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PROSECUTORIAL VERIFICATION IN INDONESIA'S CUSTOMARY CRIMINAL JUSTICE: LEGAL PLURALISM AND SETTLEMENT FINALITY

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Abstrak

Kerangka hukum pidana Indonesia yang berlaku sejak Januari 2026 mengakui hukum yang hidup dalam masyarakat sekaligus mengatur hubungan penyelesaian pidana adat dengan peradilan negara. Penelitian ini menganalisis dasar dan batas verifikasi Kejaksaan serta akibat penyelesaian adat terhadap proses pidana berikutnya. Penelitian hukum normatif menggunakan pendekatan perundang-undangan, konseptual, dan kasus; wawancara terbatas dengan pejabat Kejaksaan digunakan sebagai bahan pendukung untuk memahami konteks kelembagaan, bukan untuk mengukur efektivitas penerapan. Analisis membedakan permohonan penetapan pengadilan berdasarkan Pasal 20 PP Nomor 55 Tahun 2025 dari larangan pemrosesan perkara adat berdasarkan Pasal 21. Pemenuhan kewajiban adat dalam jalur tersebut tidak otomatis menghapus penuntutan tindak pidana nasional yang beririsan. Pluralisme hukum bersyarat menjelaskan perbedaan pengakuan norma, akses prosedural, dan finalitas. Verifikasi dapat mencakup klasifikasi yurisdiksi dan pemeriksaan terarah atas kesukarelaan serta perlindungan hak, tetapi bukan penentuan ulang kesalahan atau perubahan sanksi adat. Penelitian mengusulkan bounded prosecutorial verification yang memadukan batas pemeriksaan dengan jaminan prosedural terhadap penundaan dan penolakan penerusan permohonan. Model ini merupakan usulan normatif, bukan temuan efektivitas empiris.

Kata Kunci: Finalitas Penyelesaian; Hukum yang Hidup; Pluralisme Hukum; Verifikasi Kejaksaan; Yurisdiksi Pidana Adat

Abstract

Indonesia's criminal law framework effective in January 2026 recognizes living law while regulating the relationship between customary settlements and state criminal justice. This article examines the legal foundations and limits of prosecutorial verification and the effects of customary settlements on subsequent proceedings. It employs normative legal research through statutory, conceptual, and case approaches; limited interviews with prosecutorial officials supplement the institutional context rather than measure implementation effectiveness. The

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analysis distinguishes applications for judicial determination under Article 20 of Government Regulation Number 55 of 2025 from the restriction on processing customary offences under Article 21. Completion of a customary obligation under that route does not automatically extinguish prosecution for an overlapping national offence. Conditional legal pluralism identifies distinct conditions governing norm recognition, procedural access, and finality. Verification may entail jurisdictional classification and targeted scrutiny of voluntariness and rights protection, but not a renewed determination of guilt or modification of customary sanctions. This article proposes bounded prosecutorial verification, combining limits on the scope of review with procedural safeguards against delayed or refused transmission. The model is a normative proposal rather than an empirically validated practice.

Keywords: Customary Criminal Jurisdiction**;** Legal Pluralism; Living Law; Prosecutorial Verification; Settlement Finality

INTRODUCTION

Law Number 1 of 2023 on the Indonesian Criminal Code entered into force on 2 January 2026. Article 2 recognizes living law as a basis for criminal liability even where conduct is not regulated by the Code, subject to territorial and substantive limits. This reform seeks to move beyond the colonial penal framework and accommodate normative sources outside codified state law (Butt, 2023). Government Regulation Number 55 of 2025, effective on 3 January 2026 under Article 23, requires customary offences to meet defined criteria and be incorporated into regional regulations. It also connects customary institutions, local authorities, the Prosecutor's Office, and district courts through a structured settlement procedure. Scholarship describes the integration of customary and formal mechanisms as hybrid justice (Sueni et al., 2025). The issue is how formal recognition redistributes authority once community-based norms are subjected to statutory classification and state-controlled procedures.

Customary justice in Indonesia encompasses compensation, reconciliation, ritual obligations, public apology, and communal restoration, whose significance depends on local social relations. Legal pluralism reflects the coexistence of state and non-state normative authorities rather than merely different written rules (Hamida, 2022). Translating dynamic customary norms into statutory categories can restrict their social character and reinforce state control (Utama, 2021). Under the framework effective in January 2026, Article 20 of Government Regulation Number 55 of 2025 channels applications for judicial determination through the head of the district prosecutor's office, whereas Article 21 separately restricts processing of customary offences. Neither issue is identical to the extinguishment of prosecutorial authority for a national offence under Article 71 of Law Number 20 of 2025. The state can protect legality and rights while redistributing procedural control (Niko et al., 2026). The legal problem is whether this control can obstruct formal access without changing the underlying customary decision.

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Research on living law examines material legality (Hardinanto et al., 2024), recognition and reduction (Susanto et al., 2025), and constraints on indigenous autonomy (Putra et al., 2026). Scholarship on dominus litis examines prosecutorial control over criminal proceedings (Sinaga et al., 2025). Hardinanto et al. (2026), the closest procedural study, addresses customary council decisions as grounds for extinguishing prosecution. The present inquiry distinguishes that question from control over access to judicial determination. A prosecutor who cannot decide customary guilt may still influence whether an application reaches the court; an internal opinion need not bind a court to affect procedural access. Article 20 establishes the transmission channel without detailing a refusal, delay, or review mechanism. The resulting research gap concerns the legal limits of this gatekeeping function rather than state recognition in general. Delayed or refused transmission is examined as a risk inferred from institutional design, not as established misconduct.

This study addresses two questions: (1) What are the legal foundations and institutional limits of prosecutorial verification in Indonesia's customary criminal justice framework? (2) Under what conditions does a completed customary settlement affect subsequent criminal proceedings, and which institution determines those legal effects? The inquiry examines the framework effective in January 2026 and subsequent identified instruments, with limited interview support, not nationwide implementation. Its contribution distinguishes authority to decide from control over access to a decision. Conditional legal pluralism identifies conditions attaching to norms, procedural access, and settlement finality; bounded prosecutorial verification proposes substantive limits and safeguards against obstruction. Customary institutions seek to preserve normative authority, alleged offenders require predictable exposure to proceedings, and victims require voluntary participation and effective protection. These interests may conflict where credible coercion requires focused scrutiny. The proposed boundary permits proportionate verification without substituting prosecutorial judgment for customary or judicial adjudication.

