

*Research Article***Implementing of Restorative Justice to Build the Criminal Justice System in Indonesia: A Study of the *Batak Toba* Justice System**Nur Rochaeti<sup>1</sup>, Mujiono Hafidh Prasetyo<sup>2\*</sup>, Ji Hyun Park<sup>3</sup><sup>1,2</sup> Faculty of Law, Universitas Diponegoro, Indonesia<sup>3</sup> Faculty of Law, Youngsan University, South Korea

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**ABSTRACT**

The pursuit of fairness and harmony between the realization of rights and duties is a cornerstone of human progress. Restorative justice case resolution represents an endeavor to introduce a non-punitive procedure into Indonesia's criminal justice system as part of its ongoing effort to modernize its legal framework. Restorative justice focuses on healing criminal behavior's harm and shattered relationships. This study examined the feasibility of implementing restorative justice aspects into a national criminal justice system, gaining inspiration from the Toba Batak Indigenous People. The methodology was socio-legal. *Dalihan Natolu* is recognized as an alternative conflict settlement method for *Toba Batak*. The traditional leader mediates in this conflict resolution. By *Batak* customary law, the imposition of sanctions is decided by customary judges or kings. *Dalihan Natolu* then tells the culprit not to repeat his behavior. *Dalihan Natolu* involves offenders, victims, families of offenders and victims, and other parties in seeking a fair settlement that emphasizes repair above retribution. This helps *Dalihan Natolu* solve criminal concerns. In indigenous cultures, customary institutions convene the parties engaged in a crime to provide counsel and find solutions that do not harm or profit only one side. Justice is served, and the victim is not harmed.

**Keywords:** Implementing; Criminal Justice System; Restorative Justice; *Toba* Indigenous Peoples; *Dalihan Natolu*.

**A. INTRODUCTION**

The crime rate in Indonesia in week 22, or the last one in May 2020, had increased when compared to that in the previous week due to public order and crime (known as *kamtibmas*) disturbances in week 22 of 2020, which increased by 442 cases, or 16.16 percent (Rochaeti et al., 2023). In the twenty-first week, there were 2,735 crimes. The number of criminal cases went up to 3,177 in the 22<sup>nd</sup> week. In the 23<sup>rd</sup> week, there were 4,244 criminal cases. In the 24<sup>th</sup> week of

2020, this number went up to 5,876.

The information shows that, in December 2020, there was a total of 249,139 prisoners and inmates, with a total capacity of 135,704. In January 2021, the number of people was 252,286, but the capacity was only 135,704. It was 86% more than the capacity. The data from December 2020 and January 2021 shows that 29 Regional Offices of Law and Human Rights were overcrowded with detainees and convicts, while three Regional Offices of Law and Human Rights

were not overcrowded (the Regional Offices in Yogyakarta, Gorontalo, North Maluku, and East Nusa Tenggara) (Novianti, 2020).

One reason used is to stop people from breaking the law (Gilligan, 2000; Posner, 1985). Emile Durkheim (1973) said that crime is an unavoidable part of human life. He said that all human activities — political, social, and economic — may lead to crime, so we should not be worried on the fact that crime exists. Instead, we should eliminate it and keep the quality and number of crimes as low as possible. Trying to stop crime can be done in different ways, such as by using criminal law, preventing crime without making it a crime, or changing the way people think of crime (Sherman et al., 1998).

Criminal law is the same as punishment, which hurts or tortures (Bronsther, 2019). The goal of criminal law is to protect the rights and interests of individuals, as well as the rights and interests of the community and the state (Maculan, & Gil Gil, 2020). This should be done in a way that strikes a balance between crimes and the actions of arbitrary authorities. Criminal law is called the "law of punishments" because it uses punishments to keep people safe, to maintain order, and to do what is right (Dubber, 2006). In reality, the way prisons are set up now causes problems. For example, because prisons are overcrowded, prisoners' basic needs are not met, and prison is not the only solution (Viggiani, 2007).

The lack of synergy in how the criminal justice system works shows that some

Correctional Technical Implementation Units (State Detention Centers and Correctional Institutions) have too many beds. In an integrated criminal justice system, each law enforcement agency cannot deny that the policies of one institution are directly or indirectly causing problems for other agencies (Ajah et al., 2022). Recently, the way things are that prisoners do not have their basic needs met. For example, they do not get enough food; the bathrooms are not clean, and so on. Particularly, for prisoners, these conditions can make them sick (Gadama et al., 2020; Morris, 2008).

Prison riots, drug smuggling, and the lack of adequate facilities are all examples of the fact that institutional direction and penal efforts in law enforcement should be tailored to the specific requirements of inmates who will make positive contributions to society after they are freed from jail (MacKenzie, 2006).

There are still several challenges faced by law enforcement in the formal mechanism of the criminal justice system, including but not limited to the followings (DS, Syukur, & Retno, 2011):

- The application of the law is not entirely determined by the provisions of the applicable law; there is a lack of consensus among law enforcement officers on how to handle cases.
- Inadequate resources for dealing with cases during the court process (both before and after decisions have been made); and
- There must be coordination among law enforcement personnel (police, prosecutors, and judges).

We need restorative justice as a non-punitive method of crime prevention that does not affect sideline victims' rights (London, 2014). The goal of restorative justice philosophy is to repair the harm caused by criminal behavior by mending broken bonds and repairing hurtful interactions. All stakeholders must cooperate to recover these losses and to repair these relationships (in interest) (Braithwaite, 1999; Hopkins, 2002). The use of restorative justice to address criminal behavior is regarded as a way to patch over problems with and discontent with traditional retributive and rehabilitative methods in the criminal justice system (Murhula, & Tolla, 2021; Wenzel et al., 2008).

Similar topics have been explored in several other studies. Wikan Sinatrio Aji's (2019) studies are one of the examples. The study, titled "The Implementation of Diversion and Restorative Justice in the Juvenile Criminal Justice System in Indonesia," was intended to dissect Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, which had sought diversion and restorative justice in terms of dealing with the conflicts involving children and the law. The conclusions drawn from the study include that Law Number 11 of 2012 concerning the juvenile criminal justice system, served as the basis for the formation of diversion and restorative justice policies, and the guidelines for their implementation have been established.

The study by Ramdani Abd. Hafiz et al. (2021) titled "Efficacy of Restorative Justice Meets the Just Nature of Indonesian Society,"

focused on restorative justice, which is an alternative to traditional criminal court proceedings, that brings together the offender, victim, and community to repair the harm caused by criminal activities. In some parts of Indonesia where customary law is systematically applied and the kinship structure is strong, this style of criminal court is beginning to emerge. There is an urgent need for restorative justice due to the rising caseload and jail population. The primary reason of overcrowded jails is because there are too many pending criminal cases in the court system. Those incarcerated have committed a wide range of offenses, and they are all represented in the prison population. A significant drawback is that ex-convicts rarely change their ways once they return to society, with many instead becoming even more dangerous criminals.

