

# Refresentation Of Criminal Case Settlement Outside The Court Using Larvul Ngabal Customary Law In Southeast Maluku District

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## ABSTRACT

Research on Lavrul Ngabal's customary law was carried out for the sake of developing legal and criminal knowledge which the Kei community considers to be quite an effective customary law norm. The purpose of this research is to represent the way of resolving criminal cases outside the court using customary law of Lavrul Ngabal as an effort to prevent and control crimes such as immoral acts. There are two sources of research data, namely primary data and secondary data. The primary data was obtained through interviews and observations, while the secondary data was obtained through a documentation study. The location of this research was conducted in Southeast Maluku Regency. The results of this study indicate that. Settlement of criminal cases outside the court using the customary law of Larvul Ngabal in Southeast Maluku Regency is through customary criminal justice carried out in the form of mediation (sdov: negotiations) involving kings, the parties involved, and clan heads. Traditional leaders in carrying out their functions as mediators, in practice traditional leaders generally use this approach together, especially in resolving private and public disputes.

## ABSTRAK

Penelitian terhadap hukum adat Lavrul Ngabal dilakukan demi pengembangan keilmuan hukum dan kepidanaan yang dinilai masyarakat Kei sebagai norma hukum adat yang cukup efektif. Tujuan penelitian ini untuk merepresentasikan cara penyelesaian perkara pidana di luar pengadilan menggunakan hukum adat Lavrul Ngabal sebagai upaya pencegahan dan pengendalian kejahatan seperti perbuatan asusila. Sumber data penelitian ini ada dua yakni data primer dan data sekunder. Adapun data primer diperoleh melalui hasil wawancara dan observasi, sedangkan data sekunder diperoleh melalui studi dokumentasi. Lokasi penelitian ini di lakukan di Kabupaten Maluku Tenggara. Hasil penelitian ini menunjukkan bahwa. Penyelesaian perkara pidana di luar pengadilan dengan menggunakan hukum adat Larvul Ngabal di Kabupaten Maluku Tenggara adalah melalui peradilan pidana adat dilakukan dalam bentuk mediasi (sdov: perundingan) dengan melibatkan para raja, para pihak yang terlibat, dan kepala-kepala marga. Para tokoh adat dalam menjalankan fungsinya sebagai mediator dalam prakteknya para tokoh adat umumnya menggunakan pendekatan ini secara bersama-sama, terutama dalam menyelesaikan sengketa privat maupun publik

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## I. INTRODUCTION

Law enforcement in Indonesia can be done with criminal law as a formal law enforced by the state. (Thieu, 2019) said that the way to prevent crime against criminal acts can be done in two ways, such as corrective prevention and prevention of criminal punishment. Through criminal justice, it will certainly provide legal welfare and justice for the community (Blakely & Blakely, 2018). However, Indonesia also recognizes what is called customary law. The issue of the existence of customary law and how to resolve various disputes can reflect the community's sense of justice. Customary law also has a contribution to Indonesian national law (Manarisip, 2012). Customary law does not recognize prison or confinement sanctions in solving problems (Suwandi et al., 2010). However, there are those who ignore customary law because they are considered to be traditional (Abubakar, 2013). Customary law is a legal system that is used in addition to the statutory system (Konoras, 2017). The community itself interprets obedience as citizens to written laws, or customary law as unwritten law as part of upholding justice.

The customary law that applies in Indonesia is customary law whose validity is recognized by the government, such as the enactment of Islamic law. Islamic law and customary law are not products of the government, but are recognized as legal rules in force by the government. In the life of the Kei people, the customary law of Larvul Ngabal is placed as a customary law norm which is a common guideline (kalimatun sawa) in enforcing customary law in the Kei people. This customary law has been around for hundreds of years and has been used in customary affairs and is mandatory to understand and follow in everyday life, especially in how to live, how to speak properly, and to create a sense of security, peace and tranquility within the Kei community. The customary law of Larvul Ngabal aims to regulate the behavior of all Kei people wherever they are (Ali, 2009)

