

Unraveling Patterns of PETI in Sintang: The Urgency of Restorative Approach in Environmental Law Enforcement

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Abstract

Unlicensed Gold Mining (PETI) in Sintang Regency continues to be a complex multidimensional problem, not only affecting environmental damage, but also posing public health risks and exacerbating local socio-economic conditions. The criminalization of PETI perpetrators that has been pursued so far has proven ineffective in preventing illegal activities and restoring the damage that has occurred. This research criticizes the repressive approach through criminalization of PETI perpetrators and analyzes the urgency of applying a restorative justice approach as an alternative to sustainability-based legal settlements. Through empirical studies and in-depth interviews with officials and related agencies in Sintang, it is found that criminalization tends to ignore aspects of restorative justice for affected communities, and does not touch the structural and economic roots that drive PETI activities. Compared to the practice in Australia, which is more adaptive to the environmental approach, Indonesia is considered to have not integrated the principles of recovery in its law enforcement. Therefore, this research recommends a paradigm shift in environmental law from a punitive approach towards a restorative approach that emphasizes environmental restoration, community empowerment, and dialogical and sustainable conflict resolution.

Keywords: *PETI, Sintang, Restorative Justice, Environmental Law, Alternative Approach.*

INTRODUCTION

Illegal Gold Mining (PETI) is an activity that does not have or obtain a permit from the government to control the mine. PETI can be carried out by local communities or other individuals, by individuals or groups. Even if the activity has been passed down through generations, it is still classified as PETI if it lacks an official permit (Novendra, Lesawengan, & Kandowangko, 2021). The existence of minerals is a good opportunity, especially for local communities, to manage and make PETI their source of income.

West Kalimantan Province is rich in natural resources, including gold. Gold deposits are not concentrated in one region, but are spread across various areas, including Sintang, Kapuas Hulu, Melawi, Sanggau, Landak, and Bengkayang. Sintang Regency is one of the regions in West Kalimantan geographically crossed by two major rivers, the Kapuas and Melawi, which

also pass through other areas with potential for gold mining. The Kapuas and Melawi rivers, which support gold potential, are naturally exploited by local communities for mining activities. However, almost all of these activities are without business permits or the knowledge of the government, particularly the local government.

PETI has been going on for quite a long time and has become an economic mainstay for some local communities in Sintang Regency. In legislation, specifically in Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, the utilization of natural resources such as gold can be used for the prosperity of the people. Gold mining is specifically regulated in Law Number 2 of 2025, the Fourth Amendment to Law Number 4 of 2009 concerning Mineral and Coal Mining (Minerba Law). In the Minerba Law, it is strictly regulated that mining activities, both companies and local, must register their business permits in order to comply with the provisions on the use of chemicals and procedures. Although mineral wealth may be managed by all Indonesian people, official procedures including permits must still be a legal requirement for a mining business.

Due to the presence of illegal mining (PETI) in Sintang Regency, authorities and the environmental agency are unable to control mining activities, including enforcing environmental quality standards. This is due to the lack of licensing and administrative processes, which result in these small businesses not being registered in the system. This permit is caused by various factors, including the complicated and expensive licensing process, limited access to information, and the pressing economic needs of the community (Octaviana, Ulfah, & Harjanti, 2023). This situation makes it difficult for the government and law enforcement officials to monitor and control the environmental impact of PETI activities.

Law enforcement officers, specifically the Sintang Police Resort (Polres Sintang), also face a dilemma in the law enforcement process. This is due to the existence of PETI (Mining of Illegal Mining), which has become a highly controversial issue in Sintang Regency. Consequently, police movement in law enforcement is quite limited. The Sintang Police Resort always strives for socialization as an initial step to prevent the spread of mining activities, by providing various information about the dangers of PETI to the public. Furthermore, in law enforcement, the Sintang Police Resort also conducts investigations into reported PETI cases up to the court stage. However, unfortunately, law enforcement efforts have not completely reduced the number of PETI activities in Sintang Regency. The suppression of PETI numbers is not only aimed at eliminating illegal businesses but also providing understanding and legal business licensing mechanisms to the public.

