

Theory And Practice Of Mediation In Karo Customary Law Community

Sabela Gayo^{1*}

Fakultas Hukum, Universitas Dirgantara Marsekal Suryadarma, Indonesia.

Abstract

This study aims to examine the theory and practice of mediation in the Karo customary law community and see its relevance to the Indonesian national legal system. Karo people are known to have a strong social structure based on kinship and Customs, where mediation is the main mechanism in dispute resolution that emphasizes the value of deliberation and social harmony. This research uses normative juridical method with qualitative approach, supported by literature study and analysis of customary practices that are still in progress in the community. The results showed that mediation of adat Karo not only serves as an instrument of conflict resolution, but also as a means of maintaining social cohesion and strengthening community values. The role of indigenous figures such as kalimbubu, anak beru, and senina is dominant in this process. In the context of national law, customary mediation practices are aligned with restorative justice principles and have the potential to be integrated into formal legal systems. Despite challenges, such as lack of formal recognition and potential conflicts of jurisdiction, adat Karo mediation remains relevant and has strategic value in strengthening local wisdom-based laws.

Keywords: Mediation, Customary Law, Karo, Dispute Resolution, Restorative Justice

1. INTRODUCTION

Indonesia's Indigenous people are known to have their own legal system that grew out of local values and traditional wisdom. In the midst of this diversity, the Karo Indigenous people show distinctiveness in dispute resolution mechanisms, especially through mediation by Indigenous stakeholders such as "kalimbubu" and "Anak beru" within the Karo kinship structure. The existence of customary law is important in an effort to create substantive justice in the community.¹

However, the dynamics of legal modernization and the influence of national laws often cause tension or overlap in the implementation of customary mediation. Therefore, it is important to examine further how the theory and practice of mediation in the Karo customary law community is carried out and how it interacts with the national legal system.

Indonesia is a country that has a diversity of ethnic, cultural, and customary law systems that coexist with the national legal system. One of

*Email/Corresponding Author: sabela.gayo@unsuryaa.ac.id

¹ Barus, Yulianus. *Hukum Adat Karo dalam Dinamika Sosial*. Medan: Pustaka Rakyat, 2021.

the indigenous communities that have a distinctive legal system is the Karo Indigenous people in North Sumatra. In the Karo community, dispute resolution does not only rely on the formal legal system of the state, but also through traditional adat-based mechanisms, namely adat mediation. Mediation in the context of the Karo customary law community not only aims to resolve conflicts between individuals, but also to restore social relations between families and maintain community harmony.

In practice, the mediation process is carried out by Indigenous leaders who have moral and social authority, such as kalimbubu (the giver of women in the kinship structure), anak beru (the recipient of women), and senina (blood relatives). This complex social structure is an important cornerstone in the implementation of the customary law system, including dispute resolution. Mediation is carried out in customary spaces through participatory and socially binding deliberation mechanisms. Herein lies the main difference between customary mediation and formal mediation conducted within the state judiciary.

The presence of a national legal system often intersects with the practice of customary law, including in matters of mediation. The state has regulated mediation through Supreme Court Regulation Number 1 of 2016 on mediation procedures in court, which opens the space for the integration of non-formal mediation in legal proceedings. However, in its implementation, the recognition of adat mediation is still limited and has not been fully accommodated in the national legal system. In fact, the values contained in customary mediation such as restorative justice, reconciliation, and social harmony are in line with the spirit of legal reform in Indonesia.

Based on this background, this research is important to be carried out in order to comprehensively examine the theory and practice of mediation in the Karo customary law community. This study aims to (1) Describe the social and legal structure of adat Karo which is the basis for the implementation of mediation; (2) describe the forms and stages of adat karo mediation; and (3) analyze the relevance and position of adat Karo mediation in the Indonesian national legal system. Thus, this study is expected to provide academic contributions in the development of dispute resolution systems based on local wisdom, as well as encourage recognition of the existence of customary law in the context of a plural rule of law.

2. RESEARCH METHOD

This study uses the normative legal research method, which aims to examine the legal norms, both written and unwritten, in force in Karo Customary Law Society.² This approach is used to understand how the

² Maswandi, A. S. (2024). *Metode Penelitian Hukum Normatif (Mekanisme Dalam Penulisan Ilmiah)*, Mazda Media, Malang.

theory and practice of mediation is carried out by the karo Indigenous people based on the values of living customary law (living law) and how the position of customary mediation in the national legal system.³

In addition, the socio legal approach is also used as a complement, to understand the real practice of mediation in the social context of Karo society. Sources of legal materials consist of:

1. Primary legal materials: laws and regulations such as Law No. 6 of 2014 on villages, Supreme Court Regulation No. 1 of 2016, and the relevant court rulings.
2. Secondary legal materials: books, scientific journal articles, and current research results relevant to the topic of mediation and karo customary law.
3. Tertiary legal materials: legal dictionaries, legal encyclopedias and other supporting documents.

