

## **The Quasi-Judicial Role of *Hakam* in Malay Customary Justice of Jambi as an Alternative Dispute Resolution**

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### ***Abstract***

*This article examines the position and role of *hakam* within the Jambi Malay customary justice system, with particular emphasis on their function as a form of quasi-judicial authority and as an alternative dispute resolution (ADR) mechanism within Indonesia's plural legal system. Previous studies on customary law and dispute resolution have largely framed adat as a cultural normative system, while paying limited attention to the adjudicative functions exercised by customary actors operating outside the formal structure of state courts. Employing a socio-legal research approach with a qualitative juridical-empirical design, this study draws on in-depth interviews with customary leaders and *hakam* in Jambi Province, complemented by doctrinal analysis and a review of relevant academic literature. The findings reveal that *hakam* perform substantive judicial functions, including fact-finding, interpretation of customary and religious norms, the issuance of socially binding decisions, and the imposition of sanctions grounded in community norms. These practices position *hakam* not merely as mediators, but as legal actors exercising limited adjudicative authority within a non-state legal framework. The article argues that recognizing *hakam* as a quasi-judicial form of ADR enriches contemporary debates on legal pluralism and challenges state-centric conceptions of justice. From a normative perspective, the study recommends a model of recognition and coordination between state law and customary justice to enhance access to justice without undermining the social legitimacy of customary institutions.*

**Keywords:** *hakam; legal pluralism; quasi-judicial authority; alternative dispute resolution.*

### **Abstrak**

Artikel ini mengkaji kedudukan dan peran *hakam* dalam sistem keadilan adat Melayu Jambi dengan menitikberatkan pada fungsinya sebagai quasi-judicial authority serta sebagai mekanisme alternative dispute resolution (ADR) dalam konteks sistem hukum yang plural di Indonesia. Kajian-kajian terdahulu mengenai hukum adat dan penyelesaian sengketa umumnya menempatkan adat sebatas sebagai sistem norma kultural, sementara fungsi adjudikatif aktor adat di luar struktur peradilan negara masih relatif kurang dieksplorasi secara mendalam. Dengan menggunakan pendekatan socio-legal research dan desain penelitian kualitatif yuridis-empiris, artikel ini memanfaatkan data wawancara mendalam dengan tokoh adat dan *hakam* di Provinsi Jambi, yang dilengkapi dengan analisis doktrinal serta telaah literatur akademik relevan. Hasil penelitian menunjukkan bahwa *hakam* menjalankan fungsi-fungsi yudisial substantif, meliputi pemeriksaan fakta, interpretasi norma adat dan keagamaan, pengambilan keputusan yang bersifat mengikat secara sosial, serta penetapan sanksi berbasis norma komunitas. Praktik-praktik tersebut menempatkan *hakam* tidak sekadar sebagai mediator, melainkan sebagai aktor hukum dengan kewenangan adjudikatif terbatas dalam kerangka hukum non-negara. Artikel ini berargumen bahwa pengakuan terhadap *hakam* sebagai mekanisme ADR yang bersifat quasi-judicial memperkaya diskursus pluralisme hukum dan menantang pandangan keadilan yang berorientasi negara semata.

Secara normatif, penelitian ini merekomendasikan model pengakuan dan koordinasi antara hukum negara dan keadilan adat guna memperkuat akses terhadap keadilan tanpa menggerus legitimasi sosial lembaga adat.

**Kata Kunci:** *hakam*; pluralisme hukum; quasi-judicial; alternative penyelesaian sengketa.

## Introduction

Dispute resolution constitutes a crucial component of any legal system. Within the context of customary law, dispute settlement processes are often conducted through locally embedded mechanisms that operate within the social structure of the community concerned. From the perspective of legal pluralism, law is not exclusively administered by state courts; rather, it encompasses a variety of informal and community-based institutions that manage conflicts in accordance with locally recognized norms and value (Berman, 2020; Merry, 2009). This pluralistic configuration becomes particularly significant in regions where customary legal traditions remain robust and socially authoritative, such as in Jambi Province, Indonesia.

