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CUSTOMARY SETTLEMENT OF CERTAIN CRIMINAL CASES IN THE INDIGENOUS COMMUNITY OF KENEGERIAN BENAI, KUANTAN SINGINGI

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Abstract: This study analyzed the resolution of specific criminal cases within the indigenous peoples of Kuantan Singingi, Riau. The shift in customary laws towards a modern legal system has caused various problems, including accumulating case files and overcapacity in prisons. This occurred because the community has also lost its grip on solving problems with the existing customary laws. Therefore, this study involved interviews with chairpersons, secondary leaders, customs on conflict resolution among indigenous peoples, and the use of primary data. The results highlighted that the customary settlement of criminal cases can sufficiently resolve conflicts in the community. Furthermore, it over came the accumulation of case files in the courts and overcapacity in penitentiary institutions.

Keywords: Settlement, Customs, Certain Criminal Acts

Abstrak: Kajian ini menganalisis penyelesaian kasus pidana khusus pada masyarakat adat Kuantan Singingi, Riau. Pergeseran hukum adat menuju sistem hukum modern telah menimbulkan berbagai masalah, antara lain menumpuknya berkas perkara dan kelebihan kapasitas di lembaga pemasyarakatan. Hal ini terjadi karena masyarakat juga kehilangan pegangan untuk menyelesaikan masalah dengan hukum adat yang ada. Oleh karena itu, penelitian ini melibatkan wawancara dengan ketua, tokoh sekunder, kebiasaan penyelesaian konflik di antara masyarakat adat, dan penggunaan data primer. Hasilnya menyoroti bahwa penyelesaian kasus pidana secara adat cukup dapat menyelesaikan konflik di masyarakat. Selain itu, mengatasi penumpukan berkas perkara di pengadilan dan kelebihan kapasitas di lembaga pemasyarakatan.

Kata Kunci: Penyelesaian, Adat, Tindak Pidana Tertentu

Introduction

Criminal laws exist to protect the interests of the state, society, and citizens.[1] In Anglo-American countries as well as in Continental Europe, crime consists of two elements: Subjective, commonly called *mens rea,* and objective elements related to actions as reflected in the *adage actus non facit reum nisi mens sit rea*. [2] Criminal laws also prevent people from becoming victims of crimes committed by others.[3]

After Indonesia's independence, a legal unification of criminal law was composed in written form.[4] The state provides the appropriate tools to enforce criminal law through the criminal justice system. According to Mardjono, as quoted by Waskito, the Criminal Justice System (CJS) is made up of connections between every agency involved in the criminal justice process starting from police investigations to court sentences.[5] Criminal punishment is imposed as a justification for the losses caused by the crime.[6] Furthermore, according to Law Number 8 of 1981 concerning the Criminal Procedure Code, CJS consists of the police, prosecutors, judges, and correctional institutions. These units of the justice system reserve the authority to lawfully deprive citizens of human rights to protect society from crime.

However, the number of police, prosecutors, and judges are minimal. The ratio of police to community members is currently 1: 400. [7] The ratio of prosecutors and judges to the police is even smaller and does not match the number of crimes that occur.

This causes an accumulation of case files, arrears, and over-capacity in correctional institutions. Jaka Aref Sugema[8] quoted directly the statement of the Minister of Law and Human Rights, "In 2019, in Indonesia, 150,548 convicts were living in prisons, while the total capacity of these prisons was only 120,000". Therefore, prisons have exceeded their ideal capacity of one room occupied by 3-4 people. There is a buildup of occupants, causing an inadequacy in personal space.

The enacted criminal laws are often not in line with the existing customary values of society. Therefore, it is more likely for ordinary citizens to be caught as perpetrators of crime and sent to increasingly crowded prisons. In complying with the law, people are trapped in two legal systems recognized as equally valid. According to Wandi Subroto, legal pluralism highlights the difference between criminal law originating from colonial law based on Law Number 1 of 1946 and the existing social structure in Indonesia. Specifically, Article 18B paragraph (2) of the 1945 Constitution declared

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1 Henry Prakken, Floris Bex, and Anne Ruth Mackor, 'Editors' Review and Introduction: Models of Rational Proof in Criminal Law', *Topics in Cognitive Science*, 12.4 (2020), 1053–67 <https://doi.org/10.1111/tops.12519>.