The rapid development of Southeast Maluku society and the increase in crime in social life has resulted in a tendency for members of the community to interact with one another, in this interaction actions that violate the law or rules that have been determined in society often occur. , to create a sense of security, peace and order, in society. In this case, not all members of the community are willing to obey it, and there are still those who deviate, and generally this behavior is not liked by the community. Crimes against decency, although the number is relatively small when compared to crimes against property (wealth) but from the past until now have often caused concern, especially by parents. In the religion of immorality are acts that violate God's law or acts of sin or bad/disgraceful actions called immoral, which include acts of immorality, drunkenness, and gambling. Meanwhile, the delict of decency in criminal law in Indonesia is regulated in Chapter XIV book II of the Criminal Code with the title "crime against decency" which begins with Article 281 of the Criminal Code up to Article 297 of the Criminal Code.

Immoral crimes or crimes are always present and inherent in society, including in Kei Maluku Tenggara, therefore one of the efforts to prevent and control crime is to impose sanctions on the perpetrators, in the form of punishment. The task of sanctions is to act as a means of coercion or encouragement or guarantees that legal norms are obeyed by everyone and are a legal consequence for someone who violates legal norms. " Criminal Responsibility in Customary Law Larvul Ngabal determines very simply that a crime of decency is a very sensitive crime because it involves human dignity and dignity, so if it is proven and submitted to the customary court the punishment is firm and clear. Thus, the effort to obtain answers from the settlement of criminal acts and the application of criminal sanctions in the law of larvul ngabal becomes an interesting endeavor to be carried out in the context of scientific development, especially law and criminal science. Therefore, research on larvul ngabal customary law as a settlement of criminal cases outside the court is very important to do. The purpose of this research was conducted to find out the form of punishment for criminal offenders who will be processed in the customary law. In addition, this research was

conducted to find out the process of implementing these customary laws and the apparatus involved in the settlement of these criminal cases. The results of this study are expected to contribute to the development of criminal law science in general.

## II. RESEARCH METHOD

This research is an empirical legal research that uses a qualitative descriptive approach (Suratman & Dillah, 2015). This research was conducted in Kei, Southeast Maluku Regency. This study has two sources of data, namely primary data and secondary data. The primary research data is in the form of data from interviews with traditional and community leaders and notes from observations in the field, while the secondary data is in the form of library documents that support research. This research data collection techniques include observation techniques, interviews, and documentation. There are three data analysis techniques used in this study, namely reduction, presentation, and conclusion (Miles & Huberman, 2014). First, the reduction process (1) the existing verbal data is transcribed into available writing and tables (2) then the data is identified based on the research focus, (3) the available data is adjusted to the research focus (4) then the data is represented or interpreted by referring to theory used. Second, presenting by compiling data into report form. Third, draw conclusions to verify previous data so that it remains consistent.

## III. RESULTS AND DISCUSSION

### 1. Accountability of Criminal Cases in Larvul Ngabal Customary Law

The customary law adhered to by the people or the Kei tribe (Evav) from ancient times until now and in the future is the larvul ngabal law, literally, larvul means "red blood", while ngabal means "spear from Bali". As previously stated, this customary law is passed down from generation to generation only orally, so of course there are some differences in pronunciation, words or interpretations. However, customary law cannot replace national law (Suwandi et al., 2010). Example: most or generally the people of the Kei islands clearly call it larvul (red blood) and ngabal (Balinese spear). However, there are also those who say that it is not larvul (red blood), but laarvull (red sails). This latter interpretation states that the red sail referred to is the sail of a boat's mast which is pointed at the top like a spear called a ngabal (a sharp pole like a Balinese spear). Apart from the designation, there are also some minor differences in the composition of its contents. There are those who say that the 7 (seven) articles of the larvul ngabal law are actually only 5 (five) articles (perhaps they want to adapt them to Pancasila), because Articles 1 and 2 are only one article, so are Articles 5 and 6.; (Uar, 2005). Nonetheless, in Ratschaap or the Ohoiwut Customary Territory, it recognizes the existence of 7 Articles of customary law with the following structure: (a) Uud entauk na atvunad (Head resting on the nape), (b) Lelad ain fo mahiling (Neck is honored, exalted). (c) Uil nit enwil rumud (Skin from the ground covering the body, (d) Lar nakmot na rumud (Blood is closed in the body, (e) Rek fo kilmutun (Marriage should be in place so that it remains pure), (f) Morjain fo mahiling (A place for women to be respected, exalted), (g) Hira I ni fo I ni, it did fo it did (Owned by people remains theirs, property remains property).

