

Restorative Justice Institutions Model for Resolving Problems and Conflicts in Mining Businesses and Environmental Management

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Abstract

Justice for resolving problems and conflicts in mining businesses and environmental management (LH) in Makkuaseng Village, Batu Putih District, North Kolaka Regency. Research analysis method using qualitative techniques. As a result, the development of the Restorative Justice (RJ) model in resolving conflicts and legal problems in the mining and environmental sectors: First, community members seeking justice have a choice in resolving a problem they face, namely being able to submit a report of their legal problem first to law enforcement (Police).), law enforcement as facilitators can bring the problem to the Restorative Justice Institute (LRJ) for a solution. Second, report the legal problems faced to LRJ for resolution. Third, the problem-solving process at LRJ is carried out through specific mechanisms and stages, which are based on the principle of deliberation and consensus. Fourth, problem resolution at LRJ ends with a binding decision for the parties to the dispute, the perpetrator and the victim.

Keywords: Development, model, Restorative Justice, community.

1. Introduction

Legal experts, legal practitioners, and the international community, including the United Nations (UN, 2000), agree to realize the weakness of the litigation approach because it is considered inefficient and ineffective in resolving legal problems, only able to fulfill procedural justice (through investigations by the police, prosecution). by the prosecutor's office, and handing down the verdict by the judge) Moreover, conversely, it takes work to achieve substantive justice. It is not/less effective in creating a deterrent effect for perpetrators of criminal acts through prison sanctions and guidance in correctional institutions and others. Restorative means healing, improvement, recovery, or the nature of restoring actions, mistakes, losses, and sanctions. Historically, the model or method of the Restorative Justice approach has been applied or enforced by almost all nations and countries in the world. However, because it was considered rigid, ancient, obsolete, and ineffective by adherents of modern legal theory, it was changed and replaced with another type of law, which was considered better, namely Positive Law.

In its development in the last twenty years, as stated by Marc Levin, the restorative justice approach was previously considered obsolete, ancient, and traditional but is now being declared a new, progressive approach (Setyawan, 2014). Various parties or groups (both legal experts, practitioners, and the legal community) are increasingly aware and aware of the various shortcomings/weaknesses of the retributive approach model (retaliation) and the individual treatment model (individual behavior development) in criminal law policy and the modern justice system which are unable to cause deterrent effect and ineffective in social protection and crime prevention (Ilyas, 2022).

The Restorative Justice (RJ) approach model has a number of advantages/advantages, including: (1) Criminal behavior is seen as behavior that is detrimental to the victim and society; (2) Criminal behavior is directed at repairing that loss and healing wounds to society; (3) Justice is not punitive and light in nature; (4) Main objectives: repair of wounds suffered by the victim, recognition of the perpetrator for his actions, conciliation and reconciliation of the victim, perpetrator and society; (5) Desire to restore

the welfare of society through methods of bringing perpetrators of crimes to justice, victims participating in the judicial process and the case resolution process; (6) Give rise to feelings of shame and personal and family responsibility; (7) Prioritize cooperation and involvement of victims, perpetrators and the community; (8) Decisions are made jointly by all parties; (9) The basic principle: justice is best served when each party receives fair and balanced attention, is actively involved in the judicial process and obtains adequate benefits; (10) Emphasizing three fundamental aspects, namely: first, repair and justice, second, restoration of relations, third, reintegration; (11) The perpetrator fights the victim, or resistance between individuals; (12) Solving problems through dialogue and cooperation; (13) Prevent repetition of the same type of crime; (14) Society will remove/forget the stigma of the perpetrator, and the perpetrator will regret it and not repeat his actions; (15) The perpetrator is invited to understand what has been done, the consequences and how to overcome problems that will arise; (16) Violation of a regulation is seen from legal, moral, social, cultural, economic, and so on aspects; (17) The dignity of the victim is taken into account; (18) Offenders must be held accountable and reintegrated into their communities; (19) The perpetrator and victim are in an equal position and need each other, to be reconciled; (20) The case must be changed no longer in the interests of order but in the interests of the victim and his material and psychological recovery. In essence, how to prevent the perpetrator from being imprisoned but still be responsible (Manan, 2004; Supeno, 2006; Priyatno, 2007; Wahid, 2009; Zulfa, 2012; Ali H, 2012; Muladi, 2015; Tridiatno, 2015; Yusuf, 2016; Utomo, 2017; Arief BN, 2019; Ilyas, 2022).

In Indonesia, patterns of restorative justice approach to resolving legal cases have been practiced in various traditional communities (indigenous communities) in Indonesia. Indigenous communities undertake deliberation to reach a consensus, which is the most essential value of restorative justice to resolve problems that arise. The concept of restorative justice, which is the soul and personality (volkgeist) of society, has been rooted in the life and culture of Indonesian society. However, Indonesian customary law was subordinated to European (Dutch) law during Dutch colonialism. After Indonesia's independence, the existence of customary law communities was implicitly recognized in Paragraph IV of the Preamble to the 1945 Constitution, namely: "protect the entire Indonesian nation," which means that the state is obliged to protect the entire Indonesian nation, including customary law which is the original law of the Indonesian nation, the soul and the personality (volkgeist) of Indonesian society that has existed, grown and developed as an embodiment of the values reflected in Pancasila. Awareness of the importance of restorative justice as the soul and personality (volkgeist) of Indonesian society has led the Government to make legal breakthroughs, although this is still partial (Aryadi, 2020). In its development, the Government, through relevant law enforcement agencies, has established policies regarding restorative justice, such as Prosecutor's Regulation No. 15 of 2020 concerning Termination of Prosecution Based on Restorative Justice, Decree of the Director General of the General Justice Agency No. 1691/DJU/SK/PS—00/12/2020 Concerning Guidelines for Implementing Restorative Justice in the General Court Environment.

