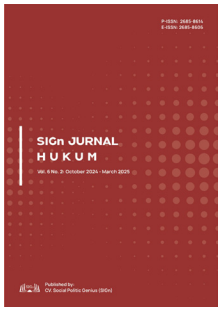

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Article Title

Restorative Justice and Living Law Based on Dayak Ngaju Adat Law: A Comprehensive Analysis

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ABSTRACT

This article aims to explain the importance of the restorative justice concept in Indonesia. It analyses the implementation of this concept under the Indonesian criminal procedural law and the Dayak Ngaju Adat Law. The following analysis gathers legal doctrines concerning restorative justice, the Indonesian criminal procedural code concerning prosecution, and the Dayak Ngaju Adat Law cases. From the first discussion of this article, it can be understood that restorative justice is a concept that upholds reparation and a win-win solution for the victim and the offender. This concept is constituted under Article 139 of Law Number 8 of 1981 and the Attorney General Regulation Number 15 of 2020. The second discussion indicates that this practice is also well recognized under the Dayak Ngaju Adat Law. This Indigenous community implements the Tumbang Anoi Peace Agreement, an adat law that upholds the reparation concept and the win-win solution in solving criminal issues. Last but not least, from the third discussion, this article arrives at a recommendation where restorative justice shall be preserved and enhanced under both the Indonesian positive law and the living law. This is because restorative justice is in line with the Pancasila or the Indonesian five principles which are the main sources of the Indonesian law.

Keywords: *Attorney General; Dayak Ngaju; Penal Mediation; Restorative Justice.*

INTRODUCTION

As a country established under the rule of law principle, Indonesian law enforcement is complemented by a set of instruments for eradicating a criminal offense. One of the methods of settling criminal offenses is through the imposition of criminal sanctions (Rivanie et al., 2022). Since the imposition of prison sentences through litigation is prominently applied in Indonesia, an overcapacity occurred in Indonesian penitentiaries (Darwin, 2019). The phenomenon shall be responded to by allocating the prison sentence as the last resort of criminal law enforcement (Kholdaa & Pujiyono, 2024).

The implementation of the restorative justice concept can be perceived as a guidance to overcome the overcapacity occurred in Indonesia (Prayogo et al., 2024). This is because restorative justice stresses the implementation of fine sanction aimed to repair the injury of the victim, while at the same time, pardoning the act of the offender (Ali et al., 2022). By implementing this concept, this article believes that the overcapacity issue as briefly explained above can be solved (Prasetya et al., 2023).

Introduced by the Christian tradition of the Western countries (Marshall, 2020), This article perceives restorative justice as a concept that also grown based on the Indonesian tribe's local wisdom (Karjono et al., 2024). This thesis statement article discusses the concept of restorative justice according to both the Indonesian positive law and the living law in one of the Indonesian tribes. The tribe discussed in this article is the Dayak Ngaju Tribe. By discussing how restorative justice grows and develops in Indonesian criminal procedural law and living law, this article tends to express how necessary it is to implement restorative justice in eradicating criminal offenses under Indonesian jurisdiction.

By explaining the urgency as presented above, this article discusses the three important points as presented below. The first discussion explains the concept of restorative justice in general and how restorative justice is implemented under the Indonesian positive law. Furthermore, the second discussion analyses the implementation of restorative justice under the Dayak Ngaju Adat Law. Last but not least, the third discussion compares and contrasts these two legal regimes and practices, and stresses the importance of restorative justice being implemented under the positive law and the living law.

RESULTS AND DISCUSSION

A. The Concept of Restorative Justice According to Legal Doctrine and the Attorney General Regulation Number 15 of 2020

The first discussion herein describes the concept of restorative justice according to foreign legal doctrine and Indonesian regulations. Gavrielides (2007) quoted Braithwaite (1989) as stating that restorative justice is a means of settling disputes, shown to integrate the offender by entitling recognition of his or her action the following methods are meant to control any type of offense. Furthermore, Marshall (1999) stated that restorative justice is a problem-solving approach to a criminal offense, involving the victim, the offender, the society, and the government through their active roles. Last but not least, Duff (2001) stated that restorative justice is the implementation of a communicative theory in determining the proper punishment used for communicating with an offender so that he or she will receive his or her deserved punishment, and may persuade him or her to repent, change himself or herself, and to reconcile with the victim that he or she deprived.

Besides quoting the foreign excerpts above, the discussion herein also explains restorative justice according to Indonesian scholars. Mahendra (2020) explained the concept of restorative justice by explaining the opposing perception known as retributive justice. He stated that the Indonesian criminal justice system is based on the retributive justice paradigm perceiving a criminal offense as a crime to a state, subject to retaliate by blaming the offender. Unlike retributive justice, restorative justice upholds the concept of recovery so as to how the offense has never happened. This justice is also meant to recover the injury of the victim and to achieve peace between the disputing parties.