2 Michal Zacharski, 'Mens Rea, the Achilles' Heel of Criminal Law', *European Legacy*, 23.1–2 (2018), 47–59 <https://doi.org/10.1080/10848770.2017.1400259>.

3 Noveria Devy Irmawanti and Barda Nawawi Arief, 'Urgensi Tujuan Dan Pedoman Pemidanaan Dalam Rangka Pembaharuan Sistem Pemidanaan Hukum Pidana', *Jurnal Pembangunan Hukum Indonesia*, 3.2 (2021), 220.

4 Lastuti Abubakar, 'Revitalisasi Hukum Adat Sebagai Sumber Hukum Dalam Membangun Sistem Hukum Indonesia', *Jurnal Dinamika Hukum*, 13.2 (2013), 320–30.

5 Achmad Budi Waskito, 'Implementasi Sistem Peradilan Pidana Dalam Perspektif Integrasi', *Jurnal Daulat Hukum*, 1.1 (2018), 287–304 <https://doi.org/http://dx.doi.org/10.30659/jdh.v1i1.2648>.

6 Clayton Littlejohn, *Truth, Knowledge, and the Standard of Proof in Criminal Law*, *Synthese* (Springer Netherlands, 2020), CXCVII <https://doi.org/10.1007/s11229-017-1608-4>.

7 Mohamad Hidayat, 'Meningkatkan Efektivitas Sistem Peradilan Pidana Indonesia Melalui Peran Serta Detektif Swasta', *SEMINAR NASIONAL KONSORSIUM UNTAG Indonesia*, 17, 2020, 352–61.

8 Jaka Arief Sugema, 'Penanganan Over Kapasitas Di Dalam Lapas', *JUSTITIA : Jurnal Ilmu Hukum Dan Humaniora*, 7.1 (2020), 201–8 <http://jurnal.umtapsel.ac.id/index.php/Justitia/article/view/1939>.

that the state protects indigenous people and their historical rights.[9]

In existing practice, simple cases must also be resolved according to the mechanism of the criminal justice system. Several alternative models have been introduced, including applying the principles of restorative justice. According to Hanafi Arief and Ningrum Ambarsari, restorative justice means restitution of circumstances by way of atonement for mistakes that the perpetrators of the crime or their families want to make to the victims or their families, outside the court. Therefore, legal issues that arise can be appropriately resolved after the approval and agreement of both parties.[10]

Among some indigenous peoples, the restorative justice settlement model has often been applied in society. This phenomenon includes the stone-burning culture in Papua, *Sasi* in Maluku, *Badamai* in South Kalimantan, and *Tepung Tawar* in Jambi. In a society that adheres to customary law, including Kuantan Singingi, this settlement pattern applies to certain crimes.

Based on the explanation above, the problems in this study include the limited number of law enforcers compared to criminal cases in the community, the accumulation of case files and overcapacity in correctional institutions, and the customary law that exists in society often not in line with the written law.

This study is different from previous reports on indigenous peoples. The study by Setia Putra entitled Settlement of Indigenous Land Disputes According to Customary Law in Benai District, Kuantan Singingi Regency, focused on customary land disputes and specific criminal acts.[11] Furthermore, Riko Rikardo studied the Implementation of Concurrent Government Affairs in the Settlement of Ulayat Land Disputes in Kuantan Singingi Regency, geared towards solving customary land disputes. [12] Abdul Rahman Maulana Siregar and Mhd. Azhali Siregar also studied the Settlement of Criminal Acts with Customary Criminal Offenses in North Padang Lawas Regency, where the study object is a different area to produce different conclusions.[13]

Different with previous reports, this study discusses the resolution of customary offense cases in the Benai community, Kuantan Singingi. This is part of a proposed concept to overcome the problem of overcapacity in correctional institutions by conducting empirical and qualitative legal research. Furthermore, the population comprised the traditional stakeholders of Kenegerian Benai Kuantan Singingi, Riau Province, which also constituted the sample area. The data collection method involved interviewing traditional stakeholders, while the analytical model applied triangulation.

Delict Forms of Indigenous Community of Kenegerian Benai

The term adat was first used to refer to the customary law of the Dutch East Indies. This

[9] Wandi Subroto, 'Pluralisme Hukum Sebagai Model Pembangunan Hukum', *Akselerasi : Jurnal Ilmiah Nasional*, 4.1 (2022), 8–15.