Data collection was carried out through library research studies, as well as empirical and ethnographic literature studies that have been documented by previous researchers about the karo people. Data analysis was carried out qualitatively by interpreting the norms of customary law and national regulations to see the meeting points and differences in the context of dispute resolution through mediation.

3. RESULT AND ANALYSIS

A. The History Of Indigenous Peoples

Karo tribe is part of the Batak ethnic group that inhabits the Highlands in North Sumatra province. The history of the Karo people is marked by a pattern of communal life and a strong kinship system, in which the principles of mutual assistance and social solidarity became the basis of social relations.⁴ In the course of its history, the Karo people have experienced interactions with colonialism, religious missions, and national policies that influenced their customary law structures.

The Karo Indigenous people are one of the oldest ethnic communities in the North Sumatra region that has a distinctive social, cultural, and customary law system. They are known as part of the Batak family, but have their own characteristics in social structure, language, and Customs. The long history of the Karo people is shaped not only by internal dynamics stemming from kinship systems and customs, but also by external influences such as colonialism, the spread of religion, and integration within the modern Indonesian nation-state.

³ Ginting, Ramses. "Struktur Sosial Masyarakat Karo dan Resolusi Konflik Adat." *Jurnal Sosiologi Nusantara*, vol. 3, no. 1, 2020, hlm. 45–59.

⁴ Hutapea, Maria. "Restorative Justice dalam Perspektif Hukum Adat di Sumatera Utara." *Jurnal Hukum dan Pembangunan*, vol. 51, no. 2, 2021, hlm. 211–225.

The origins of the Karo people are historically still a matter of academic debate. Some oral sources (oral tradition) mention that the Karo people originated from the migration of ancestors who came from mountainous areas in the northern part of Sumatra and then spread to the area currently known as Tanah Karo. These communities form communal settlements and build clan-based social systems or *merga*, namely Ginting, Karo-karo, Perangin-angin, Sembiring, and Tarigan. Each of these *mergas* has a sub-clan (*urung*) and is bound in a patrilineal kinship system that largely determines the role and social position of a person in the community.⁵

The distribution of the Karo community covers the Karo Regency area, parts of Deli Serdang regency, Langkat, and even spreads to Southeast Aceh province. The structure of traditional villages (called *kuta*) in Karo is established by agreement between large families in one clan or a combination of several clans, and is usually led by an Indigenous elder who is chosen by consensus.⁶

The social structure of the Karo people is supported by a complex and mutually binding kinship system, known as *rakut sitelu*, which is the relationship between *kalimbubu* (female giver), *anak beru* (female receiver), and *senina* (blood relative). This system not only functions in a social context, but also becomes the foundation in the implementation of traditional ceremonies, dispute resolution, and important decision making in the community. The values held by the Karo community reflect collective life, uphold deliberation, and maintain harmonious relations between families. This system was formed in response to the challenges of life in the harsh mountainous region, which demanded cooperation and solidarity between large families.⁷

The entry of Dutch colonial rule in the late 19th century began to change the structure of Karo society. The colonial government introduced a system of village government that was structured administratively, but often not in line with the existing customary order. This intervention caused tension between the colonial authorities and Indigenous leaders, especially when colonial policy touched on aspects of land and collective ownership in customary law.

In addition, the influence of Christian missionaries, particularly through the Zending Gereja Batak Karo Protestantism (GBKP), brought significant changes in cultural practices and beliefs of the people. Although most Karo people accept Christianity, they still maintain various customary elements in their daily lives, including death ceremonies (*karo's* version of

⁵ Barus, Yulianus. *Hukum Adat Karo dalam Dinamika Sosial*. Medan: Pustaka Rakyat, 2021, hlm. 12–14.

⁶ Ginting, Ramses. "Struktur Sosial Masyarakat Karo dan Resolusi Konflik Adat." *Jurnal Sosiologi Nusantara*, vol. 3, no. 1, 2020, hlm. 46–47.

⁷ Sembiring, Dedi. "Mediasi Adat sebagai Alternatif Penyelesaian Sengketa dalam Masyarakat Karo." *Jurnal Hukum Adat Nusantara*, vol. 4, no. 2, 2023, hlm. 100.

rambu solo), marriage, and customary mediation. Others also embraced Islam and Hinduism, especially in the border areas, without abandoning their Karo identity.⁸

After Indonesian Independence, the indigenous Karo people experienced a process of integration into the modern state system. The reform of the village government system, the implementation of the transmigration program, and infrastructure development in the New Order era also shifted the traditional life patterns of the Karo people. However, the existence of customary law still persists in social and cultural spaces, especially in rural areas.

