

The Role of Palanta Baselo Nagari Sungai Duo in Resolving Criminal Acts Through Restorative Justice in Multi-Ethnic Communities

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Abstract

Legal issues in a multiethnic society lie in the implementation of Article 2 of the Regulation of the Chief of Police Number 8 of 2021 concerning Handling of Criminal Acts Based on Restorative Justice. One form of restorative justice is Palanta Baselo Nagari Sungai Duo which is used to resolve criminal cases in a multiethnic society in the jurisdiction of the Sitiung Police, Dharmasraya Police. This study aims to analyze the challenges faced by Palanta Baselo in handling criminal cases based on restorative justice. This research is empirical legal research with analytical descriptive specifications. The findings of the study conclude that the resolution of criminal cases through Palanta Baselo Nagari Sungai Duo in a multiethnic society in the jurisdiction of the Sitiung Police, Dharmasraya Police has been implemented. However, in practice, there is still a lack of facilities and infrastructure to support mediation. In addition, traditional figures who act as mediators also



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lack the skills to reconcile the disputing parties. Although the penghulu (traditional figure) is a respected and revered figure, they have not been equipped with the knowledge and skills to carry out mediation efforts effectively.

KEYWORDS *Criminal Acts, Existence, Palanta Mediation, Resolution*

I. Introduction

The effort to develop national law is an integral part of achieving a just and prosperous society based on Pancasila and the 1945 Constitution.¹ In supporting the efforts of national law development, criminal law, as a subsystem of national law, needs to be fostered and developed in accordance with the interests of maintaining public order and security². The process of law enforcement, as a discourse within society, has once again become a highly debated topic.³ Various comments and opinions, whether in the form of views or assessments from different segments of society, continue to fill the media in this country. Some of the main issues that are frequently discussed in relation to the law enforcement process include the dissatisfaction, or even the poor performance, of the judicial system and services provided by law enforcement officials. This is caused by a lack of knowledge and skills, or even a lack of sincerity from the law enforcement officers involved in the judicial system, such as judges, police, prosecutors,

¹ Aristo Evandy A. Barlian & Annisa D. Permata Herista. (2021). Pembangunan Sistem Hukum Indonesia Berdasarkan Nilai-Nilai Pancasila Sebagai Ideologi Politik Bangsa, *Jurnal Lemhannas RI*. Vol. 9, (No. 1), pp. 88-98. <https://doi.org/10.55960/jlri.v9i1.379>

² Dini Dewi Herniati, *Transformasi Perkembangan Pidana*, Humaniora, Bandung, 2003 hlm 23

³ Arifai, Arifai. (2021). Menalar Keadilan Restoratif Dalam Perkara Tindak Pidana Narkotika Dengan Terdakwa Anak. *Jurnal Yudisial*, Vol.13,(No.3), pp: 373–390. <https://doi.org/10.29123/jy.v13i3.356>

lawyers, and the justice-seeking public. Additionally, this issue is exacerbated by corruption, collusion, and nepotism within the criminal justice system.⁴

In relation to this issue, the concept of restorative justice emerged as an alternative approach in criminal justice used to resolve criminal cases.⁵ Restorative justice prioritizes the integration of the offender, the victim, and the community as a unified entity to find solutions and restore a good relationship between the offender and the victim. The United Nations working group defines restorative justice as a process that involves all parties related to a particular criminal act, working together to solve the problem and consider how to address the consequences in the future.⁶ According to Bagir Manan, the principle of restorative justice is to build mutual participation between the offender, the victim, and the community group to resolve an incident or criminal act.⁷

According to Susan Sharpe, the application of restorative justice contains five basic principles, which are;⁸ Full participation and consensus, which actively involve both the offender and the victim to achieve a comprehensive resolution. This process may also involve the community, which feels disturbed by the security and order issues caused by the offender. Seeking solutions to restore and heal the harm or damage caused by the criminal act

⁴ Edi Setiadi, *Prospek Perkembangan Pidana Indonesia*, Jurnal Fakultas Hukum Unisba, 2004, hlm 45

⁵ Rena Yulia. (2012). Penerapan Keadilan Restoratif Dalam Putusan Hakim: Upaya Penyelesaian Konflik Melalui Sistem Peradilan Pidana. *Jurnal Yudisial*, Vol. 5, (No. 2), pp. 224-240, <https://doi.org/10.29123/jy.v5i2.155>

⁶ Angkasa, Saryono Hanadi, dan Muhammad Budi Setyadi. (2009). Model Peradilan Restoratif Dalam Sistem Peradilan Anak, *Jurnal Dinamika Hukum*, Vol. 9, (No. 3).pp. 186-204. <https://doi.org/10.20884/1.jdh.2009.9.3.230>

⁷ Bagir Manan, *Restoratif Justice (Suatu Perkenalan)*: Refleksi Dinamika Hukum Rangkaian dalam Dekade Terakhir (Jakarta: Perum Percetakan Negara RI, 2015). Hlm. 10.