Comparative studies are a tool for exploring various legal remedies that can be taken to address illegal mining (PETI). One result of these comparative studies is the application of restorative justice as a solution to PETI cases. Restorative justice efforts are not only aimed at stopping PETI activities, but also serve as a method that directly involves perpetrators and the community in the same space. Environmental problems, in reality, not only harm one or two individuals, but can also harm a group or even more. Restorative justice efforts applied to PETI cases are not merely peace efforts, but also connect perpetrators with victims and how they the empowerment of managed gold and the legal steps they must take. The urgency of the increasing presence of PETI has given rise to various concerns, including health issues.

PETI activities are basically activities that cannot be separated from the use of hazardous chemicals (Sulastri, 2017). If there is no control over the use of chemicals in PETI activities, it will potentially cause environmental pollution which will have an impact on health problems. The waste resulting from gold extraction itself can be categorized as Hazardous and Toxic Materials (B3) waste (Sulastri, 2017). The PETI problem in Sintang not only has legal and environmental dimensions, but also contributes to public health issues, such as increasing the risk of stunting in children due to the decline in river water quality (Badan Pemeriksa Keuangan Republik Indonesia, 2025). This is closely related to the right to a good and healthy environment as guaranteed in Article 28H of the 1945 Constitution and clarified in Law Number 32 of 2009 concerning Environmental Protection and Management.

However, in the social context of Sintang Regency, illegal mining (PETI) is largely carried out by local communities driven by economic pressures, limited employment opportunities, and the complex and expensive legal licensing process. Therefore, imprisonment or fines should not be the sole law enforcement measure. Community conditions and the demands of life are the reasons for the existence of PETI.

Therefore, restorative justice efforts will be a path that considers the existence of the perpetrator, the community, and also the environment. Restorative justice efforts are not intended to replace criminal penalties but rather efforts that provide solutions or answers for affected communities and business actors who cannot take legal steps. The implementation of restorative justice based on environmental restoration and empowerment of perpetrators can be seen as a sustainable solution that is fairer and more humane.

METHOD RESEARCH

This research uses an empirical juridical legal research method, namely analyzing the problems studied using legal materials. The legal materials used consist of: (a) primary legal materials in the form of laws and regulations related to mining and restorative justice; (b) secondary legal materials in the form of books, journals, papers, and other relevant academic literature; and (c) tertiary legal materials as supporting materials, such as legal dictionaries.

Furthermore, this study utilizes empirical data obtained through interviews with relevant parties and literature review from reliable sources. The collected data was then analyzed by connecting legal norms and social facts, resulting in conclusions in line with the problem formulation regarding the resolution of illegal gold mining (PETI) cases through a restorative justice approach.

DISCUSSION AND ANALYSIS

1. Analysis of Criminal Elements and the Ineffectiveness of PETI Law Enforcement

Illegal Gold Mining (PETI) is a prohibited activity and is categorized as a criminal act (Redi, 2016). However, in practice, the presence of illegal gold mining (PETI) continues to increase, including in Sintang Regency, an area with significant gold potential. Many local communities rely on PETI for their income, even making it their primary source of income. This makes illegal mining (PETI) a complex and controversial issue (Suhendra, Kamarullah, &

Nafsiatun, 2023). Law enforcement regarding PETI is therefore highly complex, involving numerous factors, including social, economic, and legal considerations, particularly for communities surrounding mining areas (Suhendra, Kamarullah, & Nafsiatun, 2023). Economic factors are the biggest reason why people continue to carry out illegal mining activities even though they are aware of the criminal sanctions.