Taking a closer look, the institutionalization of Restorative Justice (RJ) as a means of resolving problems and conflicts in the mining sector and environmental sector (LH) is supported by legal policies, especially the Environmental Protection and Management Law Number 32 of 2009 (UU PHLH). Article 84 regulates that (1) Settlement of environmental disputes can be achieved through court or outside court. (2) Environmental dispute resolution options are made voluntarily by the parties to the dispute. (3) A lawsuit through the court can only be pursued if the chosen effort to resolve the dispute outside the court is declared unsuccessful by one of the parties. Article 85 regulates that the resolution of environmental disputes outside of court is carried out to reach an agreement, and the services of mediators and arbitrators can help resolve environmental disputes (UU PHLH). Article 86 regulates that (1) The community can establish institutions that provide free and impartial environmental dispute resolution services. (2) The Government and regional governments can facilitate the establishment of institutions providing free and impartial environmental dispute resolution services. (3) Further provisions regarding institutions providing environmental dispute resolution services are regulated by Government Regulations (UU PHLH).

In North Kolaka Regency, especially in Batu Putih Subdistrict and especially in Makkuaseng Village, various mining business activities carried out by individuals, groups and mining companies actually give rise to various problems such as the dumping of nickel waste from certain mining companies into residential areas causing landslides and a number of residents in several villages were forced to evacuate, environmental pollution and thick mud from mining waste arising from mining management by the company has been going on for a long time and caused many sago plants belonging to village residents to experience damage and death so that the source of livelihood of the villagers was disrupted, mining activities have changed the color of the water of a number of rivers and the lake becomes brownish and reddish, the activities of mining companies cause mud water runoff to flow and lead to settlements, plantations and rice fields, causing residential areas to become buried in mud and agricultural and plantation crops become increasingly stunted and experience damage and death. Apart from that, certain mining companies' channels and sediment ponds are ineffective, resulting in mud continuing to smear on roads, agricultural land, and rivers when it rains because of the reservoir's overflow (source: various sources: Betahita. id, Indonesian Edition. id, Adiwarta.com, 2022).

As a result of the impact of haphazard mining management, both carried out by certain mining companies and increasingly widespread illegal miners, village residents have had to submit protests to mining companies several times, but they rarely respond or respond. Likewise, complaint reports submitted to local law enforcement often need to receive maximum follow-up. The phenomenon is, even though this problem has received attention, supervision, and warning from the relevant agencies (such as the Environmental Protection and Management Service/ DPPLH, the One Stop Integrated Service and Investment Service (DPMPTSP), and the DPRD, the problem is still not resolved. Other problematic phenomena are rampant land disputes, land grabbing, theft of mining products, falsification of sales documents for illegal mining products, disputes and fights between groups, pros, and cons between those who support the opening of mines and closure of mining areas, increasing conflicts over mining land, etc. Apart from that, the authorities such as the Police, Department of Energy and Mineral Resources (ESDM), and Mining Inspectors are rumored to continue to legalize illegal mining activities even though they have caused several victims (Editor of Koransultra.com, Topicterkini.com, Jayantaranews.com, Lensakita. id).

In its current development, Batu Putih Subdistrict, North Kolaka Regency, including Makkuaseng Village, with abundant natural resource potential (SDA) and a wealth of mining products, is facing various common challenges, including (1) So far, PHLH policies and programs in sector development mining implemented by the State/Government is still too dominant using a top-down approach, and conversely the bottom-up paradigm and approach is still very minimal/inadequate or even sidelined; (2) The implication of this is that the community only becomes an object and target (not a subject), which causes greater dependence on the Government and law enforcement institutions/apparatus in resolving any problems and conflicts that arise. This mental attitude and culture of dependency then give rise to community helplessness in overcoming the problems and conflicts they face.

Specific problems that occur include (1) Various mining business activities in their development give rise to various problems and conflicts, involving individuals and community groups, business actors, mining workers, local government officials and law enforcement, NGOs, and other stakeholders; (2) Community involvement and participation in efforts to resolve problems and conflicts; (3) As a result of the increasing mental attitude and culture of dependency on assistance from the Government/Law Enforcement, local communities in Makkuaseng Village, Batu Putih District, North Kolaka Regency experience helplessness and lack of independence in preventing, overcoming and resolving the problems and conflicts they face; (4) This helplessness and lack of independence is caused by the lack of implementation of awareness policies and programs, socialization/counseling, education, training, capacity strengthening, empowerment, and behavioral cultivation which causes local communities to have awareness, commitment, motivation, human resource competence, and positive behavior to participate and participate in efforts to resolve problems and conflicts in the surrounding environment; (5) The lack of involvement and participation of local communities is due to the absence of an

organizational platform to participate and participate in solving problems and conflicts (conflict management) (Ilyas, 2022).

An alternative strategic approach is needed in connection with general and specific problems, predominantly the Restorative Justice Institution (LRJ) development. This approach focuses more on diverting problems and conflict resolution from legal channels (litigation, court) to non-legal channels (non-litigation, society). The presence of LRJ provides many benefits and advantages to the community, the Government, and law enforcement. First, for the community, the existence of LRJ can, among other things.

