



## A Study on the Application of Restorative Justice in the Settlement of Defamation Crimes Based on Customary Law, Especially the Toba and Karo Batak Customs

Kartina Pakpahan<sup>1\*</sup>, Desi Leolinta Br. Karo<sup>1</sup>, Timothy Gilbert Sagala<sup>1</sup>

<sup>1</sup>PUI PT Business Law Universitas Prima Indonesia, Medan, Indonesia

\*Corresponding author: [artinapakpahan@unprimdn.ac.id](mailto:artinapakpahan@unprimdn.ac.id)

### Article History

Revised: 2026-05-14

Accepted: 2026-06-14

Published: 2026-06-19

**Abstract:** This study examines the application of the restorative justice approach in the Batak customary law system as an alternative mechanism in restoring justice in criminal cases. The focus of the study is to identify the relevance of Batak indigenous values, including the Toba and Karo Batak, to the principles of restorative justice and to identify various challenges and opportunities in the process of their integration into the national legal system. Studies show that the concept of restorative justice has fundamentally taken root for the Batak people, because values such as relationship restoration, deliberation, and peace have long been practiced through the principles of Dalihan Na Tolu and the Pupur Sage tradition. Dispute resolution in indigenous peoples is carried out through a deliberative forum involving indigenous leaders, parties to the dispute, and family elements, with the aim of creating a balanced consensus and reconciling disturbed harmonization. The customary sanctions applied are generally corrective and educational, for example, apologies or accountability, in line with the restorative justice pillar that prioritizes the healing of the victim as well as the moral accountability of the perpetrator. Nevertheless, the implementation of customary norms still encounters juridical obstacles, especially regarding the lack of legitimacy in the national legal framework and the procedural discrepancy of positive law. The opportunity to integrate customary law into a formal system is actually wide open thanks to the latest regulations from the Prosecutor's Office and the Police regarding restorative justice. The conclusion of this research shows that strengthening the authority of indigenous leaders supported by collaboration with law enforcement officials can transform Toba and Karo customary law into an efficient conflict resolution mechanism that is in harmony with the state legal order.

**Keywords:** Restorative Justice; Batak Customary Law (*Toba and Karo*); Dalihan Na Tolu, Pupur Sage

### Introduction

Law enforcement practices in the criminal approach process are often not able to meet the sense of justice, especially for victims and their families. The criminal justice process, which is often formal, rigid, and sentencing oriented, often ignores the needs of the victim, such as recovering losses, apologizing, and restoring social relations between the perpetrator and the victim.<sup>1</sup> This encourages the birth of a new mindset in criminal policy, namely *the restorative justice* approach. *Restorative Justice* is an alternative approach in resolving a criminal case by emphasizing the recovery or return of the settlement of this case to the family or the general public which is aimed at the settlement not only ending in criminal sanctions in the form of prison, but also in the recovery of victims and social harmonization.<sup>2</sup>

<sup>1</sup> Daniel W. Van Ness dan Karen Heetderks Strong, *Restoring Justice: An Introduction to Restorative Justice* (New York: Routledge, 2015), hlm 4.

<sup>2</sup> Hanafi Alief dan Ningrum Ambarsari, "Penerapan Prinsip Restorative Justice Dalam Sistem Peradilan Pidana Di Indonesia," *Jurnal Al-Adl* 10, no. 2 (2018): 185.

The policy approach as can be taken in a mediation forum or often known as a restorative justice is a framework that emphasizes the concept of direct deliberation between the perpetrator, the victim and the community involved. Restorative justice is a new policy framework used by law enforcement in Indonesia to resolve a criminal case.<sup>3</sup> An example of a criminal case that the author is concerned about is related to the procedure for resolving restorative justice in customary law.

