logic of imprisonment and institutional punishment have been seen as incapable of resolving the social roots of conflict. The system not only raises structural problems in the form of overcapacity of correctional institutions (*Overcrowding*), the increasing fiscal burden of the state, and the high rate of repetition of criminal acts (*recidivism*), but

also leaves psychological and social losses that have not been fully recovered at the victim and community levels. In Indonesia, the problem *Overcrowding* It is still a serious challenge in the correctional system, encouraging the government to develop various alternatives to resolving cases, including the application of restorative justice.(Fikarudin and Widjajanti 2025)

Some empirical research shows that the *restorative justice* potentially lower the risk of recidivism compared to conventional sentencing approaches. For example, comparative research conducted by Idris on the settlement of minor crime cases reported that the recidivism rate of perpetrators who followed the mechanism *restorative justice* reached around 40%, while for perpetrators processed through conventional judicial mechanisms it reached around 55%.(Idris, Kriswandaru, and Pratiwi 2025) The findings show a tendency that resolving cases through a restorative approach can provide better results than conventional punishment. However, these figures are the result of research in certain contexts and samples so they are not intended as a representation of the level of national recidivism in Indonesia.

This condition encourages the development of a Restorative Justice approach (*Restorative Justice*) as an alternative paradigm that is no longer oriented towards revenge (*Retributive Justice*), but on the restoration of relationships between perpetrators, victims, and the community.(N2025) This approach places dialogue, reconciliation, accountability of perpetrators, and recovery of victim losses as the main goal of resolving cases. In line with the development of restorative justice policies in Indonesia, Hehanussa et al. emphasized that the main objectives *restorative justice* It is no longer just about imposing sanctions on the perpetrators, but realizing healing, reconciliation, and restoration of social harmony through the active involvement of victims, perpetrators, and the community in the process of resolving cases. In this perspective, criminal acts are seen not only as a violation of the state, but also as an event that damages social relations so that the settlement must be directed at the recovery of victims' losses, the accountability of the perpetrators, social reintegration, and the restoration of harmony in the community. This paradigm reflects the shift in the orientation of the criminal justice system from a retributive approach to a more humane, participatory, and substantive justice restorative approach, as well as an important foundation for Indonesia's criminal law reform after the enactment of Law Number 1 of 2023 concerning the Criminal Code.(Hehanussa et al. 2024)

Although restorative justice has been widely adopted in global legal reform, many critical legal anthropologists argue that the state-institutionalized model of RJ is still heavily influenced by Western bureaucratic logic.(Rudi Margono 2026) In practice, restorative mechanisms are often reduced to administrative procedures, formalistic mediation, or material compensation of a transactional nature. Models like this often fail to touch the socio-emotional dimension of society in countries *Global South*, especially indigenous communities that have a social structure based on kinship relations and collective honor. The theory of legal

pluralism put forward by John Griffiths (1986) defines legal pluralism as "the presence of more than one legal order in a single social sphere" that rejects the assumption that law is synonymous with state law.(Griffiths 1986) Sally Falk Merry (1988) reinforces this view by asserting that law does not have to be exclusively associated with the state, but can be a normative order that lives in society.(Merry 1988) The concept of "living law" (*Living Law*) of Eugen Ehrlich, later revitalized by Brian Tamanaha, emphasizes the importance of informal normative orders that develop spontaneously in society as an authentic source of law.(Stuart 2000) As a result, there is an urgent academic need to explore alternative restorative models that live organically in local customary law practice, particularly those capable of transforming the social identities of parties to conflict in a more profound way than just a procedural settlement.

In the Indonesian context, the debate on the relationship between state law and customary law is now entering a very important phase of transformation. For many years, customary dispute resolution mechanisms have been in an ambiguous position and are often considered "law-free zones" (*Legal Free Zone*), because customary peace is not always able to stop formal criminal proceedings due to the dominance of the principle of legality in the national legal system. However, a major change occurred with the birth of Law Number 1 of 2023 concerning the Criminal Code (New Criminal Code), which through Article 2 explicitly recognizes the existence of "laws that live in society" (*Living Law*). The explanation of Article 2 paragraph (1) of the National Criminal Code defines the law that lives in society as "customary law, unwritten law that is still valid and developing in the life of the Indonesian people".(Saputra 2025) This recognition is strengthened by Supreme Court Regulation Number 1 of 2024 concerning Guidelines for Adjudicating Criminal Cases Based on Restorative Justice, which gives judges the authority to stop minor criminal cases if a fair peace agreement has been reached between the victim and the perpetrator. The PERMA also emphasizes that the goal of restorative justice is to restore victims, restore relationships between defendants, victims, and society, and prevent everyone from unnecessary deprivation of liberty. In addition, Law Number 20 of 2025 concerning the Criminal Procedure Code (KUHAP Baru) makes the restorative approach an integral part of the national criminal justice system, adopting three paradigms at once: restorative, corrective, and rehabilitative. This legislative change opens up new space for strengthening legal pluralism in Indonesia, while providing formal legitimacy to customary-based dispute resolution practices.