The presence of illegal mining (PETI) activities in Indonesia has increased annually. By 2010, there were more than 850 mining sites across the country. Data on mining activity is supported by a press release from the Ministry of Energy and Mineral Resources (ESDM) Number: 259.Pers/04/SJI/2022, there are more than 2,700 illegal mining locations spread across Indonesia and this figure also includes gold mining locations (Kementerian Energi dan Sumber Daya Mineral, 2022).

Mining activities have been legally bound through the Coal Mineral Law Number 2 of 2025 concerning the Fourth Amendment to Law Number 4 of 2009 concerning Mineral and Coal Mining, hereinafter referred to as the Minerba Law. That has also been regulated regarding gold mining in the Minerba Law, where Mining businesses are carried out based on Business Permits from the Central Government. One form of Business Permit is a permit where the permit can be in the form of IUP, IUPK, IPR, SIPB, etc. One of the criminal penalties given by the state to PETI perpetrators is imprisonment and fines.

In one of the illegal mining cases handled by the Sintang Police Resort (Polres Sintang), one of the perpetrators, Johan, was proven to have violated Article 161 of the Mineral and Coal Mining Law for conducting mining without an official permit. The defendant, Johan, was sentenced to 2 years in prison and a fine of Rp. 30,000,000.00 for his actions, but this sentence is not the maximum demand of Article 161 of the Mining Law. Based on data on handling of illegal mining cases at the Sintang Police Resort, there were 6 illegal mining cases handled throughout 2022-2024. Among them, 5 cases reached the court stage and 1 case was stopped due to diversion. Based on information from one of the police officers from the Specific Crimes Unit (Tipidter), no action was taken against PETI cases throughout 2020-2021 because at that time Sintang Regency was still hit by the Covid-19 Virus which took into account the socio-economic factors of the community.

On the other hand, prevention efforts are also being pursued through community outreach. An interview with a police officer, First Brigadier Isya, revealed that authorities are continuing to conduct outreach, particularly in areas prone to illegal mining (PETI) in Sintang Regency. This outreach includes providing information and understanding of the dangers of PETI and its

potential health impacts, such as:stuntingPrevention efforts also involve collaboration with several agencies, such as the forestry police and the Community Security and Order Officers (Bhabinkamtibmas).

Illegal mining (PETI) has created various dynamics within the Sintang Regency community. For those facing economic hardship and unemployment due to a lack of employment, illegal mining (PETI) is a means of survival. However, for others, particularly those living along the riverbanks that serve as the main routes for illegal mining, they find it increasingly difficult to maintain a decent living environment. This emerging economic pattern presents a significant dilemma for law enforcement, as evidenced by previous interviews, demonstrating that the PETI problem is not a simple one.

2. Criticism of the Criminalization of Illegal Mining: Ineffectiveness and Aspects of Injustice

Law enforcement is an important process carried out by the authorities to ensure that legal provisions can be complied with and implemented effectively by all citizens, including in Indonesia (Asriani & Asyam, 2025). In the context of Illegal Gold Mining (PETI), law enforcement is aimed at maintaining environmental justice, protecting community rights, and preventing detrimental socio-economic impacts on local communities. However, the effectiveness of the criminalization approach to illegal gold mining in areas like Sintang Regency raises significant questions, especially when substantive justice for the community and the environment has not been achieved.

One of the law enforcement institutions that plays a strategic role in handling illegal gold mining cases is the Indonesian National Police (POLRI). According to the provisions of Law of the Republic of Indonesia Number 2 of 2002 concerning the National Police Law (POLRI), namely Article 2, states that the police function includes maintaining public security and order, law enforcement, and protection, patronage, and service to the community. In relation to the Illegal Gold Mining (PETI) case, the police must conduct an investigation as stipulated in the POLRI Law. Police involvement in the PETI case in Sintang Regency is crucial. The police are the first bridge in determining the process of resolving the PETI criminal case.

