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## **The Role of Traditional Institutions in Resolving Crime through A Restorative Justice Approach in Gowa District**

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### **Abstract**

*The purpose of the research is to explore the existence of Indigenous Community and customary legal systems in Gowa Regency, as well as the effectiveness of the restorative justice approach in resolving criminal acts involving Indigenous Community. The research was conducted through interviews with traditional leaders and institutional structures, regional representatives of the Indigenous Community Alliance of the Archipelago, local government officials, and the police. The results indicate that the restorative justice approach is effective in resolving conflicts in several areas of the indigenous community in Gowa Regency. The correlation between customary justice and positive law can be cooperative and adaptable to the changing times to ensure justice for the indigenous community. From this research, it is expected that there will be an improvement in coordination and communication between law enforcement agencies and the indigenous community, the protection and preservation of human rights in the indigenous community, as well as the development of legal regulations to link customary law with the policies of the Gowa Regency government.*

**Keywords:** Customary Law, Indigenous Community, Restorative Justice

### **Introduction**

The legal system for resolving criminal cases through customary law focuses on resolving disputes outside of court, but often faces obstacles with formal Indonesian law due to the impact of the history of colonialism which dominates the global legal system, including Indonesia. Even though it is considered controversial within a normative framework, customary law still refers to many aspects of community life, encouraging efforts to revitalize customary institutions in several regions to handle social conflicts.

Recognition of customary law, as stated in Article 18B of the 1945 Constitution, states that the State recognizes and respects customary law community units and their traditional rights as long as they are still alive and in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia as regulated in the Law. . Likewise with the provisions of Article 5 paragraph (1), Article 10 paragraph (1), and Article 50 paragraph (1) of Law Number 48 of 2009 concerning Judicial Power, which lays the basis for the existence of customary criminal law. Even though customary law (unwritten law) is questionable, these articles confirm its status as a legal component recognized and guaranteed by the constitution.

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Law Number 48 of 2009 concerning Judicial Power Article 5 paragraph (1), Article 10 paragraph (1), Article 50 paragraph (1), explains that the position of customary criminal law in Indonesia has received recognition so that the application of customary sanctions is applied to perpetrators who commit crimes. the crime or violation does not conflict with state norms. As long as the customary law is still alive and growing among all levels of society.

Within a restorative justice framework, traditional community values are at the root of this approach, and traditional justice institutions are maintained in some countries as a means of resolving disputes, including criminal cases.

Criticism of "retributive justice" in criminal law enforcement paved the way for restorative justice in Indonesia, which is believed to be rooted in the values of indigenous communities. Indonesian customary law is recognized as the root of restorative justice with characteristics that support it, such as views on customary violations and resolution models.

The history of traditional institutions shows their role as adjudicators in resolving community conflicts before the formation of modern governments. Customary law from a juridical, philosophical and sociological perspective is recognized and respected in an effort to create a just legal system in accordance with community values and current developments. And in practice, traditional institutions are the main alternative for resolving criminal cases in various regions of Indonesia, so that some cases are not continued by the police.

Currently, indigenous peoples' existence is often neglected in policy making carried out by the government in achieving restorative justice. The restorative approach applied in a customary law institution essentially leads to reparation efforts, restoration of damage, losses suffered as a result of criminal acts and initiating and facilitating peace.

So in this case, efforts to revitalize traditional institutions are one of the concrete steps which according to researchers must be studied further to provide a win solution for society in fulfilling a sense of justice, especially for indigenous communities which still exist in several corners of the country.

Restorative justice is of course the main goal in dealing with specific criminal acts to replace and avoid decisions on who wins or loses through an adversarial (hostile) system. Restorative justice is concerned with rebuilding relationships after a crime has occurred, rather than exacerbating the rift between perpetrator, victim and society that characterizes today's modern criminal justice system. The basis for restorative justice is what in reality is still alive in the customary justice institutions of customary law communities. Where customary communities resolve legal cases between communities, the law is by deliberation and consensus, facilitating dialogue between various parties involved or affected by crime, including victims, perpetrators, families and society as a whole. This basic principle is actually implemented in the concept of Restorative Justice which is adopted in our current justice system. In line with this, it is appropriate for the State to take its position in providing legal certainty, benefit and justice.