1. Become a forum for organizations to participate and participate in solving problems and conflicts (conflict management) together;
2. increasing awareness, motivation, competence, and positive behavior in managing the conflicts faced;
3. increasing unity and oneness, solidity, solidarity, and cooperation in preventing and overcoming problems and conflicts;
4. Increase empowerment, independence, and power;
5. Other benefits.

Second, for law enforcers, the existence of LRJ

1. lightens the workload of institutions (courts, police, prosecutors) and law enforcement officers in resolving problems in society;
2. reduces operational costs;
3. increases coordination and cooperation with fellow law enforcement agencies/officials and the community;
4. increasing community participation in assisting law enforcement institutions/officials in carrying out law protection and enforcement;
5. Other benefits.

Third, for the Government, the existence of LRJ

1. eases the burden on the Government/relevant agencies in maintaining order and resolving problems in society,
2. streamlines the state budget for protection and law enforcement,
3. other benefits.

An alternative strategic approach is needed in connection with general and specific problems, primarily forming a Restorative Justice Institution (LRJ). This approach focuses more on diverting problems and conflict resolution from legal channels (litigation, court) to non-legal channels (non-litigation, society). The presence of the Restorative Justice Institution (LRJ) provides many benefits and advantages not only to the community but also to the Government and law enforcement.

2. Method

This study used qualitative descriptive research type (Sugiyono, 2020). Research design is analytical, exploratory, explanatory, phenomenological, comparative, and evaluative (Creswell, 2016). The research location is Makkuaseng Village, Batu Putih District, North Kolaka Regency, Southeast Sulawesi Province, with a population of 548 people or 127 families. A sample of 100 families was taken based on a proportional sampling technique, namely 10%. Data was collected through literature study, observation, questionnaires, interviews, FGD, and documentation. Likert scale research instrument. Qualitative data analysis techniques (Mile & Huberman, 2016; Moleong, 2014).

3. Results and Discussion

The research findings show that First, overall, of the 100 community respondents, an average of 12.0% said it was good, 22.0% said it was sufficient, and 66.0% said it was poor. This means that the community in Makkuaseng Village, Batu Putih District, does not yet have/is supported by optimal human resource competency regarding the understanding, significance or significance, objectives, and benefits of the existence of the Restorative Justice Institution (LRJ) as a means for resolving problems

and conflicts in mining and environmental management. He lives in his village. Second, 75% of village residents supported the establishment of the Restorative Justice Institution (LRJ) as a means of community empowerment to resolve problems and conflicts in mining businesses and environmental management (LH) in their area.

In connection with research on the implementation and development of the Restorative Justice Institution (LRJ) for resolving problems and conflicts in mining business activities and environmental management, the results of deliberations/ Focus Group Discussions (FGD) involving several elements of society, Village Government, security forces and law enforcement showed that among others: First, most participants do not/do not have adequate human resource competence (knowledge, skills and experience) regarding the ins and outs of the Restorative Justice (LRJ) Institute for resolving problems and conflicts in mining business activities and environmental management (LH). In this case, only a few participants have competence regarding the importance, objectives, and benefits of implementing Restorative Justice (RJ), the urgency of implementing RJ, the method or method of implementation, actions that must be taken, implementation mechanisms, who must be involved and involved in implementing RJ, how to participate and participate. Second, many community members participating in the FGD agreed to provide attention and support to efforts to increase promotion, socialization, coaching, advocacy, education, and training, as well as simulations of RJ implementation, as well as efforts to increase commitment, motivation, knowledge, skills, and experience in implementing RJ. Third, many or most community members support efforts to realize RJ institutions in their villages, are motivated to get involved and participate in the operationalization of RJ institutions, and commit to RJ institutional socialization, education, and training programs and activities.

Discussions

Research findings in Makkuaseng Village show that in general and overall, the majority (76%) of community members stated that they provide support for the development of the Restorative Justice Institution (LRJ) as a means of resolving problems and conflicts in mining businesses and environmental management (LH) in their village. Excellent and high community support is given to:

1. Involvement of community members in RJ institutions
2. Attention to the formation of LRJ
3. Efforts to resolve problems and conflicts in environmental and mining management
4. Use of LRJ to resolve problems and conflicts in environmental and mining management
5. Increasing awareness, knowledge, skills, and experience in organizing RJ
6. Implementing RJ socialization and education activities
7. Formation of LRJ groups

Meanwhile, support has not been maximized, especially:

1. Motivation to participate and participate in the formation and operationalization of LRJ
2. Commitment to actively participate in RJ socialization, education, and training programs and activities
3. Willingness to provide material assistance (facilities) and non-material (energy, thoughts) in empowering LRJ

The institution of Restorative Justice (LRJ) in Makkuaseng Village is an alternative for village communities to prevent and resolve the problems they face, especially in terms of environmental management problems and mining business activities, which cause various kinds of harmful and destructive impacts on their lives and livelihoods. Village residents sometimes feel dissatisfied or disappointed with certain parties considered competent or authorized to solve their problems. Therefore, with the existence of the Restorative Justice Institution (LRJ), it is hoped that village communities can have a forum or means to discuss problems and solutions, as well as take necessary decisions and actions so that they no longer depend entirely on certain parties who are considered competent or authorized, such as Government/relevant agencies, law enforcement agencies/officials.