One of the customary law practices that represents this transformative restorative model is the Sewagheian or Angkon Mewaghei tradition in the indigenous people of Lampung. Rooted in *Piil Pesenggiri's philosophy* of life that emphasizes honor, dignity, and social balance, Sewagheian does more than simply serve as a mediator of ordinary conflicts. In the Lampung language, "Waghei" means

"brother", so "Sewagheian", "Pewagheian", "Mewagheian", or "Angkon Mewagheian" means "to consider brother" or "brother". According to Suttan Pengiran Ratu Sebuay Subing, the tradition of angkon mewagheian has been going on since ancient times and is usually done on the basis of three main reasons: (1) because of the goodness that exceeds the limits of blood relations; (2) because of the equality of knowledge or abilities that cannot be defeated with each other; and (3) as a peaceful way after conflict or dispute without involving state law. This tradition works through the mechanism of *Rembuk Pekon* (village customary deliberation) which symbolically and socially transforms the relationship between the perpetrator and the victim into a brotherly relationship (*wagheian*). In contrast to the formal legal system that maintains the legalistic categorization of "perpetrator" and "victim," Sewagheian deconstructs such antagonistic identities through customary rituals, collective vows, communal meals, and symbolic adoption of relatives. This process results in the formation of *fictive kinship* (fictitious kinship) that gives birth to a mutual moral and social obligation to protect each other and maintain mutual honor. Thus, conflict resolution does not stop at the termination of the case, but moves towards the restoration of social relations and the reintegration of the perpetrator into the community.

There are several examples of the application of Lampung Sewagheian Customary Law in practice. For example, a drowsy car driver then hit a woman in one of the areas that apply Lampung Customary Law, so that the victim suffered injuries and was treated in the hospital. In the Lampung Sewagheian Customary Law, the perpetrator will deliberate with the victim and the victim's family, guided and mediated by an elder traditional leader (*Traditional Contributors*) in a joint mediation process or known as *Rembuk Pekon*. Settlement of minor crimes through *Rembuk Pekon* It uses the principle *Alternative Dispute Resolution* (ADR) or *Win-win solution* which is in line with the spirit of restorative justice. (Dewantoro 2024)

In the Lampung society that upholds the value of *Piil Pesenggiri*, social harmony is seen as a communal asset that must be maintained together. Therefore, social pressure to maintain the good name of the family and community encourages people to prefer customary channels over formal litigation which is considered expensive, exhausting, and often prolongs conflict. The settlement of criminal cases through restorative justice in Lampung Province has been widely implemented by involving community participation and aims to restore a balance in society that has not been achieved through the conventional criminal law system. The research also shows that the Bandar Lampung District Attorney's Office has effectively applied restorative justice in ten cases in accordance with its principles, which are to focus on the consequences and impact of crime not only for the victim but also for the perpetrator and the community. However, other research reveals that current criminal law enforcement still does not fully involve the community, so the rights of

the victim's family and the community have not been fully restored, and although restorative justice has been resolved, there are still disputes, seeds of conflict, and resentment from both the victim, the victim's family, and the surrounding community.

