

## RESTORATIVE JUSTICE AGAINST ARREST MARRIAGE PRACTICES AT THE WEST SUMBA POLICE

### JUSTIÇA RESTAURATIVA CONTRA AS PRÁTICAS PRISIONAIS E O CASAMENTO NA POLÍCIA DE WEST SUMBA

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#### Abstract

The Restorative Justice approach has increasingly attracted attention in criminal case resolution as it views crime as a violation of the rights of individuals/groups and of social relations, thereby requiring the offender to restore the harm caused. The phenomenon of “kawin tangkap” in customary communities in several regions, including West Sumba, presents a dilemma for the West Sumba Resort Police (Polres Sumba Barat): formal legal processes focused on criminal sanctions often fail to address the cultural and social dimensions of the communities involved. This study aims to analyze the possibilities and challenges of applying Restorative Justice to handle kawin tangkap cases in the Polres Sumba Barat jurisdiction and to formulate fair and sustainable solutions from legal and cultural perspectives. The research uses a juridical-normative approach enriched by empirical data (normative–empirical). Data were collected from primary, secondary, and tertiary legal materials as well as relevant field sources. The results are expected to provide recommendations for a more inclusive, culturally sensitive, and practicable dispute resolution model for law enforcement and customary communities; the research output will include a scientific article intended for international publication.

**Keywords:** Restorative Justice. Arrest Marriage Practices. West Sumba Police.

#### Resumo

A abordagem da Justiça Restaurativa tem atraído cada vez mais atenção na resolução de casos criminais, pois vê o crime como uma violação dos direitos de indivíduos/grupos e das relações sociais, exigindo, portanto, que o autor do delito repare o dano causado. O fenômeno do “kawin tangkap” em comunidades consuetudinárias de várias regiões, incluindo Sumba Ocidental, apresenta um dilema para a Polícia do Distrito de Sumba Ocidental (Polres Sumba Barat): os processos legais formais centrados em sanções penais frequentemente não conseguem abarcar as dimensões culturais e sociais das comunidades envolvidas. Este estudo tem como objetivo analisar as possibilidades e os desafios de aplicar a Justiça Restaurativa no tratamento dos casos de “kawin tangkap” na jurisdição da Polres Sumba Barat e formular soluções justas e sustentáveis sob as perspectivas jurídica e cultural. A pesquisa utiliza uma abordagem jurídico normativa enriquecida por dados empíricos (normativo empírica). Os dados foram coletados a partir de materiais jurídicos primários, secundários e terciários, bem como de fontes de campo relevantes. Espera-se que os resultados forneçam recomendações para um modelo de resolução de disputas mais inclusivo, culturalmente sensível e aplicável às forças de segurança e às comunidades consuetudinárias; o produto da pesquisa incluirá um artigo científico destinado à publicação internacional.

**Palavras-chave:** Justiça Restaurativa. Práticas de Casamento de Prisão. Polícia de West Sumba.



## 1 INTRODUCTION

Resolution through a Restorative Justice approach has received increasing attention in recent years. Restorative Justice views crime as a violation of individual and collective rights and a betrayal of the orderly and harmonious relationships within society. Crime thus gives rise to a responsibility on the part of the offender to restore the conditions that were violated and damaged, especially in the context of resolving criminal cases that involve local communities with a more humane approach focused on repairing the relationship between victim and offender.

One social phenomenon that has attracted attention in Indonesia is the tradition of "kawin tangkap" (bride capture), a practice found among customary communities in several regions, including West Sumba. The practice of kawin tangkap is closely linked to the social order that adheres to a patriarchal system on Sumba Island. This places men in more dominant roles in important community decision-making. Cases of kawin tangkap are one consequence of the patriarchal system that remains rooted in Sumba society. Therefore, the custom of kawin tangkap in Sumba, based on customary law, is one way of obtaining a wife and is considered permissible and legitimate under local adat. Although this tradition has deep cultural roots, in some cases the practice of kawin tangkap can provoke controversy, particularly regarding individual rights, gender equality, and its social impacts.