The Restorative Justice Institution (LRJ) in Makkuaseng Village is expected to reduce the intensity of problem-solving, especially legal problems, through Law Enforcement Institutions (LPH) such as the Police, Prosecutor's Office, and Courts. It is hoped that solutions to legal problems (administrative,

civil, criminal violations) arising from various mining business activities and environmental management can be found through the Restorative Justice Institution (LRJ). So with LRJ, legal problems that typically or according to positive law (modern law, state law) must be resolved through litigation in Law Enforcement Agencies and Judicial Institutions can be resolved through non-litigation channels. The resolution of legal problems outside legal channels makes the Institutionalization of Restorative Justice (LRJ) urgent, essential, and strategic.

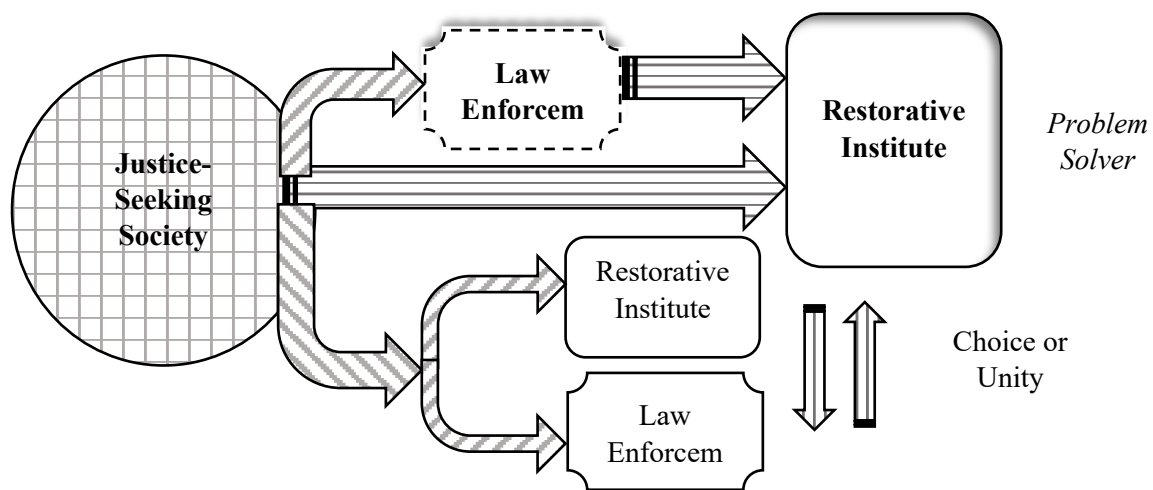
Looking further, the institutionalization of Restorative Justice (LRJ) in Makkuaseng Village, Batu Putih District, North Kolaka Regency is possible because local communities have a basis or roots in cultural values and local wisdom, customs, beliefs, and religious traditions, as well as customary/customary laws (living law). This is by what was stated Marc Levin (Setyawan, 2014) that the restorative justice model has a philosophical, sociological, and legal-cultural basis that relies on "the values of wisdom, trust, honesty, essential truth, substantive justice, togetherness, cooperation, mutual benefit and benefit, harmony, balance, even order, openness, peace, happiness, and mutual prosperity." (Ilyas, 2022). The development of LRJ as a means of solving problems is based on Zulva's (2009) opinion that any belief and religious tradition gives the green light for applying the restorative justice model as an alternative approach to resolving legal cases. The restorative model embraces the ideology, paradigm, and values of philosophy, sociology, and legal culture, which are universal in religious and cultural life and become one of the original souls, spirits, enthusiasm, and dignity of the nations of the world (including Indonesia) which is rooted in the lives of the people pluralist and multicultural human beings.

The development and implementation of the Restorative Justice (LRJ) approach needs to refer to the global agreement of the international community through the United Nations (UN) regarding universal restorative justice policies. Based on ideas and various academic studies carried out by academics, legal experts, and scholars, as well as practitioners and activists in the field of law, which continues to develop, the UN has taken a stance to respond to this by establishing a restorative justice model as a guideline in handling crimes as stated in the Basic principles on the use of restorative justice programs in criminal matters in 2000. These basic principles state, among other things, that "Restorative justice programs may be used at any stage of the criminal system, subject to national law" (Setyawan, 2014; Ilyas, 2022). The UN emphasizes that a restorative justice program is any program that uses a restorative process to achieve desired results. The goal is to restore peace and damaged relationships through condemnation of evil behavior and strengthening the values that live in the community. Victims' needs are considered in this context, and perpetrators are encouraged to take responsibility. The UN Basic Principles also emphasize that using a restorative justice approach can be part of the criminal justice system.