Prayitno (2012) opined that restorative justice is the answer to several issues. *First*, it addresses the critique of the Indonesian criminal justice system, which does not provide an opportunity for a criminal offense victim . *Second*, it aims to eliminate conflicts between perpetrators, victims, and the community. *Third*, it

seeks to restore public trust eroded by criminal acts, ideally through reparation. Furthermore, restorative justice is intended to resolve criminal offenses for several reasons. *First*, it is the extension of thought in line with the social values instituting peace on an injury caused by a criminal offense. *Second*, it finds and establishes a partnership to reconsolidate the mutual responsibilities to constructively respond to the offense in the society. *Third*, it seeks a balanced approach to the interests of the victim, offender, and society by maintaining the peace and human dignity of the interested parties.

Understanding the scope of restorative justice as explained above, the author believes that this concept is in line with the following legal principles. In explaining this legal concept, Sarwirini (2014) furthermore stated that restorative justice has always been in line with the justice fairness by Rawls (1971). In this regard, everyone has the equal fundamental freedom which shall be in line with others fundamental freedom . Furthermore, the social and economic inequality shall be constituted so that an equal opportunity shall be achieved by everyone (Sihombing et al., 2023). Furthermore, restorative justice is also in line with the Fourth Principle of Pancasila which is the consensus, As Indonesia's main legal source according to Article 2 of Law Number 12 of 2011 (Musleh et al., 2023). Wulandari et al. (2022) also stated that the concept of restorative justice is in line with the Humanity Principle under the Second Principle in Pancasila.

The set of conceptual explanations as presented herein perceives restorative justice as a reparation for a criminal offense that upholds societal interests. Restorative justice may not only be viewed as a foreign legal doctrine but it shall also be viewed as a national value due to its alignment with Indonesia's fundamental principles (Lestari et al., 2023). As a prosecutor, the author believes that this concept may solve the weakness of penitentiary institutions such as the overcapacity and the repentance of the act, since this type of remedy will cause the offender to establish peace with the victim and the society (Laia, 2024b). The following discussion dives further on the restorative justice concept under the Attorney General Regulation Number 15 of 2020 which constitutes the settlement of an offense through restorative justice.

Article 1 point 1 of Attorney General Regulation Number 15 of 2020 states that restorative justice is a criminal case settlement which involves the offender, victim, the family of the victim/the offender, and other interested parties to collectively seek the fair settlement by stressing the recovery (*restitutio ad integrum*) and avoiding retaliation (Kristanto, 2022). Article 2 of this regulation furthermore stated that restorative justice is in line with the principles of justice, public interest, proportionality, *ultimum remedium* (criminal sanction as the last resort), and the speedy trial principle (Rosadi & Satria, 2022). As a practitioner,

the author would like to emphasize the central role of the Attorney General as the single authorized body in conducting prosecution. Article 3 section (1) of this regulation states that an attorney is authorized to terminate a prosecution process based on the general interest principle.

Unlike the previous two articles, Article 3 of Attorney General Regulation Number 15 of 2020 has a technical scope as presented below. Article 3 section (2) point e of this regulation stipulates that the termination as mentioned under section (1) may only be conducted once outside of court settlement has proceeded by the victim and the offender. Furthermore, Article 3 section (3) of this regulation provides two criteria for out-of-court settlements. *Firstly*, for specific criminal offenses, the maximum fine shall be voluntarily paid by the prevailing regulations. *Secondly*, reparation to establish a condition as somehow the offense never occurred is achieved based on the restorative justice approach. Article 3 section (4) of this regulation furthermore states that the prosecutor (attorney general) according to the restorative justice approach shall be responsible and file the outcome of the terminated case to the High Attorney Office.

Furthermore, Article 4 section (1) of Attorney General Regulation Number 15 of 2020 stated that the termination of such prosecution shall take into account the following:

a. the interest of the victim and the protected general interest;
b. the avoidance of a negative label on the offense;
c. the evasion of retaliation;
d. the societal response and harmony; and
e. the propriety, morality, and the public interest.

Article 4 section (2) of Attorney General Regulation Number 15 of 2020 furthermore stated that the prosecution based on restorative justice shall take into account:

a. the subject, object, category, and threat of the offense;
b. the background of the occurrence/the conduct of the offense;
c. the level of the depravity;
d. the injury or the consequence arising from the offense;
e. the cost and benefit in handling the case;
f. the recovery into the original state; and
g. the existence of peace between the victim and the offender.

The exhaustive lists as presented above shall be taken into account by the attorney general in determining whether such a case may be settled through restorative justice. Not only that the Attorney General Regulation Number 15 of

2020 is in line with restorative justice, but it is also in line with the *dominus litis* principle or the opportunity principle explained in this paragraph. Annisa and Saini (2022) express that this principle reflects the authority of an attorney general as a specific body authorized based on the law to conduct prosecution on the criminal case on the suspect and/or the convicted. They also stated that this principle also presents the dominant role of the attorney general as the *dominus litis* in the prosecution stage under the criminal procedural law due process system. Tresna et al. (2022) furthermore stated that the opportunity principle attributes authority to the attorney general to prosecute and not to prosecute under conditions that fulfill the general interest. Hasrina et al. (2021) stated that the applicability of this principle allows the attorney general not to prosecute a person who already fulfilled the whole criminal offense element, under the public interest basis.