This research was conducted in Gowa Regency, because in that area there is a customary law institution which has customary justice, and to this day it is still used to resolve conflicts in the community. The aim of this research is to determine the existence of the Indigenous Community and the extent to which the effectiveness of the restorative justice approach is able to create a sense of justice for the indigenous community in Gowa Regency.

## Literature Review

### General Overview of Criminal Law

#### Principles of Criminal Law

According to [Sudarsono](#) In principle, criminal law regulates crimes and violations of the public interest and these acts are punishable by punishment which constitutes suffering. Thus, criminal law does not constitute [norm](#) law itself, but rather lies in other norms and criminal sanctions (Sudarsono, 2022).

Criminal law is a characteristic of criminal law that differentiates it from civil law. In civil lawsuits generally, the question arises as to how much, if any, the defendant has harmed the plaintiff and then what, if any, equivalent remedy would be to compensate the plaintiff for his or her losses. In criminal cases, on the other hand, it is determined to what extent the defendant has harmed society and what punishment needs to be imposed on the defendant because he has violated the law (criminal) (Hamzah, 2017).

According to Rammelink, criminal law is not an aim in itself but is intended to enforce legal order, protect the legal community. The maintenance of social order to a large extent depends on coercion (Rammelink, 2003).

#### Definition of Criminal Acts

Criminal acts or *Strafbaar feit* are actions that are not only formulated in the criminal law as crimes or criminal acts, but are also seen from the perspective of crimes, delinquencies, deviations (deviations from the regulations of the 1945 Constitution), the changing quality of crimes (Gosita, 1983).

According to Pompe, quoted by Bambang Poernomo, the meaning of *Strafbaar feit* is divided into (Poernomo, 1997): Definition according to theory; is a violation of norms that is committed due to the fault of the violator and is punishable by criminal law to maintain the legal order and save public welfare.

Definition according to positive law; is an event/*feit* that is punishable by crime.

Several definitions of *Strafbaar feit* according to Indonesian legal experts:

Bambang Poernomo, stated that *strafbaar feit* is a sanction law. This definition is given based on the characteristics of criminal law that differentiate it from other fields of law, namely that criminal law does not actually have its own norms but rather they are located in other fields of law, and criminal sanctions are created to strengthen compliance with norms outside of criminal law.

Roeslan Saleh, defines the term *strafbaar feit* as an act that is contrary to the order or provisions required by law, where the main condition for the existence of a criminal act is the fact that there are rules that prohibit it (Saleh, 1981).

Moeljatno translated the term "*strafbaar feit*" as a criminal act. Criminal acts are actions that are prohibited by a prohibitive legal regulation which is accompanied by threats (sanctions) in the form of certain penalties, for anyone who violates the prohibition (Moeljatno, 2002).

#### Criminal Justice System (Criminal Justice System)

*Criminal Justice System* or the Criminal Justice System is a system in a society for dealing with crime (Reksodiputo, 1997). Davies et.al describe the Criminal Justice System as "the word system conveys an impression of a complex to end" meaning that the word system shows the impression of another complex object and runs from beginning to end (Davies, 2009). Therefore, in realizing the goals of this system, there are four related agencies, namely the police, prosecutor's office, court and correctional institutions.

## **Criminal Law Enforcement**

Law enforcement is the activity of harmonizing the relationship between values that are described in principles or views that are stable and embody judgments and attitudes of action as a series of final stages of value translation to create (social engineering) maintain and maintain (social control) peaceful social life (Soekanto, 1983).

Satjipto Raharjo in his book "Problems of Law Enforcement", states that law enforcement is an effort to make ideas about legal certainty, social benefits and justice a reality. The process of realizing these ideas is the essence of law enforcement (Rahardjo, 1987).

## **Dimensions of Customary Law in Criminal Law**

### ***Customary law***

The term Customary Law is a translation of the Dutch "adat recht" which was first put forward by Snouck Hurgronje (Sudiyat, 1978). Customary law is a concretization of legal awareness, especially in societies with simple social and cultural structures. The existence of customary law as a component of legal substance must be given a reasonable place in the development of legal material in accordance with the socio-cultural diversity of society (Mahendra, 2002).