LITERATURE REVIEW

Customary criminal justice operates through normative relations that derive authority from community practices rather than exclusively from statutory recognition, which makes its structure different from state criminal law even when both regulate similar forms of wrongdoing. The operation of adat law reflects interaction between social norms, customary institutions, and collective understandings of responsibility within particular communities (Pradhani, 2021). Customary settlements may seek reconciliation, compensation, or communal restoration (Rochaeti et al., 2023), but these aims and outcomes vary by community and by the position of individual parties. Participation in deliberation does not establish voluntary consent; social hierarchy, dependence, or pressure may compromise a victim's ability to decline. The restorative character of a customary obligation must therefore be assessed in context, rather than presumed from its form or monetary value.

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Empirical research in several East Nusa Tenggara communities documents restrictions on women's participation in customary decision-making, including in violence-related disputes (Nurtjahyo, 2020). This evidence is context-specific but cautions against treating collective reconciliation as proof of individual consent. The United Nations Office on Drugs and Crime (UNODC, 2020, Basic Principles, paras. 7, 9–10 and 13) similarly emphasizes voluntary agreement, attention to unequal bargaining positions, safety, and safeguards against pressure. For this study, a credible rights concern therefore warrants a limited inquiry into access to information, ability to refuse, threats, and independent participation. It does not license a general reassessment of the facts or the customary remedy.

Legal pluralism provides a framework for examining the coexistence of normative orders without assuming institutional equality. Griffiths (1986) distinguishes the state-centred recognition of subordinate legal orders (weak pluralism) from plurality that exists independently of state recognition. In Indonesia, Arifin et al. (2025) identify tensions between constitutional recognition and enforceability within legal positivism. Hybrid justice emphasizes the interaction and combination of customary and formal mechanisms (Sueni et al., 2025), while negotiated pluralism concerns the continuing negotiation of authority and resilience of customary institutions through formalization (Akib et al., 2026). Conditional legal pluralism is used here not as a rival general theory, but as an analytical specification: it identifies the precise object, source, decision-maker, and consequence of a condition imposed at the interface between legal orders. Regional enactment conditions the formal identification of norms; prosecutorial screening conditions access to judicial procedure; completion and legally applicable decisions condition protection from further proceedings. These conditions are not interchangeable, and their allocation reveals where institutional power can constrain autonomy without formally transferring authority to adjudicate.

Formal recognition becomes more complex when customary norms are translated into legislation because the process may provide procedural safeguards while simultaneously altering the flexible character through which customary law develops. The incorporation of customary criminal law into the national penal framework may strengthen its formal status, yet the same process can subordinate its application to requirements determined by state criminal justice institutions (Yoserwan, 2024). Similar concerns arise when living norms must first be converted into regional regulations before they can produce consequences recognized by the formal legal system, since legislative codification cannot always respond to changes occurring within customary communities at the same pace as customary practice (Susanto et al., 2026). Formalization does not inevitably eliminate customary authority, but it changes the institutional environment in which that authority operates. The relevant question concerns the extent to which state recognition preserves customary autonomy without transforming living norms into merely derivative forms of state law.

The involvement of prosecutors introduces an additional institutional layer because prosecutorial authority traditionally concerns control over the continuation of

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criminal proceedings within the state justice system, whereas verification of customary settlements performs a different legal function. Comparative research associates prosecutorial independence with the substantial discretion prosecutors exercise in deciding whether and how criminal cases proceed (Voigt & Wulf, 2019). Indonesian scholarship similarly places prosecutorial authority within questions of independence, impartiality, and institutional accountability in criminal proceedings (Afandi, 2025). The analytical boundary depends on the object of review. Jurisdictional review compares the applicable regional norm, territorial scope, institutional competence, and national offence elements on the reported facts. A rights safeguard examines specific indications of coercion, exclusion, or unlawful sanctions, using only information needed to resolve that concern. Merits review, by contrast, reweighs evidence of wrongdoing, determines guilt, or substitutes a preferred customary remedy. A targeted inquiry into coercion may require hearing a victim separately or requesting clarification of completion, without inviting a full rehearing. If a contested question cannot be resolved without adjudication, it should be referred to the competent institution under an appropriate legal procedure, not decided by the verifier. This distinction makes the scope and procedural effects of gatekeeping independently assessable (Carline et al., 2024).

Legal certainty within a plural criminal justice system also depends on whether the law establishes a clear point at which liability and exposure to further proceedings come to an end. The principle against repeated prosecution protects individuals from being subjected to successive state proceedings for substantially the same conduct and remains closely connected to the broader guarantees of fair trial and legal finality (Maskur et al., 2025). Three levels of finality must be distinguished: social closure within the customary community; a specific statutory or regulatory restriction on further processing; and the protection arising from a final state court judgment in the same case. Customary settlements may be relevant to the latter two without being identical to a final conviction or acquittal (Masril & Kosasih, 2019). The analysis therefore tests the trigger, scope, competent institution, and documentary basis of each legal effect, rather than presuming that ne bis in idem attaches to every customary outcome.

The analysis applies recognition, jurisdiction, procedural access, and finality as distinct criteria. Recognition identifies conditions for formal enforcement; jurisdiction separates the customary-offence and national-offence routes; access identifies who transmits and determines an application; finality identifies the legal trigger and extent of protection against further proceedings. Gani and Takbir (2020) illustrate tensions when formal law dominates despite customary authority. The comparison is functional rather than a proposal for transplantation. In Solomon Islands, section 76 and Schedule 3 paragraph 3 of the Constitution recognize customary law subject to inconsistency with legislation; section 10(5) frames double jeopardy around trial by a competent court. Corrin (2019) identifies the resulting uncertainty about priority between forums and the distinct question of repeated punishment. In Ecuador, Article 171 of the Constitution grants indigenous authorities jurisdiction over internal disputes within their territories, requires constitutional and human-rights compliance, and subjects their decisions to

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constitutional review; Article 76(7)(i) requires indigenous decisions to be considered in applying the guarantee against repeated adjudication (Ruiz-Chiriboga, 2020). Indonesia instead uses a statutory offence filter, regional enactment and a prosecutor-mediated determination route. The comparison thus identifies alternative allocations of jurisdiction and review, without assuming that either foreign model governs Indonesian settlement finality.