However, the implementation of police duties in the field regarding illegal mining cases is not without various obstacles, such as a lack of coordination between the government and the community, or even from law enforcement itself. In an interview, the Sintang Regency Police explained how safety factors are also a factor one challenge, so they have difficulty in helping to suppress the case.

Criminal law is the primary instrument for enforcing illegal mining (PETI). Under the Mineral and Coal Mining Law, the criminal approach is prioritized, as outlined in Article 158, which imposes criminal penalties on anyone mining without a Mining Permit (IUP). Similarly, Article 161 stipulates criminal sanctions for those who exploit, transport, or sell mining products without official permits. Although the criminal approach is explicitly regulated as a means of enforcement, its effectiveness does not always address the root causes of problems such as poverty, complex legal access, and unequal legal protection, creating substantive injustice for both the perpetrators and the surrounding community.

In practice, the implementation of criminal sanctions against illegal mining (PETI) perpetrators does not always result in the maximum penalties stipulated in the Mineral and Coal Mining Law. According to a report by the Head of the Criminal Investigation Unit of the Sintang Police, resolving illegal mining cases in the field often involves non-penal approaches such as coaching, counseling, or outreach to community members involved in artisanal mining.

This non-penal approach is in line with Jeremy Bentham's theory of Utilitarianism, which assesses a legal action based on the extent to which it creates benefits (pleasure) or reduces suffering (pain) for the wider community (Pratiwi, Negoro, & Haykal, 2022). This theory does not necessarily prioritize the interests of the majority, but rather considers whether a legal policy can provide greater benefits or actually cause social harm.

Based on this theory, it is clear that the function of criminal sanctions in law is not the sole means of problem solving, but rather part of a dynamic legal system. This legal system allows for the implementation of non-penal strategies as an alternative to achieve broader legal benefits, particularly in the context of illegal mining (PETI) in Sintang Regency. The socio-economic impacts arising from the dynamics of society in Sintang require a legal approach that is not solely repressive, but also understands the root causes and causes of the rampant illegal mining activities. Thus, law enforcement officers can carry out maximum enforcement efforts, while simultaneously raising public legal awareness regarding the dangers and disadvantages of illegal mining activities through non-penal strategies such as education, outreach, and appeals. This approach is important considering that the impacts of illegal mining are not only socio-economic but also environmental health.

According to 2024 data from the Central Statistics Agency (BPS), illegal gold mining (PETI) remains among the ten largest crimes in Sintang Regency. PETI activities are not a simple problem in Sintang Regency; their existence has become a polemic, creating economic and even environmental health dilemmas. A fair solution and remediation of the root causes are

urgently needed due to the potential domino effect. One concern about this domino effect is that the presence of mining activities that pollute water quality can potentially create health problems, including stunting.

In addition to legal and social issues, illegal mining (PETI) activities in Sintang Regency also have serious impacts on the environment and public health. Mining activities around the Kapuas River use hazardous chemicals such as mercury, which pollute the river and threaten the quality of clean water used by the community. Several reports have found the presence of heavy metals such as mercury, aluminum, and barium in river sediments and former mining sites (Abidin & Heryanto, 2002). Which has the potential to cause chronic diseases and digestive disorders (Octaviana, Ulfah, & Harjanti, 2023).

These impacts are strongly correlated with an increased risk of stunting, particularly in areas that rely on river water for daily needs and are not served by the PDAM (State Water Company). Data on stunting prevalence in Sintang Regency over the past four years shows fluctuating figures, remaining above the WHO's safe threshold of 20% (Pemerintah Kabupaten Sintang, 2023). This shows that PETI activities are not only a violation of environmental law, but also a form of violation of constitutional rights to health and a good living environment as regulated in Article 28H of the 1945 Constitution. Therefore, handling PETI needs to consider environmental recovery and public health aspects as an integral part of the legal strategy implemented.