### **Customary Criminal Law**

The origin of the terminology of customary criminal law, customary offenses, customary violation law or customary criminal law actually comes from customary law. Even though national formulation policies do not recognize the existence of customary courts, actual and factually applicable policies through the Jurisprudence of the Supreme Court of the Republic of Indonesia still recognize the existence of customary courts. For example, in the Decision of the Supreme Court of the Republic of Indonesia Number 1644 K/Pid/1988 dated 15 May 1991 where in the ratio decidendi of the decision it is stated that if someone violates customary law then the Head and Traditional Leaders give a customary reaction (customary sanctions/customary medicine) then that The person concerned cannot be presented again (for the second time) as a defendant in a trial at the State Judicial Body (District Court) on the same charge of violating customary law and is sentenced to imprisonment in accordance with the provisions of the Criminal Code (Article 5 paragraph (3) sub b of DRT Law Number 1 of 1951). So, in such circumstances the delegation of case files and the Prosecutor's demands to the District Court must be declared unacceptable (niet ontvankelijk Verklaard) (Sanjaya, 2011).

## **Overview of Restorative Justice**

Dean G Pruitt and Jeffrey Z. Rubin, put forward a theory about dispute resolution called the theory of dispute resolution strategies, namely first competing (contesting), second giving in (yielding), third problem solving (problem solving), fourth, withdrawing (withdrawing). ), the fifth is silence (in action), namely not doing anything (Jeffrey, 2004).

Laura Nader and Harry F. Todd, explain how to resolve disputes in society, including, let it go (lumping it), avoidance, coercion, negotiation, mediation, arbitration and justice (adjudication) (Nader & Todd).

According to Howard Zehr (in his book *The Little Book of Restorative Justice*, 2002: 37) (Ali, 2010):

"Restorative justice is a process to involve to the extent possible, those who have a stake in a specific offense and to collectively identify and address harms, needs, and obligations, in order to heal and put things as right as possible."

In resolving criminal cases through a restorative approach, a conflict or damage that arises as a result of a criminal act is seen as a conflict that occurs in the relationship between

members of society which must be resolved and restored by all parties together. The circle focuses on balancing the victim's role in the process of resolving the criminal act (Hutauruk, 2014).

Daly explained that the Umbreit concept focuses on repairing damage and losses caused by criminal acts which must be supported through the concept of restitution, namely trying to restore the damage and losses suffered by victims of criminal acts and facilitating peace

Thus it can be said that Restorative Justice contains basic principles including; (1) Striving for peace outside of court by the perpetrator of the crime (his family) towards the victim of the crime (his family); (2) Providing opportunities for perpetrators of criminal acts (their families) to take responsibility for making amends for their mistakes by compensating for losses resulting from the criminal acts they have committed

Resolving criminal law problems that occur between perpetrators of criminal acts and victims of criminal acts if agreement and agreement is reached between the parties

### **Methods**

The research location chosen in this research is the Indigenous Community in Gowa Regency. Based on data from the Regional Management of the Indigenous Community Alliance of the Archipelago, Gowa Regency, there are 11 Indigenous Community Communities that have still existed for generations, and of these eleven traditional community areas, the focus of the object in this research focuses on 4 community areas, namely the Balassuka Indigenous Community and the Indigenous Community. Pattallassang Village is in Kuncio Pao District, Bulutana Traditional Community is in Tinggi Moncong District, and Teko Traditional Community is in Parigi District.

The research location was chosen with the consideration that the location meets the requirements regarding information relating to research variables, both regarding the social reality of the existence of traditional communities, the functioning of traditional institutions, as well as support from the local government through efforts to approach customary law in resolving problems that occur.

This research used data collection techniques using interviews, which were conducted with traditional heads or holders of traditional institutional structures, Gowa Indigenous Community Alliance Regional Management, Gowa Police, Regional Government (Regent of Gowa Regency or his staff) and also carried out library research (Library). Research. The data that has been obtained is then analyzed qualitatively. From this process, a conclusion is drawn and presented descriptively.