Furthermore, if we refer to theory, there are at least three models that place the relationship between restorative justice and the criminal justice system in general, namely:

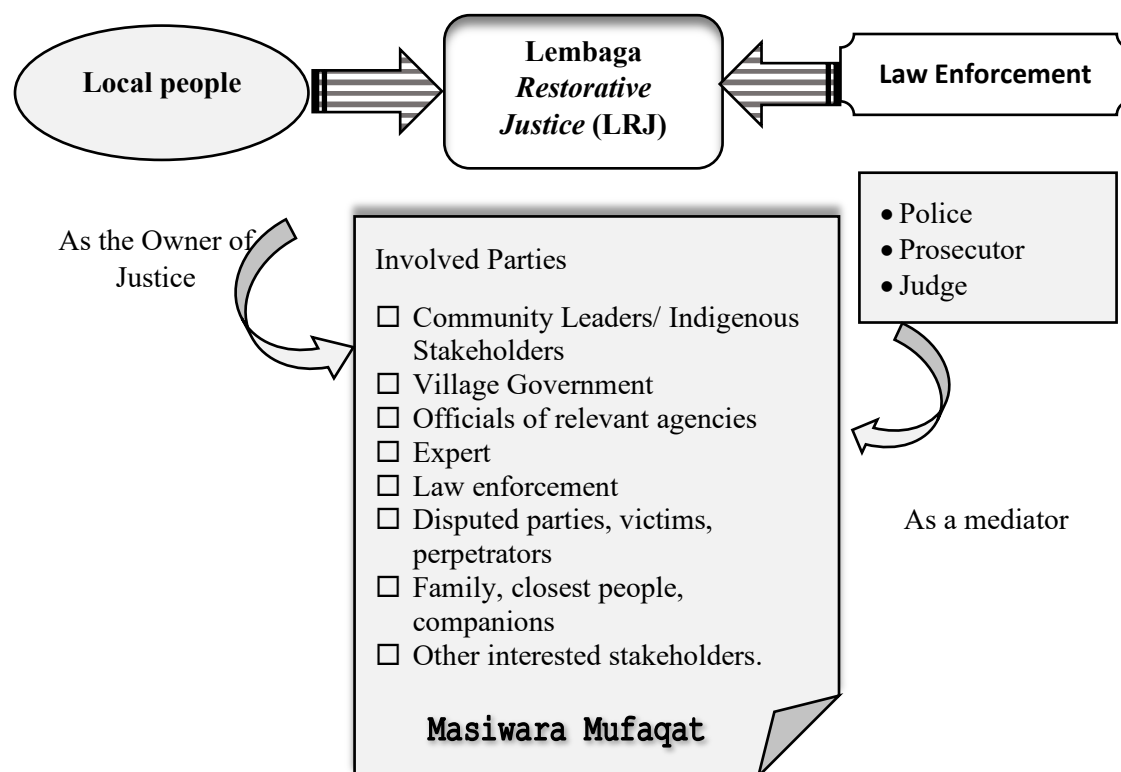
1. As part of the criminal justice system
2. Outside the criminal justice system by continuing to involve law enforcement (as mediators, facilitators, or supervisors, especially when restorative justice models are just starting to be developed)
3. Outside the criminal justice system through other institutions/institutions outside the criminal justice system, There are

These three models can be chosen according to the community's needs, situation, and conditions. In Makkuaseng Village, Batu Putih District, North Kolaka Regency, the institutional model of Restorative Justice (LRJ) or restorative justice (KR), which is more suitable, suitable and relevant to be implemented, is the second model, namely continuing to involve law enforcement as mediators, facilitators or supervisors in the operationalization of restorative justice institutions which are just starting to be developed, with the model as described below.



Source: Ilyas, 2022

Figure 1. Universal Model of Restorative Justice from the United Nations and Legal Experts



Source: Ilyas, 2022

Figure 2. Restorative Justice Model of Makkuaseng Village, Batu Putih District, North Kolaka Regency

Figures 1 and 2 show that: First, community members seeking justice have a choice in resolving a problem they face. Namely, they can first submit a report of their legal problem to law enforcement (Police), and then law enforcement, as a facilitator, can take the problem to the Institution. Restorative Justice (LRJ) for the solution. Second, community members seeking justice can directly submit reports of the legal problems they face to LRJ to be resolved. The LRJ administrators/managers can involve various parties such as community leaders, traditional stakeholders, Village Government (Village Head), related agency officials (District Head, officials from the relevant Department/Office), experts (experts in specific fields according to the type of problem such as legal experts, sociologists, psychologists, environmental experts, and others), law enforcers (Police, Prosecutors, Judges) as mediators, parties to the dispute, victims, perpetrators, family, closest people, companions, and other interested stakeholders. Third, the problem-solving process at LRJ is carried out through specific mechanisms and stages, which are based on the principles of deliberation and consensus: openness, accountability, participation, speed and precision, efficiency, and effectiveness. Fourth, problem resolution at LRJ ends with a binding decision for the parties to the dispute, the perpetrator and the victim. This decision is made by the law enforcers present. Fifth, solutions to problems are carried out in an orderly, harmonious, and peaceful manner.

Specifically regarding problems and conflicts in the mining business and environmental management, village residents (individuals and groups) have options, namely: First, they can submit complaints and reports to the local police, then the police carry out investigations and inquiries into case reports received, and then the police as the facilitator brought the case to LRJ for a resolution process through deliberation and consensus involving various relevant and related parties. Second, you can submit complaints and reports directly to LRJ. LRJ administrators/managers make written invitations to various parties deemed necessary, including parties to the dispute, perpetrators and victims, community leaders, local government officials, and related agencies, including enforcement officers. Law (police, prosecutor, judge) requires the attendance of a formal meeting. The resolution of problems and conflicts is proven by a letter of agreement between the parties and witnesses, and so on.

Referring to the opinion of legal experts, restorative justice, in principle, is an approach to criminal law that contains several traditional values based on two indicators: First, the values on which it is based, and second, the mechanism it offers. These two indicators are the basis for considering why the existence of restorative justice is being taken into account. The existence of the restorative justice approach is considered as old as criminal law. For thousands of years, efforts to handle criminal cases have relied on a restorative justice approach as the primary mechanism for handling criminal acts (Ilyas, 2022).