In Jambi, Malay customary law (*hukum adat Melayu*) has long constituted an integral part of social life, functioning as a normative framework governing social relations and conflict resolution within indigenous communities. Empirical studies indicate that customary institutions in Jambi continue to play an active role in resolving community disputes through localized procedures that have been transmitted across generations (Manik, 2019). The persistence of these institutions demonstrates that customary norms are not merely symbolic but are effectively applied in regulating behavior and addressing disputes, thereby coexisting with the formal state legal system.

The strength of Jambi Malay customary law is closely linked to the community's deeply rooted legal values, which are articulated through *seloko adat* traditional expressions that encapsulate moral principles and guidelines for collective life (Rahima & Zahar, 2023). These expressions emphasize fundamental values such as justice, deliberation (*musyawarah*), and consensus (*mufakat*) in the settlement of disputes. Such values form the normative foundation that underpins the social legitimacy of alternative dispute resolution mechanisms within the community. Consequently, recognition of customary law in Jambi illustrates that dispute resolution is not confined to state judicial institutions but also unfolds within socially embedded, non-formal arenas that remain highly relevant in practice.

In practice, customary institutions in Jambi play a significant role in addressing a wide range of social issues, including land disputes, inheritance matters, and interpersonal conflicts, which are predominantly resolved through customary deliberative processes (*musyawarah adat*). Empirical research demonstrates that Jambi Malay customary institutions continue to function effectively in

resolving community disputes, despite operating outside the formal procedures of state judicial institutions (Suryahartati et al., 2021). This practice reflects the presence of locally recognized authority within the community, where decisions rendered by customary institutions are socially accepted and capable of restoring social order and harmony.

Theoretical debates surrounding the authority of customary institutions increasingly engage with the concept of quasi-judicial authority, referring to forms of authority that resemble formal judicial power while remaining grounded in customary norms and local social values. Such authority may encompass fact-finding processes, decision-making in disputes, and the imposition of social sanctions that are collectively acknowledged by the community as legitimate forms of resolution. This conceptual framework is essential for explaining why customary institutions are able to function as legitimate alternative dispute resolution mechanisms within plural legal settings, where state law coexists with non-state normative orders (Habi et al., 2024).

Despite the growing recognition of the role of customary institutions in dispute resolution, academic scholarship has yet to comprehensively explore their position and function as quasi-judicial authorities, particularly within the specific context of Jambi Malay customary law as an alternative dispute resolution mechanism. Existing studies tend to focus more broadly on the general existence of customary law or emphasize particular aspects such as cultural values and normative application, rather than providing a focused analysis of the adjudicative role performed by customary judges or decision-makers (*pengadil adat*) (Supian et al., 2018). As a result, the institutional dynamics and normative authority of customary adjudication remain under-theorized.

It is within this scholarly gap that the present study positions *hakam*—customary leaders or community mediators who are frequently called upon in dispute resolution processes—as the central object of analysis. By examining how *hakam* exercise informal adjudicative functions based on Jambi Malay customary law, this study seeks to uncover the characteristics of authority that closely resemble formal judicial processes. At the same time, it assesses the extent to which *hakam*-based adjudication operates as a socially legitimate and functionally effective alternative dispute resolution mechanism within the community (Tamanaha, 2010).

Based on this background, this article aims to analyze the position and role of *hakam* within the Jambi Malay customary legal system as a form of quasi-judicial authority in dispute resolution. Furthermore, it evaluates the practical significance of *hakam*-based mechanisms as an alternative for communities alongside the formal state judicial system. Through this approach, the study is expected to contribute to broader debates on legal pluralism and to enhance scholarly recognition

of effective, community-rooted non-state adjudicative mechanisms within contemporary legal systems.

## Research Method

This study adopts a socio-legal research approach, which conceptualizes law as a living social practice that operates within specific societal contexts. This approach is particularly relevant for examining the role of *hakam* within the Jambi Malay customary justice system, as it enables an analysis of the interaction between customary norms, religious values, and social legitimacy in dispute resolution processes conducted outside the formal state judiciary (Banakar & Travers, 2005). Through this lens, *hakam* are understood not merely as cultural figures, but as legal actors who exercise quasi-judicial functions in the everyday legal practices of indigenous communities.