### **Results And Discussion**

#### **The Existence of Indigenous Communities in Gowa**

In the results of an interview with the Gowa Regency AMAN (Alliance of Indigenous Peoples of the Archipelago) Regional Management, he explained that from the results of the ethnographic study carried out, 11 (eleven) traditional communities were identified which to this day still exist and carry out their lives based on the norms and laws that have been carried out for generations in accordance with with the development of the times in regulating the order of society.

The eleven communities are the Balassuka Traditional Community, Suka Traditional Community, Pattallassang Traditional Community, Garassi Traditional Community, Matteko Traditional Community, Buluttana Traditional Community, Teko Traditional Community, Bolaromang Traditional Community, Siria Traditional Community, Baliti Traditional Community and Tabbuakang Traditional Community.

Furthermore, based on data from search results on the Customary Area Registration Agency (BWRA) website, of the 89 customary areas in the province of South Sulawesi, 7

areas have certified status, 48 have verified status, 32 areas still have registered status. Especially in Gowa Regency, of the 11 traditional communities identified above, there are 3 traditional regional communities that have been registered with BRWA, namely Bulutana, Pattallassang Village and Matteko.

From the results of research in the field, several Indigenous Community communities in their current social reality still uphold the values of local wisdom of customary law even though administratively they have changed under the Gowa district government.

The structure of traditional institutions in each community. Indigenous communities still exist, consisting of stakeholders or traditional councils who carry out their respective roles and functions in accordance with the title (gallarrang) they hold. The existence of traditional institutions is believed to be an element of order that reflects authority, which contains principles and values of wisdom that are able to maintain the stability of society.

As previously explained, the object of this research focuses on 4 (four) Indigenous Communities. So, we will describe the structure of the Balassuka Traditional Community and the Pattallassang Village in Kuncio Pao District, the Bulutana Traditional Community in Tinggi Moncong District, and the Teko Traditional Community in Parifi District. The following data is based on ethnographic results from the Indigenous Peoples Alliance of the Archipelago (AMAN) Gowa Regency.

### **Balassuka Traditional Community**

The Balassuka traditional community is administratively located in Balassuka Village, Kunciopao District, Gowa Regency, South Sulawesi Province. The Balassuka Traditional Community has a traditional territory of 29,370 hectares and is located at an altitude of 1700 meters above sea level. The Balassuka traditional community calls their traditional territory a Kampong, on average the local residents make their living as farmers and planters. The majority of the population of the Balassuka indigenous community is Muslim and the rest adhere to the Patuntung belief.

### ***Balassuka Traditional Community Institutional System***

The Balassuka traditional institution is called Ada' Tujua (Custom Seven) which means it has a leadership system consisting of 7 (seven) institutional elements, including Puangta/Karaeng, Balikaraeng, Ada', Sara', Panrita, Sanro and Ata (Suro-suro) . Each of the seven institutional structures functions; (1) Puangta/Karaeng a leader or ruler who has the authority to decide all traditional problems of the Balassuka community; (2) Balikaraeng a legislator, overseeing the implementation of customary rules and as an official who can provide opinions and suggestions to the Puangta/Karaeng; (3) There is tasked with implementing customary or Lahang rules; (4) Sara'in charge of wedding affairs; (5) Panrita or Anrong Guru is someone who has knowledge in the field of religion or in other fields of science; (6) Sanro is someone who has knowledge in the field of ritual and medicine; (7) Ata/suro-suro is a subordinate in charge of taking care of general affairs.

### **Law and Conflict Resolution System in the Balassuka Traditional Community**

#### ***Customary Rules related to Territory and Natural Resources Management***

The community must follow the calculations of months, days and times determined by traditional leaders called Limangbangngi regarding farming on plantations and rice fields.