However, academic studies of restorative justice in Indonesia are still dominated by normative approaches that focus on state legal instruments and have not revealed much about how customary-law-based dispute resolution mechanisms work in practice. The research "A Restorative Justice System in Indonesia: A Close View from the Indigenous Peoples' Practices" (2023) shows that restorative justice practices have long lived in various indigenous communities in Indonesia and reflect the existence of *living law*. However, the research is still macro by comparing several indigenous communities without examining in depth the social mechanisms that shape the success of conflict resolution in one particular community. The research "Restorative Justice and Living Law Based on Dayak Ngaju Adat Law: A Comprehensive Analysis" (2024) also emphasizes that customary law has substantive conformity with the principles of *restorative justice*, but the analysis focuses more on the normative aspects of the relationship between *living law* and the national legal system, so it does not explain the process of transforming the identity of the parties in the practice of resolving customary disputes. Similarly, the study "Customary Law as an Instrument of Restorative Justice in Dispute Resolution in the Community as a National Law Reform" (2025) places customary law as an instrument for national law reform, but the discussion is still conceptual and has not been supported by ethnographic data that shows how customary mechanisms are implemented, negotiated, and accepted by the community. Thus, previous studies have shed more light on why customary law is important in the framework of *restorative justice*, but have not empirically explained how customary law mechanisms work as a process of social transformation that transforms hostile relationships into kinship relationships.

This gap becomes increasingly relevant when associated with the development of national law after the birth of Law Number 1 of 2023 concerning the Criminal Code, Law Number 20 of 2025 concerning the Criminal Code, and PERMA Number 1 of 2024 concerning guidelines for adjudicating criminal cases based on restorative justice. On the one hand, the regulation opens up a wider space for the recognition of *living law* in the criminal justice system. However, on the other hand, various academic criticisms still highlight the lack of clarity in the integration mechanism between customary dispute resolution and the formal justice system, especially at the investigation stage which is considered to have the potential to raise legal certainty issues. As a result, there is still an empirical gap on how the internalization of kinship values in customary traditions can shape legal awareness, transform the identity of the perpetrator from "enemy" to "brother", and produce voluntary and sustainable legal compliance.

Departing from this gap, this study positions Sewagheian as an *indigenous transformative model* in restorative justice practices in Indonesia. In contrast to previous studies which were dominated by normative or conceptual approaches, this study uses a legal ethnography approach to reveal how the dispute resolution mechanism takes place in practice through direct observation of the Rembuk Pekon process, interviews with traditional contributors, victims, perpetrators, police officers, and village officials, as well as analysis of traditional symbols such as Angkon Mewaghei and Sigh. Thus, this research not only explains the normative recognition of customary law, but also dissects the social, psychological, and cultural processes that shape identity transformation, reconstruction of social relations, and the legitimacy of customary law within the framework of legal pluralism. This research specifically seeks to answer three main questions, namely: (1) how Sewagheian customary law practices are integrated and validated in the national legal framework after the enactment of the New Criminal Code, PERMA Number 1 of 2024, and the New Criminal Code; (2) how socio-psychological mechanisms in the transformation of identity from "enemies" to "brothers" are able to build sustainable peace and strengthen legal compliance; and (3) how a comprehensive legal policy model can be designed to strengthen protections against customary-based restorative justice practices without disregarding international human rights principles.

By answering these questions, this article aims to reposition customary law from mere local traditions on the fringes of the national legal system to an important part of the global discourse on criminal justice reform. This study offers a theoretical contribution by expanding the concept of *restorative justice* from a transactional paradigm to a transformational paradigm based on social kinship. At the same time, this research also makes a practical contribution to the development of legal pluralism policies in Indonesia by showing that customary mechanisms such as Sewagheian are not obstacles to legal modernization, but rather a potential alternative source in building a justice system that is more humane, sustainable, and rooted in the social realities of society.

RESEARCH METHOD

This research uses a qualitative approach with the paradigm of legal anthropology because it is able to explore in depth the social practices, cultural values, and normative mechanisms that live in the indigenous peoples of Lampung. (Kusumajanti et al. 2025) The research location was purposively chosen in West Lampung Regency, which is known as one of the areas that still maintains Sewagheian practices consistently and has a relatively intact customary institutional structure, thus allowing researchers to obtain empirical data on customary-based conflict resolution mechanisms.

The analysis unit of this study is in the form of three cases of conflict resolution through the Sewagheian mechanism which took place during January-

June 2025. The three cases were selected purposively based on several criteria, namely: (1) they are cases that have been fully resolved through the Sewagheian mechanism without proceeding to a formal judicial process; (2) involves violations that have the potential to cause social conflicts between families or between groups so that they require a mechanism for restoring social relations; (3) all stages of customs, starting from Rembuk Pekon, compensation negotiations (*nyukak*), the procession of the appointment of relatives, to the ritual of eating together, can be observed directly by the researcher; and (4) the parties are willing to provide access to research through informed *consent*. The selection of cases based on these criteria aims to obtain a variety of conflict resolution experiences while allowing an in-depth exploration of the processes, actors, and social meanings contained in Sewagheian practices.