[10] Hanafi Arief and Ningrum Ambarsari, 'Penerapan Prinsip Restorative Justice Dalam Sistem Peradilan Pidana Di Indonesia', *Al-Adl : Jurnal Hukum*, 10.2 (2018), 173 <https://doi.org/10.31602/al-adl.v10i2.1362>.

[11] Setia Putra, 'Penyelesaian Sengketa Tanah Ulayat Menurut Hukum Adat Di Kecamatan Benai Kabupaten Kuantan Singingi', *(Jurnal) Ilmu Hukum Fakultas Hukum Universitas Riau*, Vol.6, No.1 (2020), 3.

[12] Rido Rikardo, 'Pelaksanaan Urusan Pemerintah Konkuren Dalam Penyelesaian Sengketa Tanah Ulayat Di Kabupaten Kuantan Singingi', *Jurnal Panji Keadilan : Jurnal Ilmiah Nasional Mahasiswa Hukum*, 3.2 (2020) <https://doi.org/10.36085/jpk.v3i2.1201>.

[13] Abdul Rahman Maulana Siregar dan Mhd. Azhali Siregar, 'Penyelesaian Tindak Pidana Dengan Delik Pidana Adat Di Kabupaten Padang Lawas Utara', *Jurnal Hukum Responsif*, 7.7 (2019), 137–44.

term originates from Arabic, often used in various regions in conjunction with local terms such as habit or custom, and limbago (institution).[14] Quoting Taufik Abdullah, von Benda highlighted the term *adat* in West Sumatra was first used after the Padri War, in the early nineteenth century. This war occurred between fundamentalist and moderate Islamic groups to distinguish the principles of Minangkabau matrilineal organization from Islamic law. Meanwhile, Christiaan Snouck Hurgronje used *adat* generally to coin the term *adatrecht* (customary law): the part of *adat* which is subject to sanctions.

The Benai community like other groups in Kuantan Singingi Regency still upholds the prevailing customary law. The Benai Customary Law Society occupies one of the 15 subdistricts within the regency, with an area of 124.66 km^2.

The forms of customary delict that are prohibited in the indigenous community of Kenegerian Benai are based on the level of disgrace. These forms were derived from interviews with Nurman, the Chief of the Piliang clan, Na'as Suhar as Datuk Gomuk from the Patopang clan in Kenegerian Simandolak, and Datuk Rudi Hartono, Chief of the Caromin clan on Sunday, August 4, 2019, in Benai District as follows:

First, interracial marriage is prohibited between men and women of the same clan. According to customary law, one's clan that originates from the mother's line is considered a close relative, therefore, it is wrong to marry relatives. Although Islam allows it, it is prohibited in customary law due to the principle of collectivism which considers one's clan as one's brothers. People also believe that same-sex marriage can bring disaster or bad luck. Second, Baso, which involves taking the widow or ex-wife of a sibling. It is a disgraceful and inappropriate act due to its ability to damage sibling relationships and family reputation. When this kind of marriage occurs, it usually causes discord and disagreement in the perpetrators' household. Society considers this as a husband-change marriage.

The third delict is the assumption that a clan chief is not vital, but when there is a problem, the community is required to complain to the clan chief. The existence of traditional stakeholders in Kenegerian Benai began to erode the functions and roles of these chiefs. They usually manage the social life of the community, from birth to death, engagements and marriages of residents, as well as disputes or peace. However, when problems arise with nephews and grandchildren, these problems are usually taken care of directly by relevant government agencies. Such conditions are unsustainable because they will fade the existing customary value system.

The fourth delict is the sale of *pusako tinggi* or ancestral property. For the Benai people, there are two types of *pusako* or property. *Pusako tinggi* originates from shared assets derived from clan pursuits, which are often considered collectively. Therefore, selling *pusako tinggi* is believed to bring bad luck to the perpetrators which must be punished according to custom.

The fifth delict is the act of adultery. When a man and woman of the same ethnic group commit adultery, the perpetrators will be banished or expelled from the clan area. If the perpetrators commit adultery with a person of a different ethnicity, they will be married first and then exiled. Furthermore, if adultery is committed by *group head,* the penalty is dismissal as *niniak mamak* and banishment from the village. This is carried out after a customary meeting is held by the four clan chiefs (*Datuk penghulu nan barompek*).

[14] Keebet von Benda-Beckmann, 'Anachronism, Agency, and the Contextualisation of Adat: Van Vollenhoven's Analyses in Light of Struggles Over Resources', *Asia Pacific Journal of Anthropology*, 20.5 (2019), 397–415 <https://doi.org/10.1080/14442213.2019.1670242>.