RESEARCH METHODS

This study uses normative legal research with statutory, conceptual, and case approaches. The statutory analysis reads Law Number 1 of 2023 (as amended by Law Number 1 of 2026), Law Number 20 of 2025, and Government Regulation Number 55 of 2025 together, distinguishing statutory authority from implementing regulation and internal administrative guidance. The public statutory materials were cross-checked against the JDIH BPK legal inventory and accessible provision texts on 24 November 2026; this is the date of the present legal-source verification, not a claim about the original fieldwork period. The Constitution, Law Number 48 of 2009, Law Number 16 of 2004 as amended by Law Number 11 of 2021 on the Prosecutor's Office (Articles 2, 30 and 30C), and Prosecutor's Regulation Number 15 of 2020 supply contextual legal materials. The analysis uses textual and systematic interpretation, with particular attention to Articles 2, 54, 66, 96, 97, 132 and 597 of the Criminal Code, Articles 71 and 79–88 of the Criminal Procedure Code, and Articles 2–22 of Government Regulation Number 55 of 2025. Internal instructions cannot create a new ground of extinguishment or override a statutory or regulatory requirement. Supreme Court Circular Number 1 of 2026 is used as a procedural comparison for the separate statutory restorative justice route.

The institutional analysis considers the Letter of the Deputy Attorney General for General Crimes No. B-624/E/Ejp/02/2026 (February 2026) and Circular Letter No. SE-001/E/Ejp/08/2026 (August 2026). The descriptions available to the study identify reported objects of examination, internal timing and safeguards. Authenticated texts, full titles, exact dates, operative clauses, provenance and permission to reproduce them must be confirmed before their contents can be treated as independently traceable primary materials. The legal analysis tests the scope and compatibility of the instruments and any express revocation or transitional provisions; chronology alone does not establish displacement. The doctrinal findings rest on publicly identifiable legislation, and conclusions regarding the internal instructions remain conditional.

Judicial materials were selected purposively to illustrate differences in legal period, procedural posture and the effect of customary settlement rather than to represent all jurisprudence. Two historical Supreme Court cassation decisions (1644 K/Pid/1988 and 984 K/Pid/1996) are examined through identified secondary reports, not as verified full-text holdings. The first-instance Suka Makmue case (63/Pid.B/2021/PN Skm) was located in the Supreme Court directory; a publicly reproduced 38-page judgment and Syuhada (2024) were consulted, particularly pages 29–30 and 36–37. The reproduction permits analysis of its reasoning and disposition, but the official copy and subsequent

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procedural status still require confirmation. The previously reported 2026 Gedong Tataan identifier could not be corroborated and is excluded from the case dataset. A separate hypothetical sentencing illustration tests the statutory distinction under Articles 66 and 97. Table 3 separates judicial reasoning and disposition from the authors' interpretation. Historical examples do not establish application of the 2026 mechanism.

The normative analysis is supplemented by interviews with prosecutorial officials to clarify institutional understandings of verification. Interviews are not treated as authoritative interpretations of legislation or as representative evidence of implementation across jurisdictions. Their analytical contribution must be linked to attributable research records and assessed against the applicable legal provisions and documentary evidence. Officials' accounts can illuminate institutional perspectives but cannot establish the experiences of customary institutions, victims or alleged offenders. For example, Articles 20 and 21(a) support competing readings of the effect of judicial determination on a completed customary obligation; any institutional account of that issue must be distinguished from the authors' statutory interpretation. The legal conclusions and proposed scenarios remain doctrinal rather than findings of practical effectiveness.

RESULTS AND DISCUSSION

From Recognition to State Formalization of Customary Criminal Justice

The recognition of living law under Article 2 of the National Criminal Code changes more than the substantive reach of criminal legality because it also establishes a legal route through which customary norms enter the state penal system. Articles 2–8 of Government Regulation Number 55 of 2025 develop that route by limiting customary offences to conduct recognized and enforced within an acknowledged customary community, consistent with constitutional and human-rights standards, and not already regulated as an equivalent offence under the National Criminal Code. The same framework requires customary offences to be incorporated into regional regulations before they acquire formal operation within the state system. Recognition therefore no longer rests solely on the continued social observance of a customary norm; it is connected to legislative identification and institutional screening. This structure responds to the demand for predictability in criminal law, although the requirement of regional codification also changes the source from which customary norms derive formal legal effect. Junaidi and Susanto question this form of legislative formalization precisely because the authority of customary criminal law originally develops as an unwritten source that operates through the community itself (Junaidi & Susanto, 2025).

The legal consequences of this transformation become clearer when the framework distinguishes between a customary offence and a customary obligation as a form of punishment, since the two concepts perform different functions despite being connected to the same normative tradition. A customary offence derives its punishability from living law and, under Government Regulation Number 55 of 2025, must not contain elements identical or equivalent to an offence already governed by the National Criminal

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Code. A customary obligation occupies a broader position within the sentencing structure. Article 66(1)(f) of the Criminal Code classifies the fulfilment of a local customary obligation as an additional punishment, while Article 66(6), inserted by Article VII point 6 of Law Number 1 of 2026 expressly provides that the same obligation becomes a principal punishment when the offence itself is based on living law and regulated through a regional regulation. Article 597(2), as amended by Article VII point 46, also identifies fulfilment of customary obligations by reference to Articles 66(1)(f) and 120(1)(d). The distinction matters because state recognition operates on two different objects: it may recognize the customary norm as a source of criminal liability, or it may recognize a customary response as part of the consequences imposed after criminal liability has been established. Treating both forms as a single category would obscure the different jurisdictional questions attached to each.

Article 97 of the Criminal Code supplies an additional doctrinal distinction: fulfilment of a local customary obligation may be imposed as an additional punishment even where it is absent from the formulation of the offence, subject to Article 2(2). Read with Articles 66(1)(f), 66(6), 96 and 597, this means the legal basis of punishability and the legal basis of a sentencing consequence must be examined separately. A national offence remains a national offence when a competent court imposes a lawful customary obligation; the additional punishment does not convert the case into the autonomous customary-offence procedure under Government Regulation Number 55 of 2025. Its compatibility with territorial and fundamental-rights requirements still requires assessment.

The formalization process begins before a customary dispute reaches the enforcement stage because Articles 6–14 of Government Regulation Number 55 of 2025 require the proposed customary offence to pass through research, community participation, regional legislation, and central government examination. Proposals may originate from local government, regional legislatures, or customary communities, but the norm ultimately enters the formal framework through a regional regulation. The Regulation nevertheless retains an important participatory element by requiring direct research within the relevant community and meaningful involvement of customary communities throughout the legislative process. This arrangement attempts to convert social recognition into legally ascertainable criteria without entirely removing community participation. The difficulty lies in the assumption that the content of a living norm can always be represented adequately through legislative text. Research on customary delicts in Penglipuran demonstrates that customary criminal norms may exist not only in written awig-awig but also through unwritten practices and supplementary customary rules that obtain authority from continued community observance (Adhari et al., 2021). A regional regulation can consequently record an existing norm, but the act of recording does not necessarily reproduce the full normative environment in which that norm operates.