#### ***Customary Rules related to Social Institutions***

Traditional rules or Lahang as one of the cultural heritage of the Balassuka ancestors and which are still preserved in social life today, consist of; (1) Lahang Bilik/Paddukkuang, namely rules regarding sleeping places and rules that prohibit men and women from sleeping together if they are not husband and wife; (2) Lahang Talk, namely the prohibition on interrupting other people who are speaking and the prohibition on

private conversations between men and women who are not their mahram; (3) Lahang Pa'lingkaang, that is prohibition of walking together between men and women if they are not husband and wife or not muhrim; (4) Sumpang Land, namely the prohibition of passing through the door of someone's house if there is only one woman in the house; (5) Pammorong Land, namely the prohibition of sitting close together, let alone alone, between men and women who are not husband and wife or not muhrim; (6) Lahang Salu', namely the prohibition that if a woman is bathing or washing in the shower, men are prohibited from approaching her, let alone bathing near her; (7) Tau Silariang Land, namely the rules governing people who elope or run away (silariang); (8) Lahang Tau Abbule' Bahi, namely the rules governing a woman who elopes with a man, then the woman returns and leaves the man who took her or better known as Abule' Bahi; (9) Lahang Tau Salimara', namely the rules governing adultery of someone who is married; (10) Buru'ne Allaga Bahine Farm, namely the rules governing someone who tries to rape a woman; (11) Lahang Pa'beseang, namely the prohibition of hostility between one another. This field regulates everyone in society.

Mechanism justice in the Balassuka traditional community is by holding traditional deliberations involving the government and/or traditional leaders in determining the sanctions that will be given. If it involves a dispute, it will bring witnesses and parties who feel disadvantaged. The place of justice for the Balassuka indigenous community is Balla' Lompoa.

### **Community Pattalassang custom**

The Pattalassang traditional community area is located in the administrative area of Pao Hamlet, Pao Village, Kunciopao District, Gowa Regency, South Sulawesi Province. The territorial unit is called a village with the physical conditions of the traditional area, namely mountains, plateaus and hills. The Pattalassang Community is a Konjo Mountains ethnic group with the majority of the population adhering to Islam.

#### ***Pattalassang Traditional Community Traditional Institutions***

The Pattalassang traditional community has a traditional institution known as Panggadakkang Pattalassang. These traditional institutions have a horizontal structure starting from Kapala Kampong, Sariang, Imam Kampong, Anrong Guru and Sanro. Each traditional institutional structure has its own duties and functions.

The village head functions as the regional head who is responsible for the area and all the biodiversity within it. Sariang himself is the assistant to the village head. Furthermore, the Village Imam has the duties and functions of taking care of everything management relating to faith, marriage/marriage, and death. Then, Anrong Guru is responsible for taking care of all ritual matters. Lastly is Sanro which functions as a traditional authority in charge of health.

### **Law and Dispute/Conflict Resolution System in the Pattalassang Traditional Community**

#### ***Customary Rules related to Territory and Natural Resources Management***

With the rules regarding farming on plantations and rice fields, the community must follow the calculations of months, days and times determined by traditional leaders. If someone carries out farming activities without paying attention to these rules, it is believed that they will receive a direct reprimand from their ancestors, which will result in results that are not as expected.

#### ***Customary Rules related to Social Institutions***

The Pattalassang traditional community is also tied to social institutions in everyday life. For example, regarding health, there is a separate institution that regulates it, where this

health institution is formed by the awareness that the community has regarding the importance of maintaining the physical and spiritual condition of each indigenous community, one example is that when a family member suffers from an illness, they must be taken to a disease expert called “nierangi mae ri sanroa.”

Then, regarding the application of customary law, if a person violates criminal or civil norms, they will be fined and expelled from the village (Nipaoppangi Tana). Furthermore, the customary justice system in the Pattallasang traditional community is carried out by holding meetings with traditional leaders to determine the sanctions for violations that will be given.

### ***Sampulo Rua Buluttana Traditional Community***

Buluttana is administratively located in Tinggimocong District, Gowa Regency, South Sulawesi Province. Geographically, the area covers the northern border with Malino Village, the southern border with Bontolerung Village, the eastern border with Pattapang, the western border with Parigi. In it, there are protected forests, customary forests, rice fields, fields and settlements.