Judicial professionals experience ambivalence; that is, on the one hand, they experience anxiety, and on the other hand, they have positive experiences in implementing reparative (alternative) sanctions and informal conflict resolution processes through perpetrator and victim media, thereby encouraging the emergence of judicial reformatory thinking towards a restorative model. Therefore, the application of the Restorative Justice (RJ) model in resolving conflicts and legal problems in the mining and environmental sectors in Makkuaseng Village, Batu Putih District, as stated by experts, has several advantages compared to the individual actor and retributive coaching model. The distinguishing feature of the restorative model from previous models lies in how it views criminal behavior. According to the restorative model, criminal behavior harms the victim and society. Therefore, restorative justice responses are directed at repairing those losses and healing the wounds in society. Restorative justice is neither punitive nor light in nature. The main goal is the repair of the wounds suffered by the victim, the perpetrator's recognition of the wounds caused by his actions, and conciliation and reconciliation among the victim, perpetrator, and society. Apart from that, it also wants to restore the welfare of society through ways of bringing accountability for criminal behavior; victims who are usually prevented from participating in the justice process are now allowed to participate in the case resolution process. According to Braithwaite, such methods give rise to feelings of shame and personal and family responsibility for their wrongdoings to be adequately corrected (Setyawan. 2014; Ilyas, 2022).

The application of the Restorative Justice (RJ) model in resolving conflicts and legal problems in the mining and environmental sectors in Makkuaseng Village, Batu Putih District, is in line with the restorative justice model, which also departs from the assumption that responses or reactions to criminal behavior are ineffective without the cooperation and involvement of the victim, perpetrators, and society. The underlying principle is that justice is best served when each party receives fair and balanced attention, is actively involved in the justice process, and obtains adequate benefits from their interactions with the justice system.

Referring to the aspects of restorative justice proposed by Hellen Cowie and Dawn Jeniffer (2007), the application of the Restorative Justice (RJ) model in resolving conflicts and legal problems in the mining and environmental sectors in Makkuaseng Village generally contains three main aspects, namely repair, restoration relationships, and Reintegration. The first aspect is improvement, which means justice, not win-lose, accusations, or revenge. The second aspect, namely relationship restoration, concerns the process of open and direct communication between victims and criminals, which has the potential to change the way they relate to each other. The third aspect, Reintegration, aims to provide space for parties in conflict to obtain justice, learn about the consequences of violence and crime, and understand the impact of criminal behavior on other people.

The development of the Restorative Justice (RJ) model in resolving conflicts and legal problems in the mining and environmental sectors in Makkuaseng Village is different from the Retributive Justice model. According to Jeff Christian, in Retributive Justice, the perpetrator is against the State/queen/government, whereas in restorative justice, the perpetrator is against the victim or resistance between individuals. In the retributive model, the question is how to punish the wrong person so the war between lawyers occurs. However, in the restorative justice model, the question is how to solve problems, so what is needed is dialogue and cooperation. Restorative justice is more about efforts to prevent similar crimes in the future.

Moreover, society will erase or forget it. This model will also reach an area where the perpetrator regrets it and does not repeat it. This is different from the retributive justice model, which does not guarantee that the punishment given for the same mistake will not be repeated. The stigma of the perpetrator will be challenging to remove, and the stigma or labeling will forever be there with all its consequences in life (Setyawan, 2014; Ilyas, 2022).

The development of the Restorative Justice (RJ) model in resolving conflicts and legal problems in the mining and environmental sectors in Makkuaseng Village places greater emphasis on restoring relationships between perpetrators and victims. In this case, if the victim is a member of the community while the perpetrator is the party (company) managing the mine, then through LRJ, it is possible for both parties to have a good, peaceful, and harmonious relationship restored. Therefore, in the retributive justice model, the community is not involved because lawyers have represented them; the perpetrators are only objects, and their existence is not even acknowledged. In restorative justice, they are involved through community figures who have authority in their environment, religious figures, influential people, and so on. Apart from that, the perpetrator and victim are actively given an equal role in resolving the case. The development of this model places more emphasis on developing the capacity of village communities. This differs from the retributive justice model, where law enforcers (police, prosecutors, and judges) receive more capacity development. Apart from that, individualistic values and competition between perpetrators and opponents are also attached, so there is a process of appeal and cassation stages in the judicial process. However, in the restorative model, all parties are invited to cooperate to resolve the problem.

The development of the Restorative Justice (RJ) model in resolving conflicts and legal problems in the mining and environmental sectors is by Muladi's (2015) opinion that in the restorative justice model, victims' dignity is taken into account, and perpetrators must be held accountable and reintegrated into their communities. The perpetrator and victim are in an equal position and need each other; therefore, they must be reconciled. Likewise, Bagir Manan stated that in restorative justice, cases must be changed, no longer for the sake of order but for the sake of the victim and their material and psychological recovery. In essence, how to prevent the perpetrator from imprisonment but still be responsible (Ilyas,

2022). Therefore, the institutionalization of restorative justice as a means of community empowerment in resolving problems and conflicts is supported by various concepts, paradigms, focus, goals, approaches and benefits (Bazemore & Mara (2010), Braithwaite (2002), Hutauruk (2013), Johnstone and Van Ness (2005), Liebmann (2007), Marlina (2009), Muladi (2015), Tridiatno (2015), Utomo (2017), Wahid (2009), Yusuf (2016), Zulfa (2012).