Primary data is collected through two main techniques. First, *participant observation* of the implementation of Rembuk Pekon involving traditional leaders (*penyimbang*), village officials, parties to the dispute, and extended families. The researcher directly observed all stages of conflict resolution in the three cases with a focus on the dynamics of deliberation, the process of compensation negotiation (*nyukak*), the procession of the appointment of relatives, and the ritual of eating together as a symbol of reconciliation and the restoration of social relations. Second, a *semi-structured in-depth interview* was conducted on 15 informants who were selected purposively, consisting of five traditional leaders, six parties who had been perpetrators and victims in disputes resolved through Sewagheian, two members of the local sector police, and two village officials. Secondary data was obtained through the examination of customary documents in the form of manuscripts and minutes of agreements, relevant laws and regulations, such as the Criminal Code, the Criminal Code, and PERMA Number 1 of 2024, as well as various research results and scientific publications on customary law, legal pluralism, and restorative justice.

Data analysis was carried out using *thematic analysis* following the stages developed by Braun and Clarke, which were integrated with a legal anthropological approach. The first stage is data *familiarization*, where the researcher transcribes all the results of the interview, compiles field observation notes, and reads all the data repeatedly to understand the social context of each case. The second stage is to generate *initial codes* through *open coding*, which is to label parts of the data that reflect certain actions, values, or meanings, such as "family deliberation", "customary compensation", "apology", "relationship restoration", and "avoidance of criminal proceedings". The third stage is searching *for themes* through the grouping of codes that are related to a broader category (*axial coding*), such as the categories of "customary deliberation mechanisms", "restoration of social relations", and "customary institutional legitimacy". The fourth stage is *reviewing themes* by comparing the consistency between observation, interview, and document data. The fifth stage is the definition and naming *of themes* through *selective coding* so that the

main themes of the research are obtained that explain how Sewagheian functions as a conflict resolution mechanism based on restorative justice and living law. The last stage is the preparation of an analytical narrative (*producing the report*) that links empirical findings with the theories of legal pluralism, restorative justice, and the concept *of living law*.

As an illustration of the analysis process, informant statements such as "after being appointed as a brother, the matter is considered resolved and cannot be brought up again" are first coded "appointment of brother" and "end of conflict". The two codes were then grouped into the category of "restoration of social relations", which further developed into the main theme of "reconstruction of social relations through Sewagheian mechanisms". The data reduction process is carried out repeatedly by comparing various data sources until consistent themes are obtained and supported by empirical evidence from all cases studied.

The validity of the data is guaranteed through triangulation of sources by comparing information from traditional leaders, law enforcement officials, village officials, and parties to the dispute. In addition, triangulation of methods was carried out through observation, interviews, and document studies. To increase the credibility of the research results, the researcher also applied *member checking* to several key informants to confirm the suitability of the interpretation to their experience, as well as conducting *peer discussions* (*peer debriefing*) with fellow customary law researchers to minimize interpretation bias.

This research obtained ethical approval from the local indigenous community through the *community informed consent mechanism* and official permission from the village government. All informants gave consent voluntarily before the study was conducted. The principles of confidentiality, anonymity, and identity protection of informants are applied by using pseudonyms in all reporting of research results. The limitation of this study lies in the scope that only covers the indigenous peoples of West Lampung so that the findings are not intended to be generalized statistically, but rather to produce analytical generalizations regarding customary law-based conflict resolution practices that can be used as a reference for research on other indigenous communities.

RESULT AND DISCUSSION

Integration and Validation of Sewagheian Tradition Law in Indonesia's Restorative Justice Framework

The Sewagheian practice in the indigenous people of West Lampung shows that conflict resolution is not interpreted as a process of determining the winner or loser, but as an effort to restore the balance of social relations that are disturbed by a violation. Based on the results of participatory observation of the three Rembuk Pekon processes during the January-June 2025 period, the researcher found that every case settlement always begins with a deliberation led by a traditional contributor and attended by the families of both parties, pekon officials, community

leaders, and parties to the dispute. The focus of the deliberation is not solely to identify the faults of the perpetrators, but to build an understanding of the form of recovery that is acceptable to all parties so that conflicts do not continue to become hostilities between families.