The research employs a qualitative methodology with a juridical-empirical design. Primary data were obtained through in-depth interviews aimed at exploring the practices, authority, and procedural mechanisms of dispute resolution carried out by *hakam* within the context of Jambi Malay customary law. Secondary data were collected through a comprehensive literature review of statutory regulations, documents related to the legal recognition of customary law, and indexed academic literature addressing legal pluralism, customary adjudication, and alternative dispute resolution (Cane & Kritzer, 2012). This combination of data sources allows for a nuanced understanding of both normative frameworks and empirical realities.

Interviews were conducted using purposive sampling with three principal informants who possess recognized authority and direct experience in the practice of Jambi Malay customary adjudication. These informants include H. Zainal Abidin, a customary leader and executive member of the Jambi Provincial Malay Customary Council (Lembaga Adat Melayu, LAM); Datuk Syamsurizal, a customary *hakam* actively involved in community dispute resolution in Muaro Jambi Regency; and Datuk Fathuddin, a customary *hakam* from Batang Hari Regency. These individuals were positioned as key informants to represent *hakam* practices at both provincial and regency levels, as well as to capture variations in roles and authority across different local contexts (Patton, 2015).

Data analysis was conducted through qualitative thematic analysis, encompassing stages of data reduction, coding, thematic categorization, and interpretative conclusion drawing. Interview data were analyzed by systematically linking empirical findings to the concept of quasi-judicial authority and theories of legal pluralism. To ensure the validity and reliability of the findings, this study applied source triangulation by comparing accounts across informants and corroborating them with secondary data and relevant academic literature (Denzin, 2017).

## Results and Discussion

## ***Normative Basis and Authority of Hakam in Malay Customary Justice***

The position of *hakam* within the Jambi Malay customary justice system cannot be separated from the character of customary law as a living law that evolves and functions within the social structure of the community. From the perspective of legal pluralism, customary law operates as an autonomous normative system that possesses its own authority, despite existing outside the formal structure of the state judiciary (Merry, 2009). In this context, the presence of *hakam* reflects the way in which indigenous communities construct internal adjudicative mechanisms grounded in shared values, collective consensus, and socially embedded legitimacy. Such mechanisms demonstrate that legal authority may emerge organically from social relations rather than being solely imposed through formal state institutions.

The normative foundation of *hakam* authority is rooted in the integrative principle of custom and religion, widely recognized in Jambi Malay society through the maxim *adat bersendi syarak, syarak bersendi Kitabullah* (custom is founded upon religious law, and religious law is founded upon the Qur'an). This principle functions not merely as a cultural symbol, but as a substantive normative reference for assessing right and wrong, justice and injustice, in the process of dispute resolution (Rahima & Zahar, 2023). It serves as an ethical compass that aligns customary decisions with religious values, thereby strengthening their moral acceptability. As emphasized by H. Zainal Abidin, a prominent customary leader of the Jambi Provincial Malay Customary Council (LAM), “customary decisions must not contradict syarak, because it is through this alignment that justice is accepted by the community” (Interview, Jambi, March 2025).

The legitimacy of *hakam* is further shaped by a socio-cultural appointment mechanism rather than by administrative or bureaucratic procedures. A *hakam* is selected based on recognized knowledge of customary law, moral integrity, and the ability to maintain social balance within the community, rather than through formal appointment by the state (Supian et al., 2018). This process underscores the communal nature of authority in customary systems. In an interview, Datuk Syamsurizal, a customary *hakam* in Muaro Jambi Regency, explained that community trust constitutes the primary source of *hakam* authority: “If the community does not trust the *hakam*, customary decisions will not be obeyed” (Interview, Muaro Jambi, March 2025). This statement illustrates how legitimacy is socially constructed and continuously negotiated.