⁸ Hatta Ali, *Peradilan Sederhana Cepat dan Biaya Ringan Menuju Keadilan Restoratif*, Alumni, Bandung, 2012, hlm.321.

committed by the offender. Full responsibility from the offender, where they show remorse and acknowledge their wrongdoing. Reintegrating the offender as a member of society who has been disconnected due to the criminal act. Empowering the community to prevent the recurrence of criminal actions.⁹

Crime control policies, as part of law enforcement policies, must position every component of the legal system in a conducive and participatory direction to combat crime.¹⁰ Remington and Ohlin state that the *criminal justice system* can be defined as the application of a systems approach to the mechanisms of criminal justice administration, where the judiciary, as a system, is the result of the interaction between legislation, administrative practices, and social attitudes or behaviors. The concept of a system implies a process of interaction that is rationally prepared and efficiently carried out to achieve specific outcomes, within its limitations.

Currently, restorative justice is increasingly being practiced to resolve criminal cases due to a shift in the paradigm of criminal law enforcement from retributive justice to *restorative justice*, which was first developed in the United States. Historically, restorative justice was first introduced by Albert Eglash, who, in 1977, categorized criminal justice into three types: *retributive justice, distributive justice, and restorative justice*.¹¹ The *retributive justice* paradigm views crime as an issue between the state and the individual offender because the laws established by the state to maintain public order, peace, and security have been violated by

⁹ Mudzakir, *Analisis Restorative Justice: Sejarah, Ruang Lingkup, dan Penerapannya*, (Jakarta: Macana Jaya Cemerlang, 2013), Hlm. 18.

¹⁰ Dani Krisnawati. (2013). Law Enforcement Preparedness For The Implementation Of Indonesia'S Law On Juvenile Justice System. *Mimbar Hukum*, Vol. 25, (No. 3), pp. 476-488. <https://doi.org/10.22146/jmh.16081>

¹¹ Hariman Satria, *Restorative Justice: Paradigma Baru Peradilan Pidana*, Jurnal Media Hukum, Vol. 25, No.1, 2018. Diakses melalui <https://media.neliti.com/media/publications/267453-none-97a73a66.pdf>, pada tanggal 18 Januari 2023, Pukul 22.38 WIB.

the offender.¹² *Retributive justice* views that the form of accountability for the offender should culminate in the imposition of criminal sanctions. The loss or suffering of the victim is considered to be compensated or restored by the offender through undergoing and accepting the penal process.

Thus far, criminal sanctions have primarily focused on the payment or atonement of the offender's wrongdoing to the state, rather than emphasizing the offender's accountability for their criminal actions toward the victim.¹³ However, the victim suffers and incurs losses as a result of a criminal act. Legal protection for crime victims, as part of societal protection, can be realized in forms such as the provision of restitution and compensation, medical services, and legal assistance.¹⁴

One of the practices of *restorative justice* is implemented in Dharmasraya Regency. Dharmasraya Regency consists of 11 sub-districts, 52 nagari, and 461 jorong, with a population of 228,801 people. The population is made up of multiple ethnic groups. The primary livelihoods are palm oil and rubber plantation farming. The region's topography is flat and undulating, with an area of 299,415.77 hectares, and some areas are categorized as isolated from the central government. The diversity of the population may lead to tensions within the community, which can give rise to legal issues. Palanta Baselo has become the best solution for those facing legal problems in the community.

When a criminal legal issue arises in Dharmasraya Regency, it is resolved through Palanta Baselo, which is one manifestation of

¹² G.Widiartana, *Viktimologi Perspektif Korban Dalam Penanggulangan Kejahatan*, Universitas Atma Jaya, Yogyakarta, 2013, hlm.102.

¹³ Mahfud Jufria, Norbani Binti Mohamed Nazerib & Saroja Dhanapal. (2019). Restoratif Justice : an Alternative Process for Solving Juvenile Crimes in Indonesia. *Brawija Law Journal*, Vol. 6, (No. 3), pp: 157-169. DOI: <http://dx.doi.org/10.21776/ub.blj.2019.006.02.03>.

¹⁴ Dikdik M. Arief Mansur dan Elisatris Gultom, *Urgensi Perlindungan Korban Kejahatan Antara Norma dan Realita*, Raja Grafindo Persada, Jakarta, 2007, hlm. 31.

the *Restorative Justice* approach. This approach emphasizes the creation of justice and balance for both the offender and the victim.¹⁵ The mechanism of criminal justice procedures, which traditionally focuses on sentencing, has been transformed into a process of dialogue and mediation, aimed at creating an agreement for the resolution of criminal cases that is fairer and more balanced for both the victim and the offender.¹⁶ Palanta Baselo mediation in Nagari Sungai Duo, Sitiung District, is conducted with mediators from Tali Tigo Sapilin, including Ninik Mamak, Alim Ulama, and Candiak Pandai in the Nagari. With the role of Tali Tigo Sapilin, not all legal issues are resolved by law enforcement authorities. For example, in a case of a fight between residents of Nagari Sitiung and Nagari Sungai Duo, resulted in several people being injured.