In terms of content, Articles 1 to 4 of customary law basically guarantee reciprocal relations, as a unitary body, which should take place in an honest and sincere manner. As a legal system, it must be carried out consistently and in accordance with procedures (Saleh, 2013). Relations that are unified, close and strong between those who are above (head) and those who support them at the bottom (neck and body are at the same time also examples of what should or should occur in responsible relationships between those in positions of superiority and their subordinates, between those who are entrusted with power and those who place their trust in them, only with such honest and sincere relations can peace, security and harmony be achieved in life and the lives of mankind.

As for Articles 5 and 6, in essence, are rules for maintaining and guaranteeing decency, honor and nobility of association among human beings by placing women as the most and most deserving of respect, finally, Article 7, in essence, is a basic rule which protects and guarantees the recognition of the property rights of fellow human beings in their lives, it is clear that the customary law of larvul ngabal highly upholds human rights. In order to ensure that human rights are always intact, further provisions in customary law larvul ngabal detail several mistakes as forms of action that are prohibited from being committed by anyone. The forms of these mistakes are stated directly and clearly so as to minimize the possibility for someone to violate them with artificial reasons or deliberately obfuscated.

After detailing the Article by Article of the larvul ngabal law above, the next thing that needs to be emphasized here, because it is the main and most important thing that underlies the life and life of the people in the Kei Islands (Evav), is a statement in the following sentence:

Taflur Nit, Itsob Duad, Taflur or Tafaluur = entertaining, giving a feeling of peace, blessing, making happy, respecting; nit = dead person or corpse; Itsob = worship; Duad = Allah, literally means "comforting the dead, worshiping Allah". The definition of Nit (dead person) here is not only physical or physical (corpse), but includes all those who suffer difficulties, those who are looked down upon, who are unable to live normally in society, they suffer, who are oppressed. In short, those who are "half dead", in other words the word nit includes both those who are already dead and those who are still alive but are suffering "half dead".

Entetat Fangar Ni Wilin Laar, Literally means "breaking the rudder and tearing the sails themselves", literally, this expression means that someone has broken, formulated and damaged the rudder and sails of his own ark so that he sails this ocean of life shaky (crazy), out of control and will eventually sink. or shipwrecked. A brief description of the main principles that underlie life and the life of the people in the Kei Islands (Evav).

Table 1 Regarding the Punishment in the Larvul Ngabal Customary Criminal

NO	PASAL	UNSUR PIDANA	SANGKSI/HUKUMAN
1.	Article 5. Rek Fo Kelmuan "Walls or dividing walls in one household/fa mily. (Each dividing wall / bulkhead contains meaning so that humans are not allowed to break in before being allowed)."	1. Sis Af Whispering/calling (gaming) 2. Kifuk Matko Eye play	LEVEL 1 & 2 Moral Sanctions: Sib surak (advice) in a traditional assembly Fine ; 1. If the victim is an unmarried woman and it is proven that it was intentional and the victim does not accept/reject the settlement, then the perpetrator is given a fine in the form of Vil For Ob and pays a fee of IDR 1,000,000.- 2. If the victim is a married woman, a fine of Rp. 2,500,000 will be paid for VilFo Ob and kubangfedanyaf  LEVEL 3 & 4 A. Moral Sanctions: Sib surak (advice) in a customary session B. Fines; 1. The perpetrator was a barranran mail against Vat - vat mel - mail who was single and it was proven intentional and the victim did not accept / refused the settlement, the perpetrator was given a fine in the form of 1 piece of Mas Tail telVilFo Ob and paid a fee fee of Rp. 2,500,000.- 2. If the perpetrator is Baranran Mel-mel against Vaat-vat mel-mel who is already married and it is proven intentional and the victim does not accept /
	Article 6 Moryain Fo Mahiling The room/bed of women	3. Kis Kafir/ Temar U Mur Pinching and scraping / looking forward and backward. 4. En a lebak, en humak voan	