3. Restorative Justice as an Environmentally Based Alternative Solution

Criminal penalties for illegal gold mining (PETI) are expressly stipulated in the Mineral and Coal Mining Law. These criminal provisions reflect the implementation of the absolute theory of criminal law (*Retaliation theory* or *retaliation theory*) (Hasanah & Aulia, 2024). This theory emphasizes that the purpose of punishment is to avenge the evil deeds committed by the perpetrator. Punishment is imposed solely as a moral and legal consequence of the crime, and is absolute without consideration of further social consequences.

However, over time, this theory has become irrelevant, especially for Indonesian society, where the goal of criminal law is prevention or even correction in shaping individual behavior. One form of policy implemented in Indonesia is *Restorative Justice* as one of the solutions to resolving criminal acts (Baidi, 2023). Policy *Restorative Justice* not intended to replace or eliminate criminal penalties, but as an effective and efficient tool in solving problem because law enforcement officers must consider the rights of victims and the results of the settlement

are given based on the agreement of both the perpetrator and the victim Utami, Rahmah, & Wahyudi, 2023).

The element of recovery and the existence of a process of returning damages due to a criminal act *inrestorative justice* This is the reason why this policy will also be applied to illegal mining (PETI) crimes. Imprisonment, in fact, doesn't always have a positive impact, especially for the perpetrators. Under certain conditions, for example, when prison inmates exceed capacity, this can lead to suboptimal rehabilitation, potentially leading to recurrence of similar crimes (Hasanah & Aulia, 2024). Concept of *Restorative Justice* What is offered is not merely achieving the word 'peace', but bringing the perpetrator into direct contact with the victim and the environment as victims.

In a seminar organized by Mint House, Oxford, on 23 October 2024, Professor Ivo Aertsen and Lawrence Keshen KC put forward various views between theory and practice *inrestorative justice* The environment (Aertsen, 2021). According to Professor Ivo Aertsen, the environment has deep roots, encompassing social, political, and even economic history. Environmental damage is a multi-layered phenomenon, involving both ecosystems and humans.

Illegal mining (PETI) is a type of environmental damage that causes serious consequences and impacts. The consequences of PETI can impact the environment long-term, and the legal remedies generally offered in Indonesia for perpetrators include imprisonment and fines (Andriyani Jaihen, Multiwijaya, & Suar, 2024). With minimal environmental guidance provided to perpetrators in prison and fines that are ultimately not allocated for environmental restoration affected by PETI, this results in the inefficiency of the prison sentences and fines currently being applied.

The urgency of effective handling of illegal mining (PETI) that focuses on victims and the environment is crucial in Sintang Regency. This urgency is supported by the Sintang Regency government's failure to establish a Community Mining Area (WPR). Interviews with the Sintang Regency Environmental Agency (DLH) revealed that gold mines in Sintang Regency are unlicensed (illegal), and there is still no community mining area (WPR) in Sintang. The existence of WPR and the licensing system are part of the problem and the reason why illegal mining continues to increase.

The absence of Community Mining Areas (WPR) places communities in a dilemma, forcing them to engage in mining activities without permits to meet their economic needs. The complexity of the administrative requirements for obtaining legal mining permits, coupled with

limited access to third parties who can assist or facilitate the legalization process, further complicates the process. In situations like this, the criminalization approach criminalizes them without taking into account the root of the structural problems they face. This situation underscores the urgency of implementing *Restorative Justice* as a two-way solution that prioritizes social justice-based solutions, environmental restoration, and community empowerment. A similar situation was also found in one of the villages in Sanggau Regency. Based on the results of interviews with Anton (pseudonym), one of the residents who lives side by side with PETI activities, it was discovered that the massive presence of PETI in the area is inseparable from the practice of routinely giving "tributes" to village officials as a form of compromise so that illegal mining activities can continue. This indicates the existence of structural negligence at the local level which makes it difficult to enforce the law optimally.