It is also forbidden to have *khalwat* or a man and woman to be alone together who are not *mahrom* (spouses), as this act also leads to adultery. Among the Benai indigenous people, some acts are considered disgraceful even though they occur within the scope of the *Soko* (pillar) family. For example, when a son-in-law is together or alone with his daughter-in-law.

Other delicts involve quarrels or disputes between siblings, such as problems of inheritance and land boundaries. Another delict includes the ethics of speaking and socializing. For example, a person is prohibited from looking away from the other person speaking. In the family, it is forbidden for a wife to treat the husband badly. Additionally, it is forbidden to turn one's back on the husband when sitting together. When a wife or younger sibling is walking, it is proper to be on the right or behind the husband or brother. It is decent to be on the left when the male is still a lover.

From the description and explanation above, several acts can be considered customary delicts in the Benai community, namely (1) Prohibition of same-sex marriage, (2) Baso, namely taking the widow or ex-wife of a sibling, (3) considering the existence of *penghulu* (a clan chief) as not important, (4) Selling *pusako tinggi* (ancestral property), (5) Adultery, (6) Quarrel or dispute among brothers, and (7) there is no ethics in talking and socializing in society.

From the eight acts considered disgraceful in *adat,* only two are applicable in national criminal law. These include adultery and selling *pusako tinggi* or ancestral property, which qualifies as a crime of embezzlement. The other five have no equivalent in criminal law.

Customary Settlement of Certain Crimes

The information derived from interviews with Nurman as the Chief of the Piliang clan, Na'as Suhar as Datuk Gomuk from the Patopang clan in Kenegeriaan Simandolak, and Datuk Rudi Hartono as the Datuk Penghulu of the Caromin clan on Sunday, August 4, 2019, in Benai District, is as follows.

From the informants' explanations, the procedure for resolving customary disputes can be carried out simply by employing three laws: (1) the Law of Hearing. Before deciding on a case, the *Datuk Penghulu (clan chief), menti (clan ministry), dubalang (chief assistance), wali* (head who governs a certain area), and *ninik mamak (group head)*, carry out the process of hearing information from parties to the dispute, the perpetrators, victims, and witnesses. This helps to ensure wise and prudent decisions. (2) The Law of Seeing. To strengthen confidence, consensus/decisions are made. This is based on the observation of the facts and data available from the parties and reviewing them in real time. (3) The Oath of the Koran. When the clan chief has difficulty deciding, then the parties can take an oath in the name of Allah under the Qur'an.

Furthermore, the settlement techniques for customary delicts that occurred in Kenegerian Benai are carried out in the following way:

First, the settlement of customary delict is carried out at the Godang House (an *adat* house). *Datuk penghulu* (clan chief) summons the parties to the dispute. Second, *Datuk Penghulu* summons the witnesses of the dispute. Third, the clan chief opened the trial led by *Datuk nan Barompek* (the four clan chiefs). Village officials and *ninik mamak* (group head) must also be present to give consideration. Fourth, the session leader will fairly listen to both parties' statements. Fifth, a consensus meeting will be held after all the information has been heard to determine who is wrong or right. Sixth, by determining what is wrong, the *Datuk nan Barompek* will determine what punishment will be imposed.

The sanctions for violations of customary delicts in the Benai community include ostracism in community relations, exclusion from

traditional activities, inability to express opinions in *adat*, unable to become a *ninik mamak*, and expulsion from the Benai area. When married people do this, then they may be expelled from the village. When those who commit it are still single and unmarried girls, then they will be married off by force. Another sanction is to be fined with a white ox and rice as much as one rice barn.

When the customary delict involves violence or coercion, the clan chief will leave it to the parties to take modern legal routes. This shows that the community and customary chiefs still recognize written criminal laws. Customary settlement is limited to certain delicts, specifically during cases of adultery and selling *pusako tinggi* (ancestral property).

The customary settlement does not conflict with the Criminal Code Bill, which stipulates that a person should be punished even though the act is not regulated in the law. Therefore, customary laws are upheld and valid according to legal records. These laws do not conflict with Pancasila, the 1945 Constitution of Indonesia, human rights, and general legal principles recognized by civilized society[15].