2.	(married or single) is sacred and noble. (No other person is allowed to enter/occupy the place arbitrarily)	reach, hugging, kiss, 5. Enwai, Sig Baraung enkom lawur, Open cover and ruin it 6. Enwel ev yan Unwed pregnancy 7. Ftufweer Takes running or elope	refuses the settlement, then the perpetrator is given a fine in the form of: 2 pieces of Mas Tail tel, Fo Ob pays kubang and fedanyaf of Rp. 5,000,000. 3. If the perpetrator is Baranran Mel-mel against Vat-vat Ren – Eri ri who is still single and it is proven intentional and the victim does not accept / refuses the settlement, then the perpetrator is given a fine in the form of: 2 Mas Tail tel Mas, 3 Mas A, VilFo Ob And Paying kubang fe and Yaf of IDR 6,000,000.-And IDR 7,000,000. 4. If the perpetrator is Baranran Mel-mel against Vat-vat Ren Eri who is already married and it is proven intentional and the victim does not accept / refuses the settlement, then the perpetrator is given a fine in the form of: 3 Mas Tai tel Mas, 4 Ma A, VilFo Ob And pay the Fedanyaf wallows of Rp. 12,000,000.- and Rp. 14,000,000.- 5. If the perpetrator is Baranran Ren - Eri against Vat - vat Mel - Mel who is still single and it is proven intentional and the victim does not accept / refuses the settlement, then the perpetrator is given a fine in the form of: 3 pieces of Mas Tail tel, VilFo Ob and pays a fedanyaf fee of IDR 5,000 .000. 6. If the perpetrator is Baranran Ren - Eri against Vat -vat Mel - Mel who is already married and is proven intentional and the victim does not accept / refuses the settlement, then the perpetrator is given a fine in the form of: 4 pieces of Mas Tai tel, VilFo Ob and pays a fedanyaf fee of IDR 10,000 .000. 7. If the perpetrator is Baranran Ren - Eri against Vat - vat Ren - Eri who is still single and it is proven intentional and the victim does not accept / refuses the settlement, then the perpetrator is given a fine in the form of: 2 pieces of Mas Tail-tel mas / 4 pieces of Mas A, VilFo Ob And pay the fedan Yaf Rp. 5,000,000.- and 6,000,000. 8. If the perpetrator is Baranran Ren - Eri against Vat -vat Ren - Eri who is already married and it is proven intentional and the victim does not accept / refuses the settlement, then the perpetrator is given a fine in the form of: 2 pieces of Mas Tail - tel mas / 4 pieces of mas A, VilFo Ob And pays a fedanyaf Kubang of Rp. 10,000,000.- And Rp. 12,000,000.-
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LEVEL 5

A. Moral Sanctions: Sib surak (advice) in customary proceedings

B. Fines:

1. If the perpetrator is Baranran Mel-mel against Vat-vat Mel-mel who is underage, a girl or a householder and the evidence is intentional and the victim does not accept/reject the settlement, then the perpetrator is given a fine in the form of:

- Minors: Pay a fee of Rp. 25,000,000

Girls: 1 Ma Tail Tel, VilFo Ob, - -And pay a fee of Rp. 20,000,000.-

Man's wife: 2 pieces of Mas Tai Tel, VilFo Ob, and pay a fee of Rp. 40,000,000.-

If the perpetrator is Baranran Ren-Iri against Vat-vat Ren-Iri who is underage, a girl or a householder and is proven intentional or the victim does not accept/reject the settlement, then the perpetrator is

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given a fine in the form of:

a. Minors: Pay a fee of Rp. 25,000,000.-

b. Girls: 1 Mas Tai – Tel Mas / 1 Mas A, Vilfo Ob and pays Rp. 20,000,000.- and Rp. 30,000,000.-

c. Man's wife: 2 pieces of Mas Tail tel Mas / 1 Fruit of Mas A, Villa Of Ob, and pays a fedanyaf of Rp. 40,000,000.- And Rp. 50,000,000.-