The concepts as explained above have shown that Article 4 of Attorney General Regulation Number 15 of 2020 is in line with the *dominus litis* principle which upholds the public interest and which represents the full power of the attorney general. The referred article, and in fact, the whole Regulation is in line with Indonesian law concerning the criminal procedure. Article 139 of Law Number 8 of 1981 which constitutes the authority of the attorney general to delegate the criminal investigation outcome to the court or not to execute such measure (Pongoh et al., 2020). The applicability of this authority demonstrates the central authority of the attorney general concerning prosecution.

In other research conducted by the author, he explained how Article 139 of Law Number 8 of 1981 and Attorney General Regulation Number 15 of 2020 are the significant legal basis for settling criminal cases outside the court (Laia, 2024a). In the previous research concerning the settlement of corruption offenses through the non-litigation forum, the author stated that the two provisions are in line with "the alternative dispute resolution", "*afdoening buiten process*", and "*schikking*". These three concepts represent the means and methods to settle disputes or conflict outside the court, and through the reparation in the form of economic and moral obligation. As with restorative justice, these concepts are also in line with the public interest and societal values (Mahmud et al., 2019).

B. The Concept of Living Law and the Practice of Restorative Justice according to the Dayak Ngaju Adat Law

In explaining the concept of living law, Soekanto and Sulistyowati (2012) explained that a law is indeed an important phenomenon, this phenomenon does not only constitute the basis of legislation, but it also constitutes a social institution as a social phenomenon. He also explains the law as a social institution may invent principle values and unwritten norms. Furthermore, Prodjodikoro

(2009) perceives the living law as the (unwritten) social norm aimed at keeping order and the security of the society, which shall be taken into account by the judiciary while examining a case. In commenting on the excerpt therein, Rumadan (2021) stated that judges shall thereby explore the unwritten norms applicable in the society, even to a certain extent, to overrule the regulations or written norms by applying those living laws. As the written legal norms, the living law indeed has a significant role both in constituting the rights and obligations of individuals, and in providing remedy in the case of breach of that customary law (Rezah & Muzakkir, 2021).

As a scholar glorifying the nation spirit (*volksgeist*) concept, Savigny (1831) stated that law has an organic relationship with the distinctive feature of a nation, making a stronger relation between the rules and spirit of that nation. Furthermore, he also states that law is a norm identified in the heart of a society, not created by the ruler of that nation. Haar (1994) on the other side, defines the living law as a set of rules adopted based on a legal functionalism, having power and influence, and sincerely applied in the society. As the two scholars in this paragraph, Soepomo (1993) defines the living law norm as moving in line with the existence of a society, and it will always develop by following the society applying that norm. As a country recognizing its living law, Indonesia implements Article 18B section (2) of the 1945 Constitution stating that the adat law shall be recognized as long as the following norms are in line with the national interest.

As a legal norm distinct from the statutory regulation or the positive law, the living law has its nature. The nature of this norm is defined in the figure below as presented from the previous research conducted by Hadi (2017):

Indicator	Positive Law	The Living Law
Written/Unwritten	Written	Unwritten
Nature	Autonomous	Responsive and Progressive
Form	Regulations	Customs and beliefs
Adoption Process	The sovereign government	Determined by the society
Sanction	Primary norm	Non-compulsory sanction
Adoption Source	The will of a state organ	The social interaction
Purpose	Legal certainty	Justice
Enforceability	Enforced by the institution	The community consciousness
Applicability	Juridical	Sociological

Despite such differences, the Indonesian positive law still recognizes the existence of a living law through its articles. The following criminal law and procedural law supporting this premise are presented herein. Article 2 section (1)

of Law Number 1 of 2023 states that the stipulation as constituted under Article 1 section (1) (concerning the legality principle) does not reduce the applicability of the societal living law which determines the penal sanction of a person due to an act not regulated under this regulation (Wibowo et al., 2023). Article 2 section (1) of Law Number 1 of 2023 furthermore states that the living law as mentioned under section (1) is applicable in a territory where the law lives and as long as it is not constituted under the law and in accordance with the values within the Pancasila, the 1945 Constitution, human rights, and the general principles recognized by the nations. In addition to Law Number 1 of 2023, Article 5 section (1) of Law Number 48 of 2009 stated that the judges and the Constitutional Judges shall dig, follow, and understand the legal values and sense of justice in the society. Last but not least, Article 3 of Law Number 5 of 1960 recognized the living law, mentioned as the adat law and the ulayat land, as long as those set of institutions is in line with the national interest and as long as it empirically exists (Laturette, 2021).

By delivering a clear explanation concerning the living law, this article dives further into the conceptual framework of the Dayak Ngaju Law. Herniti (2012) explained that the Dayak Ngaju society is recognized as a religious society. The action of the society herein is influenced by the spiritual consciousness. Society also has a special relationship with nature, therefore creating a tradition or ritual relating with respect to the territory where they live (Nugraha, 2021). Furthermore, Damang Pahandut Marcos Tuan in Pratiwi et al. (2019) stated that the Dayak Living Law has no condemning nature, yet it is aimed at solving an issue. The dispute or conflict resolution herein is aimed not to damage one of the disputing parties, but to solve the issue, repair the damage, and achieve peace between the disputing parties. In presenting the similarities between the restorative justice concept and the Dayak Ngaju Law values, the following article presents further how this society solves its criminal offenses.