After the 1998 reform, there was a re-emergence of collective consciousness to strengthen indigenous identity as part of local autonomy. The Karo community revived various customary forums such as *perpulangan* (customary deliberations) and the strengthening of the role of Indigenous leaders in resolving social conflicts and community issues. Law No. 6 of 2014 on villages provides space for the recognition of indigenous peoples, including the Karo Indigenous people, as legal subjects who have authority in the management of their own social lives.⁹

Until now, Karo people show high adaptability to changing times. Although the younger generation is beginning to be affected by the current globalization and urban lifestyle, Indigenous values such as respect for *kalimbubu*, collective responsibility of *beru* children, and *senina* solidarity are still taught and maintained. Even in the context of dispute resolution, *adat* mediation remains the main choice because it is considered more fair, fast, and maintains social harmony than formal legal channels.

The long history of the Karo people shows the dynamic interaction between tradition and change. The identity of the indigenous Karo people is not formed by a single historical period, but is the result of a long process of adaptation to geographical conditions, colonialism, modernization, and state policies. Therefore, this history is not only important as a record of the past, but also as a foundation in maintaining and developing a system of customary law that is alive and relevant today.

B. The Formation Of The Karo Customary Law Society

The Karo Customary Law Society was formed on the basis of a kinship system called "*merga*" (clans), which consisted of five main groups: *Ginting*, *Karo-Karo*, *Perangin-angin*, *Sembiring*, and *Tarigan*. *Inter-merga* relations are organized in a complex marital and social system, with an important position given to the "*kalimbubu*" as customary stakeholders.¹⁰ This

⁸ Tarigan, Fajar. "Konflik Sosial dan Peran Mediasi Adat di Karo." *Jurnal Antropologi Indonesia*, vol. 42, no. 1, 2020, hlm. 76–77.

⁹ Undang-Undang Republik Indonesia Nomor 6 Tahun 2014 tentang Desa.

¹⁰ Manik, Evi. *Kearifan Lokal dan Hukum Adat Batak-Karo*. Jakarta: LIPI Press, 2022.

structure is the basis for the implementation of customary law, including in dispute resolution through mediation.

The formation of the Karo customary law community is a historical and sociocultural process that takes place gradually and dynamically, formed from the interaction between kinship structures, customary norms, and the need for equitable social arrangements in the community.¹¹ In the study of customary law, customary law society is defined as a group of people who live for generations in a particular region, which has a government structure and a set of customary norms that apply binding. In this context, the Karo people fulfill all these elements and have run the customary law system long before the formation of the modern Indonesian state.

The Karo customary law community is formed from a social structure based on the *merga* (clan) and *rakut sitelu* systems that regulate hierarchical and functional kinship relationships. The relationship between *kalimbubu* (female giver), *anak beru* (female recipient), and *senina* (blood relative) is not only genealogical, but also serves as a system of customary law that regulates obligations, rights, and social roles in life together.¹²

This system is the basis for the formation of an autonomous indigenous community (*kampung* or *kuta*), where customary norms are adhered to as living laws. Compliance with Customs is based not on state sanctions, but on social values such as Shame (shame of Customs), respect for ancestors, and collective solidarity. Decisions concerning conflicts or violations of *adat* are decided by deliberation in *adat* forums such as *perpulangan* or *runggun*, involving *adat* leaders and parties to the dispute.¹³

The three main elements in the formation of customary law society according to the concept of van Vollenhoven territory (*rechtsgemeenschap*), population, and customary law are binding fulfilled in Karo society. The Karo indigenous territory includes areas that have been inhabited for generations, with traditionally known boundaries. Its inhabitants are direct descendants of the ancestors of the clans that inhabited the region, and customary norms are applied in all aspects of life from birth, marriage, death, to dispute resolution.¹⁴

Customary norms prevailing in the Karo community have the characteristics of unwritten law (unwritten law), but live and are consistently adhered to. Sanctions for violation of customs are social, spiritual, and in some cases material. For example, violations of customary

¹¹ Soepomo, *Bab-bab tentang Hukum Adat*, Jakarta: Pradnya Paramita, 2020, hlm. 35.

¹² Ginting, Ramses. "Struktur Sosial Masyarakat Karo dan Resolusi Konflik Adat." *Jurnal Sosiologi Nusantara*, vol. 3, no. 1, 2020, hlm. 48.

¹³ Sembiring, Dedi. *Hukum Adat Karo dan Mediasi Komunitas*, Medan: Pustaka Nusantara, 2022, hlm. 90–92.