This phenomenon further clarifies that the problem of illegal mining (PETI) lies not only in weak regulations or the absence of WPR, but also in local social and cultural structures that reinforce the cycle of illegal mining. Therefore, addressing PETI requires a more holistic approach, not solely based on criminal law but also addressing the root causes of social and environmental issues within the community. A restorative justice approach, in this context, can bridge the gap between the legal interests of perpetrators, victims, and local communities.

4. Application and Comparison of Restorative Approaches: A Study of Australia and Sintang Regency

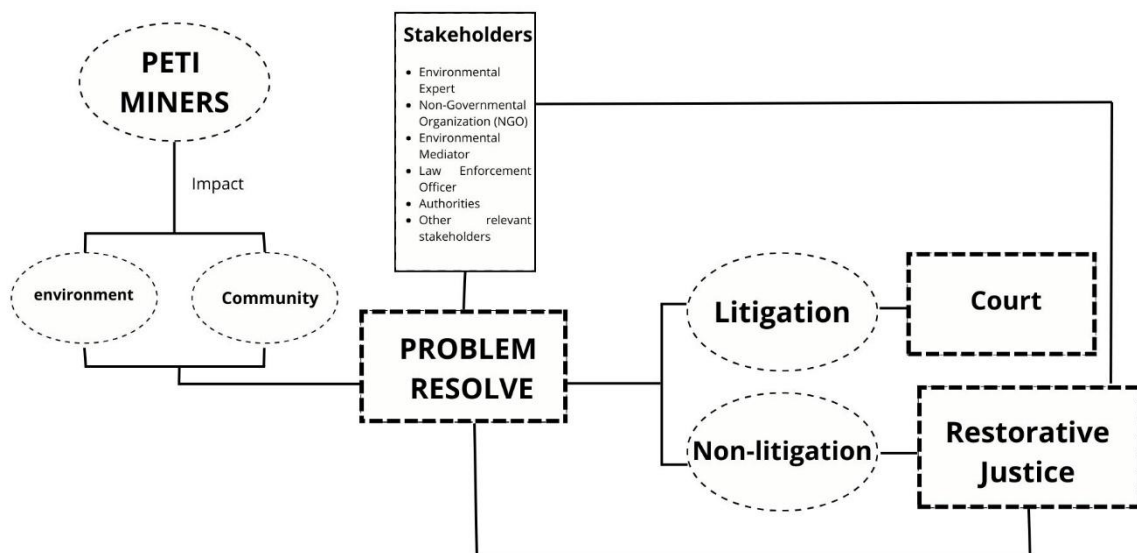
Given the limitations of criminal approaches in restoring ecosystems and the well-being of communities impacted by illegal mining, a study of restorative justice mechanisms proven in other countries and their adaptation to Sintang is needed. Restorative justice is not unique to Indonesia but has also been implemented in other countries, including Australia. Although Australia's legal system is common law and Indonesia uses civil law, this difference does not change the results of the effectiveness of the implementation of Restorative Justice in Indonesia, especially in Sintang Regency.

Australia's restorative justice approach not only offers rapid peacemaking but also employs a variety of approaches between perpetrators and victims. One mechanism used is community conferences. At these conferences, perpetrators can apologize directly and acknowledge how their actions significantly impacted the lives and well-being of others or the environment. In New South Wales, an Australian state, prison sentences are still considered for more serious crimes and intentional behavior that causes significant impacts. Judges in environmental cases can even impose sentences in the form of environmental restoration, such as implementing projects as part of environmental selection in public places, providing funding

for specific projects to restore the environment, or restitution in the form of compensation for damages caused (Pain, 2018).

The Restorative Justice Conference in Australia is designed to transform conflict into reciprocity or cooperation. The involvement of local communities and perpetrators can achieve a transformation where all parties can foster mutual support and produce sustainable solutions (Pain, 2018). Restorative justice is not carried out under duress, but must be carried out if the parties agree (Pain, 2018). Meanwhile, in Indonesia, the implementation of restorative justice still faces various social and legal challenges. Limited understanding among law enforcement officials and limited rehabilitation facilities mean that restorative justice cannot be fully implemented (Erudin, Shofiana, & Indar, 2025). Compared to Australia, Indonesia still requires thorough preparation in regulating restorative justice mechanisms, both through legal codification and outreach to the community.