Knowing that the living law is equally important to the positive law as discussed in the first discussion, this article dives further into the living law applicable in the Dayak Ngaju Society. The practice of this living law is described based on the case-by-case basis approach as presented below:

1. The Dayak Ngaju Adat Law Implementation in Solving Offences Due to Black Magic

This type of offense is generally solved through the involvement of the Pemangku Adat and Mantir. These two adat figures act as the adjudicator considers the amount of fine (*singer*) to be imposed on the offender (Nugraha, 2021). An offender proven to practice black magic shall be delivered to the Dayak Ngaju Tribunal. According to the evidence valid under the adat law, the

offender proven to damage or even kill the victim shall be fined with a regan oloh payment or compensation to heal the victim, and the burial cost according to the belief of the victim. This sanction is constituted under Article 16 of the *Singer Sahiring* Law constituted under the 96 Articles of the *Tumbang Anoi Peace Agreement* (Nugraha, 2021).

2. The Dayak Ngaju Adat Law Implementation in Solving Offences Due to Adulatory

The settlement of this offense can be triggered based on the report made by the wife/the husband of the offender as the victim, the child of the offender, the family, and the society. Based on the filing therein, the Damang or the Head of the Adat and the Mantir shall expedite the due process of this case by inviting the witnesses (Pratiwi et al., 2019). Based on the testimonial evidence, a consensus shall be achieved in determining the material truth and ending this dispute. The offender proven to be guilty shall pay a fine (*singer*) to be liable for this offense. Besides the fine sanction, the Damang and Mantir shall also condemn the offender to conduct a ceremonial apology as his or her apology to the victim and society.

3. The Dayak Ngaju Adat Law Implementation in Solving Offences Due to Sexual Abuse

An offender of this type of crime shall pay a fine or be imposed with the *singer* for IDR 7,000,000.00 (Seven Million Rupiah) (Janah et al., 2023). This imposition is constituted under the Provincial Regulation Number 16 of 2008. The following sanction is believed to be capable of protecting and preserving the balance of the natural environment and the social environment. Before this imposition, the Damang and the Mantir as the head of the adat tribunal at the village or regency level, led the trial. After the trial arrives at its decision, the offender shall also conduct a ceremonial apology to achieve peace with the offender. The punishment in the form of a fine and apology as mentioned herein is also applicable for a rapist and a physical violence offender.

4. The Dayak Ngaju Adat Law Implementation in Solving Offences Due to an Insult (Also Known as Panyapa)

The explanation concerning this practice is complemented by the empirical cases as explained herein. The first case occurred in Kahayan Hilir District, Pulang Pisau Regency, where a land dispute occurred between Mr, US as the defendant and Mr. A as the claimant (Pratiwi & Pratama, 2023). Mr US insulted Mr. A causing him to be offended. Due to such behavior, the Damang

Kahayan Council decided that Mr. US shall pay a fine to Mr. A, by taking into account the fact that it is not the first time for Mr. US to conduct such action.

The second case is caused by the sports game where Mr. HS was the referee of Mr. H. During the game, Mr. H insulted Mr. HS by saying that he was incompetent to be the referee of the game. Based on such action, Mr. H was then imposed with a fine. This dispute was settled by the Bereng Village Mantir Adat, exercising his authority under Article 7 section (3) of Provincial Regulation Number 16 of 2008. Article 27 section (1) of this regulation furthermore stated that an adat dispute can be filed to *Kerapatan Mantir/Let Perdamaian Adat* in both the village level and the district level (Pratiwi & Pratama, 2023).

From the two cases above, the practice of insult can be seen as a behavior contrary to the living law of the Dayak Ngaju society. The fine imposed by the adat institution thereby substitutes Article 315 of Law Number 1 of 1946. This article states that an insult intentionally conducted without impairing the insulted reputation, through writing or verbal, shall be imposed with a prison sentence of two months and two weeks or a fine for IDR 4,500.00 (four thousand and five hundred rupiah). By comparing the *singer* sanction and this criminal code provision, it can be understood that the Dayak Ngaju adat legal institution can be applied as an alternative to the prison sentence in correcting the offender's behavior.

C. Penal Mediation as a Criminal Procedural Law Mechanism related to Restorative Justice and the Living Law

The analysis in the second discussion perceives that Dayak Ngaju Adat Law recognizes a conflict resolution or a dispute resolution mechanism in line with restorative justice. This statement is supported by the previous research herein. Wulandari et al. (2022) stated that the Dayak Tribe implements a penal mediation based on restorative justice to settle an offense threatening their society. This penal mediation involves the victim, offender, and the interested members of the society. The following mechanism is constituted under the Provincial Regulation Number 16 of 2008.