The results of the observation show that the deliberation process takes place gradually. The first stage is directed to provide an opportunity for each party to convey the chronology of events. The next stage contains negotiations on the form of responsibility of the perpetrators which is generally realized through the provision of customary compensation (*nyukak*) and an open apology. After the agreement was reached, the Angkon Mewaghei procession was held which marked the resumption of family relations between the two parties, then ended with a meal together as a symbol of the end of the conflict. During observation, the researcher noted that all of these stages took place in a dialogical atmosphere without the dominance of one party, while the traditional facilitator played more of a role as a facilitator than a unilateral decision-maker.

Field findings show that Sewagheian's legitimacy comes not only from the authority of traditional farmers, but also from the community's collective trust in the effectiveness of these mechanisms in maintaining social harmony. One of the traditional leaders explained:

"In our custom, the purpose of Sewagheians is not to punish people. The most important thing is to restore good relations between the two families. If the relationship has been restored, the village will also be peaceful again." (Traditional Figures, interview, March 2025).

The statement shows that Sewagheian's main orientation is the restoration of social relations, not retribution against the perpetrator. For indigenous peoples, the success of dispute resolution is measured by the restoration of family relations and the re-creation of peace in the community. Therefore, customary deliberation not only produces legal agreements, but also rebuilds social trust that had been disrupted by conflicts.

This view is reinforced by the experience of the victim. Based on in-depth interviews, the victim assessed that the customary process provided space to express feelings, obtain recognition for the losses experienced, as well as witness the accountability of the perpetrators directly in front of the community.

"I accepted the results of the deliberation because the perpetrator admitted his mistake in front of his family and traditional leaders. For us, a public apology is far more important than taking this matter directly to court." (Victim, interview, April 2025).

The information indicates that the victim's satisfaction is not solely determined by the amount of compensation, but rather influenced by the existence of confessions, public apologies, and guarantees that social relationships can be restored. Thus, customary settlement produces a form of justice that is more

oriented towards restoring the dignity of the victim rather than simply imposing sanctions on the perpetrator.

From the perpetrator's side, the Sewagheian process is seen as an opportunity to account for their actions without losing their position in the indigenous community. One of the perpetrators stated:

"I am willing to follow all customary decisions because I am indeed guilty. I want relations with the victim's families to return to good and there will be no more hostility." (Perpetrator, interview, May 2025).

The statement shows that customary mechanisms do not eliminate the element of accountability, but change their form from repressive punishment to restorative relationship restoration. The willingness of the perpetrator to fulfill customary obligations and publicly apologize is an indicator of moral responsibility as well as a commitment to improve social relations with the victim and the community.

Interviews with local sector police officers also show an acknowledgment of Sewagheian's role in resolving certain cases that meet legal requirements. The police explained that settlement through customary mechanisms can be an alternative as long as it is done voluntarily, does not eliminate the rights of the victim, and does not contradict the applicable legal provisions. According to the informant:

"As long as the parties really agree without coercion and the case meets the applicable provisions, settlement through customary can be one way to maintain public order while avoiding prolonged conflicts." (Police Officer, interview, May 2025).

The information shows that customary-based conflict resolution practices are beginning to be seen as a mechanism that can run side by side with the criminal justice system as long as it remains within a positive legal corridor and ensures the protection of the rights of the parties.

Based on the overall empirical data, the authors identify three main themes. First, collective deliberation as a consensus-seeking mechanism, which puts all parties in an equal position to reach an agreement. Second, the restoration of social relations through traditional symbols, especially the *Angkon Mewaghei* procession and eating together which serves to end hostilities and restore the social status of the parties in the community. Third, the legitimacy of customary law is strengthened by the recognition of state law, namely when Sewagheian practice is still carried out as a *living law* and at the same time gains space in the development of restorative justice policies in Indonesia.

An interpretation of the findings suggests that Sewagheian's success lies not only in reaching a peace agreement, but in its ability to rebuild previously fractured social relations. In other words, the settlement of cases does not stop at the resolution of legal aspects, but continues at the restoration of the social cohesion of

indigenous peoples. These findings show that customary law works as a social control mechanism that has strong legitimacy because it is built on the basis of the values of togetherness, collective responsibility, and respect for the dignity of each member of the community.