Articles 16–19 of Government Regulation Number 55 of 2025 prioritize deliberation organized by the customary institution and Satuan Polisi Pamong Praja

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(Satpol PP), involving the victim, alleged offender, and local customary community. Article 17 requires fulfilment of the obligation when an offence and its perpetrator are established; Articles 18 and 19 address findings that the person did not commit an offence or that no customary offence occurred. Article 20 requires the customary institution to apply to the chair of the district court through the head of the district prosecutor's office for a determination of the deliberation result, without charge. Its express cross-references are Articles 16, 17 and 18; it does not expressly require prior performance as a condition for every application or refer separately to Article 19. Article 21 independently excludes further criminal adjudication of a customary offence where the obligation has been completed, the person has been cleared under Article 18, or the conduct is not a customary offence. Table 1 distinguishes the source and legal status of these steps.

Table 1. Transformation of Customary Criminal Justice under the Framework Effective in January 2026

Dimension	Customary Justice Logic	Legal Source and Rule	Status and Implication
Source of norm	Norm derives authority from continued community recognition and practice	KUHP Art. 2; PP 55/2025 Arts. 4–14: criteria and regional regulation	Existing law: conditions formal recognition, not social validity
Offence class	Wrongdoing is defined according to the normative order of the community	PP 55/2025 Arts. 3, 5(c): equivalent KUHP offence excluded	Existing law: jurisdictional classification
Decision-making	Customary deliberation and authority	PP 55/2025 Arts. 16–19: deliberation by customary institution and Satpol PP	Existing law: decision on offence, person and obligation
Sanction	Obligation may restore social, material, symbolic, or communal balance	PP 55/2025 Art. 15(2) and elucidation; KUHP Arts. 66, 96, 97, 597	Existing law: individual obligation valued up to Category II equivalent
Completion	Community compliance may signify restoration and settlement	PP 55/2025 Art. 21(a): completed obligation bars processing customary offence	Existing law: bar; Art. 20 determination is separate
Non-compliance	Response depends on customary authority and community mechanisms	PP 55/2025 Art. 22(1)–(4); KUHP Art. 96	Existing law: criminal procedure and lawful substitution
Judicial determination	Formal documentation of deliberation	PP 55/2025 Art. 20: customary institution applies via district prosecutor's head	Existing law: court determination; declaratory/evidentiary reading is interpretation

Source: Authors' analysis based on Law Number 1 of 2023, Law Number 1 of 2026, and Government Regulation Number 55 oef 2025.

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The most significant tension appears in the treatment of customary sanctions because their function cannot always be measured by the economic burden imposed on the offender. Article 15(2) of Government Regulation Number 55 of 2025 and its elucidation set the maximum value of an individual's customary obligation at the equivalent of a Category II fine, while Article 96(3)–(4) of the National Criminal Code provides a sequence in which an unfulfilled customary obligation may be converted into compensation and, if compensation is not satisfied, into supervision or community service. The statutory structure provides a predictable substitute when the original obligation cannot be performed, but comparability in legal value does not necessarily establish equivalence in cultural meaning. Empirical research among Lampung Pepadun communities shows that customary sanctions function as forms of social control produced through collectively accepted customary rules rather than merely as monetary liabilities (Nurdin et al., 2023). The same distinction is visible in Minangkabau practices, where customary settlement relies on deliberation and sanctions directed toward restoring social equilibrium between the parties and the community (Zurnetti & Muliati, 2022).

The conversion mechanism therefore raises a problem of normative commensurability, rather than simply a dispute over whether the Category II amount is financially sufficient. A customary sanction may require compensation, ceremonial performance, public acknowledgment, reconciliation between families, restoration of communal relations, or several obligations performed together. Reducing these consequences to a common monetary reference creates administrative measurability, yet the statutory equivalent cannot by itself reproduce the relational purpose attached to the original obligation. Contemporary comparative analysis of Indonesian customary traditions similarly emphasizes that customary justice conceptualizes harm and repair through community relations and restoration, rather than exclusively through the individual offender–state relationship that characterizes conventional punishment (Widjajanto et al., 2025). The legal problem is consequently not that state law assigns an economic limit to customary obligations, but that substitution changes the object being restored. Once a relational or ritual obligation is converted into compensation and subsequently into supervision or community service, the sanction may continue as a lawful state punishment without necessarily performing the restorative function for which the customary obligation was originally imposed.

A similar shift occurs at the institutional level when failure to comply with a customary decision transfers the matter from the customary settlement route to ordinary criminal procedure. Article 22(1)–(4) of Government Regulation Number 55 of 2025 provides that an offender who does not carry out the customary obligation is processed according to criminal procedure, where a court may impose compensation equivalent to a Category II fine for an individual, or compensation according to applicable law for a corporation. Compensation is payable to the victim and/or local customary community; substitution follows applicable legislation. The rule ensures that a customary decision does not remain legally unenforceable, but it also changes the institution responsible for

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responding to non-compliance. Authority moves from the customary institution that formulated the restorative obligation to institutions operating within the state criminal justice system. Evidence from Aceh demonstrates why this transfer deserves careful treatment: increased involvement of formal law-enforcement institutions can strengthen procedural oversight but may also diminish the practical authority of customary courts when formal mechanisms begin to dominate community settlement (Abdullah et al., 2026). State intervention is therefore not neutral to the institutional balance between the two normative orders.

The resulting structure should not be read as a simple displacement of customary law by state law because Government Regulation Number 55 of 2025 also establishes safeguards that respond to genuine legality concerns. Customary offences must remain consistent with Pancasila, the Constitution, human rights, and generally recognized principles of law, while the legislative process requires direct community research and meaningful participation. These requirements provide protection against arbitrary criminalization and against customary sanctions that would conflict with fundamental rights. The question is therefore not whether customary autonomy should be insulated completely from the state. A plural criminal justice system requires a legal interface capable of identifying jurisdiction, protecting rights, and clarifying the consequences of settlement. The difficulty arises when the interface becomes the source of validity rather than a safeguard around an independently functioning normative order. Studies of customary justice within village autonomy indicate that successful integration depends on maintaining the capacity of customary institutions to produce community-accepted settlements while establishing an appropriate relationship with formal law (Najib et al., 2025).

The framework effective in January 2026 strengthens formal recognition of living law but attaches distinct requirements to norm identification, procedural access, and enforcement. The underlying social authority of customary norms should not be confused with the legal conditions governing their application by state institutions. Article 21 identifies a restriction on processing an eligible customary offence; Article 20 provides a separate determination procedure. The next question is whether the institution controlling transmission of the application can affect the practical availability of legal recognition without possessing authority to decide the customary dispute.