The previous research by Wulandari et al. (2022) also explained that this penal mediation process is based on both the living law in the Dayak Ngaju society and restorative justice. These two concepts are furthermore in line with the First and Second Principles of Pancasila which are the Almighty God and the Humanity Principles. This is because the *Tumbang Anoi Peace Agreement* of 1894 aimed to establish a close relationship of mankind with God or the Creator and others, and hence it is aimed to protect human dignity. In principle, the *Tumbang Anoi Peace*

Agreement is a legal basis that constitutes the penal mediation as presented above. This penal mediation is also complemented by a sanction to pay a fine (known as the *singer*, as mentioned above) and a ceremonial apology (Wulandari et al., 2022).

The similarity between this tribal penal mediation and modern penal mediation is presented by applying Lasmadi's explanation presented herein. Lasmadi (2011) stated a penal mediation is a criminal procedural law that adopts the win-win reasonable solution through the compensation for the victim. In expressing this perception, he quoted the UN Document A/CONF.187/8 delivered in the 10th United Nations concerning the Prevention of Crime and the Treatment of Offenders. From this document, it can be understood that the concepts of restorative justice and alternative dispute resolution are complementary. The restorative justice document in this conference indicates that this concept can be perceived as an alternative mode of settling criminal offenses. Both alternative dispute resolution and restorative justice stress the conflict resolution between the victim and the offender, the reparation of the victim, and the prevention of punishment.

By comparing Wulandari's analysis and Lasmadi's analysis above, it can be understood that both the penal mediation under the Dayak Ngaju and the United Nations Documents are closely resembling. Both take into account the involvement of the victim and offender and uphold the reparation. However, the penal mediation proposed by the United Nations does not involve the local values concept and the societal involvement as the Dayak Ngaju penal mediation under the *Tumbang Anoi Peace Agreement*.

In the last discussion of this article, an important point is presented in this paragraph. The concept of restorative justice in line with penal mediation may not be perceived as a foreign concept before Indonesian law. This is because although the term "restorative justice" was formally introduced from the West, this concept is in line with the local wisdom of various Indonesian tribes, such as the Dayak Ngaju Ethnic. Furthermore, this concept is also in line with the Indonesian five principles known as the Pancasila, in concreto the First Principle concerning the Almighty God, the Second Principle concerning Humanity, and the Fourth Principle concerning Consensus.

Therefore, the author would like to note the two important points concerning the implementation of this restorative justice concept. *First*, if this concept is implemented according to the positive law, Indonesia shall therefore ensure the adoption of legal instruments that enhance the role of the Attorney General in applying restorative justice. This statement is in line with the *dominus litis* principle under Article 139 of Law Number 8 of 1981 and Attorney General

Regulation Number 15 of 2020 explained above. *Second*, if restorative justice is implemented according to the prevailing adat law, as the Dayak Ngaju Law, this concept shall thereby take into account the local wisdom and the interest of the society where such Adat Law is applicable as a living law.

CONCLUSIONS AND SUGGESTIONS

The first discussion above has presented the restorative justice concept as a concept of reparation which involves the offender and the victim of a criminal case. Such a concept can be perceived as the antithesis of retributive justice which stresses the imposition of punishment on the offender. Unlike retributive justice, this concept does not support the punishment, especially through penitentiary, yet it tends to repair the injury of the victim and pardon the offender at the same time. This concept is well recognized under Article 139 of Law Number 8 of 1981 and Attorney General Regulation Number 15 of 2020.

The second discussion has shown that restorative justice is also applicable as a living law. The Dayak Ngaju Law Cases as presented in this article have demonstrated the fact that this tribe recognizes the concept of reparation and win-win solution which are the elements of restorative justice. As the arrangement under Attorney General Regulation Number 15 of 2020, the practice in this tribe also takes into account the involvement of the society. Therefore, restorative justice is not only well recognized under the positive law, but it is also recognized under the living law.

Last but not least, restorative justice under both the Indonesian positive law and the Dayak Ngaju Law adopts the penal mediation method. Through this method, the reparation of the victim and the abolishment of the sanction imposed on the offender shall be achieved. Since both this positive law and living law are in line with the values under the Pancasila, the author suggested that this concept shall be preserved and even enhanced in the practice of criminal law enforcement in Indonesia. This article suggests that the restorative justice concept shall be enhanced in both the practice of Indonesian positive law and the living law.

REFERENCES

The 1945 Constitution of the Republic of Indonesia. https://peraturan.go.id/id/uud-1945

Ali, M., Muliyono, A., Sanjaya, W., & Wibowo, A. (2022). Compensation and Restitution for Victims of Crime in Indonesia: Regulatory Flaws, Judicial Response, and Proposed Solution. *Cogent Social Sciences, 8*(1), 1-13. https://doi.org/10.1080/23311886.2022.2069910

Annisa, F., & Saini, Y. (2022). *Hukum Acara Pidana Indonesia*. LPPM Universitas Bung Hatta.

Braithwaite, J. (1989). *Crime, Shame and Reintegration*. Cambridge University Press. https://doi.org/10.1017/CBO9780511804618

Darwin, I. P. J. (2019). Implications of Overcapacity for Correctional Institutions in Indonesia. *Cepalo, 3*(2), 77-84. https://doi.org/10.25041/cepalo.v3no2.1847

Duff, R. A. (2001). *Punishment, Communication, and Community*. Oxford University Press.