Only after these empirical findings are understood can the results of the research be explained through the perspective of legal pluralism. The sustainability of Sewagheian shows that the indigenous people of West Lampung not only depend on state laws in resolving conflicts, but also take advantage of customary norms that have high social legitimacy. This condition reflects the work of legal pluralism, which is the existence of more than one legal system that lives and functions in the same social space. The recognition of *living law* in Law Number 1 of 2023 concerning the Criminal Code and the development of restorative justice mechanisms in Law Number 20 of 2025 concerning the Criminal Procedure Code and PERMA Number 1 of 2024 further strengthen Sewagheian's position as a conflict resolution mechanism that has relevance in the national legal system. Thus, the regulation is not the main basis for discussion, but serves to explain why practices that have long lived among indigenous peoples are now gaining stronger legitimacy within the legal framework of the state.

To strengthen the credibility of the article, I also suggest that each citation be given an informant code (e.g. TA-01 for traditional leaders, KR-02 for victims, PL-01 for perpetrators, AP-01 for police officers) along with interview dates. The format is more in line with the standards of reputable journal articles and makes it easier for reviewers to search for empirical data sources.

Identity Transformation and Socio-Psychological Mechanisms in Sewagheian Practice

One of the most significant findings in this study is that Sewagheians not only resolve conflicts procedurally, but also transform the social relations of the parties through ontological identity changes. In contrast to conventional restorative justice models that often focus only on material compensation and formal apologies (Rudi Margono 2026), Sewagheian works in a deeper realm, namely the reconstruction of the social identity of the parties to the conflict.

In the Lampung society that adheres to the kinship system is very strong and upholds the values of *Piil Pesenggiri*, the continuity of the brotherhood line is seen as sacred. (Sari and Karsiwan 2025) *Piil Pesenggiri* which consists of the *Bejuluk Beadek* (family identity and honor), *Finding a Home* (hospitality ethics), *Nancy Pelosi* (social concerns), and *A Friend of the Town* (mutual cooperation) becomes the ethical foundation that governs all social interactions. (Sintia, Mawardi, and Prayogi 2025) When a conflict is resolved through the Sewagheian mechanism, the status of the originally opposing parties (perpetrator and victim) is officially changed to "brother" (*Sewaghei*). This process is not just ceremonial, but involves a transformation of social status that is recognized by the entire community.

According to Suttan Pengiran Ratu Sebuay Subing, the tradition of angkon mewaghei is carried out for three main reasons: goodness that exceeds the limits of blood relations, equality of knowledge or ability, and as a way of peace after conflict without involving state law.(Azmi 2025)

The process of identity transformation in Sewagheian is carried out through several stages of ritual that are full of meaning. First, *Rembuk Pekon* (village deliberations) attended by the parties to the dispute, extended families, traditional leaders (*Contributor*), and village officials.(Akbar Kurniadi, Sos, and Han n.d.) In this forum, the perpetrator openly admits his mistake, the victim conveys the losses they have experienced, and the traditional leader facilitates negotiations to reach an agreement. Second, the agreement includes material compensation (*Squirting* compensation) in accordance with the type of loss experienced, as well as the obligation of the perpetrator to restore the victim's good name. Penalties for the Criminal Procedure include compensation (*Squirting*) and return the stolen (*I'm Going to Be A Thief Again*). Third, the culmination of this process is the traditional ceremony of the adoption of the brother, which usually ends with a meal together as a symbol of reconciliation and the readmission of the perpetrator into the community.

The psychological impact of this identity transformation is significant. For the victim, this process provides social recognition that he or she has been harmed and is entitled to recovery.(Muis et al. 2025) More than that, because the perpetrator is now considered a "brother", the victim does not need to hold a grudge because it is psychologically difficult to hate his own family members. Within the framework of social psychology, this phenomenon can be explained through theory *cognitive dissonance*: When the perpetrator's status changes to a relative, the victim will cognitively adjust his negative perception to be consistent with the new status.(to Life n.d.) The psychological burden in the form of anxiety, insecurity, and trauma can be significantly reduced because the victim feels that they have received justice while not losing social relationships.