If the perpetrator is Baranran Mel-mel against Vat - vat Ren-Eri who is underage, a girl or a householder and is proven intentional and the victim does not accept / reject the settlement, then the perpetrator is given a fine in the form of:

a. Minors: Pay a fee of IDR 50,000,000.-

b. Girls: 1 Mas Tail Tel Mas/ 1 Mas A, Vil Of Ob, and pays a fee of Rp. 25,000,000.-And Rp. 30,000,000.-

a. c. Man's wife: 2 pieces of Mas Tail Tel Mas / 2 pieces of Mas A, VilFo Ob, and pays a fedanyaf of Rp. 50,000,000.- and Rp. 60,000,000.-

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*Data source: processed by researchers from the Larvul Ngabal Customary Law Document compiled by the customary council of Rat Ur Siuw Rat Lor Lim Kei Islands*

## **2. Settlement of Criminal Cases Out of Court Using Larvul Ngabal Customary Law in Southeast Maluku Regency**

The tradition of dispute resolution in the customary law community in the Kei Islands tends to use the 'custom pattern' or in other terms it is often called the 'family pattern'. Although, many consider customary law to be slowly marginalized as a source of law in Indonesia (Abubakar 2013). Customary law as the original law that grows and develops from the habits of society affects the process of enactment of law in Indonesia (Aditya, 2019). Customary law is applied according to the needs and development of the community (Suwandi et al., 2010). In fact, the law is aligned and grows with the community (Saleh, 2013). Customary law has long been the ideological ideals of society (Manarisip, 2012). Customary law has been a supporter of community life for all time (Yulia, 2016). This pattern is applied not only to civil disputes but also to criminal cases. The settlement of disputes using the customary pattern does not mean that there is no compensation or punishment for violators of customary law. Penalties remain in force either in the form of corporal punishment or property compensation. The application of this penalty is very dependent on the type and severity of the case that occurred between the parties. It is important to emphasize here that the essence of resolving cases in customary law in the Kei Islands is to create peace in a comprehensive sense. Peace is meant here not only for the parties or perpetrators and victims, but peace for society as a whole. Therefore, the approach used is a persuasive approach to resolving disputes using traditional and religious language, so that awareness arises from the parties that there is no meaning in living in the world, if there are disputes and actions that harm other people. The purpose of dispute resolution in customary law is the embodiment of permanent peace. This rape case violated the hanilit law, namely article 5 "Rek Fo Kilmutun" Larvul (red blood) customary law, namely the law that functions to regulate the values of manners, decency, and marriage. Based on the agreement of the customary judges or traditional stakeholders consisting of the Raja, Kay people, Soa and Saniri as well as religious leaders and both parties, the perpetrators of the rape were subject to customary sanctions in the form of payment of fines, namely: 1) Lela (cannon) is a symbol of Larvul customary law which made of "customary gold", about 0.5 meters long. This lela has become a rare traditional object, so if there is no lela, money is calculated based on the value of the lela. For a length of 0.5 meters, the value is approximately Rp. 10,000,000 – 15,000,000; 2) Mastail (bracelet): Bridge; 3) Clothing and Money: To cover embarrassment. In addition to the customary fines that are obligatory, perpetrators of rapists must also take an oath, namely

customary oaths and religious oaths so that the perpetrators do not repeat their actions. The customary oath was uttered by the King:

Duang e Nit Teen Balian, Duad Sarngai Hukum Laar Vul Ngabal, im Lik, Im Tabiang, Im Toil, Im Loak, Hira Ken Antub Foo Ken, Hira Sa Antub Fo Saa, Hira An Ni Antub Fo Nu Hukum An Tebiang, Anlakik, An Kai, Antoil, An Loak.

It means: Allah is the Sovereign, the All-Knowing, the Most Just, Who owns all creatures on this earth. O ancestors, our forefathers who created the customary law of Larvul Ngabal, You are the All-Seeing, All-Considering, All-Judging, All-Punishing, who is wrong and who is right, show Your Power and Law to those who are wrong and protect them, save them right in this matter.