¹⁴ Harahap, Zainuddin. "Pengakuan Negara terhadap Masyarakat Hukum Adat dalam Perspektif Yuridis," *Jurnal Hukum dan Masyarakat*, vol. 5, no. 2, 2021, hlm. 77.

manners in marriage or the division of inheritance can lead to exclusion or reduction of rights within the indigenous community.¹⁵

In the Karo customary law community, customary institutions are also formed that function as holders of social and legal authority. This institution is collective and usually consists of Indigenous elders, kalimbubu figures, beru children, and related parties according to kinship structure. This institution is not official in the context of the state, but it has a very strong authority at the community level. The decision of the adat institution is final and respected as a fair decision because it is based on moral considerations, Customs, and deliberation.¹⁶

The main forum for decision-making in the Karo customary law community is *perpulangan* (customary meeting), which is a deliberative space to resolve cases and regulate the order of life together. In this forum, every element of *rakut sitelu* has a position and a voice, so that the decisions made reflect balance and social justice in the perspective of adat Karo.

Along with the formation of the Indonesian state, the existence of the Karo customary law community experienced a dynamic recognition. Article 18b paragraph (2) of the 1945 Constitution provides a constitutional basis for the recognition of indigenous peoples, as long as they are alive and in accordance with the principles of the Unitary State of the Republic of Indonesia. In practice, recognition of Indigenous Peoples is still limited and requires a lengthy administrative process.

However, the existence of Karo customary law community still exists socially and culturally. Indigenous institutions are still actively playing their role in resolving social disputes, regulating customary procedures, and preserving traditional values. Even in some areas, the Karo people have tried to strengthen customary institutions through the documentation of customary law, the establishment of traditional houses (*rumah siwaluh jabu*), and integration with the village government through village-based deliberations.¹⁷

C. Mediation Theory In Karo Customary Law Community

Mediation in the context of the Karo customary law community is not only a dispute resolution process, but also a means of restoring social harmony. Adat Karo mediation theory rests on the principle of "rapprochement" and "consensus".¹⁸ Traditional mediators are chosen based on social standing and community recognition, rather than on legal

¹⁵ Barus, Yulianus. *Etika Adat dalam Masyarakat Karo*, Medan: Rumah Ilmu, 2021, hlm. 122.

¹⁶ Tarigan, Fajar. "Konflik Sosial dan Peran Mediasi Adat di Karo." *Jurnal Antropologi Indonesia*, vol. 42, no. 1, 2020, hlm. 79.

¹⁷ Sitanggang, Maria. "Penguatan Kelembagaan Hukum Adat Melalui Pemerintahan Desa di Sumatera Utara." *Jurnal Desentralisasi dan Otonomi Daerah*, vol. 4, no. 3, 2023, hlm. 130–131

¹⁸ Peraturan Mahkamah Agung Republik Indonesia Nomor 1 Tahun 2016 tentang Prosedur Mediasi di Pengadilan.

formalities. Adat Karo mediation theory aligns with restorative justice theory which emphasizes healing relationships between individuals and communities, not just punishment of perpetrators.¹⁹

Mediation in the Karo customary law community not only serves as a dispute resolution mechanism, but also as an integral part of the social system and cultural values of the community. In this context, the universally developed theories of mediation gained local articulation in the form of customary norms, kinship structures, as well as a deliberative forum typical of Karo called *perpulangan*. To understand this dynamic, it is important to examine the concepts of mediation both from the perspective of modern legal theory and from the socio-cultural roots of indigenous peoples.

In general, mediation is defined as the process of resolving disputes through the help of a neutral third party, which helps the disputing parties reach an agreement without coercion.²⁰ In formal Indonesian law, mediation is known as part of Alternative Dispute Resolution (ADR) which is formalized in the judicial system based on Supreme Court Regulation No. 1 of 2016 concerning mediation procedures in court.

However, in the Karo Indigenous people, mediation is not known as a formal term, but is manifested in customary practices rooted in the principle of *musyawarah* (*musilawari*) and the kinship relations of *rakut sitelu*. Indigenous leaders or elders from *kalimbubu*, *anak beru*, or *senina* often act as natural mediators in resolving conflicts between community members. This process is carried out in the *runggun* or *perpulangan* forum with a collective and restorative approach, not repressive.²¹

In legal and anthropological literature, communitarian theory sees mediation as a process born of a community's need to maintain social harmony and collective cohesion. Communitarianism emphasizes the importance of shared values and social relations in determining ways of conflict resolution.²² This theory is very relevant in the context of the Karo Indigenous people who uphold the value of togetherness (cooperation), respect for ancestors, and harmony in kinship networks.²³

One of the main principles in communitarian theory is that justice is not necessarily individualistic, but rather depends on the community's understanding of what is fair. This is reflected in the practice of mediation *adat Karo*, where decisions not only consider the interests of individuals in dispute, but also the harmony of social relations between *merga* and the continuity of *rakut sitelu* relations. In practice, often the solution offered is a

¹⁹ Sembiring, Dedi. "Mediasi Adat sebagai Alternatif Penyelesaian Sengketa dalam Masyarakat Karo." *Jurnal Hukum Adat Nusantara*, vol. 4, no. 2, 2023, hlm. 99–112.