Customary law is a rule in an unwritten form that lives in the local community group in an area and will continue to live as long as the group still fulfills the customary law that has been passed down to them from their ancestors before they were born.<sup>4</sup> The birth of customary law is due to the decisions of legal groups, especially the decisions of tribal chiefs who assist in the implementation of legal acts or in the context of conflicts of interests and decisions of judges in adjudicating a dispute as long as it does not conflict with the beliefs of the people's law, in harmony and in harmony with the awareness that is well received and tolerated.<sup>5</sup>

The process of forming customary law according to the view of Expert Soerjono Soekanto is divided into 2 (two) aspects, namely the sociological aspect in the concept that humans cannot live alone because humans are social creatures and have instincts, based on this point of thought gives birth to a theory or assumption that gives rise to an attitude, namely the tendency to claim or not claim something that is not their right. Meanwhile, in the juridical scope, it can be known from the stages of sanctions. The concrete form of behavior is in uniform, how to speak to each other, how to get married, and so on.<sup>6</sup> The goal of law according to the expert Gustav Radbruch is justice, usefulness, and certainty of legal theory. According to the author, it is ideal if there is harmony between the three. Justice and benefits will be very difficult to achieve without legal certainty, on the contrary, legal certainty is built on the concept of justice itself.<sup>7</sup>

The essence of the application of the principle *of restorative justice* according to the author's meaning is a framework that must be based on the selflessness and inner awareness of the individual in acting. And the utilization framework is a key to the formation of the process of the goal of the principle *of restorative justice*. An agreement that is a manifestation of the mediation process as one of the concepts of the principle of restorative justice will not be realized if there is no harmony of honesty, sincerity, willingness and utilization between parties.<sup>8</sup> Therefore, as long as humans still reflect interests, differences of perspective, needs and desires, as long as legal certainty is needed to harmonize these differences. Based on the explanation that has been presented, the author is interested in further studying the context of *restorative justice* in settlement through customary law. In order to find out the compatibility between theories, legal norms, and practices that occur in the field in the process of resolving customary law in various tribes, including the Batak Toba, Karo, Pakpahan and Simalungun customary tribes.

## Research Methods

This research is an empirical legal research with a qualitative approach that examines law as a social phenomenon that lives and develops in society.<sup>9</sup> The nature of this research is descriptive-analytical which aims to systematically describe the facts and characteristics of the research object related to the application *of restorative justice* in customary law.<sup>10</sup> The research data sources consist of primary data obtained directly from the field through in-depth observations and interviews with local indigenous

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<sup>3</sup> Nella Sumika Putri, "Penyelesaian Tindak Pidana Lalu Lintas Melalui Pendekatan Restorative Justice Sebagai Dasar Penghentian Penyidikan Dan Perwujudan Asas Keadilan Dalam Penjatuhan Putusan," *Padjadjaran Jurnal Ilmu Hukum* 2, no. 1 (2015) : 13.

<sup>4</sup> Hilman Hadikusuma, *Pengantar Ilmu Hukum Adat Indonesia* (Bandung: Mandar Maju, 2003), hlm. 1.

<sup>5</sup> Soerjono Soekanto, *Hukum Adat Indonesia* (Jakarta: Rajawali Pers, 2014), hlm. 12

<sup>6</sup> *Ibid*, hlm 15

<sup>7</sup> Gustav Radbruch, *Legal Philosophy*, terj. (Bandung: Nusa Media, 2006), hlm. 28.

<sup>8</sup> Hanafi Arief dan Ningrum Ambarsari, "Penerapan Prinsip Restorative Justice Dalam Sistem Peradilan Pidana Di Indonesia," *Jurnal Al-Adl* 10, no. 2 (2018): 185

<sup>9</sup> Ronny Hanitijo Soemitro, *Metodologi Penelitian Hukum dan Jurimetri* (Jakarta: Ghalia Indonesia, 1990), hlm. 9.