For the perpetrator, the transformation into a "brother" removes the criminal stigma inherent in the formal justice system. In the conventional criminal justice system, the status of "convict" or "ex-convict" becomes a permanent social burden that hinders their reintegration into society.(Wicaksono and Han 2026) This stigma is often a driving factor for recidivism, as ex-convicts are excluded from their social environment and find it difficult to get a job. In the Sewagheian mechanism, the perpetrator is no longer seen as a "criminal" but as a family member who has gone astray and has returned to the right path. This allows them to continue their normal lives without any inhibiting psychological and social burdens.

From a sociological perspective, Sewagheians strengthen the social cohesion of communities by turning enemies into brothers. Unresolved conflicts often leave behind "social wounds" that can trigger prolonged conflicts between families or

between villages. Research on the integration of Angkon Muakhi customary values (which is similar to Sewagheian) reveals that the current criminal law enforcement still does not fully involve the community, so even though restorative justice has been resolved, there are still disputes, seeds of conflict, and resentment from both the victim, the victim's family, and the surrounding community. (Karjono and Malau 2024) By turning enemies into brothers, Sewagheians break the chain of revenge that has the potential to damage the social order.

Research on the effectiveness of restorative justice in suppressing recidivism shows that the recidivism rate for offenders undergoing restorative justice is 40%, lower than 55% in conventional sentencing cases. However, this effectiveness relies heavily on resource capacity-building, law enforcement officer training, and community support. Sewagheian has a comparative advantage in the aspect of community support because it is a mechanism born from the community itself, not imposed from the outside. This explains why in regions that consistently apply Sewagheian, recidivism and recurrent conflict rates tend to be lower than in areas that rely only on formal judicial processes.

Sewagheian practice also reinforces the idea that justice can be understood not as an instrument of punishment, but as a mechanism for the reconstruction of social relations. In this view, a person's fault is not defined as a permanent defect in his character, but rather as a temporary disturbance in the balance of relationships that can be restored through corrective actions and reacceptance by the community. This approach is in line with the basic principles of *restorative justice* theorized by Howard Zehr, but Sewagheian offers a more profound mechanism through kinship-based identity transformation. (Rudi Margono 2026)

Integrative Policy Model for Strengthening Sewagheian in a Human Rights Perspective

Based on an analysis of the dynamics of legal integration and identity transformation mechanisms in Sewagheian practice, an integrative policy model is needed that is able to strengthen the protection of restorative customary practices while ensuring their adherence to international human rights principles. This policy model should not simply acknowledge the existence of customary law, but should also ensure that the practice does not perpetuate injustice, domination, or discrimination against vulnerable groups.

The first pillar in the integrative policy model is the strengthening of regulations at the technical level. Although Article 2 of the New Criminal Code has recognized *living law*, further arrangements in the form of Government Regulations (PP) as mandated by Article 2 of the National Criminal Code are still not available. The process of codifying customary law through Regional Regulations encountered obstacles because it took a long time, a large budget, and faced challenges of documentation of scattered indigenous peoples. Therefore, the teleological approach to the New Criminal Code, which views Article 2 not as a codification

mandate but as a guide for judges in finding and applying *living law*, needs to be widely adopted. To overcome this uncertainty, it is necessary to issue a Regulation of the National Police Chief (Perkap) and a Regulation of the Attorney General (Perja) which explicitly recognize the results of Sewagheian customary mediation as the basis for the termination of investigations or prosecutions for minor crimes with criminal threats of less than 5 years. As emphasized by experts, without clarity in the supervision mechanism, *restorative justice* at the investigation stage is feared to open transactional space in law enforcement and potentially create legal uncertainty.

The second pillar is the internal reform of Sewagheian customary practices to align with international human rights principles, particularly with regard to the transparency of the deliberative process, the voluntariness of the parties, and the protection of vulnerable groups (women, children, and persons with disabilities). Today, some Sewagheian processes are still taking place behind closed doors and are dominated by male traditional figures. In this context, it is important to ensure that the voices of victims, especially female victims, are heard equally. JAM-Pidum has encouraged restorative justice based on local wisdom with the note that customary law is recognized as long as it does not contradict Pancasila and human rights, thus opening up legal space for restorative practices at the local level. Similarly, local wisdom values such as *samama braya* (brotherhood) in Bali and the role of customary villages are important foundations in resolving minor legal conflicts outside the courts, with the aim of restoring harmony in relations between citizens. The same approach can be adopted to strengthen Sewagheian as a humanist restorative model.