²⁰ Menchik, Jeremy. *Understanding Mediation in Indonesia*. Jakarta: Hukum Press, 2020, hlm. 14.

²¹ Ginting, Ramses. "Praktik Musyawarah Adat dalam Penyelesaian Sengketa Masyarakat Karo." *Jurnal Hukum Adat Nusantara*, vol. 3, no. 2, 2021, hlm. 98–99

²² Sandel, Michael. *Justice: What's the Right Thing to Do?*, Cambridge: Harvard University Press, 2020.

²³ Barus, Yulianus. *Resolusi Konflik dalam Tradisi Karo*. Medan: Pustaka Keadilan, 2021, hlm. 77–78.

customary apology, a symbolic gift (a hood, kaffir lime, or buffalo), or a pledge of peace witnessed by the community.

The theory of transformational mediation introduced by Bush and Folger emphasizes that the goal of mediation is not only to resolve conflicts, but also to transform relations between parties by strengthening recognition and empowerment. Mediation in Karo societies shows a similar trend, where the dispute resolution process is directed towards repairing fractured social relationships and strengthening respect and responsibility within the community.²⁴

For example, in inheritance or land conflicts, adat mediation does not only seek a "win-lose" solution, but emphasizes reconciliation and strengthening the relationship between the beru and kalimbubu children who may have been disturbed by the dispute. This process is usually guided by a collective narrative regarding family history, customary values, as well as the importance of maintaining the "good name of the clan".

The success of mediation in Indigenous Karo communities depends on a strong and functional social structure. In the sociological theory of law, this is known as structural functional theory, in which the customary law system acts as a social mechanism that maintains balance in society. In Karo society, roles such as kalimbubu as moral leader and anak beru as executor of customary decisions create a social order that allows mediation to run in a structured and respected manner.²⁵

Social authority in Karo society does not come from formal institutions, but from customary legitimacy that has been shaped by time and collective recognition. This makes the mediation process has a high binding power, even without state sanctions, because violations of the results of adat mediation are considered moral and customary violations that have an impact on one's social relations in their community.

Unlike formal mediation in court which is procedural and legalistic, adat Karo mediation is informal but morally and socially binding. The results of adat mediation are not set forth in legal acts, but in the form of adat decisions delivered orally and witnessed by the community. However, the legitimacy of such decisions is often stronger because they are internalized in the culture and life values of the local people.²⁶

D. Mediation Practices In Karo Customary Law Communities

²⁴ Bush, Robert A. Baruch & Folger, Joseph P. *The Promise of Mediation: The Transformative Approach to Conflict*, Revised Edition, Jossey-Bass, 2021.

²⁵ Parsons, Talcott. *The Social System*, New York: Free Press, diterjemahkan edisi Indonesia, 2022.

²⁶ Sembiring, Dedi. "Antara Hukum Negara dan Hukum Adat: Studi Perbandingan Mediasi Formal dan Adat." *Jurnal Sosio-Hukum Indonesia*, vol. 5, no. 1, 2023, hlm. 63.

In practice, karo customary mediation involves traditional figures such as "kalimbubu", "anak beru", and "senina" (sekandung brothers). The mediation process is carried out in stages, ranging from small family meetings to larger customary deliberations if the issue has not been resolved.²⁷ Adat mediation is carried out in adat houses or mutually agreed places, and the decision is morally and socially binding. The resulting solution usually takes the form of an apology, the provision of a "hood" (offering or symbol of forgiveness), or restitution to the injured party.²⁸

The practice of mediation in the Karo customary law community is a real reflection of the social values, kinship structures, and customary norms that live and develop in the community. Mediation is not understood simply as a conflict resolution technique, but as part of a social system that aims to maintain balance, harmony, and the sustainability of relations between due groups (clans) in society.

Karo customary mediation usually takes place in the *perpulangan* forum (customary large meeting) or *runggun* (village-level customary meeting). The Forum was attended by the disputing parties, customary elders from each party, as well as *rakut sitelu* elements: *kalimbubu* (female giver), *anak beru* (female receiver), and *senina* (blood relatives). The presence of this element is the main prerequisite in mediation, since such kinship structures determine the direction and social power of the resulting customary decisions.

