



Analysis of law enforcement against vigilante crimes (*Eigenrichting*) according to the KUHP perspective

Muhammad Fadhil¹, Dahlan², Muhammad Ya'kub Aiyub Kadir²

¹ Faculty of Law, Universitas Syiah Kuala, Indonesia, Banda Aceh, Indonesia

² Lecturer, Faculty of Law, Universitas Syiah Kuala, Indonesia, Banda Aceh, Indonesia

Abstract

The State of Indonesia is a State of Law based on Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, so everything takes place in accordance with applicable regulations, including the act of taking the law into its own hands. Vigilante (*Eigenrichting*) is an act of arbitrariness by an individual or a group of people by committing violence or persecution against a person suspected of committing a crime without going through a legal process. Law enforcement against acts of violence and persecution that meet criminal elements must be processed in accordance with applicable legal provisions. Legal norms actually function as guidelines for legal relations in the life of society and the state. However, in reality, law enforcement against acts of vigilante justice that meet the elements of Article 170 or Article 351 of the Criminal Code does not reflect Law Enforcement. The researcher used a normative juridical research method using secondary data and primary data by interviewing two legal experts as additional data. The results of the study explain (1) Law enforcement against vigilante actions that meet the elements of Article 170 of the Criminal Code regarding violence or Article 351 of the Criminal Code regarding persecution must be processed in accordance with applicable legal rules in order to create law enforcement and legal certainty and justice for the victims. (2) The legal consequences of taking vigilante action have resulted in the law not running properly and contradicting the theory of the rule of law that exists in Indonesia. Playing vigilantes can harm victims who suffer minor or serious injuries, physical disabilities, mental disorders and death, so it is necessary to increase legal awareness in the community so that people understand their rights and obligations, and law enforcement officers must improve law enforcement performance in order to realize law enforcement. what society wants.

Keywords: Law enforcement, *engenrichting*, criminal elements

Introduction

The laws that apply in every society generally lead to the position of human beings in an honourable position, therefore every law that applies in society is always directly related to human honour^[1]. In this case, ethics in human life works heteronomously, meaning that whether or not it is effective depends on the human being.

As the law protects human values, it must also be implemented by all social elements of society, if this is violated, there will be legal deviations resulting in the law not functioning properly^[2]. One of the legal deviations from human values that often occurs in the social life of the community is *eigenrichting* or known as vigilantism.

Vigilante action "*eigenrichting*" is an action taken by the community against people who commit crimes or criminal acts. In this case, according to Sudikno Mertokusumo's view of vigilantism "*eigenrichting*", he argues that vigilantism is an act of exercising rights according to one's own will which is arbitrary, without the consent of other interested parties, thus causing harm^[3].

Thus, vigilantism cannot be justified by the law, for these acts committed usually include acts of destruction of property, violence in the nature of burning the perpetrators of crime and persecution, as a result of this it is not uncommon for the victim to end up dead^[4].

Vigilante actions committed by a group of people against suspected perpetrators of criminal offences can generally be considered sadistic and merciless or inhumane.

Vigilante actions are like an arena of "*retaliation*" because through this vigilante action there is no need to wait for the

legal process against a person suspected of being a perpetrator of a criminal offence to reach the court. Everyone involved seems to enjoy it as much as participating in an orgy of violence, where everyone seems to feel lost if they do not take part in the incident.

Normatively, vigilantism is actually not explained in detail by legislation^[5]. Such as the Criminal Code (KUHP), but the Criminal Code itself at this time can actually ensnare the perpetrators of vigilantism with several articles in it, namely Article 170 of the Criminal Code regarding beatings. Then there is also Article 351 of the Criminal Code on maltreatment, and Article 406 of the Criminal Code on damage to property, both private and public facilities.

The cases of vigilantism in West Aceh that researchers have summarised chronologically and will be analysed as the main case reference in terms of handling cases of vigilantism, in this problem are as follows:

The victim with the initials UN (34), on that day, 24 December 2021, Friday at around 11:00 WIB, went to a plantation far from the residents' house in Gampong Suak Awe, Kec. Pantee Ceuremen, Kab. West Aceh to look for buffaloes that were entrusted and maintained or owned by Pak Yudi, a member of Kodim 0105 West Aceh, when he arrived at the location where the buffaloes guarded by the victim usually wandered, the victim also had not found the buffaloes he was guarding, when the victim was looking, suddenly there was a voice calling the victim's name, Then the victim rushed towards the direction of the voice calling the victim's name, when he arrived at the location it turned out that 4 (four) people were waiting, then the 4 (four)

residents of Kuala Manyeu who were recognised by the victim but whose names were unknown said to the victim "what are you doing here" and the victim answered "I'm looking for buffaloes."

According to the researcher's observations in finding the facts of the case above, the police did not take action against the perpetrators of the vigilante action, even though the perpetrators of the vigilante action had committed a criminal offence that caused harm to others and the action had legal consequences.

Research Method

In conducting research, accurate data is needed, both primary data and secondary data. In order to obtain the data required for this writing that meets the requirements, both quality and quantity, certain research methods are used. The research method in this writing is a normative juridical method, where normative juridical research is legal research carried out by researching library materials or secondary data ^[6]. Based on the background above, the problem formulation in this research focuses law enforcement against vigilantes (*eigenrechting*).