Ishaq stated that customary law is still applicable in society. These laws exist in several regions in Indonesia and are not in written form but are recognized as valid. This form of a criminal case is usually referred to as customary crime. [16]

Customary settlement is in line with the principles of restorative justice or progressive law. As Dona Asteria mentioned, customary law is unwritten and exists in daily society, manifested as positive law without coercion from the state. However, Austin defines custom and law as "orders from a king or sovereign person, who is politically superior."[17]

From the understanding of restorative justice, customary settlement causes people to be satisfied without the need for formal criminal law. There has been an unfortunate shift in the settlement of cases according to custom. Although the perpetrators have been sentenced to imprisonment according to modern legal settlement, victims are not necessarily compensated for the losses experienced.[18]

The settlement of cases outside the court is not new. According to Nike K. Rumokoy,[19] during the Dutch colonial period, a well-known out-of-court settlement institution (*Afdoening Buiten* Process) stated that the authority to sue may be removed if compensation had previously been provided. This is also in line with the concept of *diyath*, namely the payment of a ransom as compensation for losses due to murder cases and/or abuse that receive forgiveness from the victim's family.[20] In Islamic criminal law, compensation helps to achieve justice and balance for perpetrators and victims. [21]

Restorative justice in the concept of Islamic law involves *jarimah qishas* which is carried out

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15 Kemenkum HAM RI, *Draft Naskah Rancangan Undang-Undang Tentang Kitab Undang-Undang Hukum Pidana*, *Badan Pembinaan Hukum Nasional Kementerian Hukum Dan Hak Asasi Manusia Republik Indonesia*, 2022, pp. 1–539.

16 Ishaq, 'Perbandingan Sanksi Zina Dalam Hukum Pidana Adat Desa Koto Lolo Dan Kitab Undang-Undang Hukum Pidana', *Al Risalah*, 18.1 (2018).

17 Donna Asteria and others, 'Adat Law and Culture: The Local Authority Elements of Baduy Tribe on Environment Preservation', *IOP Conference Series: Earth and Environmental Science*, 716.1 (2021) <https://doi.org/10.1088/1755-1315/716/1/012049>.

18 Liang Chen, Shirley S. Ho, and May O. Lwin, 'A Meta-Analysis of Factors Predicting Cyberbullying Perpetration and Victimization: From the Social Cognitive and Media Effects Approach', *New Media and Society*, 19.8 (2017), 1194–1213 <https://doi.org/10.1177/1461444816634037>.

19 Nike K. Rumokoy, 'Eksistensi "Afdoening Buiten Process" Dalam Hukum Acara Pidana Indonesia', *UNSRAT Repository*, 4.7 (2016), 12–23.

20 Erdianto, 'Delik Adat Dalam Perspektif Masyarakat Hukum Adat Kabupaten Rokan Hilir', *Riau Law Journal*, 5.1 (2021), 114–25.

21 Zainuddin, 'Restorative Justice Concept on Jarimah Qishas in Islamic', *Jurnal Dinamika Hukum*, 8.2 (2013), 335–41.

through peace and forgiveness to create justice and balance for the perpetrators of crimes and the victims. The basis of Islamic law regarding *diyath* is regulated in Q.S. al-Hujurat (49) Verse 10 and Q.S. Ash-Syuura (42) Verse 40.[22] This is in line with the punishment theory which is geared towards a restorative purpose where punishment is no longer meant to be suffered.[23]

The restorative justice model has long been applied in several countries. In Canada, it has been carried out using the Victim Offenders Dialogue (VOD) method since 1991. In Japan, the ADR approach began to be used towards the end of the 20th century, specifically in severe medical malpractice cases in 1999. Furthermore, in the United States, it has been referred to since the 1970s and 1980s as the Victim Offender Reconciliation Program in the Mennonite region.[24] Based on the theoretical perspective of the science of victimology, the customary settlement approach has also been recognized where there is a clear recognition of victims' rights.[25]

Based on many studies on prisons that have been previously carried out, according to Ali Zaidan, as quoted by Ishaq and Abdul Rasyid, imprisonment may cause a harmful effect. Although normatively, it has evolved to conditionalization, in practice, it has not significantly shifted as it should.[26] For example, a convict who has served time and leaves LAPAS (Correctional Institution), is still labeled by society as a criminal. This stigma should be removed when the sentence has been served and the perpetrator is seen to make amends.[27]

Stigma from society is retributive and views punishment as predominantly justified and to be borne by perpetrators who deserve to be punished. Although retributivism is the most prominent and influential contemporary theory of punishment, this view is controversial if criminals deserve harsh punishment.[28]