The article by Nur Rochaeti et al. (2023), "A Restorative Justice System in Indonesia: A Close View from the Indigenous Peoples' Practices," used a socio-legal approach and found that public participation in Indonesia, through customary groups, can help prevent crime and solve problems through discussion and following applicable customary law processes. As a result, Indonesian researchers have regulated and recognized customary justice's existence and implemented it to deal with cases in their environment. Restorative justice is a criminal mechanism that aims to restore the relationship of conflicting parties to the state before the conflict and is carried out informally. This concept is also

an acknowledgement of oriental legal philosophy, which, in resolving any conflict, always seeks to restore relations; macro-stability or society can even affect the stability of the universe. The practice of restorative justice occurs in customary law. As a legal philosophy, the legal policy of implementing restorative justice should be interpreted mainly as revitalizing customary law when conflicts occur between fellow supporters of the same customary law. The resolution of the cases in the *Baduy* community was straightforward. The resolution prioritized forgiving each other. Restorative justice is performed by combining criminal justice mechanisms with public participation in a discussion mediation.

Nur Rochaeti, Mujiono Hafidh Prasetyo, and WKadek Cahya Susila Wibawa's (2023), in their article "Restorative Justice in the Customary Jurisdiction of the *Dayak* Tribe Communities of West Kalimantan" aimed to investigate the application of restorative justice within the customary legal systems of the communities belonging to the *Dayak* Tribe in the Indonesian Province of West Kalimantan. The villages that are part of the *Dayak* Tribe have a long-standing tradition of resolving disagreements by various sacraments and rituals, including restorative justice. On the other hand, customary practices are increasingly disappearing due to the growing impact of recent legislation and the government's legal system. This investigation was carried out using socio-legal research with the data collected through semi-structured interviews and various observational techniques. The traditional

community leaders, community members, and persons previously participating in restorative justice were the participants. Despite the growing influence of modern law, the findings of this research demonstrate that the groups within the *Dayak* Tribe continue to use restorative justice techniques. Many people believe that using restorative justice to resolve conflicts and to preserve communal harmony is a beneficial strategy. The community members value the participation of traditional leaders in the process of restorative justice since these leaders are regarded as being objective and competent. The research also emphasized the specific problems experienced by the communities that are a part of the *Dayak* Tribe in implementing restorative justice. These challenges include limited resources and the growing influence of modern law. In addition, the people who live in the villages continue to acknowledge the significance of the traditional rituals and have expressed a commitment to maintaining them.

In the article by Elmayanti and Mukhlis R. on "*Penerapan Hukum Adat Dalam Penyelesaian Perkara Pidana Melalui Konsep Restorative Justice di Kabupaten Rokan Hulu Provinsi Riau* (The Implementation of *Adat* Law in the Resolution of Criminal Cases through the Concept of Restorative Justice in Rokan Hulu Regency, Riau Province", it examined the restorative justice approach as a paradigm used to be a frame of the strategies for handling criminal cases aimed at responding to dissatisfaction with the working of the current

criminal justice system in which the process of resolving criminal cases conventionally is very complicated, requiring a long time to reach a decision by a judge, even not necessarily getting the justice or satisfaction expected by the litigants. Restorative justice is a concept of thinking of responding to the development of the criminal justice system by focusing on the need for the involvement of the community and victims who feel marginalized with the mechanisms that work in the current criminal justice system. The community in *Cipang Kanan* Village always prioritizes deliberation in every activity, particularly in the matters related to resolving disputes so that every problem that occurs in the community always involves the role of traditional leaders in resolving it. This is a reflection of the customs that they have always applied by which every dispute always uses peace efforts through mediation and is followed by customary sanctions that must be fulfilled by the perpetrators who have violated customary provisions.

The purpose of the study titled "Can Restorative Justice Provide a Better Outcome for Participants and Society than the Courts?" was to investigate the knowledge that underpins restorative justice outcomes for participants and to suggest that restorative justice conferences can provide better outcomes for participants than formal courts of the criminal justice system. This analysis shows how productive restorative justice conferences are. Positive individual and societal outcomes will be seen as a result of this process which restores participants in a manner that may

be more consistent with the concept of 'fairness' than traditional litigation.

In contrast to previous studies, the criminal justice system actively seeks to locate and examine examples of restorative justice within the existing Indonesian criminal justice system and to locate and examine examples of restorative justice within the integrated criminal justice system proposed for reforming Indonesia's judicial and legal structures. The criminal procedure is practiced by the *Toba Batak* indigenous community. This study's findings can potentially inform policymakers, law enforcement officials, and the general public on criminal law and criminology.

The pursuit of fairness and harmony between the realization of rights and duties is a cornerstone of human progress. Restorative justice case resolution represents an endeavor to introduce a non-punitive procedure into Indonesia's criminal justice system as part of its ongoing effort to modernize its legal framework. To address crime without resorting to incarceration, this study will help community organizations to be more effective. The findings from this research will likely be utilized as a springboard for future investigations towards reestablishing restorative justice as part of a modernized criminal justice system as part of Indonesia's ongoing effort to update and modernize its legal framework.

## B. RESEARCH METHODS

The researchers in this study adopted a

socio-legal research methodology because they were interested in gaining a broader understanding of the legislation than only its textual components. The issue of restorative justice in Indonesia's criminal justice system is being investigated through the "socio-legal research" lens to shed light on the interaction between legal and non-legal issues (Irianto et al., 2012). This necessitates are drawn on a wide range of social science methodologies.

We utilized a combination of the legal, historical, and concept (philosophical) approaches to study and understand the facts concerning restorative justice in Indonesia's criminal justice system. Restoring Indonesia's criminal justice system through restorative practices is essential to modernizing the country's legal framework.

According to Sudarto (1977), "Socio-Legal Studies" is a technique for approaching the law from a broad perspective. To use a narrow definition, a juridical method examines the law solely in terms of its logical relationships or other systematic ways; to use a broader definition, one that considers the law's social context to be as crucial as its logical relationships is to employ a juridical method.

The interviews were conducted with the participants and relevant informants, resource people, or responders to collect the primary data for the study. A combination of snowball and purposive sampling determined the sample size. The academics at the Andalas University, Faculty of Law, and *Toba/ Samosir* indigenous people were the essential resources and informants in

Medan City.