The development of the Restorative Justice (RJ) model in resolving conflicts and legal problems is by the development model theory developed by Dick and Carry called ADDIE (Analysis et al., and Evaluations) (Maydiantoro, 2021; Mulyatingsih, 2021; Ali, 2021; Rayanto & Sugiharti, 2020). Development in the ADDIE development research model contains activities to realize product designs that have previously been created. In the previous stage, a conceptual framework for implementing a new product in the form of a community empowerment model in disaster management was prepared (Maydiantoro, 2021). The conceptual framework is then realized into a product ready to be implemented, as in Figure 2. The development stage is the stage for producing a development product. Moreover, it is also necessary to create an instrument to measure product (model) performance (Maydiantoro, 2021; Ali, 2021; Albizzia et al., 2022).

Finally, developing the Restorative Justice (RJ) model in resolving conflicts and legal problems in the mining and environmental sectors in Makkuaseng Village clearly shows the difference from non-restorative justice. Restorative justice adheres to a sociological paradigm, relies on the philosophy of wisdom, is based on national ideology, is based on substantive justice values, is guided by the principles of cooperation and consensus as well as efficiency and effectiveness, integrates socio-cultural - religious - legal norms, is concept-oriented. and progressive legal theory, as well as applying sociological and legal cultural analysis methods in case resolution practice.

4. Conclusion

Development of the Restorative Justice (RJ) model in resolving conflicts and legal problems in the mining and environmental sectors: First, community members seeking justice have a choice in resolving a problem they face, namely being able to submit a report of their legal problem first to law enforcement (Police), Then law enforcement as facilitators can bring the problem to the Restorative Justice Institute (LRJ) for a solution. Second, community members seeking justice can directly submit reports of the legal problems they face to LRJ to be resolved. The LRJ administrators/managers can involve various parties such as community leaders, traditional stakeholders, Village Government (Village Head), related agency officials (District Head, officials from the relevant Department/Office), experts (experts in specific fields according to the type of problem such as legal experts, sociologists, psychologists, environmental experts, and others), law enforcers (Police, Prosecutors, Judges) as mediators, parties to the dispute, victims, perpetrators, family, closest people, companions, and other interested stakeholders. Third, the problem-solving process at LRJ is carried out through specific mechanisms and stages, which are based on the principles of deliberation and consensus: openness, accountability, participation, speed and precision, efficiency, and effectiveness. Fourth, problem resolution at LRJ ends with a binding decision for the parties to the dispute, the perpetrator and the victim. This decision is made by the law enforcers present. Fifth, solutions to problems are carried out in an orderly, harmonious, and peaceful manner.

References

- Adiwarta.com. (2021). DLH Peringati PT. Kasmar Tiar Raya, Sediment Pond Belum Memadai. Retrieved from <https://adiwarta.com/>
- Ali, H. (2012). *Peradilan Sederhana Cepat dan Biaya Ringan Menuju Keadilan Restoratif*. Bandung: PT Alumni.
- Ali, M. (2021). Pengembangan Model. Retrieved from <https://repository.unja.ac.id/>
- Albizzia, O., Setyowati, Y., & Sakina, A. W. (2022). Pemberdayaan Difabel Siaga Bencana (Difagana) dalam Sistem Manajemen Bencana Inklusif di Daerah Istimewa Yogyakarta. *IMEJ: Islamic Management and Empowerment Journal*, 4(1), 41-58. <https://doi.org/10.18326/imej.v4i1.41-58>