Prosecutorial Verification and the Reconfiguration of Institutional Authority

Article 20 of Government Regulation Number 55 of 2025 positions the head of the district prosecutor's office between the customary institution and the chair of the district court. It establishes a channel for applications concerning deliberation results but does not itself confer an express power to determine guilt, alter the obligation, or annul the customary decision. Nor does it prescribe a general completion prerequisite for the application. Prosecutorial authority ordinarily structures the progression of state criminal cases (Sepulveda & Wilenmann, 2022). Here, the intermediary role has a different legal basis and object: transmitting a customary institution's application rather than deciding the merits of a state prosecution.

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The institutional basis for this role must be read against Law Number 16 of 2004 as amended by Law Number 11 of 2021. Article 2 distinguishes the prosecution function from other legally conferred powers; Article 30(1)(a) assigns prosecution, while Article 30C(d) provides for penal mediation. Article 30C(c) concerns participation in handling cases involving witnesses and victims, and Article 30C(f) refers to public functions governed by law. These provisions explain the Prosecutor's Office's institutional position but do not independently grant a power to approve, cancel or reassess a customary settlement. In particular, penal mediation is not equivalent to verifying an outcome already reached by a customary institution. Article 20 of Government Regulation Number 55 of 2025 is the specific basis for transmission of the application; any administrative screening must remain connected to that function and cannot be transformed into an additional ground for withholding judicial access without a lawful basis. The source, scope and legal effect of internal guidance must therefore be distinguished from statutory powers.

The February 2026 letter is reported to direct examination of the applicable regional regulation, possible offence overlap, party identities and completion of the obligation, with internal appointment and examination periods. The August 2026 circular is reported to address administrative and juridical matters, including institutional competence, territory, voluntariness, victim protection and fundamental rights. These descriptions indicate possible differences in scope; they cannot establish operative clauses, binding deadlines or a change of legal status without the authenticated documents. Table 2 therefore distinguishes the legal basis established in legislation from the reported internal practices and the proposed limits of verification.

The reported distinction between checking legal conformity and deciding the merits is consistent with Article 20's division of transmission and judicial determination. Gatekeepers can shape access to legal processes without deciding their merits (Carline et al., 2024). Even if the internal opinion does not bind the court, delayed or withheld transmission can affect access before the court considers the application. The latter is a risk inferred from institutional design, not a verified instance of delay or refusal. The internal documents require confirmation before a definitive claim about their directions or binding effect is made.

Article 2(2) of the Criminal Code and Articles 2–5 of Government Regulation Number 55 of 2025 limit the customary-offence route to conduct not regulated in the Criminal Code; equivalent elements bring the conduct within the national Code. The circular is reported to require comparisons of acts, legal subjects, fault, consequences, and circumstances, including other penal statutes. Without its text, the latter extension cannot be treated as an independently verified rule. An element-based comparison of the reported conduct with applicable provisions is a jurisdictional inquiry, not an adjudication of guilt. Where the classification depends on disputed facts or evidence of fault, the verifier should identify the dispute and the relevant legal provisions, not resolve criminal responsibility by internal opinion. Table 2 separates established legal sources from proposed boundaries.

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Table 2. Scope and Institutional Limits of Prosecutorial Verification

Verification Element	Source and Status	Bounded Role (Proposed)	Risk / Limit
Completeness of the application	Art. 20 PP: transmission; document check reported	Check documents; specify defects	No unexplained refusal
Validity and applicability of the regional regulation	Arts. 4–14 PP; internal check reported	Check applicable regional regulation	No abstract invalidation
Authority of the customary institution	Arts. 16, 20 PP; internal check reported	Check competence and identity	No replacement of customary authority
Territorial applicability	Arts. 4–5, 10 PP	Check territorial application	No invented jurisdiction
Voluntariness of deliberation	Art. 16 PP: participation; Art. 2(2) KUHP: rights; circular reported	Targeted inquiry on credible coercion	No full rehearing
Protection of victims and vulnerable persons	Art. 2(2) KUHP; PP criteria; circular reported	Protect rights; refer unresolved concerns	No merits substitution
Comparison with offences under national legislation	Art. 2 KUHP; Arts. 3, 5(c) PP	Compare offence elements; flag disputed facts	No guilt finding
Verification of fulfilment of customary obligations	Arts. 17, 21(a) PP; internal check reported	Check evidence of performance	No change to sanction
Determination of guilt	Arts. 16–20 PP distinguish decision and transmission	Outside verification	No re-adjudication
Cancellation or modification of customary settlement	Art. 20 PP does not confer cancellation power	Outside verification	No unilateral modification

Source: Authors' analysis of Government Regulation Number 55 of 2025, Articles 3–5 and 15–22; reported descriptions of Letter No. B-624/E/Ejp/02/2026 and Circular Letter No. SE-001/E/Ejp/08/2026 (texts not independently verified); proposed limits are identified separately.

The institutional issue becomes more pronounced because prosecutorial involvement in customary settlements differs from the restorative authority already exercised by prosecutors within the formal criminal justice system. Before the new Code of Criminal Procedure, Indonesian prosecutorial practice recognized termination of prosecution based on restorative justice under Prosecutor's Regulation Number 15 of 2020, where the prosecutor exercises authority over a case that has already entered the state prosecution process and evaluates whether statutory requirements for discontinuation have been satisfied (Ayu & Lewoleba, 2024). Under Law Number 20 of 2025, Articles 79–88 and Article 71(2)(g) govern restorative justice and its procedural consequences; Article 85 specifically concerns settlement at prosecution. Prosecutor's

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Regulation Number 15 of 2020 is relevant historical context, subject to compatibility with the new statutory framework. Customary verification follows the opposite institutional direction. The settlement originates outside the prosecutorial process through the authority of the customary institution, while the prosecutor subsequently examines whether that settlement may continue toward formal judicial recognition. The difference is material. Restorative discontinuation concerns the prosecutor's discretion over a state criminal case, whereas customary verification concerns the legal interface through which a non-state settlement is received by the state. Extending dominus litis mechanically from the former to the latter would therefore obscure the different source of authority underlying each mechanism.

A second difficulty arises from the relationship between verification and regulatory supervision because part of the prosecutorial examination concerns the legality and continuing validity of the regional regulation on which the customary offence is based. The analysis identifies a potential redundancy where the same regional regulation has already passed through procedures of formation and governmental supervision before the prosecutor again examines its validity at the settlement stage. This does not mean that a prosecutor should ignore the legal basis of an application. A verifier should identify an apparently inapplicable or invalid legal basis and state reasons; Article 20 does not itself authorize a general power to refuse transmission or invalidate a regional regulation. The distinction lies between incidental legality checking for a particular application and substantive regulatory review of the regional regulation itself. Review of a regulation below a statute belongs to the Supreme Court under Article 24A(1) of the Constitution and should not be recreated through an internal prosecutorial verification procedure. Excessive duplication would add another layer of state control without necessarily improving the protection of the parties.