Gavrielides, T. (2007). *Restorative Justice Theory and Practice: Addressing the Discrepancy*. Helsinki.

Haar, B. t. (1994). *Asas-Asas dan Susunan Hukum Adat* (Trans. by K. N. S. Poesponoto). Pradnya Paramita.

Hadi, S. (2017). Hukum Positif dan *The Living Law* (Eksistensi dan Keberlakuannya dalam Masyarakat). *DIH: Jurnal Ilmu Hukum, 13*(26), 259-266. https://doi.org/10.30996/dih.v0i0.1588

Hasrina, S., Karim, S., & Mirzana, H. A. (2021). Konsep Kepentingan Umum dalam Asas Oportunitas pada Sistem Peradilan Pidana Indonesia. *Indonesian Journal of Criminal Law, 3*(1), 33-39. Retrieved from https://journal.ilininstitute.com/index.php/IJoCL/article/view/1061

Herniti, E. (2012). Kepercayaan Masyarakat Jawa Terhadap Santet, Wangsit, dan Roh Menurut Edward-Pritchard. *Thaqafiyyat: Jurnal Bahasa, Peradaban dan Informasi Islam, 13*(2), 384-400. Retrieved from https://ejournal.uin-suka.ac.id/adab/thaqafiyyat/article/view/77

Janah, A. N., Hariandja, T. R., & Setiawan, S. A. (2023). Penerapan Hukum Jipen/Singer dalam Tindak Pidana Asusila Masyarakat Suku Dayak Ngaju (Study Kasus di Desa Pundu, Cempaga Hulu, Kotawaringin Timur, Kalimantan Tengah). *Welfare State: Jurnal Hukum, 2*(2), 221-242. https://doi.org/10.56013/welfarestate.v2i2.2415

Karjono, A., Malau, P., & Ciptono, C. (2024). Penerapan Keadilan Restoratif dalam Hukum Pidana Berbasis Kearifan Lokal. *Jurnal Usm Law Review, 7*(2), 1035-1050. https://doi.org/10.26623/julr.v7i2.9571

Kholdaa, M. C., & Pujiyono, P. (2024). Social Work Crime as an Alternative to Resolving Overcrowding in Correctional Institutions. *Justisi, 10*(3), 806-816. https://doi.org/10.33506/js.v10i3.3491

Kristanto, A. (2022). Kajian Peraturan Jaksa Agung Nomor 15 Tahun 2020 tentang Penghentian Penuntutan Berdasarkan Keadilan Restoratif. *Lex Renaissance, 7*(1), 180-193. https://doi.org/10.20885/JLR.vol7.iss1.art14

Laia, F. F. D. (2024a). *Penyelesaian di Luar Pengadilan terhadap Tindak Pidana Korupsi dengan Kerugian Negara yang Kecil dalam Perspektif Ius Constituendum* [Dissertation, Universitas Jambi]. Repository Unja. https://repository.unja.ac.id/62069

Laia, F. F. D. (2024b). The Urgency of Enacting Government Regulation on Community Service Sentence in Indonesian under the New Penal Code. *SIGn Jurnal Hukum, 6*(1), 1-16. https://doi.org/10.37276/sjh.v6i1.350

Lasmadi, S. (2011). Mediasi Penal dalam Sistem Peradilan Pidana Indonesia. *Inovatif, 4*(5), 1-10. Retrieved from https://online-journal.unja.ac.id/index.php/jimih/article/view/530

Laturette, A. I. (2021). Penyelesaian Sengketa Hak Ulayat pada Kawasan Hutan. *Sasi, 27*(1), 102-112. https://doi.org/10.47268/sasi.v27i1.504

Law of the Republic of Indonesia Number 1 of 1946 on the Penal Code Regulations. https://jdih.dpr.go.id/setjen/detail-dokumen/tipe/uu/id/814

Law of the Republic of Indonesia Number 1 of 1960 on Amendment of the Penal Code (State Gazette of the Republic of Indonesia of 1960 Number 1, Supplement to the State Gazette of the Republic of Indonesia Number 1921). https://jdih.dpr.go.id/setjen/detail-dokumen/tipe/uu/id/1357

Law of the Republic of Indonesia Number 5 of 1960 on Basic Provisions of Agrarian Principles (State Gazette of the Republic of Indonesia of 1960 Number 104, Supplement to the State Gazette of the Republic of Indonesia Number 2043). https://jdih.dpr.go.id/setjen/detail-dokumen/tipe/uu/id/1361

Law of the Republic of Indonesia Number 8 of 1981 on the Code of Criminal Procedure (State Gazette of the Republic of Indonesia of 1981 Number 76, Supplement to the State Gazette of the Republic of Indonesia Number 3209). https://jdih.dpr.go.id/setjen/detail-dokumen/tipe/uu/id/755

Law of the Republic of Indonesia Number 48 of 2009 on the Judicial Power (State Gazette of the Republic of Indonesia of 2009 Number 157, Supplement to the State Gazette of the Republic of Indonesia Number 5076). https://jdih.dpr.go.id/setjen/detail-dokumen/tipe/uu/id/585