Based on the issues surrounding the implementation of Palanta Baselo, which is a manifestation of the restorative justice concept, this research will specifically discuss the existence of Palanta Baselo in Nagari Sungai Duo in resolving criminal cases within a multi-ethnic community by the Sitiung Police Sector, Dharmasraya Police Department.

This study is different from previous studies that discuss the implementation of restorative justice, including studies that discuss the implementation of restorative justice as a basis for resolving domestic violence problems in Indonesia. The study focuses on the implementation of restorative justice in resolving domestic violence problems.¹⁷ Furthermore, the research focuses

¹⁵ M. Alvi Syahrin. The Implementation Of Non-Refoulement Principle To The Asylum Seekers And Refugees In Indonesia. *Sriwijaya Law Review*. Vol. 1, (No. 2): pp. 168-178. <http://dx.doi.org/10.28946/slrev.Vol1.Iss2.41.pp168-178>

¹⁶ Nur Ansar. (2024). Keadilan Restoratif Dalam Putusan Pengadilan. *Jurnal Yudisial*. Vol. 17, (No. 1): pp: 1–22. <https://doi.org/10.29123/jy.v17i1.637>

¹⁷ Margie Gladies Sopacua, 'Implementasi Keadilan Restoratif Sebagai Landasan Dalam Penyelesaian Masalah Kekerasan Dalam Rumah Tangga Di Indonesia', *Jurnal Pembangunan Hukum Indonesia*, Vol.6.(No.1) (2024), pp. 96–111, doi:DOI: <https://doi.org/10.14710/jphi.v6i1.%25p>.

on discussing the issue of the relevance of restorative justice in the criminal justice system in Indonesia, where the research examines the relevance between restorative justice and the criminal justice system.¹⁸ Other research focuses on researching the concept of restorative justice as an effort by the criminal justice system to achieve justice.¹⁹ Based on comparison with previous studies that discuss restorative justice, there has never been a study that specifically discusses the role of Palanta Baselo Nagari Sungai Duo in resolving criminal acts through restorative justice in multi-ethnic communities as this study does. Therefore, this study has a new value and is important to be carried out.

The approach used in this study is qualitative with the research specification being descriptive analytical. The research method used in this study is normative juridical supported by empirical juridical. The types of data used are secondary data and primary data²⁰. The normative juridical research method will look at the regulations related to restorative justice in Indonesia in general as positive law in Indonesia. The empirical research method will look at the problem of the existence of palanta baselo nagari Sungai Duo in resolving criminal acts in multi-ethnic communities by the Sitiung Police Sector, Dharmasraya Police.

Secondary data acquisition was conducted through literature studies related to restorative justice. Secondary data were obtained

¹⁸ Bambang Waluyo, 'Relevansi Doktrin Restorative Justice Dalam Sistem Pemidanaan Di Indonesia', *Hasanuddin Law Review*, Vol. 1.(No.2) (2015), pp. 210–26, doi:<http://dx.doi.org/10.20956/halrev.v1i2.80>.

¹⁹ Dewi Setyowati, 'Memahami Konsep Restorative Justice Sebagai Upaya Sistem Peradilan Pidana Menggapai Keadilan', *Pandecta: Research Law Journal*, Vol.15. (No.1) (2020), pp. 121–41, doi:<https://doi.org/10.15294/pandecta.v15i1.24689>.

²⁰ David Tan, 'Metode Penelitian Hukum: Mengupas Dan Mengulas Metodologi Dalam Menyelenggarakan Penelitian Hukum', *Nusantara: Jurnal Ilmu Pengetahuan Sosial*, 8.8 (2021), pp. 2463–78, doi:[10.31604/jips.v8i8.2021.2463-2478](https://doi.org/10.31604/jips.v8i8.2021.2463-2478).

from document studies,²¹ primary data were obtained by interviewing stakeholders related to the problem of the existence of palanta baselo nagari Sungai Duo in resolving criminal acts in multi-ethnic communities by the Sitiung Police Sector, Dharmasraya Police. The data obtained were then analyzed qualitatively.

II. The Existence of Palanta Baselo Nagari Sungai Duo in Resolving Criminal Cases in Multi-Ethnic Communities within the Jurisdiction of the Sitiung Police Sector, Dharmasraya Police Department

The process of resolving criminal cases through a restorative approach views a conflict or harm arising from a criminal act as a conflict that occurs within the relationship between community members, which must be resolved and restored by all parties collectively. The focus is on achieving balance, with the victim playing an active role in the process of resolving the criminal case²².