The conflict resolution process in the Kei Islands is a form of mediation that reflects justice without distinguishing the form of the disputed case, but in a comprehensive manner it is seen from the overall violations that have arisen as a result of the conflict. Even though mediation is intended for civil cases, the reality shows that criminal acts that occurred as a result of conflict and forms of violence in the Kei Islands were resolved through the sdov mechanism, a mechanism that was structurally built since its ancestors in ancient times. This is in line with Konoras' statement (2017) that customary law is applied because of old habits. Customary law cannot even be separated from society (Thontowi, 2013) Even though our Criminal Procedure Code has not yet regulated a mediation model. However, the method used by the customary law community in the Kei Islands using the sdov format can already characterize the value of justice in reaching an agreement, but this does not mean that the community plays its own role unless the police respond as a form of discrimination by law enforcement officers. It can be said that the method of conflict resolution in the Kei Islands is relevant to the "Community panels or courts" mediation model; and "Traditional village or tribal moots" can be seen when there is awareness among the people to make peace, in addition to the customary head negotiating and mediating from local officials in the sense that the government in general and law enforcement officials in particular are efforts towards reconciliation with the aim of reconciling all parties who conflicted. In conscience, the people of the Kei Islands are both in sub-district cities and district capitals and those in remote areas. Even though they consistently accepted offers of negotiation and mediation as mentioned above, in the end they came and met without any burden of resentment. Of course, all of this does not look at the form of cases that arise as a result of these horizontal conflicts, but the point is to bring issues that previously had to be processed through the justice system, back by way of penal mediation which was played so as not to cause major conflicts. In this connection Abdul Gani Hanubun is of the view that:

In my opinion, there have been many efforts that we have made with the aim of peace in the Kei Islands, but according to law, the peace that we have made does not yet have permanent legal force, because apart from all cases not being processed through the courts, the agreements of the people in peace have not been proven. with a written statement known by law enforcement officials in the Kei Islands, therefore in my opinion, the willingness of the people to make peace actually came earlier from the conscience of the people themselves before the arrival of the facilitator from the security forces. But only the communication factor is clogged so there is no openness between one and the other.

Thus, the police as the forefront of the law enforcement apparatus on duty in the Kei Islands at that time felt it was important that the conflicts that occurred had to be resolved through formal legal channels, but the circumstances that occurred on the ground did not allow law enforcement to be enforced consistently, even if it was enforced it had to be through the discretionary pathway. A method of recovery using a customary law approach which is considered to be very appropriate for a society in conflict, then the root of the problem to be studied is the search for forms of justice originating from various legal sources, whether laws, customs, treaties, jurisprudence, and doctrines. Thus according to the author, sources of law that can be tested as a consideration to

gain community legitimacy are sources of customary and doctrinal law. Habits lead society to an adherence to morality, while doctrine teaches an understanding that is accepted rationally. This fact shows how wide the source of law that has been adhered to by the Indonesian people, so that it is not only the source of statutory law that gets legitimacy from the state as the only legalistic and positive written law, but other sources of law also get it. community recognition, especially indigenous peoples.

In customary law communities, mediation can be used to resolve criminal cases. For example, horizontal conflict in the Kei Islands, persecution or killing, was inevitable, but traditional leaders took the initiative to resolve this case by approaching the sdov (negotiating) mechanism with the victim and the victim's family as well as with the perpetrator and the perpetrator's family. The involvement of the family is very important, because in the customary law community, family ties are a strong bond between members of relatives.

Dispute resolution through the Larvul Ngabal customary law mechanism in the Kei Islands can be carried out through the sdov (negotiating) mechanism which takes the form of mediation, negotiation and facilitation. This is considered important because the plurality of the Kei community is a social fact that influences the application of the law there Larvul Ngabal (Tiwery, 2018).

These three models of dispute resolution are often practiced by indigenous peoples in general and the Kei Islands in particular in resolving their disputes. Traditional leaders in carrying out their functions as mediators, facilitators, negotiators, in practice traditional leaders generally use this approach together, especially in resolving private and public disputes. Therefore, if one of the family members commits a crime or becomes a victim of indecent treatment by another party, the victim's family will act to seek justice. Cases of murder or persecution have led to conflicts or disputes not only between the individual who committed the crime and the victim, but also between the two extended families. This is where the role of traditional leaders bridges (negotiations or facilitation) in order to find a fair settlement according to customary law.