<sup>10</sup> Sukardi, *Metodologi Penelitian Pendidikan: Kompetensi dan Praktiknya* (Jakarta: Bumi Aksara, 2013), hlm. 157.

leaders, as well as secondary data obtained through literature studies including laws and regulations including Perpol Number 8 of 2021 and Perja Number 15 of 2020, legal books, scientific journals, and official documents related to customary law. Data collection techniques are carried out through direct observation of the conditions and activities of the community in the research area as well as literature studies on relevant literature and legal documents. All data collected were analyzed qualitatively using the Miles and Huberman interactive analysis method through three stages, namely data reduction, data presentation, and conclusion drawn.<sup>11</sup> Conclusions are drawn inductively based on specific facts found in the field to obtain a real picture of the effectiveness of restorative justice in the settlement of local customary law.<sup>12</sup>

## Findings and Discussion

### Overview of Restorative Justice in the Legal System in Indonesia

The practice of *restorative justice* is based on the premise that crime is a violation of interpersonal relationships, therefore there is an accountability by the perpetrator to acknowledge the actions that are his responsibility and take action to overcome the losses that arise due to the actions of the perpetrators. This approach aims to achieve a holistic recovery that not only highlights the perpetrators, but also ensures the fulfillment of victims' rights in order to create a community well-being.<sup>13</sup> Based on a philosophical perspective, *the restorative justice* approach plays a role in returning criminal law to its main function, namely as the last step taken which is only used when other legal solutions can no longer be applied in dealing with criminal acts in society.

*Restorative justice* is here to restore the rights of victims, perpetrators, and the community by going through a case settlement process that does not only focus on punishment. This is in line with Van Ness' statement that the purpose of restorative justice is to restore stability and restore the situation of the victims and perpetrators after the conflict is resolved. This opinion shows that *restorative justice* is not limited to resolving cases, and paying attention to the restoration of social interaction, which in the context of defamation is very relevant because it concerns individual honor. Although it has a noble purpose, *restorative justice* cannot be interpreted solely as a solution for forgiveness or a means of stopping cases, especially in the case of customary law. In restorative criminal justice, justice is seen as not solely a matter of the government and the perpetrators of crimes, but must also be realized comprehensively by prioritizing the rights and interests of victims. However, in practice in Indonesia, the implementation of restorative justice does not always run optimally because there are still differences in understanding and mechanisms between law enforcement agencies.

Indonesia has clearly adopted the integration of restorative justice principles into the criminal justice system to provide an alternative to case resolution and realize the noble ideal of justice for victims.<sup>14</sup> The handling of criminal cases in Indonesia itself is actually required to go through stages in each level of the criminal justice system with the authority held by each authorized law enforcement officer that has been achieved. However, the presence of various internal regulations such as Perpol Number 8 of 2021 is applied in the investigation process, while Prosecutor's Regulation Number 15 of 2020 is applied in the prosecution process, up to Perma Number 1 of 2024 at the court level, actually causing inconsistencies in the law and differences of views regarding the goals of justice to be achieved.

One example of the application of *restorative justice* can be found in the settlement of the defamation case against Bunda Indah which occurred through WhatsApp group communication media. In this case, the North Sumatra Regional Police applied a *restorative justice* approach by facilitating a meeting

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<sup>11</sup> Matthew B. Miles dan A. Michael Huberman, *Qualitative Data Analysis: A Methods Sourcebook* (California: Sage Publications, 2014), hlm. 31.

<sup>12</sup> Burhan Bungin, *Penelitian Kualitatif* (Jakarta: Kencana, 2015), hlm. 83.

<sup>13</sup> Daniel W. Van Ness dan Karen Heetderks Strong, *Op.Cit.*, hlm. 20.

<sup>14</sup> Geiko Muller-Fahrenholz, Rekonsiliasi: *Upaya Memecahkan Spiral Kekerasan dalam Masyarakat*, terj. Georg Kirchberger dan Yosef M. Florisan (Mumere: Ledalero, 2005), hlm. 35.

between the perpetrator and the victim through a mediation process. The results of the mediation showed that the perpetrator admitted his actions and apologized, while the victim accepted the apology and agreed to a peaceful settlement. With the agreement reached, the case was not continued to the criminal justice process stage. This case shows that the concept of restorative justice has been implemented in real terms in law enforcement practices in Indonesia, especially in cases related to defamation. This approach is considered more appropriate because it is not solely oriented towards punishment, but also focuses on restoring the honor of victims and restoring social relations in society.<sup>15</sup>

In addition, the practice also shows that the success of the implementation of restorative justice is greatly influenced by the willingness of the parties, especially the admission of wrongdoing from the perpetrator and the acceptance of the victim to a peaceful settlement. Thus, restorative justice not only functions as a normative concept in laws and regulations, but has also been applied concretely by law enforcement officials as an effort to realize more humane justice.