The opening Ritual is usually done with the presentation of the purpose of arrival, the Giving of betel (*duda-duda*), and the welcome by the customary elders. This process shows that mediation not only resolves the case, but also restores the honor and dignity of the parties.²⁹

The mediation process of adat Karo generally includes the following stages:

- a) problem exposure-the disputing parties present the problem openly in front of the customary forum. This presentation must be done politely, not attacking personally, and using customary language.
- b) hearing of witnesses and traditional mediators-traditional figures from *kalimbubu* or village elders convey views and testimony on disputed events.
- c) Mutual deliberation-all parties discuss to find common ground. In this stage, the value of the collective agreement (*sibayak rasan*) becomes the main basis for settlement.

²⁷ Sitompul, Andri. "Pluralisme Hukum di Indonesia: Studi atas Peran Lembaga Adat." *Jurnal Hukum dan Masyarakat*, vol. 5, no. 3, 2022, hlm. 132–148.

²⁸ Tarigan, Fajar. "Konflik Sosial dan Peran Mediasi Adat di Karo." *Jurnal Antropologi Indonesia*, vol. 42, no. 1, 2020, hlm. 73–88.

²⁹ Ginting, Ramses. "Struktur Kekerabatan Karo dan Resolusi Konflik." *Jurnal Hukum Adat Nusantara*, vol. 3, no. 1, 2021, hlm. 91.

- d) customary decisions and sanctions – if a consensus is reached, the forum establishes sanctions or forms of settlement, which can be customary apologies, symbolic gifts (kaffir lime, Hood), payment of damages, or promises of peace.³⁰
- e) closing rituals-often accompanied by traditional prayers and eating together to strengthen social relations that had been tenuous.

The practice of mediation of adat Karo includes various types of disputes that occur in the community environment, including:

- a) Inheritance and land disputes, especially those involving lineage and customary land rights.
- b) marital conflicts, such as violations of matchmaking customs, defamation between mergers, or conflicts due to different ethnic marriages.
- c) Internal family disputes, including ethical violations against kalimbubu or violations of customary obligations during customary parties (customary work).
- d) unethical behavior, such as insults, slander, or acts that damage the harmony of the community.

In all these types of disputes, the customary mediation approach aims to restore harmony, not to punish the perpetrators in a repressive way. Indigenous figures in the Karo community, especially from the kalimbubu element, play a major role as mediators.³¹ Their legitimacy does not come from the state or formal regulations, but rather from social recognition and the community's collective trust in their integrity, experience and indigenous knowledge. This figure is usually called turangku si baringin or nangkih si adat, who has a high capacity in weighing matters fairly. They also became guardians of customary moral values and symbols of harmony between clans. Therefore, decisions made in adat mediation are rarely disputed, because they have gone through a long process that is fair and thorough.

Although it does not have formal legal force such as a court decision, the results of adat Karo mediation are socially binding. Rejection of customary decisions can lead to social sanctions such as exclusion, loss of rights in the community, or degradation of family dignity.³² In some cases, the results of customary mediation are even used as a basis for consideration in resolving disputes in court, especially in land and inheritance cases. The North Sumatra regional government has also encouraged the recognition of indigenous institutions as part of the implementation of village autonomy,

³⁰ Sembiring, Dedi. *Hukum Adat Karo dan Mediasi Komunitas*. Medan: Pustaka Nusantara, 2022, hlm. 105–108.

³¹ Tarigan, Fajar. "Tokoh Adat dan Legitimasi Moral dalam Masyarakat Karo." *Jurnal Antropologi Indonesia*, vol. 42, no. 2, 2020, hlm. 142.

³² Harahap, Zainuddin. "Sanksi Sosial dalam Penyelesaian Sengketa Adat di Sumatera Utara." *Jurnal Hukum dan Masyarakat*, vol. 4, no. 2, 2021, hlm. 67.

by incorporating the *runggun* forum into village deliberations in several *karo* customary areas.³³

E. Conflict Of Interest Between Indigenous Peoples And Indonesian Law

One of the main challenges in the implementation of *adat Karo* mediation is the limitation of formal recognition of the national legal system.³⁴ Although Law No. 6 of 2014 on villages opens space for customary law, in practice there is still tension between customary rulings and formal legal processes. However, the Supreme Court has issued MA Regulation No. 1 of 2016 on mediation procedures in court, which provides opportunities for harmonization between formal mediation and custom-based mediation.³⁵ In some cases, courts have also considered customary settlements as the basis for legal decisions, suggesting an opportunity for future integration.

Dispute resolution through customary mechanisms in the *Karo* community has been going on long before the national legal system was introduced by the Dutch colonial and confirmed by the Indonesian state. In *Karo* society, customary law has a strong legitimacy because it is derived from cultural values, social structure, and kinship norms. However, along with the development of positive law and state supremacy, there is interaction, overlap, and even conflict between Indigenous dispute resolution mechanisms and national legal systems. This intersection is both a challenge and an opportunity to build synergy between two different but mutually influencing legal systems.