The West Sumba District Police (Polres Sumba Barat), as a law enforcement agency responsible for handling various legal issues, faces a dilemma when dealing with kawin tangkap cases. Formal legal processes, which often focus more on criminal sanctions or punishment, do not always provide solutions that address the cultural and social aspects of the communities involved. This is where the Restorative Justice (RJ) approach can play an important role in designing solutions that are more in line with local norms and cultural values without neglecting justice for all parties involved.

Restorative Justice itself, as an alternative method of resolving legal cases, is centered on its primary aim of delivering a sense of justice to the parties concerned. The restorative justice approach places greater emphasis on achieving justice and balance for both the offender and the victim. This approach prioritizes dialogue, responsibility, and the active participation of all parties involved in resolving the conflict. In the context of kawin tangkap, Restorative Justice not only seeks reconciliation between offender and

victim but also provides space for the community and family to play a role in a resolution process that emphasizes values of togetherness and social equilibrium.

However, implementing Restorative Justice in kawin tangkap cases at the West Sumba District Police faces particular challenges. One is how to formulate solutions that are fair and sustainable from both legal and cultural perspectives. Therefore, this study aims to explore how Restorative Justice can be applied in the context of kawin tangkap in West Sumba, and to analyze the potential benefits and obstacles that may arise in its implementation.

By examining the practice of kawin tangkap in the context of customary law and the Restorative Justice approach, this study is expected to provide new insights into dispute resolution that are more inclusive and sensitive to Indonesia's cultural diversity. In addition, the study aims to offer recommendations to the police and the community on how to improve understanding and implementation of Restorative Justice in law enforcement processes that are more grounded in local values and cultural wisdom.

## **2 RESEARCH METHODS**

The type of research method used in this study is empirical legal research, or a juridical-sociological analysis, since it is viewed from the perspective of law's function to protect society. The emphasis lies on legal and non-legal aspects that influence the functioning of law enforcement and justice in society as a harmonious or balanced elaboration of the values of certainty, utility, and fairness.

The primary approach in this study is a case-based approach related to law enforcement that is responsive to the interests of both perpetrators and victims of the practice known as kawin tangkap (marriage by capture) at the research site.

## **3 RESULTS AND DISCUSSION**

### **3.1 Implementation of Restorative Justice for kawin tangkap cases at the West Sumba Police**

The implementation of restorative justice in marriage-by-capture cases at the Sumba Barat District Police begins when the complainant arrives at the Integrated Police

Service Center (SPKT). If there is indication of a criminal offense and the victim is female or a child, the case is referred to the Unit for the Protection of Women and Children (Unit PPA). Restorative measures can be proposed by the victim or agreed by the parties; investigators facilitate, but the final decision rests with the victim.

Flow: report receipt, collection of initial evidence, and eligibility assessment; if met, the victim is referred to Unit PPA. The investigator's initial identification assesses evidence, possible criminal liability, the perpetrator–victim relationship, and signs of coercion.

Initial accompaniment provides information on rights, legal options, and legal or psychosocial accompaniment, and ensures the victim's consent is voluntary and informed. If the victim chooses the restorative route, a deliberation (*musyawarah*) is scheduled and facilitated by the investigator and the accompaniment team.

The deliberation is attended by the victim, perpetrator, families, customary or religious leaders, village officials, the Social Affairs Office (Dinsos), Legal Aid (LBH), social workers/psychologists, and NGOs. Negotiations cover material and non-material compensation, the community's role in reintegration, and guarantees for the victim's safety and privacy.

Outcomes are formalized in a Peace Agreement Letter specifying terms, implementation timelines, and sanctions. Implementation is documented (receipts, written statements, photos, official minutes) for verification and follow-up.

After implementation, a review is held to consider terminating the investigation if requirements are met. Police Regulation No. 8/2021 requires documented voluntary consent, availability of legal/psychosocial accompaniment, and that the offense type meets restorative criteria. Common obstacles include the perpetrator's limited finances.