### **Institutional Structure of the Sampulo Rua Buluttana Traditional Community**

Buluttana has 12 traditional institutions known as Ada' Sampulo Rua Buluttana. The institutional functions are as follows: (1) Bakuk Lompoa is in charge of policy determination, especially in terms of replacing traditional stakeholders, especially Karaeng or Gallarrang; (2) Karaeng is the top leader in Adat Twelve; (3) Gallarrang is in the field of social affairs; (4) Pinati is in charge of developing natural resources, especially in the field of irrigation; (5) Sanro is a traditional authority in charge of health; (6) Batang Pajjeko is a traditional leader who is involved in agriculture; (7) Jannang is a traditional authority in charge of clothing and food; (8) Paerang Pangngadakkan specializes in pa'pisabi or sakka; (9) Papare Mama is the traditional authority in charge of equipment; (10) Paerang Mama is a traditional authority in charge of invitations; (11) Papallu is the traditional authority in charge of preparation; (12) Palekka Sempe is in charge of housekeeping.

### **Case Resolution System in the Sampulo Rua Buluttana Traditional Community**

The decision-making mechanism in Buluttana is by means of traditional deliberations and traditional meetings. Then, the judicial mechanism for resolving problems if problems occur in traditional communities is through meetings with traditional leaders. During the meeting, sanctions were also determined that would be given to perpetrators of violations. The place of justice was carried out at the Balla' Lompoa Traditional House.

### **Teko Toa Traditional Community**

Administratively, Teko Toa is located in Manimbahoi Village, Parigi District, Gowa Regency, South Sulawesi Province. Geographically, the area covers the northern border with Jonjo Village, the southern border with Tinggi Moncong District, the eastern border with Sicini Village, the western border with Majannang Village.

### **Institutional Structure of the Teko Toa Traditional Community**

1. Anronga. Has a role and function as a guide and advisor for the Sampulo Anrua ri Teko Manimbahoi traditional claimants
2. Galla Toa. Plays a role in organizing everything that will be carried out in the traditional environment, both ritually and in terms of solving a problem.
3. Galla Tangga. Has the same role as Galla Toa
4. Galla Lolo. Has the same role as Galla Toa and Galla Tangga
5. Tau Toa. Has a role and function in making decisions on cases that cannot be resolved. Apart from that, Tau Toa is also a pledge reader if one of the traditional stakeholders is replaced



6. Gallarang Toa's son. Play a role in regulating and deciding cases related to law within the scope of the teko custom through customary deliberations.
7. Gallarang Lolo's son. Has a role with the uncle of the Gallarang Toa Children's Adat
8. Sanroa. Playing a role in carrying out rituals in the form of thanksgiving when the harvest season has finished as well as welcoming the arrival of the rainy and dry seasons.
9. Anrong Pakrasangang. Play a role in taking care of the environment.
10. Tubarania. Play a role in maintaining stability or security.
11. Pinattia. Play a role in managing agriculture.
12. Suroa. Play a role in marital matters.

### **Case settlement system in the Teko Toa Traditional Community**

The Teko Toa Indigenous Community has social norms that prohibit shameful acts and criminal acts, such as immorality, which in the past were subject to customary sanctions such as Niladungi. Even though crime handling is currently handed over to the police, the principle of deliberation to reach a consensus or mediation is still upheld, seeking mutually beneficial solutions and respecting the values of customary legal wisdom. Violations of legal norms, both criminal and civil, are still subject to fines and can result in expulsion from the community, with a synergistic approach between police officers and traditional stakeholders, considering positive law and traditional values to maintain the stability of social institutions.

### **The Role of Traditional Institutions in Resolving Crimes. Through a Restorative Justice approach**

Settlement of cases through traditional institutions that have existed for generations is carried out on the principle of deliberation/kinship on the one hand to uphold the law, and on the other hand to completely eliminate the further consequences of a case. The highest goal to be achieved is balance which is realized in social harmony.

The role of Traditional Institutions in Indigenous Communities in Gowa Regency provides an understanding that the value of customary law as living law is essentially still recognized and respected in its existence in an effort to create a just legal system in accordance with the values held in society and in line with current developments.