The core data collected was examined qualitatively prescriptively, which entailed three distinct steps: data reduction, data presentation, and conclusion drawing. The overarching goal of this process was to provide the collected information in a readily digestible way. The data reduction was by selecting, reducing, and manipulating raw data from the field study. Data reduction is a method of analysis used to refine, categorize, eliminate, and arrange data to draw conclusions. In order to draw several conclusions from a set of data, it must be presented. This can be done through narrative text, graphics, charts, and visuals. Conclusion-making is a process of double-checking the research results.

Deductive reasoning or discovering overarching truths by applying the theories employed here was used to assess the secondary data collected for this study. Interpretive analysis was used in this study. The researcher combined their observations with the explanations offered by the resource individuals or informants through interviews, life histories, personal experiences, case studies, and other documents. In addition, prescriptive qualitative analysis was used to examine the data, to sort the information, to give it significance through interpretation, to explain the description's pattern, and to link its various dimensions. In order to create or alter a policy or law, in this case, a regulation concerning restorative justice is required. Prescriptive qualitative analysis is an attempt to draw conclusions based on logical thinking on various

data needed through the activities of digging, uncovering, describing, identifying, reconstructing, compiling, processing, describing, and interpreting with systematic and historical thoughts.

Triangulation techniques were also employed in the data analysis; these were used to verify the accuracy of the data by comparing them to or checking them against the sources out of the data. At this point, we drew conclusions based on the information gathered from the informants and examined their responses for the patterns, hypotheses, and commonalities.

## C. RESULTS AND DISCUSSION

### 1. Concept of Restorative Justice

The United Nations issued a resolution in 2000 called "Basic Principles on the Use of Restorative Justice Programs in Criminal Matters" at its tenth congress on "the Prevention of Crime and the Treatment of Offenders" (The Tenth UN Congress on Crime Prevention and Treatment of Offenders), which was held in Vienna at the beginning of that year (Sullivan, & Tifft, 2007). This was eventually approved in the resolutions passed by the United Nations General Assembly and reiterated in the Vienna Declaration on Crime and Justice ("Meeting the Challenges of the Twenty-First Century") counting for 55/59 of the nations as of December 4, 2000.

According to the United Nations Basic Principles, a restorative justice approach can be integrated into a criminal justice system. However, three theoretical models conceptualize the relationship between restorative justice and

criminal justice system: within the system, out of the system through other institutions, and out of the system altogether.

The primary principle of the restorative justice model is the pursuit of restitution and healing for those involved in resolving criminal cases. An effort to bridge the justice system is required, and the concept of restorative justice has stepped in to fill the void left by the current criminal justice system's paradigm. Restorative justice involves assigning direct perpetrator responsibility to the victim through a variety of direct responsibility tasks that the perpetrator completes for the benefit of the victim and the relationship between the two in society — integrating the principles of restorative justice into criminal law. The European Directive 2012/29/EU establishing minimum standards on the rights, support, and protection of victims of crime, the Council of Europe Recommendation CM/Rec (2018) concerning restorative justice in criminal matters, and the recently updated United Nations Handbook on Restorative Justice Programs testify to the increasing policy recognition of restorative justice at the international level (Pali, & Maglione, 2021).

The concept of restorative justice represents a novel approach to penal policy. In this strategy, social workers and mediators strive to restore the harm done by illegal acts. A central tenet of the restorative justice framework is restoring harm done by criminal behavior. The only way to compensate for this financial setback is through concerted efforts involving all relevant

parties.

The crime problem can be resolved through the actions and programs that represent restorative goals by doing the followings: recognizing wrongdoing and making efforts to make amends, including all relevant parties, and altering the customary dynamic between communities and governments.

Based on the 1985 Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, this idea is central to restorative justice. Restorative justice's foundational concepts were formalized by the United Nations Commission on Crime Prevention and Criminal Justice to serve as a global framework for the nations implementing such initiatives. Instead of punishing (convicting) offenders, the focus of restorative justice shifts to mend harms done and broken relationships.

The losses sustained by either party must be restored for restorative justice to be a viable option for resolution. By striking a middle ground between offender and victim in resolving the fallout from crime's emergence, restorative justice can fulfill its stated aim.

Weakening the integrity of the regulation by allowing it to apply retrospectively; rules in a system should not contradict one another, demands should not go beyond what is reasonable, and there should not be a pattern of rule changes that makes it hard to keep track of what is expected. A harmony is required between the written rules and the ones enforced daily.

Revival of the offender is required since

restorative justice aims to promote healing and growth; it naturally gravitates toward families and young people as its primary beneficiaries. Criminals have positive skills and abilities to be proactive and preventative, and they are seen as competent. Changing the mindset of society's institutions and the habits of its adults is essential when criminals are to be rehabilitated. Offenders are rehabilitated through experiential learning, counseling, and therapy that encourage both parties to take an active role in the process.

Restorative justice's presumptions on how the justice system and the community may work together to improve crime prevention are referred to as the "aspect of community protection." Solitary confinement is reserved for highly exceptional circumstances. Restoration efforts require the active participation of the community. The metrics for restoring community safety is a result of a decrease in recidivism and the perpetrators being placed under community supervision. The community as a whole feels safer, trusts the justice system, and works with local institutions like schools and churches to reduce crime, while also strengthening bonds within the community and preparing ex-offenders for successful reintegration.

These are just a few examples of the many restorative justice policies, practices, and programs that may be found in many different nations:

The failure of criminal sanctions and incarceration, in particular, to accomplish their intended goals of deterrence and rehabilitation



has been the subject of heated debate in Italy for quite some time. As a possible remedy, legislation incorporating restorative justice practices into the criminal justice system could be helpful. Criminal law mediation and juvenile criminal mediation forms are included.

Restorative justice is recently adopted as justice for social harmony in Thailand when the country hosted the 11<sup>th</sup> Five-Year United Nations Congress.

Restorative justice is practiced in Sri Lanka through the 1988 Mediation Council Act for lesser offenses like minor insults, remarks in the form of minor blasphemy against religion, minor persecution, minor theft, minor fraud, and some offenses under the Criminal Code. To file a criminal case in court, the Mediation Council must first attempt reconciliation. When it fails, the case may be filed with the court along with a statement explaining why mediation is unsuccessful (Niriella, 2013).

Australia, Canada, Finland, Ghana, Bulgaria, Belgium, and Tasmania are just some countries that have incorporated a restorative justice approach into their criminal law policies, translating it as a mediation concept in which the opportunities for criminal case resolution out of the temporary justice system are opened. This idea can be found in the criminal justice systems of several other countries, including the United Kingdom, New Zealand, and South Africa. "Restorative Justice", firstly a research concept and later a criminal justice practice, was introduced into Taiwan at the beginning of the

twenty-first century (Huang et al., 2022).

