

PHENOMENA VIGILANTE (EUGENRICHTING) IN GLOBAL ERA

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Abstract

The act of vigilante or "eigenrichting" is the act of an individual or a group performing acts outside the law. The act of self-judgment is nothing but an act of exercising arbitrary right, without the consent of the other interested party. In essence, this act of self-judgment is the implementation of sanctions/groups. It's just that sanctions performed by individuals and groups is difficult to measure its weight, because the mass can sometimes act crazy and uncontrollable. The phenomenon of the vigilante case or also called "mass justice" like this has become the material of mass media reporting while the community members do not show remorse and even express their satisfaction. If examined, such acts have violated the principle of the penal law of the principle of presumption of innocence, where everyone is considered innocent before a permanent verdict from the court.

Key words : eigenrichting, crime

I. Introduction

A. Background

The law can not be separated from human life. So, to talk about the law we can not escape talking about it from human life.¹ Law as a cultural product that arises and develops not merely fulfill the physical aspect, but also to fulfill the human eksitensial aspect in the life of society.²

According to the explanation in Article 1 paragraph (3) of the Constitution of the Republic of Indonesia clearly states that "Indonesia is a State of Law. According to the grammatically the consequences of a State of law are all decisions, acts of State equipment, all attitudes, conduct and deeds including those of a citizen, shall have a legal basis or in other words all shall have legitimacy legally. Although

¹ Sudikno Metrokusumo, *Mengenal Hukum Suatu Pengantar*, Yogyakarta : Liberty, 2003, page 1.

² Peter Mahmud Marzuki, *Pengantar Ilmu Hukum*, Jakarta : Kencana Prenada Media Group, 2008, page 60.

this view is claimed to be a representation of a legal understanding that tends to be positivistic, a more dogmatic juridical understanding.

Implementation of sanctions is the monopoly of the ruler. Individuals are not permitted to impose sanctions to enforce the law. Beating a person who has broken a promise or deceived us, holding someone who does not want to pay off his debt, "stealing" his own motorcycle from his thief, it is his own judgment, unilateral action or *eigenrichting* himself. The act of self-judgment is nothing but an act of undertaking arbitrary right, without the consent of the other interested party. In essence, this self-judgmental act is the exercise of sanctions by individuals.³

The act of vigilante or "*eigenrichting*" is the act of an individual or a group performing acts outside the law. The act of self-judgment is nothing but an act of exercising arbitrary right, without the consent of the other interested party. In essence, this act of self-judgment is the implementation of sanctions/groups. It's just that sanctions performed by individuals and groups is difficult to measure its weight, because the mass can sometimes act crazy and uncontrollable.⁴

In everyday life, the expression of such a society is commonly referred to as "*vigilante action*." Forms of vigilante action can be "*street justice*" or "*mass judgment*", "*eigenrichting*", self-judgmental action, exercising arbitrary right, without the consent of other interested parties, so as to cause harm.⁵

Professor Donald Black in "*The Behavior of Law*" The act of vigilante or "*eigenrichting*" is, when the government's social control called law does not work, another form of social control will automatically emerge. Like it or not, it is essentially a form of social control by the people.⁶

The act of self-judgment is nothing but an act of exercising arbitrary right, without the consent of the other interested party. In essence, this self-judgmental act is the exercise of sanctions by individuals.⁷

The act of vigilante committed by a group of people against suspected perpetrators of criminal acts in general may be considered sadistic and do not know any mercy or inhumanity. It is said to be inhumane, since this vigilante action has

³ Sudikno Mertokusumo, *Mengenal Hukum Suatu Pengantar*, *Op.Cit.*, page 23.

⁴ *Ibid.*

⁵ J.C.T. Simorangkir, Rudy T. Erwin, J.T. Prasetyo, *Kamus Hukum*, Jakarta : Aksara Baru, 1987, page 43.

⁶ Zainuddin Ali, *Sosiologi Hukum*, Jakarta : Sinar Grafika, 2007, Page 59.

⁷ *Ibid.*

involved many people who have beaten or grieved against a person or persons suspected of being a criminal. This beating or abuse is often accompanied by the use of hard, blunt and sharp objects as the medium. In addition to being injured, in some street court events there were even a group of people who later burned people suspected as criminals to death. Victims of vigilante action can befall people who are not actually criminals as they had previously thought.⁸

The act of vigilante itself is like an arena of "retaliation", because through this vigilante action there is no need to wait for legal proceedings against a person suspected of being a perpetrator of a crime up to the face of the trial. Everyone involved in it also seemed to enjoy being like an orgy of violence, in which everyone felt as if they were losing money when they did not take part in the event. If any of the community members in the vicinity of the scene did not take part and did not try to prevent let alone help the victim, it might be because they did not dare and did not have the ability to do so or maybe they thought the victim deserved such acts as a result of his own actions.⁹