Two interpretations of the instruments' relationship remain possible. If the later circular supplements the February letter, compatible appointment and examination periods may continue to govern. If it expressly revokes or replaces that letter, or adopts incompatible procedures for the same matter, the earlier deadlines may no longer apply to those steps. The relevant tests are issuing authority, addressees, operative scope, dates of effect, compatibility, and express revocation or transition provisions. Silence about timing does not establish repeal. Article 20 itself supplies no verification deadline. The unresolved issue is which internal timetable governs, whether a returned application suspends it, and what legal consequence follows non-transmission—not a demonstrated absence of all deadlines (Hafid & Utomo, 2026).

Hardinanto et al. (2026) identify the need to address customary council decisions in the law of extinguishment of prosecution. Article 20 of Government Regulation Number 55 of 2025 does not assign the prosecutor a power to decide the effect of an application conclusively; Article 21 instead establishes a restriction for customary offences in its specified circumstances. The proposed verification process must distinguish a documentary deficiency from a jurisdictional or rights concern. A finding

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of deficiency should not, without a lawful basis, be treated as cancellation of the customary decision or a determination that prosecution must proceed.

Prosecutorial verification reconfigures institutional authority through procedural filtering rather than a transfer of adjudicative power (Sepulveda & Wilenmann, 2022). The appropriate scope combines legal classification, procedural completeness, focused rights protection, and evidence of fulfilment with a prohibition on re-determining guilt or substituting an otherwise lawful sanction. Equally important are safeguards governing access: reasoned outcomes, communication to affected parties, an applicable timetable, and review of non-transmission. These safeguards are proposed procedural rules insofar as no verified source establishes them for the Article 20 route. They preserve the court's role in judicial determination and the competent criminal justice institutions' authority over subsequent proceedings.

Conditional Legal Pluralism, Overlapping Offences, and the Problem of Finality

The relationship between customary and national criminal law becomes more difficult once the same underlying conduct is capable of attracting legal consequences within both normative orders, because jurisdictional overlap does not necessarily arise from identical definitions of an offence but may also emerge from different legal responses to the same social harm. Indonesian experience has long demonstrated that customary institutions and state courts may encounter the same conduct through distinct sources of authority, purposes of settlement, and forms of sanction. Research on the intersection between customary courts and state criminal courts in Papua similarly shows that jurisdictional conflict becomes difficult to avoid when the subject matter, factual object, and attribution of responsibility intersect across the two systems (Suhariyanto et al., 2024). The framework effective in January 2026 attempts to control this intersection by excluding from the customary-offence route conduct whose elements are already regulated or can be equated with offences under the National Criminal Code. Such a restriction creates clearer jurisdictional boundaries, although it does not eliminate every form of overlap because customary obligations may still operate within state criminal adjudication.

The distinction between a customary offence and a customary obligation attached to a national offence is essential at this stage because both involve *adat* but produce different jurisdictional consequences. A customary offence obtains its basis of punishability from *living law* and enters the formal legal system through Article 2 of the National Criminal Code and the implementing framework of Government Regulation Number 55 of 2025. A customary obligation may instead operate as a legal consequence imposed in connection with conduct already prosecuted under national criminal law. Research concerning serious offences within the Baduy community demonstrates that state punishment and customary obligations may operate concurrently even though they originate from different institutional frameworks (Yulia et al., 2023). This means that the mere presence of a national offence and a customary response does not by itself establish a normative contradiction. The more specific problem arises when an autonomous customary settlement has already produced consequences for an offender and the state

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subsequently seeks to prosecute materially the same conduct as though the previous process had no legal effect.

Secondary reports describe Supreme Court Decision No. 1644 K/Pid/1988 (15 May 1991) as preventing a second state prosecution after the imposition of a customary reaction for the same customary charge under the former framework of Emergency Law Number 1 of 1951, Article 5(3)(b). Decision No. 984 K/Pid/1996 (reported date 30 January 1996) is described as declaring prosecution inadmissible after a customary sanction in an adultery-related case (Hukumonline, 2016; Hukumonline, n.d.). These reports indicate that prior customary consequences could influence admissibility, but the full judgments, precise legal grounds and pinpoint pages remain unverified. They are historical illustrations, not authority establishing a universal ne bis in idem rule or interpretation of Articles 20–21 of the 2025 Regulation. Judicial reception of customary reconciliation is also examined by Kusmayanti et al. (2024).

Suka Makmue District Court Decision No. 63/Pid.B/2021/PN Skm, pronounced on 9 November 2021, concerns first-instance prosecution under former Criminal Code Article 351(1). A publicly reproduced judgment describes a peace agreement and a Peusijeuk ceremony conducted during the hearing on 7 October 2021 (pp. 29–30). The court discussed material unlawfulness, restorative justice and the former Article 76(1), including ne bis in idem (pp. 36–37). Its operative order, however, found the offence established but released the defendant from all legal charges because restorative justice had occurred at trial (p. 37), rather than declaring prosecution inadmissible. The difference between reasoning and disposition is material. This case concerns judicially integrated restoration during state proceedings, not an autonomous completed settlement submitted through Article 20 of the 2025 Regulation. The available copy is a public reproduction; the official copy and finality status should still be confirmed. See also Syuhada (2024) and Salamor et al. (2023).

The distinction can also be tested without relying on an unconfirmed judicial reference. Assume a national criminal court finds a defendant guilty under a national offence provision and, after assessing Article 2(2), imposes a lawful additional customary obligation pursuant to Articles 66(1)(f) and 97 of the Criminal Code. The obligation in this hypothetical case is part of a single national judgment. Its execution is governed by the sentencing framework, including Article 96, while any bar against a later prosecution depends on applicable final-judgment rules. It is not evidence of prosecutorial verification of a prior autonomous customary settlement. This illustration demonstrates coexistence without conflating the legal sources of customary liability and national sentencing (Hasbi et al., 2026).