The role of pardons in restorative justice remains peripheral because interpersonal forgiveness has been considered a 'gift' that should not be forced on victims in restorative justice. Restorative justice processes can involve victims, offenders, and community members meeting to discuss the harms caused by offending behavior. Restorative justice is an approach that focuses more on the conditions necessary to bring about justice and equilibrium for both criminal perpetrators and victims. The earliest historical records document the development of the concept of restorative justice in England during the 1980s, when it was applied to child-related diversion cases. Furthermore, other historical records indicate that the concept of restorative justice originated in Greece or Rome, an ancient tradition that evolved into the world's major religions. However, the Fifth United Nations Congress in Vienna in 1975, which centered on reciting restitution losses for victims of crime, is regarded as the beginning of the concept of restorative justice being accepted. Jeff Christian, an international expert on penitentiaries from Canada, stated that restorative justice was practiced by many people thousands of years ago, prior to the emergence of modern, formalized law as it exists today (Andini, Nilasari, & Eurian, 2023). Restorative justice is an approach to justice in which victim and offender gather voluntarily to discuss the effects of the crime and to find ways to repair the harm done. Empirical findings suggest that offenders tend to

spontaneously offer apologies to their victims (Bolivar et al., 2013).

The topic of restorative justice has made its way onto the agendas of international gatherings. Following the international conference, it is expected that international documents will be drafted to address the issue of restorative justice and mediation in criminal cases. The full spectrum of human rights, including civil, political, economic, and social rights, can be considered in the judicial process by ratifying several international conventions and the subsequent commitments made by member countries to implement them consistently considering cultural norms and making allowances for differences in the social structures, religious practices, and other values that other nations hold.

Sexual violence (SV) is a widespread human rights issue. Survivors of SV often experience profound dehumanization and poor health outcomes when their trauma is not properly addressed, making it critical that they are honored and empowered within subsequent processes of healing and seeking justice. With adjudication through the criminal legal system largely underutilized due to retraumatization, scrutiny from law enforcement professionals and high rates of case closure, restorative justice (RJ) has emerged as a promising option for survivors to repair harm and experience accountability (Burns, & Sinko, 2021).

The apology-forgiveness cycle is a simple but powerful process for conflict resolution. Given the prevalence of apology and forgiveness in

restorative justice (RJ), the apology-forgiveness cycle may take place. However, there is a lack of theoretical understanding of the relationship between apology and forgiveness in the RJ processes. After identifying key elements and impediments of the apology-forgiveness cycle during RJ meetings based on the existing literatures, we develop a theoretical model of the apology-forgiveness cycle during RJ encounters (Suzuki, & Jenkins, 2022).

As a means of addressing juvenile delinquency, restorative justice based on the *Pancasila* philosophy is derived from a study of the interaction between various laws and regulations and legal goods relating to restorative justice based on *Pancasila*. These rules and regulations can be evaluated in light of international and presently applicable national legal instruments (*ius constitutum*).

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Juvenile justice aims to guarantee that all children who interact with the court system are better served, protected, and served. UNICEF supports enhancing all components of the child protection system, including justice procedures implemented in the child's best interest. UNICEF

endorses alternatives to incarceration, such as diversion and restorative justice, which focus on repairing damage caused by criminal action.

UNICEF supports the training of police, prosecutors, judges, attorneys, social services, and health services to safeguard children effectively within the justice system. UNICEF works within traditional or customary judicial procedures, which currently account for 80% of all cases in many developing countries. UNICEF advocates the establishment of child-sensitive courts and police processes that protect children's rights and are consistent with the Convention on the Rights of the Child and other non-binding provisions based on international standards, guidelines, and existing rules.

Multiple international legal mechanisms govern restorative justice, including: Based on Law Number 11 of 2012 concerning the Juvenile Criminal Justice System, Article 1 regulates: the Juvenile Criminal Justice System is the entire process of resolving cases of children dealing with the law, starting from the investigation stage to the stage of mentoring after serving a crime; Children in conflict with the law are the children who are in conflict with the law, the victims of criminal acts, and the witnesses of criminal acts. A child in conflict with the law, hereinafter referred to as a child, is a child aged twelve years old but not eighteen years old yet and is suspected of committing a crime. Restorative justice is the resolution of criminal cases by involving the perpetrators, victims, families of offenders or victims, and other related

parties to jointly seek a just resolution by emphasizing the restoration of the original state and not retaliation. Family is composed of parents consisting of father, mother, and/or other family members who are trusted by the child, and the Correctional Center, hereinafter referred to as the Correctional Agency, is a correctional technical implementing unit that carries out the duties and functions of community research, guidance, supervision, and assistance.

In theory and reality, restorative justice in Chile has an external impact. The notion of 'penal mediation' is the one that is utilized the most frequently. The arrival of the Alternative Dispute Resolution (ADR) movement in the 1990s, as part of the broader processes of democratization and modernization of the Chilean state and its justice system, has sought to improve access to justice for people, particularly the poor, to improve the quality of justice solutions, to reduce overloading of the courts, and to empower communities. This is one of the primary factors that contributed to the development of restorative justice in Chile (Gude, & Papic, 2020). The other factors contributing to the growth of restorative justice in Chile include the following: the enforcement of laws is a process that consists of a sequence of steps that explain beliefs, concepts, and ideals and then become the purpose of laws. In the cultural environment, law enforcement must share space with the opposite side of values, including those regarded as sacred in religious substance and who believe in the importance of local wisdom. The manifestation of the synchronization

of diverse dimensions of substance, structure, and culture can be seen in the law enforcement pattern with a cultural dimension.

Indonesia adheres to a retributive punishment system, namely a criminal justice system with a focus on sentencing as a form of retribution for the perpetrator's actions and as a means of preventing similar crimes. In Indonesia, however, the system of retributive punishment does not play a significant role in reducing crime. There may be as many as 35,044 repeat offenders by 2020, or approximately 12.96%. The concept of restorative justice concerns the accountability of perpetrators to victims, their families, and their surroundings which are carried out in out-of-court proceedings. One form of case that Restorative Justice can resolve is the crime of ITE (Triasari, Hanum, & Firmandiaz, 2023).

An understanding of the transition process is essential to discussions of transitional justice. Based on the political transition theory, transition refers to a shift or process by which a country moves from an authoritarian regime to a democratic one. This shift is facilitated by a movement or change from dictatorship or fascism to democracy, resulting in a tangible shift from a despotic government to a more democratic one. Transitional justice serves as a required mechanism to strategically design the policies for reforming the security sector and delivering justice to victims of past government violence (Saibih et.al, 2023).