- Arief, B. N. (2019). *Mediasi Penal Penyelesaian Perkara Diluar Peradilan*. Semarang: Pustaka Magister.
- Aryadi, D. (2020). Implementasi Keadilan Restoratif Dalam Sistem Peradilan Pidana Sebagai Perwujudan Nilai-Nilai Yang Berwawasan Pancasila. *Jurnal Program Pascasarjana Fakultas Hukum Universitas Diponegoro*, 9(2). Retrieved from <https://www.neliti.com/publications/209940/>
- Bazemore, G., & Schiff, M. (2010). *Juvenile Justice Reform and Restorative Justice: Building Theory and Policy from Practice*. Willan Publishing, Oregon.
- Betahita.id. (2023). Batuputih Sarang Penambangan Nikel Ilegal di Kolut. Retrieved from <https://betahita.id/>
- Braithwaite, J. (2002). *Restorative Justice & Responsive Regulation*. England: Oxford University Press.
- Creswell, J. W. (2016). *Qualitative Inquiry and Research Design: Choosing Among Five Traditions*. USA: Sage Publication. (Original work published in 2016)
- Deklarasi PBB Tahun 2000 tentang Prinsip-Prinsip Pokok tentang Penggunaan Program-Program Keadilan Restoratif dalam Permasalahan-Permasalahan Pidana.
- EdisiIndonesia.id. (2023). Akibat Aktivitas Pertambangan PT Kasmar dan PT TMM, Persawahan Warga di Kolut Tertimbun Lumpur. Retrieved from <https://edisiindonesia.id/>
- Hutauruk, R. H. (2013). *Penaggulangan Kejahatan Korporasi Melalui Pendekatan Restoratif Suatu Terobosan Hukum*. Jakarta: Sinar Grafika.
- Ilyas. (2022). *Indonesia Menuju Restorasi Pelembagaan Keadilan Restoratif di Indonesia*. Universitas Megabuana Palopo.
- Ilyas. (2021). *Indonesia Menuju Restorasi Sistem Ketatanegaraan Dan Konstitusi Ber-Pancasila, Negara Hukum Pancasila, Bermajelis Dan Bermahkamah Pancasila, Serta Keadilan Restoratif Berpancasila*.
- Jayantaranews.com. (n.d.). Jadi Sarang Konflik, HIPPERMAKU Desak Kapolres Kolaka Utara Tertibkan Aktivitas Tambang di Batuputih. Retrieved from <http://jayantaranews.com/>
- Johnstone, G., & Van Ness, D. W. (2005). *The Meaning of Restorative Justice*. Paper presented at the United Nations Eleventh Congress on Crime Prevention and Criminal Justice, Bangkok-Thailand.
- Lensakita.id. (2020). Polda Sultra Tetap Legalkan Aktivitas Tambang Ilegal di Batu Putih. Retrieved from <https://lensakita.id/>
- Liebmann, M. (2007). *Restorative Justice, How it Works*. London and Philadelphia: Jessica Kingsley Publishers.
- Manan, B. (2004). *Pembinaan Hukum Nasional*. Bandung.
- Marlina. (2009). *Peradilan Anak di Indonesia dan Pengembangan Konsep Diversi dan Restorative Justice*. Bandung: Refika Aditama.
- Maydiantoro, A. (2021). Model-Model Penelitian Pengembangan (Research and Development). Retrieved from <http://repository.lppm.unila.ac.id/>
- Miles, M. B., & Huberman, M. A. (2016). *Qualitative Data Analysis: An Expanded Sourcebook* (2nd ed.). London: Sage Publication.
- Moleong, L. J. (2014). *Metodologi Penelitian Kualitatif* (11th ed.). Bandung: Remaja Rosdakarya.
- Muladi. (2015). *Kapita Selekta Sistem Peradilan Pidana*. Semarang: BP Universitas Diponegoro.
- Mulyatingsih, E. (2021). Pengembangan Model Pembelajaran. Retrieved from <https://staffnew.uny.ac.id/upload/131808329/pengabdian/pengembangan-model-pembelajaran.pdf>
- Priyatno, D. (2007). *Pemidanaan untuk Anak dalam Konsep Rancangan KUHP (Dalam Kerangka Restorative Justice)*. Bandung: Lembaga Advokasi Hak Anak (LAHA), Edisi VIII/Volume III.
- Rayanto, Y. H., & Sugiharti. (2020). Penelitian Pengembangan Model ADDIE (Analysis, Design, Development, Implementation & Evaluation) dan R2D2 (Reflective, Recursive, Design and Development). Retrieved from <https://books.google.co.id/>

- Redaksi koransultra.com. (2020). Dua Aliansi di Kolut Saling Tuntut Tambang: Mahasiswa Minta Tutup, Warga Tetap Buka. Retrieved from <http://koransultra.com/>
- Setyawan, D. (2014). Menuju Restorative Justice Dalam Sistem Peradilan Anak. Retrieved from <http://support.heateor.com/browser-blocking-social-features/>
- Sugiyono. (2020). *Metode Penelitian Kuantitatif dan Kualitatif dan R&D*. Bandung: Alfabeta.
- Supeno, H. (2006). *Peradilan Restoratif: Model Peradilan Anak Indonesia Masa Datang*. Semarang: Universitas Diponegoro.
- Surat Keputusan Direktur Jendral Badan Peradilan Umum No. 1691/DJU/SK/PS.00/12/2020 tentang Pedoman Penerapan Restorative Justice Di Lingkungan Peradilan Umum.
- Topikterkini.com. (2020). Hebat dan Kebal Hukum, PT KTR Diduga Fasilitasi Dokumen Penjualan Ore Nickel Pada Penambang Ilegal. Retrieved from <http://topikterkini.com/>
- Tridiatno, Y. A. (2015). *Keadilan Restoratif*. Yogyakarta: Cahaya Atma Pustaka.
- Undang-Undang Dasar Negara Republik Indonesia Tahun 1945.
- Undang-Undang Nomor 32 Tahun 2009 tentang Perlindungan dan Pengelolaan Lingkungan Hidup.
- Undang-Undang Nomor 8 Tahun 1981 tentang Hukum Acara Pidana.
- Utomo, S. (2017). *Sistem Pemidanaan Dalam Hukum Pidana Yang Berbasis Restorative Justice*. Mimbar Justitia Fakultas Hukum Universitas Suryakencana, 5(1), 86.
- Peraturan Kejaksaan No. 15 Tahun 2020 tentang Penghentian Penuntutan Berdasarkan Keadilan Restoratif.
- Wahid, E. (2009). *Keadilan Restoratif Dan Peradilan Konvensional Dalam Hukum Pidana*. Jakarta: Universitas Trisakti.
- Yusuf, A. (2016). *Implementasi Restorative Justice Dalam Penegakan Hukum Oleh Polri: Demi Mewujudkan Keadilan Substantif*. Jakarta: Universitas Trisakti.
- Zulfa, E. A. (2012). *Pergeseran Paradigma Pemidanaan*. Bandung: Lubuk Agung.
- Zulfa, E. A. (2009). *Keadilan Restoratif*. Jakarta: Badan Penerbit FH UI.