Result and Discussion

According to the 1945 Constitution of the Republic of Indonesia, Indonesia is a state of law. The state of law referred to in this case is a state that upholds the rule of law to uphold truth and justice. In general, in every country that adheres to the rule of law, there are three basic principles, namely the supremacy of law, equality before the law, and law enforcement in a manner that is not contrary to the law (due process of law).

However, law enforcement by law enforcers often does not reflect the value of public justice, resulting in deviant behaviour, namely vigilantism (*eigenrichting*). Law enforcement is the process of making efforts to uphold or function of legal norms in reality as a guide to human behaviour in conducting social contacts, which has recently become a problem in law enforcement in Indonesia. Vigilante actions or acts of violence and persecution are one of the criminal offences. A criminal offence is an act that is prohibited by law and punishable by a penalty, where the definition of an act is an active act (doing something that is actually prohibited by law) as well as a passive act (not doing something that is actually required by law) ^[7].

The crime of violence or maltreatment is expressly regulated in the Criminal Code. Acts of violence committed against other parties are a form of human activity that has indications against the law or contrary to the applicable legal rules, including in the form of speech or physical actions that are real, and result in damage to property, physical and death of the victim. Although the form has the same effect, the reasons or motives that encourage a person to commit violence can vary ^[8]. The main factor predisposing a person to violent behaviour is their emotional state and condition. According to Stephan, the emotional state that is seen as the main cause of aggression is anger. Meanwhile, according to Gurr, violent behaviour is more emphasised on political violence, namely all events whose main element is the threat of the use of power. Affirmation through Article 170 of the Criminal Code or Article 351 of the Criminal Code has not been able to enforce the law against cases of vigilantism. Vigilante actions or violent

criminal acts committed by perpetrators of criminal acts can be punished based on Article 170 of the Criminal Code.

In enforcing against the perpetrators of vigilantism, the police experience many difficulties, the police who have duties as investigators, have difficulty in terms of information. A case of vigilante information and the perpetrator comes from the same community, so there is an instinct to protect each other. The police also experience difficulties in terms of the number of people, in a vigilante act which is often carried out together and involves many people which complicates the performance of the police to resolve vigilante cases and the victim or perpetrator of the vigilante act does not want to report the community reaction that causes the victim's activities. The position and function of the police have been regulated in Law Number 13 of 1961 concerning Basic State Police Powers. Based on Article 2 Paragraph 1 of Law Number 13 of 1961 concerning Basic State Police Powers, it is detailed as follows:

- a. Maintain order and ensure public safety;
- b. In the field of justice, investigate crimes and offences in accordance with the provisions of the Criminal Procedure Law and other State regulations;
- c. Supervise cults that may endanger society and the State;
- d. Carry out other special tasks assigned to it by a State regulation.

The elements of Article 170, as mentioned above, namely whoever openly and with joint force uses violence against persons or objects, shall be punished by a maximum imprisonment of five years and six months. The case of vigilantism that has been described above fulfils the element of whoever, namely the person who commits violence against another person. The second element is that the offender shall be punished with a maximum imprisonment of seven years, if he intentionally destroys property or if the violence used results in injury. The cases of vigilantism in some of the examples above have resulted in injuries to other people so it is clear that the second element has been fulfilled, and the third is that if the violence results in serious injury, the punishment is a maximum of nine years. And if it results in death, it is punishable by a maximum of twelve years.

In resolving cases of vigilantism that have fulfilled the elements of the Article on violence listed in Article 170 of the Criminal Code or have fulfilled the elements of Article 351 of the Criminal Code, it must be enforced through the legal process in order to create a State of Law and the absence of power for the community. The establishment of law in a country, and the creation of justice and order in society. In this case, the law enforcement of vigilante cases is enforced for the sake of definite state goals and complying with every legislation. In connection with the above cases, the law enforcement process, in this case, is in accordance with the contents of Article 183 of the Criminal Procedure Code, namely the Judge may not impose criminal sanctions on a person unless with at least two valid evidence he is convinced that a criminal offence has actually occurred and that the defendant is guilty of committing it, so that law enforcement runs properly, there must be valid evidence in accordance with Article 184 of the Criminal Procedure Code, namely in the form of witness testimony, expert testimony, instructions, and testimony of the defendant. In this case, law enforcement officers are only based on the

victim's testimony so that law enforcers have difficulty enforcing for the creation of legal certainty.

Conclusion

Law enforcement against vigilantism fulfils the elements of Article 170 of the Criminal Code on violence or Article 351 of the Criminal Code on persecution. However, with regard to evidence, it has not been able to fulfil Article 183 of the Criminal Procedure Code, namely a minimum of two pieces of evidence. So that law enforcers have difficulty enforcing for the creation of legal certainty. The legal consequences of vigilantism have resulted in the law not running properly and are contrary to the theory of the rule of law in Indonesia. Vigilantism can harm victims who suffer minor or severe injuries, disability, mental disorders and death.

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