## 2. Criminal Justice System

The Indonesian Criminal Justice System

with *Pancasila* perspective means that, in its practice, the Criminal Justice System must prioritize human rights, the balance of the perpetrators and the victims' interests, divine justice, humanity, and substantive justice (Dimiyati, & Angkasa, 2018). As an open system, the criminal justice system does not work in isolation. It must take into account the values of law and the sense of people's justice so that, in practice, criminal justice law is more contextual in exercising criminal law in order to gain success.

The criminal justice system, from the *Pancasila* perspective, is an open system that is influenced by institutions or the people's environment and life in terms of its operation. As an open system, the criminal justice system, in practice, is not solitary. It is affected by other factors. Thus, turmoil in society highly affects the process of criminal justice (Adawiyah, & Rozah, 2020).

The success is also influenced by properly functioning criminal justice subsystems. These subsystems consist of investigation, prosecution, judicial, and correctional institutions. All of the subsystems in Indonesia have basically been based on *Pancasila* as an open criminal system.

According to Barda Nawawi Arief, the renewal of criminal law is an effort to perform reorientation and reformation of criminal law based on central sociopolitical, sociopolitical, socio-philosophical, and sociocultural values of Indonesian people, which are the foundation of social, criminal, and law enforcement policies in Indonesia. Thus, the renewal of criminal law must

essentially be performed through an approach that mainly focuses on policies and values (Nugroho, 2021).

Customary law, as a local wisdom value that grows and develops in society, can be used as an alternative criminal punishment for minor crimes. For example, the implementation of flogging in *Aceh* can be an alternative form of criminal punishment. Caning in *Aceh* is carried out every Friday after prayers. The execution process of caning that is carried out provides space and freedom for all levels of society to witness it directly, including children (Zulyadi, & Hossain, 2022).

Korea has a long history. Established in 2333 B.C., the oldest form of government on the Korean Peninsula, *Kochosun*, had eight laws of prohibition. Since then, various states have appeared in this area. In around the 1<sup>st</sup> century B.C., three dominant ancient dynasties — *Koguryo*, *Paekjae*, and *Shilla* — came into being with their own legal systems. In the middle of the 7<sup>th</sup> century A.D., *Shilla* unified all these states into one and developed its own written criminal law.

Following the fall of Unified *Shilla*, a new dynasty called *Koryo* was established in the 9<sup>th</sup> century. (The modern name of Korea originated from this *koryo*.) *Koryo* developed its own legal system, based on that of the *Tang* dynasty of ancient China. After the demise of *Koryo*, the newly established *Chosun* dynasty tried to incorporate elements of the *Ming* dynasty's legal system, but found them inappropriate. This eventually brought the need to enact a new legal

system, and we finally saw the enactment of the Great Law for the Nation, or *Kyungkookdaejon*, in 1471. Since then, many revisions have been enacted.

The first modern criminal law was the Great Criminal Law, enacted in 1905. However, due to the Japanese colonization of Korea in 1910, the Great Criminal Law was abolished and replaced by the Japanese Criminal Law in 1911. After World War II, following the defeat of Japan and the ensuing commencement of American military administration, more genuine efforts had been made to propagate Korean legal codes. This brought the contemporary Criminal Law of 1953 and the Criminal Procedure Law of 1954, which have since been in effect. The criminal law of 1953 has undergone broad revisions, and there are plans to substantially revise the criminal procedure law.

In South Korea, trials are conducted both in writing and orally. Witnesses give testimony either live during a trial session or in writing and submit it to the court. The lawyers for both sides also present their arguments to the court, both orally and in writing, by submitting legal briefs. Foreigners are entitled to an interpreter throughout the trial. If an interpreter has not yet been appointed, they should request one.

In criminal cases, a defendant may be tried by a jury or a judge. In 2008, South Korea introduced a jury system ("people's participatory system"). The defendant has the right to be tried by a jury in criminal cases only, but has to file a motion for jury trial prior to the commencement of

the court's first trial session. If the defendant does not petition for a jury trial, a jury trial will not be held. The Korean jury system is significantly different from the common law system. Therefore, they may wish to consult with a lawyer regarding whether a jury trial or judge-led trial is most appropriate for their matter.

The concept of universal jurisdiction is inextricably linked to a state's ability to apprehend and prosecute offenders who operate across borders. The power to bring criminals to justice is an aspect of criminal jurisdiction that is closely tied to a nation's sovereignty. This definition of jurisdiction aligns with that of Lowe and Staker, who describe it as the legal competence of a state or other entity, such as the European Community, to establish, implement, and enforce the codes of conduct directed at individuals. More specifically, criminal jurisdiction represents a state's jurisdictional authority to enforce specific legal statutes against persons and property through the measures of prescription and enforcement, namely, the ability to detain and charge suspects, as well as to try individuals for criminal acts (Simanjuntak, & Kostruba, 2023)

### **3. Batak Toba Customary Criminal Justice System Practice**

Penal mediation is an effective and efficient way to settle criminal cases, part of Indonesia's culture, and thick with various influences. A high number of court cases exist, along with a lack of speed in processing them, due to a scarcity of time and the fact that many are low-cost and can be resolved out of court to reduce accumulation.

These considerations have led to the emergence of resolutions using penal mediation based on restorative justice (Wulandari et al., 2022).

Restorative justice is viewed as a fundamental principle used in criminal cases. When the perpetrators, victims, and/or other parties can effectively participate in the completion, sometimes the parties, in order to assist in the settlement of the case, act as facilitators in resolving the problems arising from the crime. The emphasis is placed on individual or collective interests and reintegration between perpetrators and victims by means of deliberation for consensus and based on customs related to the cause. Peace between the two sides with the main joint condonation of the victim on the perpetrators of criminal acts is called restorative justice (Rona et al., 2020).

Indonesia has the concept of *Bhineka Tunggal Ika*, known for its diversity of cultures, religions, tribes, races, and groups. By *de facto*, this diversity is reflected in the *kemajattening* of the Indonesian nation that is framed in the unitary state of the Republic of Indonesia. Indonesia's wide area extends from *Sabang* to *Merauke*, with its wide range of natural resources. Similarly, the *Adat* law community of *Dayak Hibundi, Sanggau* Regency, West Kalimantan, the recognized law is customary law, which, in the event of a breach by a person or group of people, will be subject to customary sanctions by traditional momentum through deliberation mechanisms for consensus, better known as customary justice. Customary sanctions are given to restore the disturbed

natural balance as a result of the violation (Rona et al., 2020).