The fundamental concept of the restorative approach, aimed at restoring the state affected by the victim, so that a sense of brotherhood between the parties is reestablished, has been practiced in Indonesia since before the colonial Dutch occupation and continued during the colonial era. This approach is still embraced today through the customary law followed by the Indonesian people. Restorative justice through customary law in

²¹ Depri Liber Sonata, 'Metode Penelitian Hukum Normatif Dan Empiris Karakteristik Khas Dari Metode Meneliti Hukum', *Fiat Justisia Jurnal Ilmu Hukum*, 8.1 (2014), pp. 15–35, doi:<https://doi.org/10.51749/jphi.v2i1.14>.

²² Rufinus Hotmaulana Hutaauruk, *Penanggulangan Kejahatan Korporasi Melalui Pendekatan Restoratif, Sebuah Terobosan Hukum*, Sinar Grafika, Jakarta, 2014, hlm. 106

Indonesia reflects diverse cultural values that live and are maintained within Indonesian communities. As a nation with various cultures and customs, reflected in the motto *Bhinneka Tunggal Ika* (Unity in Diversity), differences need not be emphasized but should be addressed through deliberation. Unwritten customary law should, in principle, be considered as a reference or source of national law. The restorative approach in Indonesia, which has deep roots in customary law, is explained by Soepomo as:²³

Alternative sentencing efforts in Indonesian society actually involve resolving cases, both civil and criminal, through mediation. This is evidenced by the use of a deliberative approach in settling disputes.²⁴ Historically, the culture of Indonesian society highly values the consensus approach. Barda Nawawi Arief explains that, in principle, criminal cases cannot be resolved outside the court, although in certain situations, it is possible to settle criminal cases outside of the judicial process²⁵, including:

- a) cases where the offense involves a violation that is only punishable by a fine, Article 82 paragraph (1) of the Criminal Code (KUHP) states that the authority to prosecute violations punishable by a fine is removed if the maximum fine and any incurred costs are voluntarily paid. This applies even if the prosecution has already begun, under the authority of an official appointed for this purpose by general regulations, within the time set by the official. The provision in Article 82 of the Criminal Code is known as the payment of a peaceful fine or

²³ R. Soepomo, *Bab-Bab Tentang Hukum Adat (cetakan ke-17)*, Pradnya Paramita, Jakarta, 2007, hlm. 118

²⁴ Rena Yulia. (2012). Penerapan Keadilan Restoratif Dalam Putusan Hakim: Upaya Penyelesaian Konflik Melalui Sistem Peradilan Pidana. *Jurnal Yudisial*, Vol. 5, No.2), pp: 224-240. DOI: <https://doi.org/10.29123/jy.v5i2.155>

²⁵ Barda Nawawi Arief, *Kebijakan Hukum Pidana, Perkembangan Penyusunan Konsep KUHP Baru*, Bunga Rampai, Semarang, 2008, hal. 33-34

"afkoop," which serves as a reason for the dismissal of prosecution.

- b) In cases where the crime is committed by a child under the age of 12, Law No. 11 of 2012 on the Juvenile Justice System, which amends Law No. 3 of 1997 on Juvenile Courts, Article 21 paragraph (1) states that if a child under the age of 12 is suspected of committing a crime, the Investigator, Social Guidance Officer, and Professional Social Worker will make a decision to either return the child to their parents/guardians or involve the child in an educational, development, and guidance program in a government institution or a Social Welfare Service Agency (LPKS) that handles social welfare issues, at either the central or regional level.

That not all criminal cases can be resolved through non-litigation or out of court. This non-litigation settlement is often used for minor criminal cases or complaint offenses, with methods such as mediation or negotiation. Dispute resolution outside the court is different from litigation which is a settlement in court. Advantages of Non-Litigation, Faster, cheaper, and more flexible than litigation. In addition, it can maintain the good name or image of the company if involved in a dispute. Non-Litigation Settlement in Criminal: Complaint Offenses: The criminal process can be stopped if there is a peace agreement between the perpetrator and the victim, and the victim withdraws his complaint. Penal Mediation: Mediation carried out in criminal cases to reach an agreement between the perpetrator and the victim, known as penal mediation. Restorative Justice: Case resolution with a focus on restoring the situation and involving all related parties.

Examples of Criminal Cases That Can Be Taken Through Non-Litigation: Domestic Violence, mediation can be done without involving the police. Minor crimes (TIPIRING). Theft in the family, adultery, or insults. Non-Litigation Mechanisms: Consultation, negotiation, mediation, conciliation, or expert assessment. Settlement of criminal cases through non-litigation is an effective

alternative for certain cases, especially those that are complaint or minor offenses. This method allows for a peaceful agreement and restoration of the situation between the perpetrator and the victim, as well as saving time and costs.