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Table 3. Patterns of Interaction between Customary Settlement and State Criminal Adjudication

Judicial decision	Legal context	Source / access	Reasoning / disposition	Authors' analysis
1644 K/Pid/1988	Cassation; former Emergency Law 1/1951, Art. 5(3)(b)	Hukumonline (2016; n.d.); secondary	Prior customary sanction reportedly barred a second customary charge.	Historical; not evidence of Art. 21.
984 K/Pid/1996	Cassation; adultery-related case	Hukumonline (2016; n.d.); secondary	Prosecution reportedly inadmissible after customary sanction.	Historical overlap; no general bar.
63/Pid.B/2021/PN Skm	First instance; former KUHP Art. 351(1)	*Public copy, pp. 29–30, 36–37; Syuhada (2024)*	Restoration during trial; offence proved; release from all legal charges (p. 37).	Judicial restoration; not Art. 20 verification.

Source: Authors' analysis of secondary accounts in Hukumonline (2016; n.d.), Suka Makmue District Court Decision No. 63/Pid.B/2021/PN Skm (public reproduction, pp. 29–30 and 36–37), and Syuhada (2024).

The historical references and the Suka Makmue decision illustrate different procedural effects of customary sanctions and reconciliation; the hypothetical sentencing example separately illustrates coexistence within a national judgment. Corrin (2019) distinguishes priority between legal forums from protection against repeated punishment. Solomon Islands' constitutional recognition of custom and the competent-court requirement for double jeopardy do not reproduce Indonesia's specific regional-enactment and prosecutorial-transmission route. The relevant lesson is to identify the legal trigger and competent institution for each consequence rather than presume that a customary settlement necessarily bars state proceedings.

Article 71(2)(a) of Law Number 20 of 2025 requires a final court judgment concerning the same defendant and case as a ground for extinguishing prosecutorial authority. A customary decision or an Article 20 judicial determination cannot be equated automatically with such a judgment. Article 71(2)(g) separately recognizes settlement through the restorative justice mechanism; Article 71(1), (3) and (4) prescribe the termination instrument and notification or distribution of its contents. Article 132(1)(a) and (g) of the Criminal Code similarly distinguish final judgment and out-of-court settlement regulated by statute. Ecuador offers a contrast because indigenous jurisdiction has constitutional recognition relevant to repeated trial (Ruiz-Chiriboga, 2020), whereas Indonesia's specific regulatory route and statutory grounds must be interpreted on their own terms.

Articles 20 and 21 of Government Regulation Number 55 of 2025 address distinct legal effects. A constitutive interpretation would make judicial determination a prerequisite to the restriction in Article 21(a), although the provision identifies completed

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performance rather than the issuance of a determination as its trigger. A more persuasive textual and systematic reading treats the determination as declaratory with an evidentiary function for the Article 21(a) restriction: it confirms the deliberation result and provides a formal record of its legal significance, without creating a new completion requirement. A declaratory effect concerns confirmation of a legal status; an evidentiary function concerns proof of the facts and decision underlying that status. Article 20 nevertheless remains mandatory: the customary institution must seek formal determination through the district prosecutor's office, without charge, including the deliberation results referred to in Articles 16–18. This procedure can clarify and document the outcome and enable formal coordination with state institutions. Its procedural obligation is distinct from the substantive restriction under Article 21. This interpretation is limited to the completion-based bar in Article 21(a) and is not a settled judicial holding. Undisputed fulfilment in an eligible customary offence should not lose that protection solely because determination is pending. Contested completion, coercion or jurisdiction requires a competent assessment and cannot be resolved conclusively by an internal prosecutorial opinion.

The scope of Article 21 is limited to customary offences. If the conduct is equivalent to a national offence under Article 3, read with Article 5(c), an earlier customary settlement does not automatically bar national prosecution. Article 71(2)(g) applies only where the statutory restorative justice mechanism is satisfied, including the applicable eligibility restrictions, voluntariness and procedural requirements in Articles 79–88 (particularly Articles 79–82 and 85–86). At the prosecution stage, Articles 85–86 require an agreement before the prosecutor, a termination instrument, and an application for judicial determination within three days; Article 79(5) also requires completed performance. The three-day period in Article 86(1) runs from the termination instrument and governs that statutory route, not Article 20 of the Regulation. Article 87 separately permits restorative justice through a court judgment and its execution where the preceding statutory mechanism cannot be used. None of these provisions establishes automatic termination of national prosecution merely because customary compensation has been paid. If statutory termination is unavailable, the competent criminal court may consider lawful restitution, victim forgiveness, and other relevant sentencing factors under Article 54(1) of the Criminal Code. A customary obligation imposed in a national judgment under Articles 66(1)(f) and 97 is a sentencing consequence; any subsequent bar must be assessed by reference to the final judgment and the statutory same-case requirement. These three routes must not be conflated.

Supreme Court Circular Number 1 of 2026, Part III point 2(b)(2), pp. 11–12, further specifies the prosecution-stage restorative justice determination: the request and the court's determination each have a three-working-day period, the file must document full performance, and the court examines statutory eligibility before validating the termination or returning the file. This is judicial guidance for the Criminal Procedure Code route, not a source of authority for screening customary deliberation under Article 20 of Government Regulation Number 55 of 2025. It nevertheless provides a domestic

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procedural comparison for designing time limits, documentary requirements and reasoned returns without conflating the two mechanisms.

Conditional legal pluralism thus describes three separate institutional dependencies: regional recognition determines the formal status of a norm; transmission affects access to judicial determination; and the applicable regulatory or statutory trigger determines protection against further proceedings. The framework reveals how a gatekeeper can constrain practical access without formally deciding the dispute. It does not imply that every legal consequence depends on a court determination or that recognition necessarily produces subordination.

Bounded prosecutorial verification is proposed as a two-dimensional model. The first dimension limits the scope of inquiry to legal basis, institutional and territorial competence, classification of offence elements, documentary sufficiency, completion, voluntariness, fundamental rights, and parallel proceedings. The second governs procedural access through recorded reasons, notice, timely transmission, and review of obstruction. These are proposed safeguards unless supported by a specific provision. They do not authorize a prosecutor to determine guilt, replace customary sanctions, or confer a new immunity from national prosecution. A credible rights concern may justify targeted fact clarification; it does not justify a rehearing of the dispute.

A reasoned verification record should identify the applicable regional norm, jurisdictional classification, materials examined, completion status, specific rights concerns and proposed procedural consequence. The head of the district prosecutor's office should transmit the record to the district court with the application and provide a non-confidential summary to the customary institution, victim and alleged offender. Sensitive victim information should remain protected. The court determines the Article 20 application; the competent public prosecutor assesses statutory termination under Article 71 where a state prosecution exists, subject to legally available judicial control, and the criminal court determines sentencing. Under the proposed model, a written verification record is neither a judgment nor a termination instrument and cannot cancel a customary settlement. This allocation supports institutional integration without erasing customary autonomy (Ma'ruf et al., 2026).