Law of the Republic of Indonesia Number 12 of 2011 on Legislation Making (State Gazette of the Republic of Indonesia of 2011 Number 82, Supplement to the State Gazette of the Republic of Indonesia Number 5234). https://jdih.dpr.go.id/setjen/detail-dokumen/tipe/uu/id/249

Law of the Republic of Indonesia Number 15 of 2019 on Amendment to Law Number 12 of 2011 on Legislation Making (State Gazette of the Republic of Indonesia of 2019 Number 183, Supplement to the State Gazette of the Republic of Indonesia Number 6398). https://jdih.dpr.go.id/setjen/detail-dokumen/tipe/uu/id/1749

Law of the Republic of Indonesia Number 13 of 2022 on the Second Amendment to Law Number 12 of 2011 on Legislation Making (State Gazette of the Republic of Indonesia of 2022 Number 143, Supplement to the State Gazette of the Republic of Indonesia Number 6801). https://jdih.dpr.go.id/setjen/detail-dokumen/tipe/uu/id/1801

Law of the Republic of Indonesia Number 1 of 2023 on the Penal Code (State Gazette of the Republic of Indonesia of 2023 Number 1, Supplement to the State Gazette of the Republic of Indonesia Number 6842). https://jdih.dpr.go.id/setjen/detail-dokumen/tipe/uu/id/1818

Lestari, R. A., Rivanie, S. S., & Soewondo, S. S. (2023). Implementation of Restorative Justice for Narcotic Abusers: A Case Study in the Takalar Public Attorney's Office. *SIGn Jurnal Hukum, 5*(1), 207-220. https://doi.org/10.37276/sjh.v5i1.275

Mahendra, A. P. (2020). Mediasi Penal Pada Tahap Penyidikan Berlandaskan Keadilan Restoratif. *Jurist-Diction, 3*(4), 1153-1178. https://doi.org/10.20473/jd.v3i4.20200

Mahmud, Y., Akili, R. H. S., Kadir, Y., & Moonti, R. M. (2019). *Restorative Justice* dalam Putusan Hakim Nomor: 31/Pid.Sus/2018/PN.Lbto Atas Kasus Persetubuhan terhadap Anak. *SIGn Jurnal Hukum, 1*(1), 52-69. https://doi.org/10.37276/sjh.v1i1.37

Marshall, C. D. (2020). Restorative Justice. In P. Babie & R. Sarre (Eds.), *Religion Matters: The Contemporary Relevance of Religion* (pp. 101-117). Springer. https://doi.org/10.1007/978-981-15-2489-9_7

Marshall, T. F. (1999). *Restorative Justice: An Overview*. Home Office Research Development and Statistics Directorate.

Musleh, M., Rosyidah, A. R. N., Faruq, U., & Saedi, M. (2023). Urgensi Asas Ketuhanan dalam Undang-Undang Nomor 12 Tahun 2011 tentang Pembentukan Peraturan Perundang-Undangan. *Sosio Yustisia: Jurnal Hukum dan Perubahan Sosial, 3*(2), 176-198. https://doi.org/10.15642/sosyus.v3i2.362

Nugraha, S. (2021). Penerapan Hukum Adat dalam Penegakan Hukum bagi Pelaku Tindak Pidana Ilmu Hitam pada Masyarakat Dayak Ngaju. *Belom Bahadat: Jurnal Hukum Agama Hindu, 11*(1), 25-37. https://mail.ejournal.iahntp.ac.id/index.php/belom-bahadat/article/view/629

Pongoh, R. R., Lembong, J., & Rompis, T. (2020). Persoalan Prapenuntutan dalam Perkara Pidana Menurut KUHAP. *Lex Crimen, 9*(3), 180-187. Retrieved from https://ejournal.unsrat.ac.id/v3/index.php/lexcrimen/article/view/29851

Prasetya, M. D., Sari, I. P., Said, S., & Akbar, A. (2023). Forms and Developments of Narcotics Crime during the Covid-19 Pandemic: A Case Study of Court Decision. *SIGn Jurnal Hukum, 4*(2), 291-307. https://doi.org/10.37276/sjh.v4i2.164

Pratiwi, P. F. P., & Pratama, A. (2023). Sanksi Adat bagi Panyapa dalam Hukum Adat Dayak Ngaju. *Belom Bahadat: Jurnal Hukum Agama Hindu, 13*(2), 65-82. https://doi.org/10.33363/bb.v13i2.1056

Pratiwi, P. F. P., Suprayitno, S., & Triyani, T. (2019). Upaya Hukum untuk Menjerat Tindakan Perebut Laki Orang (Pelakor) dalam Perspektif Hukum Adat Dayak Ngaju di Kalimantan Tengah. In *Prosiding Seminar Nasional Ke-3: Pengelolaan Sumber Daya Alam di Kawasan Perbatasan* (pp. 173-188). Fakultas Hukum Universitas Borneo Tarakan. Retrieved from http://prosiding.ubt.ac.id/index.php/snhpb/article/view/27

Prayitno, K. P. (2012). Restorative Justice untuk Peradilan di Indonesia (Perspektif Yuridis Filosofis dalam Penegakan Hukum In Concreto). *Jurnal Dinamika Hukum, 12*(3), 407-420. https://doi.org/10.20884/1.jdh.2012.12.3.116

Prayogo, S. B., Asyahadi, F., & Abas, M. (2024). Optimizing Social Work and Restorative Justice in Overcoming Overcrowded Correctional Institutions. *Journal of Law, Politic and Humanities, 4*(3), 383-389. https://doi.org/10.38035/jlph.v4i3.364

Prodjodikoro, W. (2009). *Asas-Asas Hukum Pidana di Indonesia*. Refika Aditama.