The third pillar is to increase public awareness through collaborative legal education. Communities need to be educated about their legal rights, including the right to choose customary or litigation routes, as well as the legal consequences of each choice. The conflict resolution paradigm should not only be based on traditional compliance, but also on sound legal awareness. Legal counseling programs involving indigenous leaders, village officials, legal aid institutions, and academics can be an effective means to transform people's understanding of restorative justice. The decolonization of *restorative justice* in Indonesia requires the mobilization of *living law* as a co-constitutive legal ontology, by investigating how Indonesian customary justice conceptualizes loss, accountability, and reparation, as well as how its normative logic can be translated into a doctrine for pluralist criminal reform.

The fourth pillar is the strengthening of judicial supervision over the implementation of Sewagheian. Febby Nelson emphasized that the chairman of the district court is obliged to carefully and carefully examine every restorative justice process submitted at the investigation and investigation stage, ensuring that the mechanism does not run outside the legal corridor and does not contradict the

principles of balanced and fair justice. Without court supervision, the RJ mechanism at the investigation stage has the potential to become a transactional space between law enforcement officials and perpetrators. Therefore, any Sewagheian agreement that stops criminal proceedings must obtain a court determination that is substantive, not merely administrative. This is in line with the principle *of check and balance* in the criminal justice system which is the spirit of the 2025 Criminal Procedure Code.

The fifth pillar is the development of measurable success indicators to evaluate the effectiveness of Sewagheian as a model of restorative justice. These indicators can include the level of victim satisfaction, a decrease in recidivism, the speed of case resolution, costs saved compared to litigation, and the quality of post-conflict social relations. Research shows that the application of restorative justice can reduce recidivism if it is followed by resource capacity building, training of law enforcement officers, and community support. Periodic evaluations of Sewagheian implementation need to be carried out to ensure that this mechanism actually achieves its objectives and is not abused.

The sixth pillar is harmonization between law enforcement agencies to create uniform standard operating procedures (SOPs) across jurisdictions. Currently, the practice of receiving the results of customary mediation is highly dependent on the understanding and goodwill of each apparatus, which leads to inconsistencies and legal uncertainty. A regular coordination forum between the police, prosecutor's office, courts, local governments, and customary institutions is needed to equalize perceptions and procedures. The Deputy Attorney General for General Crimes (JAM-Pidum) has encouraged restorative justice based on local wisdom as an instrument for resolving cases through deliberation based on family values. Similar steps need to be taken by police and judicial institutions to create an ecosystem that supports Sewagheian integration into the national criminal justice system.

Through the implementation of these six policy pillars, the strengthening of technical regulations, customary internal reforms, collaborative public education, judicial supervision, measurable success indicators, and harmonization between Sewagheian institutions can be transformed from mere local wisdom on the periphery to a model of restorative justice that is integrated, standardized, and nationally recognized. This integration will not only benefit the people of Lampung, but can also serve as a model for other local wisdom in Indonesia to contribute to creating a justice system that is more humane, cheap, fast, and substantive justice.

CONCLUSION

This research proves that Sewagheian is a kinship-based restorative justice model that not only functions as a dispute resolution mechanism, but also as a process of transforming social identity from hostile relationships to fraternal relationships. Through the Rembuk Pekon mechanism, compensation negotiation

(*nyukak*), the Angkon Mewaghei ritual, and collective recognition of the community, Sewagheian is able to restore social relations, rebuild trust between victims and perpetrators, and strengthen the social cohesion of the indigenous people of Lampung. Ethnographic findings show that the effectiveness of this mechanism does not lie solely in achieving peace, but in the internalization of Piil Pesenggiri values that encourage moral responsibility, the readmission of perpetrators into the community, and the creation of voluntary legal compliance. The findings expand the concept of *restorative justice* from just conflict resolution to a kinship-based social transformation process.

This research also shows that the recognition of *living law* in Law Number 1 of 2023 concerning the Criminal Code, PERMA Number 1 of 2024, and Law Number 20 of 2025 concerning the Criminal Code opens up opportunities for the integration of customary law into the national criminal justice system. However, such integration still requires operational guidelines that ensure legal certainty, human rights protection, and harmonization between law enforcement and customary institutions. Therefore, this study offers a *kinship-based restorative justice* model as a new conceptual contribution to the study of legal anthropology and legal pluralism, while providing a basis for the development of policies that recognize customary law as part of a more humanistic, participatory, and sustainable reform of the criminal justice system.

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