### **The Process of Resolving Restorative Justice Cases Through the Batak Toba Traditional Approach**

*Restorative justice* is a case resolution mechanism that focuses on returning the situation to its original state, not solely on sanctioning the perpetrator. This method emphasizes the direct involvement of the perpetrator, victim, and community in dispute resolution efforts. The main goal of restorative justice is the achievement of proportional justice, the restoration of social relations, and the realization of sustainable peace. In the context of these indigenous peoples, the concept of restorative justice is actually not new. The values of restoration, deliberation, and peace have long been alive and practiced in customary law as a dispute resolution mechanism that prioritizes social harmony. The Toba Batak community has a strong traditional value system and serves as a guideline in social life. The customs of the Toba Batak people recognize the principle of Dalihan Na Tolu as the main basis that focuses on the balance of the relationship between hula-hula, dongan tubu, and boru. This principle teaches mutual respect, responsibility, and cooperation in solving problems.<sup>16</sup>

In addition, the values of *hasangapon* (honor), *hamoraon* (welfare), and *hagabeon* (descendants) are the basis for maintaining community harmony. In resolving a conflict, the Toba Batak custom prioritizes the restoration of good name, family relations, and social balance rather than punishment alone. The settlement of cases through the Toba Batak custom is generally carried out through a customary deliberation forum (*Runggu*) involving traditional leaders (*para harangga*), parties to the dispute, and family elements from both parties. This process occurs with the aim of exploring the root of the problem, listening to the information of all parties, and finding solutions that are fair and mutually acceptable.<sup>17</sup> The customary sanctions imposed are not repressive, but corrective and educational, such as public apologies, the provision of compensation, or the implementation of certain customary ceremonies. This is in line with the principle of *restorative justice* which emphasizes victim recovery and perpetrator responsibility.

The traditional approach of Batak Toba in resolving cases can be seen as a concrete form of implementing *restorative justice*. The process of dialogue, confession of wrongdoing, and peaceful agreement reflects efforts to restore social relations and prevent further conflicts.<sup>18</sup> In practice, settlement through Toba Batak customs is able to create a more substantive sense of justice because it considers cultural values and local wisdom. The victim gains moral and social recovery, meanwhile, the perpetrator is directed to account for his actions without losing his dignity as part of the community. Although the traditional approach of Batak Toba is in harmony with restorative justice, there are challenges in its

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<sup>15</sup> Prohaba Tribunnews, "Bunda Indah Dihina di Grup WA, Kapolda Terapkan Restorative Justice," 7 April 2022.

<sup>16</sup> Kezia, "Penyelesaian Tindak Pidana Secara Adat Melalui Dalihan Natolu (Penelitian Terhadap Masyarakat Batak Toba di Banda Aceh)" (Skripsi, Fakultas Hukum Universitas Syiah Kuala, Banda Aceh, 2022), hlm. 52.

<sup>17</sup> Soerjono Soekanto, *Hukum Adat Indonesia* (Jakarta: Rajawali Pers, 2014), hlm. 89..

<sup>18</sup> Murni Grestin, "Hubungan Restorative Justice dengan Dalihan Na Tolu Dalam Hukum Adat Batak Toba Sebagai Penyelesaian Perkara Tindak Pidana" (Skripsi, Fakultas Hukum Universitas Sriwijaya, Indralaya, 2023), hlm. 45.

application in the national legal system, including limitations in formal recognition and differences in legal procedures. Nevertheless, integration opportunities are open through the recognition of customary law that is accommodated in laws and regulations and supported by restorative justice-based law enforcement policies.