Rawls, J. (1971). *A Theory of Justice*. Harvard University Press.

Regulation of the Attorney General's Office of the Republic of Indonesia Number 15 of 2020 on the Termination of Prosecution Based on Restorative Justice (Bulletin Gazette of the Republic of Indonesia of 2020 Number 811). https://peraturan.go.id/id/peraturan-kejakgung-no-15-tahun-2020

Regulation of the Province of Central Kalimantan Number 16 of 2008 on the Dayak Indigenous Institutions in Central Kalimantan (Provincial Gazette of Central Kalimantan of 2008 Number 16. Supplement to the Provincial Gazette of Central Kalimantan Number 24). https://peraturan.bpk.go.id/Details/89276/perda-prov-kalimantan-tengah-no-16-tahun-2008

Rezah, F. S., & Muzakkir, A. K. (2021). Custom as a Critical Concept and *Siri'* as the Core Concept of *Ugi-Mangkasara* Culture. *SIGn Jurnal Hukum, 3*(1), 40-51. https://doi.org/10.37276/sjh.v3i1.123

Rivanie, S. S., Soewondo, S. S., Azisa, N., Abadi, M. T., & Iskandar, I. (2022). The Application of Imprisonment to Kleptomaniacs: A Case Studies of Court Decision. *SIGn Jurnal Hukum, 4*(1), 113-123. https://doi.org/10.37276/sjh.v4i1.169

Rosadi, O., & Satria, A. (2022). Implikasi Yuridis Peraturan Kejaksaan Republik Indonesia Nomor 15 Tahun 2020 tentang Penghentian Penuntutan Berdasarkan Keadilan Restoratif Terhadap Tersangka Tindak Pidana. *Unes Law Review, 5*(1), 99-109. Retrieved from https://review-unes.com/index.php/law/article/view/294

Rumadan, I. (2021). Interpretation of the Legal Values and Justice in the Living Law Related to Court Decision. *Sociological Jurisprudence Journal, 4*(1), 13-22. https://doi.org/10.22225/scj.4.1.2946.13-22

Sarwirini, S. (2014). Implementasi Restorative Justice dalam Penegakan Hukum Pajak. *Yuridika, 29*(3), 380-396. https://doi.org/10.20473/ydk.v29i3.378

Savigny, F. C. v. (1831). *Of the Vocation of Our Age for Legislation and Jurisprudence* (Trans. by A. Hayward). Littlewood and Company.

Sihombing, D. C., Syahrin, A., Ablisar, M., & Mulyadi, M. (2023). Penguatan Kewenangan Jaksa Selaku Dominus Litis Sebagai Upaya Optimalisasi Penegakan Hukum Pidana Berorientasi Keadilan Restoratif. *Locus: Jurnal Konsep Ilmu Hukum, 3*(2), 63-75. https://doi.org/10.56128/jkih.v3i2.42

Soekanto, S., & Sulistyowati, B. (2012). *Sosiologi Suatu Pengantar*. PT. Raja Grafindo Persada.

Soepomo, S. (1993). *Bab-Bab tentang Hukum Adat*. PT. Pradnya Paramita.

Tresna, L. P., Amiruddin, A., & Ufran, U. (2022). Implementation of the Principle of Dominus Litis in Positive Law in Indonesia. *International Journal of Multidisciplinary Research and Analysis, 5*(11), 3123-3131. https://doi.org/10.47191/ijmra/v5-i11-20

United Nations. (1999, 15 December). *Tenth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Vienna, 10-17 April 2000* (A/CONF.187/8). https://digitallibrary.un.org/record/432651/files/A_CONF.187_8-EN.pdf?ln=en

Wibowo, A. F., Sadam, A. V., & Ramadavin, M. (2023). Implikasi Pasal Living Law dalam Undang-Undang Kitab Undang-Undang Hukum Pidana Terbaru Terhadap Kehidupan Masyarakat. *Selisik: Jurnal Hukum dan Bisnis, 9*(1), 120-127. Retrieved from https://journal.univpancasila.ac.id/index.php/selisik/article/view/5222

Wulandari, C., Pujirahayu, E. W., Hiariej, E. O. S., Hassan, M. S., & Kambuno, J. A. (2022). Penal Mediation: Criminal Case Settlement Process based on the Local Customary Wisdom of Dayak Ngaju. *Lex Scientia Law Review, 6*(1), 69-92. https://doi.org/10.15294/lesrev.v6i1.54896