The community has warmly welcomed the establishment of *Palanta Baselo* Nagari Sungai Duo. The existence of *Palanta Baselo* Nagari Sungai Duo is a program of the Dharmasraya Police Resort. This initiative can provide justice for the entire community. Resolving cases through a family-based approach is considered important to ensure fairness for both the perpetrator and the victim. If a resolution can be reached through mutual agreement with community leaders and relevant parties, it is hoped that the cases faced by the community can be resolved amicably.

In the jurisdiction of the Sitiung Police Sector, if there is a case of a fight between students of different ethnicities, restorative justice can be applied through mediation involving teachers, parents, and community leaders. This process can involve dialogue, apologies, and restitution (compensation), so that both parties can reconcile and learn from the experience. That restorative justice can be an effective approach in resolving conflicts in multi-ethnic communities such as in the jurisdiction of the Sitiung Police Sector. By integrating local cultural values, restorative justice can help build trust, reconciliation, and community recovery.

The establishment of *Palanta Baselo* Nagari Sungai Duo upholds the culture of the Indonesian nation that prioritizes familial values in the context of law enforcement. The implementation of *Palanta Baselo* Nagari Sungai Duo involves all components of the Regional Coordination Forum (Forkopimda) in Dharmasraya Regency. With the existence of *Palanta Baselo* Nagari Sungai Duo, legal issues within the community can be resolved effectively through restorative justice. This is evident from the number of cases successfully resolved by *Palanta Baselo* Nagari Sungai Duo in 2023, totaling 6 cases, including 2 cases of theft, 1 case of violence, and 3 land disputes. One of the cases successfully

resolved by *Palanta Baselo* Nagari Sungai Duo involved a criminal case of abuse, including bullying, physical assault, and extortion. This case involved two parties in an assault incident that occurred on Tuesday, August 1, 2023, around 11:30 AM, where the perpetrator, identified as SK, assaulted the victim, identified as MM, both of whom were residents of Nagari Sungai Duo.

During the intensive investigation process, the Criminal Investigation Unit of Dharmasraya Police managed to gather strong evidence and identify the perpetrators. However, when the case reached the mediation stage, the Criminal Investigation Unit proposed a *restorative justice* approach as a way to resolve the issue without involving lengthy legal proceedings. In the *restorative justice* meeting held at *Palanta Baselo*, attended by community leaders and the Criminal Investigation Unit of Dharmasraya Police, the perpetrators met directly with the victim and discussed the impact of their actions. They also agreed to provide compensation to the victim as an effort to restore the harm that had been caused. The case was ultimately resolved successfully at the mediation level, where the perpetrators acknowledged their actions, sincerely apologized to the victim, and agreed to fulfill the compensation agreement that had been made. This decision was accepted by both parties, and they agreed to reconcile. This aligns with the theory of *Restorative Justice*, which has the main goal of repairing or compensating for the harm suffered by the victim, the acknowledgment by the perpetrator of the harm caused to society by their actions, and the reconciliation and reintegration of the perpetrator, the victim, and the community.

According to G. Pieter Hoefnagels, community involvement in crime control policies is crucial because crime control policies represent a rational effort by society as a response to crime. Furthermore, it is stated that crime control policy is the science of

combating crime.²⁶ *Restorative justice* is an effort to resolve cases outside the legal or judicial process, focusing on mediation between the perpetrator and the victim. This aligns with the peace-building efforts of *Palanta Baselo* Nagari Sungai Duo, which aims to provide a greater sense of justice within the community and is implemented properly and professionally.

The requirements for a perpetrator to receive *restorative justice* include having no previous criminal convictions and facing a sentence of less than 5 years for their offense. For example, in a theft case where the value of the stolen goods is less than IDR 2.5 million, *Palanta Baselo* Nagari Sungai Duo serves as a pioneer in resolving criminal cases through family-based solutions. This involves the perpetrator, victim, the families of both parties, and all relevant stakeholders, working together to find a fair resolution that focuses on restoring the situation to its original state, rather than seeking retribution.

Not all criminal cases need to go through the legal process. There is an approach called *restorative justice*, where the resolution can be achieved through deliberation and consensus to achieve justice by restoring the situation to its original state. Restorative justice is not an attempt to protect the perpetrator, but rather a resolution method that emphasizes discussion and family values, with the ultimate goal being a solution that does not harm either party. This is in line with the principle of restoration to the original state, ensuring a fair and balanced outcome for all involved.

In general, obstacles to the implementation of restorative justice include the lack of public and law enforcement awareness of the concept, as well as the imbalance of power between victims and perpetrators. In addition, certain crimes, such as radicalism, terrorism, and corruption, cannot be resolved through restorative justice mechanisms.

²⁶ Marlina, *Pengembangan Konsep Diversi dan Restorative Justice*, PT Refika Aditama. Medan, 2012, Hlm 15

Many parties do not yet understand the concept and principles of restorative justice, so they are less willing to implement it or even reject it. The implementation of Restorative Justice has not been maximized due to several factors, including the unavailability of universal practice standards, unawareness of restorative practices, and resistance from communities that prefer punishment over restoration. In addition, there are limitations in the implementation of Restorative Justice, such as the dependence on voluntary cooperation from victims and perpetrators.