Non-litigation dispute resolution is an out-of-court settlement of disputes based on fair law, and this settlement can be classified as a high-quality settlement, because the settlement is resolved in this way, leaving no traces of hatred and revenge in full. Therefore, the basis for resolving non-litigation disputes is conscience and implementing law at the level of values, then when it is related to the problem of horizontal conflict in the Kei Islands it is resolved through the sdov (negotiation) mechanism which is a form of negotiation with the aim of bringing together different views that give birth to disputes between the two Islamic communities. and Christian. Therefore, the sdov mechanism aims to achieve restorative justice. "This theory teaches that, a conflict or crime must be seen not merely as a violation of state law, but the conflict represents the disconnection and separation of relations between two or more people in society. Santi Kusumaningrum sees it, "in general, the principle of restorative justice is to create a forum for cooperation in solving problems, establishing a direct and real relationship between wrongdoing and formal social reactions. Because in restorative justice the method used is deliberations on recovery by involving victims and perpetrators and their respective families. In this context, Soetodjo discussed it from the side of the restorative justice process, basically an attempt to divert from the criminal justice process to a deliberative settlement, which is basically the soul of the Indonesian nation, to resolve problems in a family way to reach consensus. In this connection, according to Marshall, restorative justice is a step to develop non-detention efforts and a community-based step dealing with the law. Restorative justice can explore positive values and practices that exist in society that are in line with upholding human rights. Thus the main reason for the people of the Kei Islands to stop conflict and other criminal crimes (rape, obscenity) is due to certain considerations that are structurally built since the ancestors and maintained from one generation to another (current). Even if the conflicts that occur are caused by external influences that propagate the community to be involved in misleading



issues. After that, people's awareness arose to return to the glue built by their ancestors. The adhesive in question is: (a) Foing fo kut ne fau fo bangle, (b) Ain ni ain (c) Athamang uvud raad

These three adhesives illustrate that the people of the Kei Islands are bound by a set of rules from their ancestors for people to live side by side somewhere. In fact, Roucek said that the Kei people should not violate customary law as mores which are challenging (Yusuf et al., 2021). Even though they have different beliefs, tolerance is necessary in order to foster the value of unity and oneness, even in certain matters a joint agreement "ooch yaruk" is needed, namely an agreement that requires the totality of people's ideas. For example, in a dispute, the first thing that needs to be considered between the people in the dispute is whether it is appropriate for something that is the subject of the dispute to be questioned further. While the parties come from an area of power, or a family that is bound by the philosophy of Foing fo kut ne fau fo banglu. Second, in the case of the example described earlier, it must also be examined whether the parties are related by blood (blood relations). Because for the Kei people in the understanding of ain ni ain is an expression that has the value of intimacy, in the sense that not only intimacy is based on blood relations, but for other people who already feel close to the Kei people it can be seen as family if they have joined the three closenesses above. Third, any issues that are carried out, but are not relevant in the public eye, then it is justified to take the athamang uvud raad step, a negotiation that is carried out based on considerations of conscience. The essence of the view of living together, ain ni ain in the tradition of the Kei people is in line with human nature where humans do live together, and cannot be separated from one another, as a result a consequence arises to maintain the existence of life together through the glue of non-formal larvae without exception.

#### IV. CONCLUSION

Based on the results of this study, it can be concluded that criminal liability in Larvul Ngabal customary law consists of seven articles which are then grouped into three groups, namely nevnev law which regulates the relationship between humans and God and the relationship between humans and each other, hanilit law which regulates decency and honor. the Kei woman, and the law of hawear balwirin, which regulates the ownership of each person in life together. The process of settling criminal cases outside the Larvul Ngabal customary law court in Southeast Maluku Regency was carried out in the form of mediation (sdov: negotiation) involving the kings, the parties involved, and the heads of the clans. Traditional leaders in carrying out their functions as mediators, in practice traditional leaders generally use this approach together, especially in resolving private and public disputes.