Actors: Unit PPA investigators act as facilitator-evaluators; the victim holds decision-making power; lawyers, social workers, and psychologists ensure informed consent; customary leaders and village officials provide legitimacy but may exert pressure; Bhabinkamtibmas (community police), Intelkam (police intelligence), and Dinsos monitor. Cases from 2020 and 2023 highlight the need for a local SOP, post-restorative monitoring, protection from public pressure, independent assessments, and stronger investigator capacity. Priorities: a clear local SOP, human-rights and gender-sensitive training, scheduled monitoring mechanisms, and a case-recording system to

reduce under-reporting and strengthen interagency coordination. The focus must remain on victim safety, recovery, and long-term accountability.

### **3.2 Challenges in implementing Restorative Justice in kawin tangkap cases in the jurisdiction of Polres Sumba Barat**

The implementation of Restorative Justice (RJ) in kawin tangkap (marriage by capture) cases at Polres Sumba Barat (Sumba Barat Police Resort) has the potential to restore victims and communities but is hindered by structural issues, limited officer capacity, and cultural factors. Current practice is ad-hoc, prone to inconsistency, revictimization, and implementation failures, so procedural reform, victim protection, monitoring, and local accountability are needed.

There is no local SOP specific to kawin tangkap; the police resort only refers to Perpol No. 8/2021, which is general. As a result, handling depends on investigators' ad-hoc decisions, producing inconsistencies across cases. Recommendation: develop a local SOP aligned with Perpol that defines RJ eligibility criteria for kawin tangkap, procedures, roles, agreement formats, and clear protocols for situations of public pressure.

Officer capacity is limited: 95% of investigators received general investigative training that touched on RJ, but none have had specialized RJ training grounded in human rights and gender. Consequently, abilities to assess coercion, conduct gender-sensitive interviews, and protect victims are weak. Recommendation: deliver intensive training, trauma-informed interviewing, regular certification, post-RJ monitoring, risk assessment, and routine supervision.

Patriarchal dynamics and the role of adat leaders or families risk coercing victims during deliberations, meaning consent may not be free. Public pressure and media virality can also force cases into the formal court system even when the victim prefers RJ. Recommendation: require written informed consent, provide mandatory legal and psychosocial accompaniment, implement media-handling protocols and victim anonymization, and review decisions when threats arise prioritizing safety.

Common reparations are material, so immaterial recovery mental health, stigma reduction, reintegration is under-addressed. If the perpetrator cannot pay, agreements risk collapse. Recommendation: diversify reparations to include psychosocial services,

education/employment support, perpetrator reintegration programs, restorative customary rituals, and alternative funding sources (social assistance, Dinsos, community programs) with scheduled access to ongoing services.

Post-RJ monitoring is weak; no formal scheduled mechanism exists, so compliance is uncertain and further violence may go undetected. Recommendation: establish scheduled monitoring (e.g., 1, 3, 6 months) by Bhabinkamtibmas (community police officers) with standard report formats and recording in a Polres RJ case database for long-term evaluation, with limited public reporting and analysis.

Customary norms are strong and many cases are resolved within the community, so official data are minimal Polres recorded one formal case in three years leading to under-reporting and policy gaps. Priorities: create a local SOP, provide human-rights and gender training, implement scheduled monitoring, diversify reparations, set media protocols, and use success indicators focused on measurable, sustainable victim recovery.

### **3.3 The impact of implementing restorative justice on perpetrators and victims in the context of the "kawin tangkap" cultural practice in West Sumba**

Based on field data (investigator interviews, FGDs, internal documents), the application of restorative justice (RJ) in kawin tangkap cases at the West Sumba Police Resort (Polres Sumba Barat) shows multifaceted effects. RJ delivers tangible benefits when agreements respect victims' rights, but it poses serious risks if monitoring and accompaniment are inadequate, particularly regarding revictimization and community stigma.

For victims, positive effects appear when RJ is implemented according to its principles: satisfaction, psychosocial recovery, and access to services from the Department of Social Affairs (Dinsos), social workers (peksos), psychologists, and legal aid organizations (LBH), as well as the potential for family and customary community reconciliation. Material compensation and services improve social reintegration and reduce the likelihood of continued criminal charges, thereby accelerating victims' recovery, as evident in the field.