The absence of universally agreed standards of practice can lead to inconsistent processes and reduce trust in the system. In addition, a lack of awareness of the benefits and principles of Restorative Justice, both among law enforcement and the community, hinders its implementation. Some communities still prefer a retributive approach to recovery, making Restorative Justice difficult to accept. Restorative Justice relies heavily on the voluntary cooperation of victims and perpetrators. If one or both are unwilling, the process cannot continue. Regulations related to Restorative Justice are not yet comprehensive and uniform across agencies, which can lead to differences in perception and obstacles in implementation. Some crimes, such as those related to radicalism, terrorism, corruption, and crimes against life, cannot be resolved through Restorative Justice. In the Police, the time given to implement Restorative Justice through a mediation process after an investigation has begun is limited, namely only seven days. To improve the implementation of Restorative Justice, there needs to be wider socialization, development of more universal standards of practice, and harmonization of regulations across law enforcement agencies.

Power dynamics between victims and perpetrators, for example those influenced by gender, race, or social status, can interfere with the success of the restorative justice process. Restorative justice depends on the voluntary cooperation of victims and perpetrators. If there is no agreement, then the

resolution of the case cannot be carried out through restorative justice. Several types of crimes that are radical and separatist, acts of terrorism, state security, and corruption cannot be resolved through restorative justice, as regulated in Perpol 8/2021 and Perja 15/2020. The legal regulations governing restorative justice are not yet comprehensive and harmonious, so they need to be improved so that their implementation is more effective. The culture and habits of society that prioritize formal punishment can be a barrier to the implementation of restorative justice. The need for victim safety can be a reason not to implement restorative justice, especially if the victim feels unsafe or uncomfortable with the process. In some cases, the perpetrator may not be able to restore the losses experienced by the victim, making restorative justice ineffective. By overcoming these obstacles, it is hoped that the implementation of restorative justice can be more effective and provide benefits for victims, perpetrators and society as a whole

III. Challenges in Resolving Criminal Cases Through Palanta Baselo Nagari Sungai Duo in the Multi-Ethnic Community within the Jurisdiction of the Sitiung Police Sector, Dharmastraya Police Resort

Although dispute resolution through mediation offers many advantages, its implementation is not without various obstacles. Based on interviews with community leaders regarding the role of *Palanta Baselo* Nagari Sungai Duo in resolving criminal cases in a multi-ethnic society, there are several challenges faced in resolving disputes through penal mediation in Nagari Sungai Duo, including the following:

First, there is no specific law that regulates Mediation. Mediation has not received significant recognition from lawmakers or seekers of justice as an effective solution for resolving disputes.

This can be seen from the lack of specific regulations regarding mediation. So far, mediation has only been briefly mentioned in Law No. 30 of 1999 concerning Arbitration and Alternative Dispute Resolution. In Nagari Sungai Duo itself, there is no clear regulation on mediation as a means of dispute resolution.

Second, the lack of facilities and infrastructure for conducting mediation. The issue faced is the limited budget to build adequate mediation rooms that can provide comfort for the parties involved in the mediation. Additionally, necessary equipment and resources are needed to facilitate the peace process between the disputing parties. This is an important factor to consider in order to achieve success in creating peace between both parties involved in the dispute.

Third, the lack of mediator skills among community leaders in reconciling the disputing parties. Although a penghulu (community leader) is a respected and honored figure, they are often not provided with knowledge or skills related to mediation efforts beforehand. As a result, penghulu sometimes face difficulties in facilitating peace between the parties involved. The penghulu plays a crucial role in the success of mediation, and thus, they are essential in ensuring the smooth process of mediation. A penghulu does not only act as a mediator who organizes and leads the process but must also assist the parties in designing a dispute resolution that results in a mutual agreement. In this regard, a penghulu must possess the ability to gather as much information as possible, which will later be used to formulate and propose various solutions to the issues at hand.

Fourth, there are differing views among law enforcement officers regarding the concept of *restorative justice* through penal mediation. Sometimes, cases that have been resolved through penal mediation are still subject to prosecution under the existing criminal justice system. This means that the offender is still punished based on positive law, even though the case has been settled through penal mediation with the concept of *restorative*

justice under local customary law. Ideally, once a case is resolved through penal mediation and *restorative justice* with the application of customary law, it should be considered settled and not require court proceedings, as it has already received sanctions based on customary law. This is an issue that law enforcement officers need to address to ensure that the goals of *restorative justice* are effectively achieved.