Simultaneously, the customary settlement has five advantages: recovering losses suffered by victims, restoring guilt for perpetrators, minimizing the harmful effects of imprisonment and overcapacity in prisons, easing the state's burden for financing convicts, and reducing case costs that the state must bear for following the due process of criminal justice. These are in line with the principles of the Criminal Procedure Code, namely low-cost, simple, and fast. The criminal justice subsystem's application of procedural law is also in line with the theory of the legal system, namely substance, structure, and culture. [29] Communities in Benai, Kuantan Singingi, prefer a criminal settlement by the police rather than traditional stakeholders. Although the customary settlement does not leave marks or

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22 Zainuddin, 'Restorative Justice Concept on Jarimah Qishas in Islamic', *Jurnal Dinamika Hukum*, 8.2 (2013), 335–41.

23 Hans Tangkau, 'Perkembangan Politik Hukum Dalam Pembaharuan KUHP', *Lex Crimen*, XVIII.5 (2010), 15.

24 Hildayastie Hafizah and Surastini Fitriasih, 'Urgensi Penyelesaian Dugaan Kesalahan Medis Melalui Restorative Justice', *Jurnal USM Law Review Vol*, 5.1 (2022), 205–23 <https://doi.org/http://dx.doi.org/10.26623/julr.v5i1.4884>.

25 Iskandar Wibawa, 'Pidana Kerja Sosial Dan Restitusi Sebagai Alternatif Pidana Penjara Dalam Pembaharuan Hukum Pidana Indonesia', *Jurnal Media Hukum*, 24.2 (2017), 105–14 <https://doi.org/10.18196/jmh.2017.0086.105-114>.

26 Ishaq and Abdul Rajak, 'Sanksi Penganiayaan Dalam Hukum Pidana Adat Kerinci Dan Hukum Pidana Indonesia', *Al-Risalah Forum Kajian Hukum Dan Sosial Kemasyarakatan*, 19.1 (2019), 17–35.

27 Muhammad Fauzar Rivaldy, 'Konsep Sanksi Pidana Penjara Cicilan Sebagai Alternatif Pemenjaraan Baru Dalam Upaya Mengatasi Over Capacity/Kelebihan Kapasitas Di Dalam Lembaga Permasyarakatan', *Jurnal Hukum Adigama*, 1–25.

28 Stephen R Galoob, 'Retributivist and Criminal Procedure', *NEW CRIMINAL LAW REVIEW |*, 20.3 (2017), 465–505.

29 Ahmad Rofiq, Hari Sutra Disemadi, and Nyoman Serikat Putra Jaya, 'Criminal Objectives Integrality in the Indonesian Criminal Justice System', *Al-Risalah*, 19.2 (2019), 179 <https://doi.org/10.30631/al-risalah.v19i2.458>.

grudges between the two parties, they do not select it.

In the Benai Kuantan Singingi community, the settlement of customary delicts is unfortunately limited to specific offenses which, even from the perspective of modern criminal law, do not constitute offenses. In the future, the concept of customary settlement should not only be applied to certain acts but also to other cases.

Currently, restorative justice is well-received by all elements of law enforcement but is yet to have a solid legal basis. According to Ahmad Agus Ramdlany, restorative justice must be provided with a legal umbrella integrated into the Criminal Code and Criminal Procedure Code. This will enable its use in resolving petty crime cases as formulated in the law. Furthermore, this will enable law enforcement officials to handle its application. Restorative justice arrangements in law enforcement agencies are regulated by internal regulations.[30]

Conclusion

This study showed that the customary settlement model for certain criminal cases in the indigenous community in Kenegerian Benai, Kuantan Singingi, Riau Province, can sufficiently resolve conflicts in the community. It also solves the problem of excess case files piled up in court and the overcapacity of correctional institutions. Furthermore, in some instances, a customary resolution will not require one to go through a lengthy criminal justice system that ends in punishment. The concept of modern punishment only involves a verdict of whether someone is guilty without considering the victim's losses and ignores the principles of collectivism and brotherhood in society. Aside from overcoming the limited number of law enforcers and the capacity of correctional institutions, this settlement model also enhances legal adherence because it is in harmony with the laws that govern society.

Customary settlement is in line with the objective of punishment according to the Criminal Code Bill but needs to be strengthened by a robust legal basis through the law. With the immediate passage of the Criminal Code Bill, it is expected that customary settlement can be re-applied.

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