However, weak implementation generates risks: revictimization due to the absence of formal monitoring mechanisms; community pressure to withdraw statements; social stigma accusing victims of "betraying custom"; and compensation that is often

inadequate or not delivered, increasing victims' material and psychological burdens. The availability of LBH and similar support determines victim safety when accompaniment is lacking.

For perpetrators, RJ offers accountability opportunities: acknowledgment of wrongdoing, behavioral change, and reintegration if accompanied by social support. Yet without preventive sanctions, long-term monitoring, economic rehabilitation, or counseling, some perpetrators reoffend; effectiveness also depends on perpetrators' economic capacity to meet reparations and on mechanisms that enforce agreements.

Systemically, RJ affects case-resolution statistics because cases may be discontinued after agreements, but administrative closure does not necessarily equal substantive justice for victims. Implementing RJ without SOPs, human-rights-based training, and adequate documentation undermines institutional legitimacy, complicates long-term evaluation, and can drive demands for more formal processes perceived as fairer.

Empirical evidence shows underreporting: in the past three years only one kawin tangkap report was formally processed. A 2023 case illustrates an alternative pathway collapsing under public pressure, leading the victim and family to abandon RJ and pursue court proceedings; the victim reported that even after legal resolution they did not feel justice had been served. This situation is worrisome.

Recommendations: formalize local SOPs for RJ in kawin tangkap cases; require LBH and psychosocial accompaniment and clear written informed consent; implement post-RJ monitoring (visits at 1, 3, and 6 months by Bhabinkamtibmas and Dinsos); provide human-rights and gender-sensitive training for investigators; and create a standardized, non-identifiable RJ case database. Without these measures, RJ risks revictimization and substantive injustice. Institutional compliance is necessary.

#### **4 CONCLUSION**

The results of this study found that.

Firstly, The implementation of Restorative Justice (RJ) at the Sumba Barat District Police (Polres Sumba Barat) has emerged as a concrete alternative for resolving kawin tangkap (abduction-marriage) cases, following the general procedure: report → SPKT → referral to Unit PPA (Women and Children Protection Unit) → eligibility assessment →

deliberation → Memorandum of Agreement → implementation → case review. In practice, this process is multi-actor and culturally embedded: deliberations involve victims, perpetrators, families, customary and religious leaders, village officials, LBH (legal aid organizations) or advocates, social workers/psychologists (peksos), and NGOs. Local actor involvement provides cultural legitimacy and culturally sensitive resolution but also creates potential for social pressure on victims and risks to the voluntariness of consent.

Secondly, The most frequently agreed form of resolution is material compensation, while non-material recovery measures occur less often. In practice, assessments of eligibility and the form of reparations tend to be pragmatic and oriented to the perpetrator's financial capacity, so failure to meet material demands is a primary obstacle to implementing agreements. Legal and procedural certainty largely refers to Police Regulation No. 8/2021 (Perpol 8/2021) and internal Polres practices, with formal criteria such as documented voluntary consent and the presence of accompaniment; however, in the field, interpretation of material criteria often emphasizes whether demands are feasible given the perpetrator's capacity.

Thirdly, The role of Unit PPA investigators as facilitators and eligibility assessors is crucial, while legal and psychosocial accompaniment determines the quality of informed consent and the ability to identify coercion; absence of accompaniment reduces victim protection. Post-settlement governance is weak: monitoring of implementation is unsystematic, evidence of performance is not always fully collected, and there is no local SOP specifically for kawin tangkap, resulting in low accountability. Decisions to discontinue investigations depend on evidence of agreement implementation and case review but are vulnerable to community pressure and other non-legal factors. Normatively, RJ offers a more humane, culturally sensitive approach, but in practice it requires strong protections for victims' rights so as not to sacrifice legal certainty. Recommended measures include strengthening local SOPs, establishing structured monitoring systems, training facilitators, ensuring consistent access to legal and psychosocial accompaniment for victims, and conducting regular evaluations.

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### **Authors' Contribution**

Both authors contributed equally to the development of this article.

### **Data availability**

All datasets relevant to this study's findings are fully available within the article.

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