From the standpoint of legal pluralism theory, the authority exercised by *hakam* represents a form of non-state legal authority that coexists alongside state law (Griffiths, 1986; Holden, 2016). This authority operates through social norms, moral sanctions, and deliberative mechanisms that are collectively recognized as valid within the community. Rather than relying on formal coercive

power, *hakam* authority derives its effectiveness from shared understandings of obligation and responsibility. Consequently, *hakam* perform genuine legal functions, even in the absence of enforcement mechanisms typically associated with formal courts.

The dispute resolution practices led by *hakam* reveal the existence of processes involving fact-finding, normative assessment, and the formulation of decisions that are socially final and binding. These practices go beyond mere facilitation or negotiation. As noted by Datuk Fathuddin, a customary *hakam* in Batang Hari Regency, in certain customary cases the *hakam*'s decision "does not merely reconcile the parties, but determines who is at fault and what obligations must be fulfilled" (Interview, Batang Hari, June 2025). This characteristic underscores that *hakam* function not only as mediators but also as customary adjudicators endowed with limited adjudicative authority.

Community compliance with *hakam* decisions is reinforced through social sanction mechanisms such as malu adat (customary shame), symbolic exclusion, and collective moral pressure (De Sousa Santos, 2020). These mechanisms operate as effective instruments of normative control, ensuring adherence to customary rulings without recourse to state coercion. In many instances, the strength of these social sanctions renders customary decisions more respected and effectively enforced than formal court judgments, which may be perceived as distant or procedurally complex by local communities.

Accordingly, the normative foundation and authority of *hakam* within the Jambi Malay customary justice system exhibit the defining characteristics of quasi-judicial authority, deeply rooted in customary norms, religious values, and social legitimacy (Tamanaha, 2010). Understanding this configuration is essential for positioning *hakam* as significant legal actors within Indonesia's dispute resolution landscape, as well as for recognizing their role as part of alternative justice mechanisms in a plural legal system. This perspective also invites broader reflection on how non-state adjudicative practices contribute to access to justice at the community level.

### ***Quasi-Judicial Functions of Hakam in Customary Dispute Resolution Practices***

The functions performed by *hakam* in Jambi Malay customary dispute resolution demonstrate a mode of authority that extends beyond informal mediation and approaches the characteristics of judicial adjudication. Although *hakam* operate outside the institutional structure of state courts, their practices reflect essential elements of legal decision-making, including fact assessment, normative interpretation, and the issuance of binding resolutions. Within a legal

pluralism framework, this phenomenon illustrates that adjudicative authority may exist within non-state legal orders that are socially legitimate and normatively coherent (Diala, 2017; von Benda-Beckmann, 2002).

A central quasi-judicial function exercised by *hakam* is the examination of facts underlying a dispute. In customary proceedings, *hakam* listen to the narratives of the disputing parties, assess witness accounts, and draw upon communal knowledge to reconstruct events. This process reflects a structured evaluative practice rather than an unregulated dialogue, aiming to identify responsibility and moral accountability within the community. Such fact-finding functions parallel evidentiary assessment in formal judicial processes, albeit conducted through oral deliberation and collective reasoning (Merry, 2006).

Following factual assessment, *hakam* engage in normative interpretation by applying customary norms (*adat*), religious principles (*syarak*), and ethical values that govern social conduct. This interpretive role is decisive, as it establishes the normative standards used to evaluate actions and resolve disputes. Unlike state judges who prioritize statutory interpretation, *hakam* operate within an integrated normative framework where custom and religion form a unified source of legal authority. This reinforces the adjudicative dimension of *hakam*'s role within customary justice (Tamanaha, 2010).