Based on this urgency, researchers propose a more contextual restorative justice model for the illegal mining (PETI) case in Sintang Regency. This model focuses not only on a quick resolution but also emphasizes legal protection, victim recovery, and environmental sustainability.



To systematically describe how restorative justice mechanisms can be applied to resolve illegal mining cases in Sintang Regency, researchers designed a cyclical model based on environmental and community recovery needs. This schematic displays the key stages of a restorative approach integrated with the principles of legal protection and sustainability. This model is adapted from an approach developed by Ilyas with adjustments to the context of illegal

mining (PETI) perpetrators and environmental damage in Sintang Regency (Ilyas, Nasir, Attas, & Saputra, 2022). Also, further elaboration supported by secondary sources, Professor from International Institute for Restorative Practices (McCold, n.d.). The involvement of perpetrators, victims, law enforcement officials, and third parties as representatives of the environment creates a resolution transparent. The settlement outcome is not necessarily peaceful. If victims feel the need for a court settlement, they can proceed to litigation. In this mechanism, the primary and most important issue isn't imprisonment. This restorative approach addresses root causes often overlooked in conventional litigation processes, such as social reconciliation and ecological awareness. This ensures that perpetrators are not only deterred but also understand the impacts on victims and the environment. This includes providing guidance and education on licensed or legal gold mining.

Conclusion

Criminal acts related to illegal mining (PETI) in Sintang Regency have not yet been significantly reduced. This is due to the lack of effectiveness in the implementation of the legal system and even the ineffective mechanisms used by the local government towards the community. Several main conclusions can be drawn from the research related to illegal mining in Sintang Regency. The biggest cause of PETI is economic pressure. Economic pressure has such a dominant force in life that it can make someone fearless of the law, especially in Sintang Regency. Restorative justice is an innovation in the legal system that can be applied in environmental cases or matters such as PETI. With the involvement of perpetrators, victims, and third parties as environmental experts, it is possible to establish dialogue and problem solving that is far more transparent and sustainable. Restorative justice does not exist to eliminate criminal penalties such as imprisonment or fines, but rather as an active method that can be used as the first stage of resolution in PETI cases. The application of restorative justice in PETI cases is supported by a comparison with the legal system in Australia. This country has used the restorative justice system in resolving environmental issues, and the restorative justice system that is applied is not merely to achieve "peace" but to bring up the most important issues to be resolved.

Suggestion

It is hoped that the local government of Sintang Regency can facilitate the development of education for local mining business operators or prospective operators in Sintang Regency in empowering gold in accordance with environmental quality standards. These facilities can be provided in the form of community-based organizations in the environmental sector, environmental empowerment institutions, environmental mediators, and administrative mechanisms for obtaining legal status for local mining businesses. Law enforcement officials are urged to adopt a resolution approach that prioritizes the protection of citizens' rights and does not rely on majority morality. The government and legislature are advised to develop more educational and non-repressive legal resolution models, while civil society organizations and

educational institutions need to improve legal literacy to reduce stigma. This approach will ensure that legal resolutions are more humane, proportional, and in accordance with constitutional principles. Restorative justice needs to be implemented as the first step in resolving PETI cases, with a focus on dialogue and solutions that address the root causes of the problem. With restorative justice as an effort to resolve PETI issues, it is possible to address the root causes of PETI and find more efficient solutions and quick steps to overcome these problems. It is hoped that the government can maximize the restorative justice system by innovating and comparing it with other countries with legal systems such as Australia in creating concrete mechanisms. These concrete mechanisms and implementation steps can be alternative efforts that can strengthen the existence of all parties, such as business actors, the community, and even the environment in PETI cases.

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