Scenario 1: completed obligation without apparent jurisdictional conflict. Assume a regional regulation validly identifies the customary offence, the competent customary institution and Satpol PP conduct deliberation, and the obligation is fully performed. Articles 16–21 supply the existing legal route: the institution applies through the head of the district prosecutor's office, and Article 21(a) restricts processing of the eligible customary offence. Under the proposed model, the verifier records the applicable norm, parties, competence, evidence of performance and any parallel proceedings; the office head forwards the file with reasons and notifies the parties. If the court determination is delayed, the proposed declaratory reading preserves the restriction where its conditions are undisputed; the registry and record preserve proof of that status. If transmission is delayed or refused, the customary institution and affected parties may use the proposed

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supervisory and judicial-access safeguards described below. A missing determination does not by itself authorize renewed processing of an eligible customary offence.

Scenario 2: credible allegation of coercion. Assume a file appears complete but the victim reports pressure or threats during deliberation. Article 2(2) of the Criminal Code and Articles 4–5 of the Regulation provide rights-based constraints; Article 16 requires participation without equating attendance with consent. Under the proposed model, the verifier obtains only information necessary to assess the concern, offers a safe opportunity to explain it separately, and records reasons without re-determining guilt or replacing the sanction. Where protection is necessary, the victim is referred to competent protection services under applicable law. Where the question remains disputed, the proposed procedure forwards the application with the disputed issue flagged for the district court's determination; any expanded jurisdiction to hear such disputes must be expressly provided by law. The verifier may not use a rights allegation as an indefinite veto or as an automatic ground for national prosecution. Pending determination, neither an automatic Article 21 bar nor its automatic loss should be inferred solely from the allegation; any further criminal step must meet its independent legal conditions.

Other borderline cases require different responses. Disputed performance calls for examination of receipts, records and clarification from the customary institution and affected parties; an unresolved material dispute is flagged for competent adjudication rather than determined through internal merits review. Possible equivalence with a national offence calls for a written comparison of elements under Articles 3 and 5(c) of Government Regulation Number 55 of 2025. If the national route applies, termination must satisfy Article 71 and applicable statutory restorative justice requirements. An incomplete application should be returned once with specified deficiencies and an opportunity for correction, not treated as a cancellation of the customary decision. Any such procedural return and its effect on time limits require express regulation.

To make these safeguards operational, the study proposes a registered, time-bound transmission procedure (ius constituendum). On receipt, the district prosecutor's office records the application and provides a receipt. An illustrative reform standard is five working days for initial verification and transmission or a reasoned request for correction, with one reasoned extension of up to five working days for a material rights or jurisdictional concern. These are proposed periods, subject to assessment against verified internal deadlines, not periods imposed by Article 20. The customary institution and affected parties should receive the outcome and reasons, except for protected information. Any return should identify the defect and allow resubmission; it should not suspend the Article 21 restriction solely because the file is incomplete. The illustrative five-day period allows for the additional regional-law and institutional-competence checks in the customary route; the shorter three-day restorative justice timetable in Supreme Court Circular Number 1 of 2026 is a comparison, not a rule imported into the customary mechanism.

For non-transmission or unexplained delay, the proposed first review lies with the head of the higher provincial prosecutor's office (Kepala Kejaksaan Tinggi), through an

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expressly established supervisory complaint procedure. The reviewing officer should examine compliance with transmission requirements rather than the merits, require written reasons, and direct correction or forwarding within a defined period (illustratively five working days). This proposal does not assert an existing special appeal under Article 20. If supervisory correction fails, a statutory or appropriately authorized procedural reform should provide the customary institution access to the district court to seek an order concerning transmission, with a limited review of procedural legality and no substitution of customary guilt findings. Any direct filing, binding court order or expansion of judicial competence must be enacted through a legally sufficient instrument; an internal circular alone cannot create it. Refusal or expiry of a proposed time limit would not itself terminate a national prosecution or nullify a customary settlement.

The appropriate allocation is consequently threefold. Customary institutions clarify their own records and decisions; the prosecutorial hierarchy reviews administrative obstruction under the proposed procedure; and a court resolves disputed legal effects only within its existing or expressly conferred jurisdiction. Competent criminal justice institutions retain responsibility for lawful investigation, prosecution or termination of national offences. This arrangement separates the right to seek review from any automatic immunity, and prevents a verifier from exercising an unreviewable veto. The scenarios evaluate the coherence of the proposal; implementation and the appropriateness of the illustrative time limits require further evidence.

The resulting framework differentiates the customary-offence restriction, the possible statutory termination of a national prosecution, and customary sentencing within a national judgment. By linking substantive limits to procedural safeguards, bounded verification explains how recognition can coexist with legal certainty without treating access control as an unreviewable prosecutorial power. Its practical performance remains to be assessed through verified implementation records.

CONCLUSION

Indonesia's criminal law framework effective in January 2026 produces conditional legal pluralism in which norm recognition, procedural access, and finality attach to different legal conditions. Article 20 of Government Regulation Number 55 of 2025 regulates the application for judicial determination; Article 21 separately restricts further processing of a customary offence, including upon completion of the customary obligation. The better textual reading is that determination has a declaratory character with an evidentiary function rather than creating the Article 21(a) restriction, although disputes over completion remain procedurally unresolved. A prior customary settlement involving a national offence does not automatically extinguish prosecution under Article 71 of Law Number 20 of 2025; statutory restorative justice or another applicable ground must be established. A customary obligation imposed within a national judgment concerns sentencing and the ordinary finality of that judgment.

Bounded prosecutorial verification distinguishes authority to decide from control over access to a decision. It limits inquiry to legal basis, jurisdiction, documentary

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sufficiency, completion and focused rights protection, excluding renewed guilt determination and substitution of a lawful customary sanction. The proposed safeguards include registration, time-bound transmission, written reasons and notification by the district prosecutor's office, supervisory review by the provincial prosecutor's office, and a legally established judicial-access remedy if obstruction persists. The customary institution clarifies its decision, the district court determines the Article 20 application, competent prosecutors apply statutory termination grounds, and the criminal court decides sentencing. These procedural reforms require express legal authority and do not create new grounds for extinguishment.

The study is limited by the early stage of the framework, incomplete access to authenticated internal instructions and historical judgments, and the restricted evidentiary scope of supplementary interviews with prosecutorial officials. Historical decisions illustrate doctrinal tensions without resolving implementation of the 2026 instruments. Official perspectives cannot establish how victims, alleged offenders or customary institutions experience verification. Further research should examine forwarded, returned, delayed and declined applications, judicial determinations and participants' experiences across jurisdictions to evaluate the proposed model, including the feasibility of transmission and supervisory review periods.

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