By strengthening the role of traditional leaders and coordination through the involvement of law enforcement officials, cases resolved with a Batak Toba custom-based approach can be an effective and fair alternative, especially for certain cases that are light and rooted in social conflicts. Settlement through the traditional approach of Batak Toba is not only to resolve conflicts judicially, but also to rebuild social relations in the long term. This situation confirms that customary-based restorative justice has great potential in creating justice that is sustainable and oriented towards community welfare.

### **The process of resolving restorative justice cases through the traditional approach of Batak Karo**

In the lives of indigenous peoples, social conflict is an inseparable phenomenon from the dynamics of relationships between individuals, so a resolution mechanism is needed that is able to restore social balance. Problems can cause humans to lose direction and purpose. Various ambitions, desires, and demands accompanied by lust, if not managed properly, will make the problems faced more complex and diverse.<sup>19</sup> Crime is an inseparable part of people's daily lives. Acts such as robbery, rape, fraud, stabbing, and various other forms of behavior reflect social dynamics as part of life that is considered normal. Law is a system that has special characteristics and is used as an instrument to regulate common life in order to achieve order. Legal developments are dynamic because they are part of a process designed to achieve a specific goal. In the end, law aims to create order in society, where in addition to legal certainty, order is the main requirement for the formation of an orderly and cultured social life. A law can be said to be good if it is in line with the laws that live in society and is a reflection of the values embraced by that society.

The Karo tribe is one of the ethnic groups that inhabit the Deli Serdang Regency area. This tribe is an indigenous tribe that has a close relationship with the history of the city of Medan, considering that in its initial development the city was also built by a Karo figure, namely Guru Patimpus Sembiring Pelawi. The Karo tribe has its own language known as Karo Language or Cakap Karo. Culturally, the Tanah Karo area borders several other traditional areas, such as Tapanuli/Tano Batak, Malaya, and Aceh, so the interaction with the Malay, Batak, and Acehnese tribes is quite intense. In its history, there were four leaders of the Karo kingdom in the Deli region known as Datuk Empat Euku, namely Datuk Sunggal, Datuk Hampan Perak, Datuk Suka Piring, and Datuk Patumbak. Based on this historical background, the existence of the Karo tribe and customs is spread across various sub-districts, villages, and villages in the jurisdiction of Deli Serdang Regency. In North Sumatra, especially in the Batak Karo community, it is also known as a customary law institution called Pupur Sage, as stated by Natangsa Surbakti in his dissertation. The Batak Karo community has a similar mechanism that is rooted in the philosophy of Rakut Sitelu (three-legged rope). A well-known dispute resolution institution is Purpur Sage or Porpor Sage (peace deliberation).<sup>20</sup>

Purpur Sage was held when there was a dispute in the Batak Karo indigenous people. The term Purpur Sage comes from the Karo language, which is one of the major tribes in North Sumatra Province, and consists of the words purpur and sage which in the Karo dictionary means forgiving each other.<sup>21</sup> In the life of the Karo people, Purpur Sage is not only understood as a term, but also as the name of a series of traditional ceremonies. This ceremony is a peace ritual that aims to resolve conflicts between dissenting individuals or groups. In addition, the implementation of Purpur Sage is not only intended to reconcile humans, but can also be done in a spiritual context, namely to reconcile spirits or tendons.

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<sup>19</sup> Geiko Muller-Fahrenheit, *Rekonsiliasi: Upaya Memecahkan Spiral Kekerasan dalam Masyarakat*, terj. Georg Kirchberger dan Yosef M. Florisan (Mumere: Ledalero, 2005).

<sup>20</sup> Darwin Prinst, *Sejarah dan Kebudayaan Karo* (Jakarta: Yrania, 1984), hlm. 67.

<sup>21</sup> Natangsa Surbakti, "Lembaga Pupur Sage dalam Masyarakat Batak Karo" (Disertasi, 2000), hlm. 120.