The process of resolving cases through *restorative justice* requires knowledge and understanding of the regulations, as it play a critical role. When restorative justice is applied to resolve criminal cases without proper knowledge and understanding, it can lead to discrepancies with the applicable legal provisions due to a lack of awareness or knowledge on the part of law enforcement handling the case. In this context, the legal structure of the Dharmasraya Police has gained an understanding and knowledge of the application of *restorative justice* in the *Palanta Baselo* Nagari Sungai Duo for resolving criminal cases in a multi-ethnic community. As facilitators of the peace process in implementing *restorative justice*, the Dharmasraya Police, in collaboration with community leaders, have successfully implemented peace initiatives based on restorative justice between the suspects and victims in the *Palanta Baselo* Nagari Sungai Duo.

The influence of the functioning of law is reflected in the second factor, the substance of the law. The substance of the law refers to the rules and legal products produced by an institution, in the form of regulations or decisions. In this case, there is no specific law regulating mediation. The third influence on the functioning of law is the legal culture. Legal culture is defined as the attitude of people (society) towards beliefs, values, ideas, and expectations regarding the law and the legal system. This legal culture is crucial for resolving a case. Cases successfully resolved through *restorative justice*, start with awareness, community support, and a positive response from the community towards resolving criminal cases through *restorative justice*. This can be seen from the participation

of community representatives during the peace process, with the *Palanta Baselo* Nagari Sungai Duo serving as a platform for implementing the resolution of legal issues in the Nagari Sungai Duo community through *restorative justice*.

All of the legal systems mentioned above are an inseparable unity, as each has interrelated relationships and functions within the legal system to ensure smooth operation under applicable regulations. The unmet influence of the functioning of law in terms of the second factor, namely the substance of the law—where there is still no clear regulation regarding legal mediation—has become an obstacle in the implementation of the role of the *Palanta Baselo* Nagari Sungai Duo in resolving criminal cases within the multi-ethnic community.

IV. Conclusion

Based on the results of the research and discussion in this study, the following research results can be stated:

That in substance regarding penal mediation so that it can be a legal basis in resolving criminal acts with the aim of achieving restorative justice. This is an effort so that the implementation of criminal settlement with Restorative Justice has strong legal force. Education to align perceptions regarding the purpose of implementing mediation in resolving criminal acts. A common perception is needed so that the parties involved in the settlement and related to the case can feel justice.

That all legal systems as the basis for implementing restorative justice in Indonesia are an inseparable whole because each has a relationship and function that are interdependent in the legal system to ensure its smooth running in accordance with applicable regulations. With the law not yet working in law enforcement, namely the Substance of law, where the absence of clear regulations regarding this legal mediation is an obstacle in

implementing the Palanta Baselo Nagari Sungai Duo Function in Resolving Criminal Acts in Multi-Ethnic Communities.

References

- Angkasa, Saryono Hanadi, dan Muhammad Budi Setyadi. (2009). Model Peradilan Restoratif Dalam Sistem Peradilan Anak, *Jurnal Dinamika Hukum*, Vol. 9, (No. 3).pp. 186-204. <https://doi.org/10.20884/1.jdh.2009.9.3.230>
- Arifai, Arifai. (2021). Menalar Keadilan Restoratif Dalam Perkara Tindak Pidana Narkotika Dengan Terdakwa Anak. *Jurnal Yudisial*, Vol.13,(No.3), pp: 373-390. <https://doi.org/10.29123/jy.v13i3.356>
- Aristo Evandy A.Barlian & Annisa D. Permata Herista. (2021). Pembangunan Sistem Hukum Indonesia Berdasarkan Nilai-Nilai Pancasila Sebagai Ideologi Politik Bangsa, *Jurnal Lemhannas RI*. Vol. 9, (No. 1), pp. 88-98. <https://doi.org/10.55960/jlri.v9i1.379>
- Bagir Manan, *Restoratif Justice (Suatu Perkenalan)*: Refleksi Dinamika Hukum Rangkaian dalam Dekade Terakhir (Jakarta: Perum Percetakan Negara RI, 2015).
- Bambang Waluyo. Relevansi Doktrin Restorative Justice Dalam Sistem Pemidanaan Di Indonesia. *Hasanuddin Law Review*. Vol. 1 (No.2) (2015), pp. 210-26, doi:<http://dx.doi.org/10.20956/halrev.v1i2.80>
- Barda Nawawi Arief, *Kebijakan Hukum Pidana, Perkembangan Penyusunan Konsep KUHP Baru*, Bunga Rampai, Semarang, 2008.
- Dani Krisnawati. (2013). Law Enforcement Preparedness For The Implementation Of Indonesia'S Law On Juvenile Justice System. *Mimbar Hukum*, Vol. 25, (No. 3), pp. 476-488. <https://doi.org/10.22146/jmh.16081>
- Depri Liber Sonata, 'Metode Penelitian Hukum Normatif Dan Empiris Karakteristik Khas Dari Metode Meneliti Hukum', *Fiat Justisia Jurnal Ilmu Hukum*, 8.1 (2014), pp. 15-35, doi:<https://doi.org/10.51749/jphi.v2i1.14>