#### REFERENCES

- Abubakar, L. (2013). *Revitalisasi Hukum Adat Sebagai Sumber Hukum Dalam Membangun Sistem Hukum Indonesia*. 13(2), 13.
- Aditya, Z. F. (2019). Romantisme Sistem Hukum Di Indonesia: Kajian Atas Kontribusi Hukum Adat Dan Hukum Islam Terhadap Pembangunan Hukum Di Indonesia. *Jurnal Rechts Vinding: Media Pembinaan Hukum Nasional*, 8(1), 37. <https://doi.org/10.33331/rechtsvinding.v8i1.305>
- Ali, A. (2009). *Menguak Teori Hukum (Legal Theory) dan Teori Peradilan (Judicial Prudence)*. Pramedia Group.
- Amirthalingam, K. (2018). The public prosecutor and sentencing: Drug trafficking and the death penalty in Singapore. *Oxford University Commonwealth Law Journal*, 18(1), 46–72. <https://doi.org/10.1080/14729342.2018.1471835>.
- Blakely, C., & Blakely, M. (2018). *Asimov'S Laws Of Robotics And Their Significance For The Prison*. <https://doi.org/10.5281/ZENODO.1403416>

- Konoras, A. (2017). Eksistensi Hukum Islam Dan Hukum Adat Dalam Sistem Hukum Nasional. *Jurnal Ilmiah Al-Syir'ah*, 14(2). <https://doi.org/10.30984/as.v14i2.370>
- Manarisip, M. (2012). Eksistensi Pidana Adat Dalam Hukum Nasional. *Lex Crimen*, 1(4).
- Miles, M. B., & Huberman, A. M. (2014). *Analisis Data Kualitatif: Buku Sumber Tentang Metode-Metode Baru. Terjemahan Tjetjep Rohendi Rohidi*. Universitas Indonesia (UI-Press).
- Pryce, D. K., Fuller, K., Brown, R. A., & VanEaton, T. (2020). Examining the Relationship between Citizen Contact with the Community Prosecutor and Fear of Crime. Victims & Offenders, 15(5), 574–593. <https://doi.org/10.1080/15564886.2020.1754312>
- Rader, M. J. (2019). What Should a Baccalaureate Curriculum in Conservation Law Enforcement Emphasize in Wisconsin? *Journal of Criminal Justice Education*, 30(4), 495–509. <https://doi.org/10.1080/10511253.2019.1602152>
- Saleh, M. (2013). *Eksistensi Hukum Adat Dalam Polemik Hukum Positif Suatu Kajian Dalam Perspektif Tatanegara*. 17.
- Suratman, & Dillah, H. P. (2015). *Metode Penelitian Hukum* (Cet, 3.). CV. Alfabeta.
- Suwandi, A., Zanibar, Z., & Achmad, R. (2010). *EKSISTENSI HUKUM ADAT TERHADAP HUKUM PIDANA*. 36.
- Travis, M., & Tranter, K. (2014). Interrogating absence: The lawyer in science fiction. *International Journal of the Legal Profession*, 21(1), 23–37. <https://doi.org/10.1080/09695958.2014.946932>
- Thieu, L. Van. (2019). Sexual Abuse Cases in Southern Provinces and Cities of Vietnam and Prevention Solutions. *International Journal of Criminology and Sociology*, 8, 129-134.
- Thontowi, J. (2013). Perlindungan Dan Pengakuan Masyarakat Adat Dan Tantangannya Dalam Hukum Indonesia. *Jurnal Hukum Ius Quia Iustum*, 20(1), 21–36. <https://doi.org/10.20885/iustum.vol20.iss1.art2>
- Tiwery, W. Y. (2018). *Larvul Ngabal Dan Ain Ni Ain Sebagai Pemersatu Kemajemukan Di Kepulauan Kei Maluku Tenggara*. 8.
- Uar, D. E. (2005). *Larvul Ngabal dalam Penyelesaian Konflik Sosial 1999 di Maluku Tenggara*. Universitas Gadjah Mada Yogyakarta.
- Yulia. (2016). *Buku Ajar Hukum Adat*. UNIMAL Press.
- Yusuf, M., Nofrita, D., Mafiroh, N. N., & Garamatan, A. (2021). Persepsi Hukum Adat Larvul Ngabal Pada Masyarakat Kei Perantauan Di Kota Jayapura Provinsi Papua. *POROS ONIM: Jurnal Sosial Keagamaan*, 2(1), 20–36. <https://doi.org/10.53491/porosonim.v2i1.47>