If you pay attention, restorative justice has the same value as customary criminal law which was previously applied in an Association of Traditional Law Communities. Customary criminal law does not intend to indicate what laws and punishments should be imposed if a violation occurs, but its aim is to restore the law which is crippled as a result of the violation.

Regarding the role of traditional institutions, functionally they no longer play a role as judicial instruments, however, traditional institutions still play their role in efforts to resolve criminal cases which are taken through a restorative approach. As in other areas, there are two options for resolving a case at the Indigenous Community Commission in Gowa Regency, namely the process of resolving criminal cases through litigation and non-litigation.

Danpos of the Akuno Pao Koramil, Serma Suardi, stated that the involvement of traditional stakeholders or traditional leaders in the mediation process was very instrumental in achieving restorative justice for both parties involved in the dispute. Apart from that, for every case that is resolved using a Restorative Justice approach, the perpetrator is subject to customary sanctions in the form of customary fines. It was mutually agreed that the fines would be used for public facilities such as places of worship or mosques.

Based on case data from the Kuncio Pao Police from 2022 to May 2023, the number of LPs submitted was 8 Police Reports, of the total LP, 4 cases were resolved through Restorative Justice.

Meanwhile, data from the Tinggi Moncong Police, from 2022 to May 2023, recorded 14 police reports regarding criminal cases. With a total of 12 cases completed by the police through Restorative Justice, 1 Police Report which reached P-21 status, and 1 case which was transferred to the District Court.

If we look further, it cannot be denied that the survival of a Traditional Institutional structure has an influence on maintaining inner and outer balance between individuals, groups and their living environment. Although in essence, this goal is basically borne by each individual in each traditional community for the sake of achieving common goals.

It has been explained that Restorative Justice is the resolution of cases based on the criminal justice system. Which means, when talking about restorative justice it means talking about the positive legal justice system, no longer talking about customary criminal law. So in this research, there are 2 roles of Traditional Institutions in supporting the restorative justice system approach, namely:

#### **As Mediator**

In this case, Traditional Institutions in Community Areas have a role as mediators in resolving cases whether they have not yet, or have reached the stage of investigation by the police. The deliberation route is the main route used by the police together with traditional stakeholders and community leaders.

#### **As Participant**

Participation in this case means siding with one party, either the victim or the perpetrator. This alignment is intended to provide views in encouraging peace.

#### **Restorative Justice in Realizing a Sense of Justice for People in the Traditional Community of Gowa Regency**

The concept of customary law in Indonesia has become an inspiration for other countries in solving problems. The dynamic pluralism of customary law in Indonesia has attracted the attention of other countries, especially in the context of participatory principles which emphasize the integrity and balance of the universe. Utrecht University uses the Malay indigenous community deliberation and consensus model as an alternative for resolving disputes outside the court. The similarity of restorative justice values to Indonesian customary law makes this concept remain relevant and an inspiration for other countries. Customary law in Indonesia, throughout its history, has reflected the values of restorative justice, focusing on balance, harmony and the consequences of the perpetrator's actions.

The restorative approach is directed at reparation and peace, especially in resolving criminal cases in the Teko, Pattalassang, Bulutana and Balassuka traditional communities. Traditional institutions that remain cooperative and adapt to current developments, together with the police, implement restorative justice to facilitate dialogue and create peace in society. The concept of restorative justice, with its focus on the active participation of victims, offenders, and the community, is considered more relationship-rebuilding than modern criminal justice systems. Even though customary justice in Gowa Regency has shifted to Positive Law, the existence of Traditional Institutions remains open and dynamic in realizing justice for the community.

#### **Conclusion**

This research aims to determine the existence of Indigenous Community Communities and the extent to which the effectiveness of the restorative justice approach is able to create a

sense of justice for indigenous communities in Gowa Regency. The research results show the existence of the Indigenous Community along with the role and function of traditional institutions in society and that the restorative justice approach can be effective in resolving criminal acts involving indigenous communities in Gowa Regency.

Suggestions given by the author include, among other things, the need to improve coordination and communication between law enforcement agencies and indigenous communities, protection and maintenance of human rights in Indigenous Communities as well as the preparation of legal regulations that link customary law with Gowa Regency government policy.

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