One of the populous and important cultural groups in North Sumatra is *Batak Toba*. The *Batak Toba* ethnic group has been residing in the highlands in the interior of Sumatra, specifically near Lake *Toba*, for many centuries. The primary physical feature of the area that is now Lake *Toba* was once an enormous volcanic caldera. The *Batak Toba* people prefer to reside among the slopes, plains, and mountains surrounding the lake's northern and southern sides. This includes the island of *Samosir*, which has a vast interior. The territory of the *Humbang* plateau, located to the southwest of the lake, and the *Silindung* Valley, located farther to the south, eventually became the core of the *Batak Toba* community. The residents of *Batak Toba* like to make their living by cultivating rice and creating rice fields because of their region's climate and soil.

One of the people who call North Sumatra home is the *Batak*. Like other tribes, the *Batak* people have a distinct culture, particularly in terms of customs. The lives of many *Batak* people are largely determined by *Batak* culture (Ringo, 2022).

The *Batak* family tree follows the patrilineal pattern and is guided by the *Dalihan Natolu* concept. When a child is born, they are instantly inducted into their father's clan. Inheritance systems, marriage, patterns of property ownership, and residence patterns can all be influenced by the patrilineal family tree. Even though individuals who share a grandfather are

referred to as "people from the same womb" (*dongan sauntunga*), this does not imply that the tie through the mother is taken into consideration in the lineage. As determined by patrilineal lineages, kinship relationships are essential bonds, and traditional ceremonies are continually highlighted in their significance for preserving these ties (Sembiring, 2022).

The *Batak Toba* people live according to a patrilineal kinship system, which significantly impacts many aspects of their daily lives, such as inheritance, marriage, land ownership, and housing patterns. In addition to this, marriage has the potential to create a familial connection between the *hula-hula* and the *boru*. A common thread is woven into the kinship "*Dalihan Natolu*," a framework that includes blood relatives and marriage relationships that connects a kinship group consisting of men who are descended from the male who married their daughters to the same group of men. This common thread connects the three kinship ties in the *Batak Toba* tradition.

In *Batak Toba*, the names of most clans are identical to the names of the regions where the clans are located. Because the name is typically from a certain clan and the first person to clear the land, the name of the place typically follows the name of the clan responsible for opening the land. For instance, one may notice that the *Panggabean* clan designates their land as *Huta Panggabean*. This is something that can be observed.

The oneness that prevails within the *Batak* community represents the public consciousness

that underpins the conduct of social connections to preserve peace and harmony. The *Dalihan Natolu* is essentially a custom. However, custom takes on new meaning in the context of forming a personal identity as it contributes to developing a pleasant and peaceful civilization. Even though this practice has a whiff of something archaic about it, it is this practice that gives rise to a novel approach to the issue in contemporary society.

In the past, it was the norm for the people of *Batak* to cook on three piles of stones while using wood as fuel; the stove is referred to as *Dalihan* in the *Batak* language. The furnace is an extremely important piece of residential home equipment. Because it pertains to fundamental requirements, it is utilized in preparing food and beverages. In actual use, while preparing food on a burner (*Dalihan Natolu*), there are occasions when there is an imbalance brought about by the form of the stone or the form of the pot. Another object is employed to support and align it; the name of this block object, which is used in the *Batak* language, is *sihal-sihal*. After everything has been set up, they may start the cooking process.

The notion of *Dalihan Natolu* is still employed by the *Batak* people in the application of life and in the society that they live in on a day-to-day basis to this day. Generally, the *Batak* tribe adheres to a traditional philosophy known as *Dalihan Natolu*, which translates to "Three Furnaces." This philosophy is comprised of three tenets: *Somba Marhula-hula* (respect for the family of the mother), *Elek Marboru* (friendliness

toward the family of the sister), and *Manat Mardongan Tubu* (compactness in family relations). This ideology is adhered to stringently in day-to-day living and has been the foundation of social and community life in the *Batak* community until today.

In *Batak* custom, the *Boru* is expected to show respect for the mother's family, which is referred to as *Somba Marhula-hula* (respect for the family of the mother). *Hula-hula* is a male family that originates from the mother or wife, and it is commonly referred to as *tunggane* by the husband and bone by the child. *Hula-hula* always maintains sovereignty over any customary land within their sphere of influence. Because of this, it will only be possible for *Boru*, who lives in his *Hula-hula* village, to make a living if he respects his *Hula-hula*. For instance, the *Boru*, who do not respect *Hula-hula*, will not be granted access to any traditional territory.

*Elek Marboru* is close with the sister's family, members of sister's clan, members of the clan of her spouse, or members of clan's female kin. We frequently see the expression "*Elek Marboru*", which translates to "love one another in order to gain benefits or urgent needs," in our day-to-day lives.

*Dongan Tubu*, also known as *Manat Mardongan Tubu* (compact in clan relations), is a collaborative group that resides within a single clan family in *Batak* customs. The *Batak* tribe comprises hundreds of parent clans, making up the clan family. The *Batak* are monogamous people. Hence, there is just one clan in their



family tree. Even though they work together when participating in traditional activities, clans can sometimes subdivide within their ranks to facilitate the growth of their culture. For example, *Toga Naipospos*, especially *Bagariang*, *Hutauruk*, *Simanungkalit*, *Situmeang*, and *Marbun* (*Lumban Batu*, *Banjamahor*, and *Lumban Gaol*), or *Toga Sihombing*, notably *Lumbantoruan: Silaban*, *Nababan*, and *Hutasoit*.

*Dalihan Natolu* can also solve juvenile and adult offenses because *Dalihan Natolu* has evolved into a symbol for three distinct indigenous groups collaborating to resolve all issues. Every responsibility is divided. This symbolizes cooperation, togetherness, rights and obligations, tolerance, affection, and *holong*, all of which are important for maintaining healthy kinship relationships.

Each of the three components of *Dalihan Natolu* is responsible for a specific function. When sitting down together to solve problems or make decisions, these rights and obligations depend on their position or standing in the group. This indicates that *dongan sauntunga* is subject to a unique set of rights and responsibilities compared to *boru* and *hula-hula*. Although this position is usually stable, it is only absolute sometimes. For example, the *dongan sauntunga* group could transition into the *boru* group or the *hula-hula* group at some point in the future, and *vice versa*.

The rights and responsibilities associated with the *Dalihan Natolu* follow a triune structure. Specifically, the *hula-hula* is the one who provides considerations, inputs, and advice. At the same

time, the *dongan tubu* or *dongan sabutuha* are the hosts who provide all of the necessities, and the *boru* parties play a role in the process as *parhobas* (servants or workers).