This process involves the kinship structure of Rakut Sitelu:<sup>22</sup>

1. Kalimbubu: The giver of the woman (wife's family).
2. Senina/Sembayak: Brother of one descendant.
3. Anak Beru: The female recipient (in charge of preparing the course of the event).

In the context of criminal law, even though the application of customary criminal sanctions has been accommodated in laws and regulations, people still tend to use customary law. This is because customary sanctions, which generally prioritize a mechanism of compensation or peaceful settlement, are more acceptable to the community. The use of sanctions in the form of imprisonment in customary law is relatively rare. On the other hand, the principle of legality in criminal law is seen as a 'stronghold' that limits recognition of such practices. Customary law communities in general prioritize dispute resolution through deliberation with the aim of creating peace. The deliberation route is the main choice because it allows the achievement of a peace agreement that provides benefits for both parties.

The parties forgive each other and do not necessarily bring the dispute to the state court, so that a good and harmonious relationship is maintained. Through mediation, it is hoped that the social balance disturbed by the dispute can be restored to its original state, so that this mechanism is able to provide the best solution for the community, especially the parties to the conflict. Thus, mediation focuses more on reaching an agreement that can be accepted by both parties, not solely seeking the truth of the law or the legal basis applied.

In the context of penal mediation, the main orientation lies in the quality of the process rather than the final result, which is to encourage the perpetrator to realize his mistakes, solve the needs arising from the conflict, and provide a sense of security and calm for the victim. If associated with the concept of criminalization, penal mediation can basically also be seen as a form of imposition that is unpleasant for the perpetrator for the criminal act that he has committed, even though it is carried out through a more humanist and restorative approach.

In resolving cases through customary law, the Karo tribe prioritizes the principles of kinship and peace, because customary provisions and sanctions serve as guidelines to restore relations between the disputing parties. Any violation of customary norms is subject to sanctions, the determination of which involves the Village Head and Karo traditional elders. The deliberation process in the Karo custom is known as Purpur Sage, which is a peace forum to resolve conflicts. For each criminal act, sanctions are imposed in the form of customary fines adjusted to the type of violation and the amount of damage caused. Customary sanctions in Karo customary law are always maintained, obeyed, and used as a norm of life that regulates people's lives.

In its implementation, Porpor Sage is divided into several types, namely Persada man is one of a series in a peace ceremony (Pupur Sage) which is carried out through eating together from one plate. The dishes served are specially cooked whole chicken and a chicken egg. Symbolically, the practice of eating from one container symbolizes togetherness, unity, and the elimination of barriers between parties who were previously in dispute, so as to recreate a harmonious relationship. In addition, there is the tradition of Nuploadken Lau Erpangi-morning, which is also part of the peace ceremony by feeding each other water. The water used comes from the first stream of showers in the morning known as Bunga Lau. Philosophically, the water symbolizes purity, sincerity, and new beginnings, so this procession is interpreted as an effort to cleanse oneself from conflict and restart a peaceful and balanced relationship. Nabei is one of the series in the Pupur Sage ceremony which is carried out by giving sabe or traditional clothes to the party or group that is being beheld, and accompanied by the provision of animals such as buffalo, cows, or pigs as dishes. In addition, there is also the tradition of Blood Spin, which is part of a peace ceremony that is carried out using the blood of the wrong party as a symbol of conflict resolution.

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<sup>22</sup> Ginting Suka, *Ranan Adat* hlm. 190.

<sup>23</sup> Brahmana Limang, "Porpor Sage: Upacara Perdamaian dalam Suku Karo," Kompasiana, diakses dari <https://www.kompasiana.com/brahmanalimang/550fe9dea33311c939ba7e54/porpor-sage-upacara-perdamaian-dalam-suku-karo>

In the implementation of the Pupur Sage ceremony, the initial stage that must be carried out is for the parties who have disputes to hold a deliberation or *runggu*, which must be attended by *Sangkep Enggeloh* from each party. After an agreement was reached, the Porpor Sage ceremony was held which was equipped with various traditional equipment, such as *beru-beru* (water containers), *sangka sempilet* irons, *hill junjungan*, and *lau* flowers.