The Constitution of the Republic of Indonesia gives place to customary law. Article 18b paragraph (2) of the Indonesian constitution of 1945 states that: “the state recognizes and respects the unity of indigenous peoples and their traditional rights as long as they are alive and in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia.” This constitutional foundation is reinforced in various laws and regulations such as Law No. 6 of 2014 concerning villages, which allows indigenous villages or *nagari* to exercise authority based on recognized rights of origin and Customs.³⁶

In this context, customary dispute settlement, including in the *Karo* community, has gained legitimacy as part of the implementation of a national legal system that recognizes legal pluralism.

One form of harmonious intersection between customary law and national law is within the framework of Alternative Dispute Resolution (APS)

³³ Sitanggang, Maria. “Integrasi Lembaga Adat dalam Pemerintahan Desa Karo.” *Jurnal Otonomi Daerah*, vol. 3, no. 3, 2023, hlm. 133.

³⁴ Undang-Undang Republik Indonesia Nomor 6 Tahun 2014 tentang Desa.

³⁵ Wibisono, Bayu. *Hukum Mediasi di Indonesia*. Bandung: Refika Aditama, 2021.

³⁶ Undang-Undang Republik Indonesia Nomor 6 Tahun 2014 tentang Desa.

or Alternative Dispute Resolution (ADR). Mediation, which is part of the APS, bears substantial resemblance to customary mechanisms in the Karo people. Supreme Court Regulation No. 1 of 2016 on mediation procedures in court even opens space for deliberation approaches and non-formal agreements before the litigation process continues.

Some courts in North Sumatra have also begun to accommodate the results of customary settlements as a matter of judgment consideration, especially in land and heritage disputes.³⁷ This is evidence that customary settlement does not conflict, it can even contribute to the efficiency of the formal justice system.

Although there are common points, friction still occurs mainly related:

- a) Legality of Adat decisions the results of decisions in Karo adat mediation are not set forth in formal legal documents such as court decisions or authentic deeds, so they are vulnerable to not being recognized in a positive legal manner. This becomes an obstacle if one of the parties then brings the case to court or state agencies.
- b) Principles of Non-discrimination and Human Rights in some cases, customary norms still contain elements that are considered discriminatory under national law, such as the division of inheritance that favors the male line or does not accommodate individual rights equally.³⁸
- c) Authority of customary institutions customary institutions have no explicit legal standing in the national legal system, unless they have been instituted through local regulations or village regulations. This causes their decisions often do not have executorial power.³⁹

Efforts to integrate customary law Karo in the national legal system is done through:

- a) Strengthening customary institutions in the village government structure, in accordance with the mandate of the village law, by establishing customary deliberative forums as part of the village government system. In Karo Regency, most villages already have traditional *runggun* recognized by the community.⁴⁰
- b) Restorative Justice approach by prosecutors and police, which began to involve Indigenous leaders and local mechanisms in resolving minor cases, especially family conflicts, land, and minor insults. This

³⁷ Barus, Yulianus. *Praktik Penyelesaian Sengketa Adat di Pengadilan Negeri Kabanjahe*. Medan: Pustaka Keadilan, 2021, hlm. 122.

³⁸ Lubis, Ahmad Zainal. "Konflik Nilai antara Hukum Adat dan HAM dalam Pembagian Warisan di Karo." *Jurnal Hukum dan Masyarakat*, vol. 4, no. 2, 2022, hlm. 76.

³⁹ Ginting, Ramses. "Kedudukan Lembaga Adat Karo dalam Struktur Pemerintahan." *Jurnal Pemerintahan Daerah*, vol. 3, no. 1, 2021, hlm. 101.

⁴⁰ Sitanggang, Maria. "Penguatan Forum Adat dalam Pemerintahan Desa di Tanah Karo." *Jurnal Otonomi Daerah*, vol. 3, no. 3, 2023, hlm. 139

process often refers to customary mediation mechanisms as a form of restorative justice.⁴¹

The existence of customary law as in Karo plays an important role in building a national legal system that is inclusive and socially just. Customary law provides a dispute resolution mechanism that is faster, cheaper, and oriented towards social rapprochement, in line with the principles of efficiency and effectiveness in modern law enforcement.

However, to strengthen the contribution of customary law in the national system, a clearer regulation is needed regarding the position, Authority, and legal form of customary institution decisions. In addition, there should also be training and documentation on customary mediation practices in order to be recognized at a formal legal level

4. CONCLUSION

Mediation in the Karo customary law community is a tangible manifestation of local wisdom in resolving disputes based on deliberation and social harmony. Despite facing challenges in the national legal system, this practice has great potential in supporting restorative justice and strengthening the plural legal system in Indonesia. Therefore, strengthening the capacity of indigenous institutions and formal recognition from the state is very important to develop.