The customary legal system controls the relationship that each of the three components of *Dalihan Na Tolu* has with one another. The *Dalihan Na Tolu* institution views the responsibility for the success of a task as lying with a system in which all of its components are interdependent, interrelated, mutually respectful of one another, and supportive of one another. The three components of *Dalihan Natolu* must continue in *mardomu ni tahi* for traditional rites to be carried out properly (always hold deliberation for consensus). In order to reach a consensus through deliberation, it is necessary to preserve the elements of a sense of togetherness, a sense of duty, and a sense of belonging. A sense of unity and oneness, a sense of belonging, and a sense of duty are the factors that decide whether a job will be successful or not.

Acts perceived as committing crimes in society are seen as the acts that can disturb society's peace, quiet, and comfort. With the method already in place in the community, it is anticipated that problems with inappropriate behaviors will be remedied quickly. The resolution in the form of problem-solving through *Dalihan Natolu* in the *Batak Toba* Indigenous Community is carried out by the *Batak Toba* people, who are located in North Sumatra. The *Natolu* pretext strategy is the name given to this particular solution. The Indigenous Peoples Institution, also

known as *Dalihan Natolu*, is tasked with facilitating the community's efforts toward resolving customary conflicts in a manner conducive to peace. "*Dalihan Natolu*" literally translates to "Three Pillars of Furnace." However, the community understands it to refer to the three customs that are considered to be the most important: "*Somba Marhulahula*," "*Elek Marboru*," and "*Manat Mardongan Tubu*." Because of the existence of clans and clan principles, these three components work together to create harmony, balance, and steadfastness.

The purpose of *Dalihan Natolu* is to either identify the position, rights, and obligations of an individual or group of individuals or to manage and control the behavior of an individual or group within the context of the traditional way of life in society. It provides a foundation for the community of *Batak* to deliberate about and reach a consensus on. In order to resolve any crimes that have already been committed inside the community, early efforts are made to approach the situation from a familial perspective through the use of the community's traditional institutions. Incestuous marriages between members of the same clan (also known as "incest"), robbery, slander, and other transgressions against the community's social order are among the broken customs. Indigenous peoples still have the belief that those who break their customary laws will incur the wrath of God; they will be unable to procreate; they will suffer from incurable sicknesses; they will suffer economic losses in every employment; and they may even be put to

death. This penalty is handed down from one generation of actors to the next, and sometimes it takes several generations. Because the guiding principle of *Batak* tradition is a divinity handed down from *Batak* ancestors, it follows that all *Batak* people who observe they are practicing are the people who have a close relationship with their ancestors. *Dalihan Natolu* can mediate peaceful solutions to customary criminal violations if they do not employ positive legislation.

Indigenous peoples continue to hold onto the belief that the curse exists. Both on an individual and a collective level, customs serve as a set of guiding principles and social structures, particularly in kinship. In particular, the *Dalihan Natolu* custom has a role to play in the following areas:

- Determining the functional position of individuals and groups within the kinship system.
- Regulating the pattern of kinship between individuals and kinship groups
- Regulating the rights and obligations of each person within each activity.
- Becoming the norm or code of conduct for everyone within the kinship system in everyday life.
- Becoming a means for all members to manifest mutual love.
- Providing a place for community members who feel isolated or alone.

The moral rule of mutual respect and assistance is at the heart of *Dalihan Natolu's* lessons. This moral code is at the center of the

moral code that contains the teachings of mutual regard (*masipairapon*). The *Dalihan Natolu* publication provides readers with impartial legal principles. They also know what is called *mangupa* and *manulangi* in *Daliha Natolu* as a sort of customary activity in the settling of criminal activities that have taken place. This is something that is known in the *Batak* community. When a crime needs to be committed in a society, all of the parties involved in the three furnaces of the *Dalihan Natolu* kinfolk will be gathered to talk together, sit together, and think together to get to the best choice possible regarding the crime. By making the decisions that have already been made, the community can make the best decisions by striking a balance between its many interests and maintaining harmony in its daily existence. The dismantling of the resolution will require some work on everyone's part. A particular ritual known as *mangupa-upa* is held in the overseas region whenever someone miraculously escapes from the clutches of death. For instance, if a man or woman is involved in a car accident and the accident is considered to be an event that the person can survive, or if nine relatives have recently recovered from a very serious illness, these are both examples of events that are considered to be the events that the person can survive. His vital spirit is not very strong at all. As a result, it is appropriate for the family to thank God and to provide words of comfort to him to facilitate the return of the normal spirit to life. In its most common form, *hula-hula* refers to the dance in its most general sense. If

there is a closer blood link with the person who is going to be inaugurated from the bone side than there is from the in-law side, the bone party should be the one who leads the *hula-hula* group, or they should come separately. Along with siblings from the husband's side, but must also include close family relatives from the *Boru* side, with the number of relatives being the only variable that can be restricted, the group that arrived earlier brought not only side dishes but also rice, which is to show solidarity with those who are grieving and receive their arrivals.

In order to avoid disturbing the person who owns the house, they bring not only auxiliary dishes but also rice. The ceremony for the seeding of *boras si pear ni tondi* and the presentation of *dekke sitio-tio* takes place as usual, even though these *tudu-tudu si Panganon* are not present. Why so? Because this ritual is no longer a *hula-hula* performance, and the ensemble's appearance is considered a "surprise." In addition to serving food to the audience, a *marhata* event takes place, bolstering the *marhata* participant's spirit of life. The clan members and the *boru* of the individual being recognized are the ones who are grateful for the words of comfort offered. As the gathering ends, the host would like to thank everyone for attending and to express his condolences.