**Table 1. Comparison between Judicial Functions and Quasi-Judicial Functions of *Hakam***

Aspect	State Judicial Institutions	<i>Hakam</i> in Customary Justice
<b>Source of authority</b>	Statutory law and state sovereignty	Customary norms, religion, and social legitimacy
<b>Fact-finding</b>	Formal evidentiary rules and procedures	Oral testimonies and communal knowledge
<b>Normative basis</b>	Codified law and legal precedent	<i>Adat</i> , <i>syarak</i> , and local ethical values
<b>Decision-making</b>	Binding judicial rulings	Socially binding customary decisions
<b>Sanctioning</b>	Coercive enforcement by the state	Social sanctions ( <i>malu adat</i> , moral pressure)
<b>Compliance mechanism</b>	Legal enforcement apparatus	Community acceptance and social control

Table 1 illustrates the functional similarities and structural differences between formal judicial authority and the quasi-judicial authority exercised by *hakam*, highlighting the adjudicative character of customary dispute resolution.

The decision-making authority of *hakam* constitutes a defining feature of their quasi-judicial role. In many cases, *hakam* issue determinations that explicitly identify wrongdoing, assign

responsibility, and prescribe obligations such as restitution, apology, or fulfillment of customary duties. These decisions are not merely advisory but are understood as authoritative outcomes within the community (De Sousa Santos, 2020). The presence of social finality, despite the absence of formal appeal mechanisms, situates *hakam* within the domain of adjudicative actors rather than facilitators of consensus.

Another crucial element of *hakam*'s quasi-judicial authority is the capacity to impose social sanctions. Sanctions such as malu adat (customary shame), symbolic exclusion, or moral reprimand operate as mechanisms of normative enforcement. While lacking coercive power in the formal legal sense, these sanctions are often highly effective due to the dense social relations and shared values within indigenous communities. This mode of enforcement underscores a distinctive form of legal effectiveness rooted in social legitimacy rather than state coercion (Rahima & Zahar, 2023).

Compliance with *hakam* decisions is reinforced by the perception that customary rulings are socially final and morally binding. Once a decision is reached through deliberative processes, parties are expected to comply as an expression of respect for communal norms. Empirical findings indicate that non-compliance may lead to broader social consequences, including reputational harm and exclusion from communal activities. This reinforces the authority of *hakam* decisions and sustains the effectiveness of customary justice mechanisms (Interview, Muaro Jambi, March 2025).

These combined functions distinguish *hakam* from mediators in conventional alternative dispute resolution frameworks. While mediation emphasizes voluntary agreement and party autonomy, *hakam* exercise authoritative judgment grounded in communal norms and moral expectations. Their role incorporates elements of mediation, arbitration, and adjudication, producing a hybrid model of dispute resolution that challenges rigid ADR classifications (Menkel-Meadow, 2017). This hybridity justifies the analytical use of the term quasi-judicial to describe *hakam*'s authority.

Taken together, the practices of fact-finding, normative interpretation, authoritative decision-making, sanctioning, and enforcement through social mechanisms demonstrate that *hakam* perform substantive quasi-judicial functions within Jambi Malay customary justice. These functions operate effectively within a non-state legal order that is socially legitimate and normatively grounded (Humfress, 2024). Recognizing the quasi-judicial nature of *hakam* is therefore essential for understanding the role of customary adjudication in sustaining legal order and dispute resolution within plural legal systems such as Indonesia.



*Hakam as an Alternative Dispute Resolution Mechanism in a Plural Legal System*

Current studies on legal pluralism emphasize that access to justice in plural legal orders cannot be fully understood through state courts alone; non-state dispute resolution mechanisms play an indispensable role in practice (Mertz, 2015). In plural settings, ADR mechanisms are not peripheral alternatives but constitute core components of how communities negotiate social order and resolve conflicts. In this context, the dispute resolution processes facilitated by *hakam* in Jambi reflect a legitimate, community-endorsed ADR mechanism grounded in local normative orders.

Empirical research over the past decade shows that formal judicial systems continue to face significant barriers in rural and indigenous settings, including procedural complexity, costs, and cultural dissonance between formal law and community norms (Sandefur & Burnett, 2024). In response, community-based mechanisms such as the *hakam* provide culturally intelligible and socially accessible pathways for resolving disputes deeply rooted in local values. These mechanisms effectively fill gaps left by the formal judiciary without replacing its constitutional authority.