- Dikdik M. Arief Mansur dan Elisatris Gultom, *Urgensi Perlindungan Korban Kejahatan Antara Norma dan Realita*, Raja Grafindo Persada, Jakarta, 2007.
- Dini Dewi Herniati, *Transformasi Perkembangan Pidana*, Humaniora, Bandung, 2003.
- Dini Dewi Herniati, *Transformasi Perkembangan Pidana*, Humaniora, Bandung, 2003
- Edi Setiadi, *Prospek Perkembangan Pidana Indonesia*, Jurnal Fakultas Hukum Unisba, 2004.
- Edi Setiadi, *Prospek Perkembangan Pidana Indonesia*, Jurnal Fakultas Hukum Unisba, 2004
- Hariman Satria, *Restorative Justice: Paradigma Baru Peradilan Pidana*, Jurnal Media Hukum, Vol. 25, No.1, 2018. Diakses melalui <https://media.neliti.com/media/publications/267453-none-97a73a66.pdf>, pada tanggal 18 Januari 2023, Pukul 22.38 WIB.
- Hatta Ali, *Peradilan Sederhana Cepat dan Biaya Ringan Menuju Keadilan Restoratif*, Alumni, Bandung, 2012.
- Lilik Mulyadi, *Kompilasi Hukum Pidana Dalam Perspektif Teoretis Dan Praktik Peradilan*, Mandar Maju, Bandung, 2010.
- M Alvi Syahrin. The Implementation Of Non-Refoulement Principle To The Asylum Seekers And Refugees In Indonesia. *Sriwijaya Law Review*. Vol. 1, (No. 2): pp. 168-178. <http://dx.doi.org/10.28946/slrev.Vol1.Iss2.41.pp168-178>
- Mahfud Jufria, Norbani Binti Mohamed Nazerib & Saroja Dhanapal. (2019). Restoratif Justice : an Alternative Process for Solving Juvenile Crimes in Indonesia. *Brawija Law Journal*, Vol. 6, (No. 3), pp: 157-169. DOI: <http://dx.doi.org/10.21776/ub.blj.2019.006.02.03>.
- Marlina, *Pengembangan Konsep Diversi dan Restorative Justice*, PT Refika Aditama. Medan, 2012.
- Mudzakir, *Analisis Restorative Justice: Sejarah, Ruang Lingkup, dan Penerapannya*, (Jakarta: Macana Jaya Cemerlang, 2013), Hlm. 18.
- Nur Ansar. (2024). Keadilan Restoratif Dalam Putusan Pengadilan. *Jurnal Yudisial*. Vol. 17, (No. 1): pp: 1-22. <https://doi.org/10.29123/jy.v17i1.637>
- R Soepomo, *Bab-Bab Tentang Hukum Adat (cetakan ke-17)*, Pradnya Paramita, Jakarta, 2007.

- Rena Yulia. (2012). Penerapan Keadilan Restoratif Dalam Putusan Hakim: Upaya Penyelesaian Konflik Melalui Sistem Peradilan Pidana. *Jurnal Yudisial*, Vol. 5, (No. 2), pp. 224-240, <https://doi.org/10.29123/jy.v5i2.155>
- Rena Yulia. (2012). Penerapan Keadilan Restoratif Dalam Putusan Hakim: Upaya Penyelesaian Konflik Melalui Sistem Peradilan Pidana. *Jurnal Yudisial*, Vol. 5, No.2), pp: 224-240. DOI: <https://doi.org/10.29123/jy.v5i2.155>
- Rufinus Hotmaulana Hutaeruk, *Penanggulangan Kejahatan Korporasi Melalui Pendekatan Restoratif, Sebuah Terobosan Hukum*, Sinar Grafika, Jakarta, 2014.
- Setyowati, Dewi, Memahami Konsep Restorative Justice Sebagai Upaya Sistem Peradilan Pidana Menggapai Keadilan. *Pandecta: Research Law Journal*. Vol. 15. (No.1) (2020), pp. 121-41, doi:<https://doi.org/10.15294/pandecta.v15i1.24689>
- Sopacua, Margie Gladies. Implementasi Keadilan Restoratif Sebagai Landasan Dalam Penyelesaian Masalah Kekerasan Dalam Rumah Tangga Di Indonesia. *Jurnal Pebangunan Hukum Indonesia*, Vol. 6. (No.1). (2024), pp. 96-111, doi:DOI: <https://doi.org/10.14710/jphi.v6i1.%25p>
- Tan, David, 'Metode Penelitian Hukum: Mengupas Dan Mengulas Metodologi Dalam Menyelenggarakan Penelitian Hukum', Nusantara: Jurnal Ilmu Pengetahuan Sosial, 8.8 (2021), pp. 2463-78, doi:10.31604/jips.v8i8.2021.2463-2478
- Widiartana, *Viktimologi Perspektif Korban Dalam Penanggulangan Kejahatan*, Universitas Atma Jaya, Yogyakarta, 2013

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