Not from *hula-hula* to *boru*, but from *boru* to *hula-hula*, or it might be from the same clan to those who are more esteemed. This is the best of what is described above as *manulangi*. When the guests are dining at a *Batak* wedding celebration,

it is customary for a group of ten *paranak* to carry out the duty of *manulangi*. This involves placing a portion of meat from the *parboru* party on each guest's plate with a spoon. In addition, a *manulangi* might be a ceremony in which he spreads the palms of his hands together politely to accept blessings from on high. This is known as an attitude of receiving. The person who will receive it is seated with his palms outstretched in front of his mouth, conveying an attitude of readiness to take something in. Before passing the meat from one hand to the other, the person offering it will speak one or two appropriate words for the item being passed. *Pengupa-upa* is one of the activities carried out in resolving a crime that occurred in the community after an agreement between the extended families in the *Natolu* pretext to carry out salvation and joy after the completion of the conflict that occurred. This activity is one of the activities carried out to resolve a crime in the community. The *Batak* people still employ the notion of *Dalihan Natolu* in the application of life and their daily society, despite the advancements that have been made in modern times. Generally, the *Batak* tribe adheres to a traditional philosophy known as *Dalihan Natolu*, which translates to "Three Furnaces." This philosophy is comprised of three tenets: *Somba Marhula-hula* (respect for the family of the mother), *Elek Marboru* (friendliness toward the family of the sister), and *Manat Mardongan Tubu* (compactness in family relations). This ideology is adhered to stringently in day-to-day living and has been the foundation

of social and community life in the *Batak* community until today. In *Batak* custom, the *Boru* is expected to show respect for the mother's family, which is referred to as *Somba Marhula-hula* (respect for the family of the mother). *Hula-hula* is a male family that originates from the mother or wife, and it is commonly referred to as *tunggane* by the husband and bone by the child. *Dalihan Natolu* is also capable of solving crimes committed by adults and juveniles because *Dalihan Natolu* has evolved into a symbol for three distinct indigenous groups collaborating to resolve all issues. Every responsibility is divided. These 11 symbols of mutual collaboration, togetherness, rights and obligations, tolerance, affection, and *holong* are all important for maintaining healthy kinship relationships (Ringo, 2022).

Each of the three components of *Dalihan Natolu* is responsible for a specific function. When sitting down together to solve problems or make decisions, these rights and obligations depend on their position or standing in the group. This indicates that *dongan sauntunga* is subject to a unique set of rights and responsibilities compared to *boru* and *hula-hula*. Although this position is usually stable, it is only absolute sometimes. For example, the *dongan sauntunga* group could transition into the *boru* group or the *hula-hula* group at some point in the future, and *vice versa*. The rights and responsibilities associated with the *Dalihan Na Tolu* follow a triune structure. Specifically, the *hula-hula* is the one who provides considerations, inputs, and advice. At the same

time, the *dongan tubu* or *dongan sabutuha* are the hosts who provide all of the necessities, and the *boru* parties play a role in the process as *parhobas* (servants or workers). The customary legal system controls the relationship that each of the three components of *Dalihan Natolu* has with one another. The *Dalihan Natolu* institution views the responsibility for the success of a task as lying with a system in which all of its components are interdependent, interrelated, mutually respectful of one another, and supportive of one another. The three components of *Dalihan Natolu* must continue in *mardomu ni tahi* for traditional rites to be carried out properly (always hold deliberation for consensus). In order to reach a consensus through deliberation, it is necessary to preserve the elements of a sense of togetherness, a sense of duty, and a sense of belonging. The presence of a sense of unity and integrity, a sense of belonging, and a sense of responsibility are the factors that determine whether or not an employee is successful in their position.

The Indigenous Community Leader acts as the mediator in the conflict resolution process known as *Dalihan Natolu*, one of the alternative dispute resolution methods available to Indigenous Peoples. By *Batak* customary law, the procedure utilized in the imposition of sanctions is decided upon based on unanimous deliberation and consensus by a customary judge or customary king. In the past, the punishment given was shackled to the perpetrator. However, nowadays, the perpetrator must apologize before the traditional king and before the pretext of *na*

*tolu*. In addition, the perpetrators must pay all the costs incurred during the legal process, with the most severe penalty being expulsion from the area. After that, the *na tolu* pretext will offer the offender some words of wisdom to the effect that they should not repeat their actions.

The implementation of the resolution of criminal problems through *Dalihan Natolu* is carried out by involving the perpetrators, victims, families of the perpetrators or victims, and other related parties to jointly seek a fair solution by emphasizing restoration to its original state and not retaliation. Therefore, in indigenous peoples, customary institutions gather relevant parties regarding the crime and seek peace efforts by giving advice and finding solutions that do not harm or benefit only one party. It is unquestionable that justice is served and that the victim is not harmed in any way.

Irregularities in recognition and customary law community legal protection occur because of many factors, including the variety of terms and their number of dimensions and institutions that handle customary law community alone. This condition has implications for how the customary law community is treated in its operations. In addition, four conditions exist: as stated in Article 18B, paragraph (2) of the 1945 Constitution, even though it has been explained in the Constitutional Court Decision, it also shows the contradiction of each condition (Sulaiman, Adli, & Mansur, 2019).

#### D. CONCLUSION

The Relationship between Restorative

Justice and *Dalihan Na Tolu* in *Batak Toba* Customary Law as a Resolution for Criminal Cases in the Criminal law in Indonesia is guided by sanctions and punishments considered by the Indonesian people to be inconsistent with *Pancasila*.

The implementation of the *Dalihan Na Tolu* concept can resolve criminal cases such as domestic violence, fighting, petty theft, adultery, running away girls to marry, inciting people to commit criminal acts, and insults. Through this writing, it can be concluded that there is a relationship between restorative justice and *Dalihan Na Tolu* that both have the same goal of restoring the original situation disturbed due to a criminal act and resolving the cases by reconciling the victim and perpetrator as well as the parties involved. Apart from that, restorative justice with the concept of *Dalihan Na Tolu* prioritizes deliberation; therefore, restorative justice can be applied in Indonesian criminal law through the aspects of *Batak Toba* customary law with the concept of *Dalihan Na Tolu*.

*Dalihan Natolu* is an Indigenous Institution of the *Toba* Indigenous People. Its elements include *Somba Marhula-hula*, which means respect for the mother's family; *Elek Marboru*, which means being friendly to the sister's family; and *Manat Mardongan Tubu*, which means honoring the elder brother (compact in family relations). *Dalihan Natolu* is the concept and worldview that guide the *Batak* people as they go about their daily lives, regardless of where or when they are living them.

The role of *Dalihan Natolu* in the resolution of juvenile and adult crime as an alternative form of problem-solving, in which the traditional leader acts as a mediator and seeks peaceful efforts by giving advice and finding a way out of the situation that does not harm or benefit only one party in the conflict. It is unquestionable that justice is served and that the victim is not harmed in any way. It is intended that *Dalihan Natolu*, regarded as a philosophy or view of life, can be an effort for the *Batak Toba* community to avoid crimes against children and adults.

It is expected that the *Batak Toba* community will prioritize finding solutions to problems using *Dalihan Natolu*. The *Dalihan Natolu* represents the cooperative efforts of three distinct indigenous groups to resolve all issues. Every responsibility is divided. This symbolizes cooperation, togetherness, rights and obligations, tolerance, affection, and *holong*, all of which are important for maintaining healthy kinship relationships.

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