Contemporary ADR literature highlights the growing importance of restorative justice frameworks, which prioritize social harmony and relational repair over adversarial adjudication.<sup>67</sup> *Hakam*-based dispute resolution embodies this ethos: rather than focusing on legal formalism, the process emphasizes restoration of relationships and reintegration into the community, aligning closely with restorative justice principles.

**Table 2. Comparative Position of *Hakam* within Alternative Dispute Resolution Models**

Dimension	Mediation	Arbitration	<i>Hakam</i> -Based ADR
Source of authority	Party consent	Statutory/contractual	Community normativity & social legitimacy
Role of third party	Neutral facilitator	Arbitrator	Customary adjudicator ( <i>hakam</i> )
Nature of outcome	Voluntary settlement	Binding award	Community-binding customary decision
Basis of norms	Party interests	Law/contract	<i>Adat, syarak</i> , local values
Enforcement mechanism	Social pressure	State enforcement	Social sanctions & communal obligation
Primary objective	Settlement	Legal resolution	Social harmony & moral repair

Table 2 demonstrates that the authority of *hakam* operates in a hybrid space that combines adjudicative and community-based features, situating it within the broader spectrum of ADR mechanisms.

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Unlike conventional mediation, which depends primarily on the voluntary agreement of disputing parties (Zehr, 2015), *hakam* exercise a form of authoritative decision-making that is socially binding and normatively grounded within the customary order. Their role goes beyond facilitation, as *hakam* are entrusted with evaluating facts, interpreting adat norms, and articulating outcomes that carry moral and social force. Unlike arbitration, which derives its binding character from contractual consent and statutory enforcement, the authority of *hakam* emanates from sustained community recognition, cultural embeddedness, and customary legitimacy. This hybrid character situates *hakam* at the intersection of adjudication and mediation, thereby challenging rigid binary classifications within conventional ADR theory. As such, the *hakam* institution underscores the necessity of context-sensitive analytical frameworks that can accommodate legally plural forms of dispute resolution operating outside formal state law.

Recent socio-legal analyses suggest that non-state ADR mechanisms do not exist in opposition to formal legal systems but often coexist functionally alongside them (Galán & Patterson, 2013). In many plural legal systems, state courts and customary institutions address different types of disputes, audiences, and social expectations. Within this configuration, *hakam*-based dispute resolution contributes to broader dispute governance by managing conflicts that are socially embedded, normatively dense, and culturally framed in ways that formal courts may not address effectively. Rather than competing for legal authority, customary ADR often operates as a first layer of conflict management, reducing escalation and litigation burdens on the formal judiciary. This pattern of interaction reflects a complementary rather than competitive relationship between customary justice and state law, reinforcing the adaptive capacity of plural legal orders.

The contribution of *hakam* to access to justice aligns closely with contemporary ADR scholarship that emphasizes inclusion, fairness, and legitimacy in community-based dispute resolution (Ury, 2015). By minimizing procedural complexity, financial costs, and institutional distance, *hakam*-based mechanisms lower practical barriers that often exclude marginalized community members from formal justice systems. Moreover, the cultural resonance of adat-based processes enhances meaningful participation, as disputants engage with norms and procedures they recognize as legitimate. This combination of accessibility and normative familiarity fosters higher levels of compliance and social acceptance of outcomes. Such processes are particularly valuable in contexts where formal legal interventions may be perceived as alien, adversarial, or disconnected from local moral economies.

Despite its practical value and social effectiveness, *hakam*-based ADR also raises important normative concerns, particularly with respect to consistency, accountability, and the protection of

vulnerable parties such as women, children, or minority groups (Sarat & Kearns, 2009). The absence of standardized procedures and external oversight may lead to variability in decision-making and potential power imbalances within customary forums. These challenges do not invalidate the legitimacy of *bakam*-based mechanisms, but rather call for critical engagement with their normative limits. Addressing such concerns requires the development of contextual safeguards that respect customary autonomy while aligning dispute resolution practices with broader principles of justice, equality, and human rights recognized in contemporary legal discourse.