REFERENCE

- Barus, Yulianus. *Hukum Adat Karo dalam Dinamika Sosial*. Medan: Pustaka Rakyat, 2021.
- Barus, Yulianus. *Praktik Penyelesaian Sengketa Adat di Pengadilan Negeri Kabanjahe*. Medan: Pustaka Keadilan, 2021.
- Barus, Yulianus. *Resolusi Konflik dalam Tradisi Karo*. Medan: Pustaka Keadilan, 2021.
- Bush, Robert A. Baruch & Folger, Joseph P. *The Promise of Mediation: The Transformative Approach to Conflict*, Revised Edition, Jossey-Bass, 2021.
- Ginting, Ramses. "Praktik Musyawarah Adat dalam Penyelesaian Sengketa Masyarakat Karo." *Jurnal Hukum Adat Nusantara*, vol. 3, no. 2, 2021.
- Ginting, Ramses. "Kedudukan Lembaga Adat Karo dalam Struktur Pemerintahan." *Jurnal Pemerintahan Daerah*, vol. 3, no. 1, 2021.

⁴¹ Harahap, Zainuddin. "Implementasi Restorative Justice Berbasis Adat di Sumatera Utara." *Jurnal Kriminologi Nusantara*, vol. 2, no. 1, 2022, hlm. 88

- Ginting, Ramses. "Struktur Keekerabatan Karo dan Resolusi Konflik." *Jurnal Hukum Adat Nusantara*, vol. 3, no. 1, 2021.
- Harahap, Zainuddin. "Pengakuan Negara terhadap Masyarakat Hukum Adat dalam Perspektif Yuridis," *Jurnal Hukum dan Masyarakat*, vol. 5, no. 2, 2021.
- Hutapea, Maria. "Restorative Justice dalam Perspektif Hukum Adat di Sumatera Utara." *Jurnal Hukum dan Pembangunan*, vol. 51, no. 2, 2021.
- Lubis, Ahmad Zainal. "Konflik Nilai antara Hukum Adat dan HAM dalam Pembagian Warisan di Karo." *Jurnal Hukum dan Masyarakat*, vol. 4, no. 2, 2022.
- Manik, Evi. *Kearifan Lokal dan Hukum Adat Batak-Karo*. Jakarta: LIPI Press, 2022.
- Maswandi, A. S. (2024). *Metode Penelitian Hukum Normatif (Mekanisme Dalam Penulisan Ilmiah)*, Mazda Media, Malang.
- Menchik, Jeremy. *Understanding Mediation in Indonesia*. Jakarta: Hukum Press, 2020.
- Parsons, Talcott. *The Social System*, New York: Free Press, diterjemahkan edisi Indonesia, 2022.
- Peraturan Mahkamah Agung Republik Indonesia Nomor 1 Tahun 2016 tentang Prosedur Mediasi di Pengadilan.
- Sandel, Michael. *Justice: What's the Right Thing to Do?*, Cambridge: Harvard University Press, 2020.
- Sembiring, Dedi. "Antara Hukum Negara dan Hukum Adat: Studi Perbandingan Mediasi Formal dan Adat." *Jurnal Sosio-Hukum Indonesia*, vol. 5, no. 1, 2023.
- Sembiring, Dedi. "Mediasi Adat sebagai Alternatif Penyelesaian Sengketa dalam Masyarakat Karo." *Jurnal Hukum Adat Nusantara*, vol. 4, no. 2, 2023.
- Sitanggang, Maria. "Penguatan Kelembagaan Hukum Adat Melalui Pemerintahan Desa di Sumatera Utara." *Jurnal Desentralisasi dan Otonomi Daerah*, vol. 4, no. 3, 2023.

Sitnggang, Maria. "Integrasi Lembaga Adat dalam Pemerintahan Desa Karo." *Jurnal Otonomi Daerah*, vol. 3, no. 3, 2023.

Sitanggang, Maria. "Penguatan Forum Adat dalam Pemerintahan Desa di Tanah Karo." *Jurnal Otonomi Daerah*, vol. 3, no. 3, 2023.

Sitompul, Andri. "Pluralisme Hukum di Indonesia: Studi atas Peran Lembaga Adat." *Jurnal Hukum dan Masyarakat*, vol. 5, no. 3, 2022.

Soepomo, *Bab-bab tentang Hukum Adat*, Jakarta: Pradnya Paramita, 2020.

Tarigan, Fajar. "Konflik Sosial dan Peran Mediasi Adat di Karo." *Jurnal Antropologi Indonesia*, vol. 42, no. 1, 2020.

Undang-Undang Republik Indonesia Nomor 6 Tahun 2014 tentang Desa.

Wibisono, Bayu. *Hukum Mediasi di Indonesia*. Bandung: Refika Aditama, 2021.