After all the initial stages are met, the Pupur Sage ceremony can be carried out. The procession began with a meal together (*persada man*), followed by the provision of drinking (*nuploadken lau* ermorning-morning), as well as the giving of *sabe* or the implementation of blood circles. Furthermore, the party who made the mistake apologized for his actions, emphasizing that the mistake occurred unintentionally. After that, a series of meals together, drinking, and *sabe* were continued. In the next stage, the *kalimbubu* drinks the water that has been prepared, then sprays it four times while saying a prayer or symbolic expression that means hope that the heart will be calm and cool, like the flowing water and the wind blowing. This act of spraying water is carried out as a symbol of cleansing and restoration of relationships. After the procession, the guilty party drinks the same water, while the rest is rubbed on the heartburn and head as a symbol of purification. The series of ceremonies then continued with the giving of betel nut and cigarettes to the *kalimbubu* as a form of respect and closing of the peace procession."

According to Sada Kata Ginting Suka, the term *pupur* means to throw away something that is no longer useful, while *sage* means to level.<sup>24</sup> Based on this meaning, Pupur Sage can be understood as a peace ceremony that aims to resolve conflicts between individuals or groups in the Karo community in accordance with the beliefs adhered to. This ceremony can be applied in various forms of disputes, such as conflicts between family members, between individuals, between villages, and in the settlement of domestic disputes between husband and wife. In its implementation, the Pupur Sage ceremony must be attended by *sangkep nggeluh* from each party in dispute. *Sangkep nggeluh* is an important element in the kinship system of the Karo community consisting of *kalimbubu*, *sembuyak*, and *anak beru*. *Kalimbubu* is the giver of the woman, namely the family of the wife's side, including the father-in-law and the wife's brother. Meanwhile, *anak beru* is a female recipient who has an important role in preparing needs and regulating the implementation of traditional ceremonies. The sanctions are given based on customary fines depending on the severity of the error and the amount of loss. Research shows that people are more likely to accept a compensation system or peaceful path than prison because they maintain good relations (reintegration).<sup>25</sup>

The Pupur Sage ceremony aims to create peace and restore the conditions disturbed by the conflict. However, nowadays its implementation is starting to be rare because the Karo people prefer the formal route in dispute resolution.

## Conclusion

Based on the results of the research, the concept of restorative justice has basically developed for a long time as part of the living law of the Batak indigenous people. In the Toba Batak community, the principle of *Dalihan Na Tolu* is the foundation for conflict resolution through customary deliberation involving *hula-hula*, *dongan tubu*, and *boru* with corrective and educational sanctions. Meanwhile, in the Batak Karo community, the mechanism of *runggu* through *sangkep nggeluh* and the Purpur Sage peace process reflects restorative justice that is oriented towards restoration, not retribution. These two customary law systems are in accordance with the development of national criminal law which has adopted the concept of restorative justice through Perpol Number 8 of 2021 and Perja Number 15 of 2020, although its implementation still faces obstacles in coordination between institutions and there is no

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<sup>24</sup> Ginting Suka, *Ranan Adat: Orot Nggeluh, Rikut Bicara Kalak Karo, Ope Tubuh Seh Idilo Dibata* (Medan: Yayasan Merga Silima, 2014), hlm. 189.

<sup>25</sup> Hendayani, "Penerapan Restoratif Justice dalam Penyelesaian Tindak Pidana pada Suku Karo di Wilayah Hukum Kejaksaan Negeri Deli Serdang" (Skripsi, Fakultas Hukum Universitas Muhammadiyah Sumatera Utara, Medan, 2024), hlm. 37.

systematic integration between customary law and national law. Philosophically based on Gustav Radbruch's thoughts, the settlement of cases through Batak customary law has reflected a balance between justice, utility, and legal certainty, so that customary law cannot be seen as separate from the national legal system but as an integral part of the pluralistic Indonesian legal system and has great potential as a contextual restorative justice model according to the character of Indonesian society.

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