Taken together, *bakam* function as a culturally embedded and socially effective ADR mechanism within Indonesia's plural legal landscape. Their authority is sustained not through state coercion or formal enforcement, but through communal trust, normative coherence, and procedural accessibility rooted in adat and religious values. This form of authority enables *bakam* to resolve disputes in ways that are socially meaningful and normatively persuasive for the communities they serve. Recognizing *bakam* as an integral component of ADR enriches contemporary understandings of dispute resolution beyond state-centric models. More broadly, it affirms the continued relevance of non-state justice institutions in plural legal orders where multiple normative systems interact and mutually shape the governance of social conflict (Giudice, 2014).

## Conclusion

This study demonstrates that *bakam* occupy a structurally significant position within the Jambi Malay customary justice system, functioning as a form of quasi-judicial authority grounded in adat norms, religious values, and social legitimacy. Empirical findings reveal that *bakam* do not merely facilitate consensual settlement, but actively engage in fact assessment, normative reasoning, and the formulation of socially binding decisions. These practices confirm that customary dispute resolution in Jambi operates as a living legal institution within a plural legal order, rather than as a residual or informal mechanism subordinate to state law. Conceptually, this reinforces legal pluralism scholarship by illustrating how non-state adjudicative actors exercise genuine legal authority outside formal judicial structures.

Beyond its descriptive contribution, this article advances the theoretical understanding of alternative dispute resolution by challenging conventional dichotomies between mediation and adjudication. The *bakam* institution represents a hybrid model of dispute resolution that combines deliberative consensus, moral sanction, and adjudicative determination in a culturally embedded framework. Recognizing this hybrid character invites a rethinking of ADR theory that moves

beyond contract-based and state-centered paradigms toward context-sensitive models capable of capturing normative authority rooted in community recognition. In this respect, the study contributes to broader debates on plural legal governance by demonstrating how customary institutions can complement, rather than compete with, state justice systems in managing socially embedded disputes.

From a policy perspective, these findings suggest the need for a more nuanced approach to the relationship between customary justice and state law in Indonesia. Rather than formalizing or bureaucratizing *hakam* institutions in ways that risk undermining their social legitimacy, policymakers should focus on frameworks of recognition and coordination that respect customary autonomy while ensuring basic safeguards for accountability and the protection of vulnerable groups. Future reforms could include soft-law guidelines, capacity-building initiatives, and dialogical mechanisms between customary leaders and state legal actors. Such an approach would strengthen access to justice, preserve legal diversity, and enhance the overall resilience of Indonesia's plural legal system by acknowledging the continued relevance of community-based adjudication in contemporary dispute resolution.

## References

- Banakar, R., & Travers, M. (2005). Theory and Method in Socio-legal Research. In *Oñati international series in law and society*.
- Berman, P. S. (2020). Sally Engle Merry and Global Legal Pluralism. *Law & Society Review*, 54(4). <https://doi.org/10.1111/lasr.12515>
- Cane, P., & Kritzer, H. M. (2012). The Oxford Handbook of Empirical Legal Research. In *The Oxford Handbook of Empirical Legal Research*. <https://doi.org/10.1093/oxfordhb/9780199542475.001.0001>
- De Sousa Santos, B. (2020). *Toward a New Legal Common Sense: Law, Globalization, and Emancipation*, 2nd. ed. Cambridge University Press. <https://doi.org/10.1017/9781316662427>
- Denzin, N. K. (2017). The Research Act: A Theoretical Introduction to Sociological Methods. In *The Research Act: A Theoretical Introduction to Sociological Methods*. <https://doi.org/10.4324/9781315134543>
- Diala, A. C. (2017). The concept of living customary law: a critique. *Journal of Legal Pluralism and Unofficial Law*, 49(2), 143–165. <https://doi.org/10.1080/07329113.2017.1331301>
- Galán, A., & Patterson, D. (2013). The limits of normative legal pluralism: Review of Paul Schiff Berman, global legal Pluralism: A jurisprudence of law beyond Borders. *International Journal of Constitutional Law*, 11(3). <https://doi.org/10.1093/icon/mot029>
- Giudice, M. (2014). Global legal pluralism: What's law got to do with it? *Oxford Journal of Legal Studies*, 34(3). <https://doi.org/10.1093/ojls/gqu007>

- Griffiths, J. (1986). What is legal pluralism? *Journal of Legal Pluralism and Unofficial Law*, 18(24). <https://doi.org/10.1080/07329113.1986.10756387>
- Habi, N. F., Adawiyah, R., Harun, H., & Kurniawan, A. (2024). Prioritizing Restorative Justice in the Settlement of the Sumbang Besak Adultery Case in Babeko Village, Jambi. *El-Mashlahah*, 14(2), 343–360. <https://doi.org/10.23971/el-mashlahah.v14i2.8030>
- Holden, L. (2016). Legal pluralism and governance in South Asia and diasporas. In *Legal Pluralism and Governance in South Asia and Diasporas*. <https://doi.org/10.4324/9781315748849>
- Humfress, C. (2024). Legal Pluralism's Other: Mythologizing Modern Law. *Law and History Review*, 42(2). <https://doi.org/10.1017/S0738248023000172>
- Manik, H. (2019). Eksistensi Lembaga Adat Melayu Jambi Dalam Penyelesaian Sengketa Masyarakat Adat. *Jurnal Selat*, 6(2). <https://doi.org/10.31629/selat.v6i2.1323>
- Menkel-Meadow, C. (2017). The many ways of mediation: The transformation of traditions, ideologies, paradigms, and practices. In *Foundations of Dispute Resolution* (Vol. 1). <https://doi.org/10.4324/9781315257600-14>
- Merry, S. E. (2006). *Human Rights and Gender Violence: Translating International Law into Local Justice*. University of Chicago Press.
- Merry, S. E. (2009). Legal Pluralism and Gender Justice. *Law & Society Review*, 42(4), 1011–1039.
- Mertz, E. (2015). *Law and Justice as Seen on TV and in the Community*. Oxford University Press.
- Patton, M. Q. (2015). Qualitative research and evaluation methods: Theory and practice; Fourth Edition. *SAGE Publications, Inc.*
- Rahima, A., & Zahar, E. (2023). Local Wisdom Values on Customary Law Norms of the Jambi Malay Seloko Adat. *Umbara*, 7(2). <https://doi.org/10.24198/umbara.v7i2.41237>
- Sandefur, R. L., & Burnett, M. (2024). Justice Futures: Access to Justice and the Future of Justice Work. *SSRN Electronic Journal*. <https://doi.org/10.2139/ssrn.4836747>
- Sarat, A., & Kearns, T. R. (2009). *Law in Everyday Life*. University of Michigan Press. <https://doi.org/10.2307/2076895>
- Supian, Fatonah, & Defrianti, D. (2018). Eksistensi dan Penerapan Hukum Adat Melayu di Kota Jambi. *Titian: Jurnal Ilmu Humaniora*, 02(02), 341–364.
- Suryahartati, D., Oktaviarni, F., Windarto, Satoto, S., & Suhermi. (2021). Local Customary Law: The Contribution of Adat Law in Preserving the Lubuk Larangan in Jambi. *Jambe Law Journal*, 4(1). <https://doi.org/10.22437/jlj.4.1.43-68>
- Tamanaha, B. Z. (2010). *A General Jurisprudence of Law and Society*. Oxford University Press. <https://doi.org/10.1093/acprof:oso/9780199244676.001.0001>
- Ury, W. (2015). To “get to yes” with others, first negotiate with yourself. *Negotiation Briefings*, 18(5).
- von Benda-Beckmann, F. (2002). Who's afraid of legal pluralism? *Journal of Legal Pluralism and Unofficial Law*, 34(47). <https://doi.org/10.1080/07329113.2002.10756563>

Zehr, H. (2015). The Little Book of Restorative Justice. Revised and Updated. In *the Little Book of Plagiarism* (Issue September).