The various violent events described above illustrate another fact that it seems that people have been caught in a situation of moral confusion so that they no longer know how to behave. A person or group of people can be so easily able to violence against others, even the state apparatus that should provide protection and security to the people, as well as it is so easy to use violence against their own people. This kind of behavior is actually a manifestation of a typical that man is a wolf to his neighbor (*homo homini lupus*).¹⁰

⁸ The death case of a student who is judged by the masses for being suspected of being a pickpocket when it was he who attempted to arrest pickpockets, pointed out that this model of mass judgment can also be used by criminals to save themselves by tricking the masses by appointing someone or someone else as the perpetrator. This case is very ironic because this mass judgment occurs in the presence of so many police and soldiers who just stunned without taking any action to prevent or help him. See "Murdered Student Killed Copies: Army and Police Only pensive," Kompas 22 April 2001. The death case of a suspected criminal who was massively beaten by the masses while in detention of Sekotong Sub-District Police in West Lombok at the beginning of the year 2010, as well as the mass reaction that damaged the courtroom wanted to attack the defendant in PN Jeneponto South Sulawesi, and many other examples which at the same time can also be used as a simple indication that the community has no respect for law and law enforcement officers, as well as the judiciary.

⁹ At a discussion held by Research Institute for Democracy and Peace in Jakarta on 29 November 2001, Ahmad Hambali stated; stigmatization and loss of community solidarity to victims gradually construct "building an endless cycle of violence." The people not only dare not help the victim but also believe that the victim deserves to take violent action as a result of her own actions.

¹⁰ K.J. Veeger, *Realitas Sosial*, Jakarta : Gramedia, 1985, page 68.

Society has experienced a shift of human values that should be upheld but because something respect for human values is neglected. One example of a disregard for human values such as a theft perpetrator who was judged by mass beaten and stabbed to death. The phenomenon of the vigilante case or also called "mass justice" like this has become the material of mass media reporting while the community members do not show remorse and even express their satisfaction. If examined, such acts have violated the principle of the penal law of the principle of presumption of innocence, where everyone is considered innocent before a permanent verdict from the court.

B. Research Questions

Based on the things mentioned above, the problem in this paper is as follows:

1. What are the Causes Factors of the Community do Vigilante (Eugenrichting) Acts?
2. What is the role of local government in handling vigilante actions by mass groups?

C. Research Method

1. Object of Research
 - a. Cases that the perpetrator often experience are eigenrichting from the community.
 - b. Factors that cause people to eigenrichting against the perpetrators of criminal acts.
 - c. Law enforcement against perpetrators of crime eigenrichting.
 - d. Constraints faced by law enforcement officers in solving eigenrichting cases.

2. Source of Data

- a. Primary of Data

Primary of Data is data obtained by researchers directly from the subject of research that can be the result of the interview.

- b. Secondary of Data

Secondary of Data is data obtained by researchers indirectly through literature and documents.

The secondary law material, such as:

1. Primary law material, in the form of Legislation, such as:
 - a) Indonesia Criminal Code.
 - b) Law No. 8 of Year 1981 concerning Criminal Procedure Code.
 - c) Law No. 39 of Year 1999 concerning Human Right.
2. Secondary law material

These are legal books, research results, documents, papers, court decisions, articles, mass media, and websites related to the issues studied.

3. Data Collection Techniques

a. Literature Study

Conduct research conducted by reviewing the literature, legislation, law books and supporting literature related to the research material.

b. Document Study

Collecting data from existing documents and relating to research objects.

c. Interview

Ask questions to the speakers either freely or guided.

4. Research Method

a. Normative Juridical

Normative Juridical is the approach from the point of view of applicable law or legislation

b. Juridical Sociology

Juridical Sociology is an approach with not only in terms of juridical course, but also from the existence and the validity of the law, by looking at the legal problems of reality that occur in society.

c. Criminological Approach

The criminological approach is the approach from the point of view of the science of criminology, which is to understand the issues studied, especially related to the second formulation of the problem of

searching the factors causing eigenrichting with the analysis based on the theory of crime causing.

5. Method of Data Analysis

The data obtained will be processed qualitatively ie data processing process can include editing, coding and presentation in the form of narration and data obtained in the analysis through the activities of describing, discussing, interpreting research findings with a perspective or a certain point of view presented in the form of narration. The activity of this analysis is a process to formulate the conclusions or generalizations of the research question posed.

II. Result and Discussion

A. Factors Causing the Community to Do the Act of Self-Judge (Eigenrichting)

Since Indonesian independence until now, the performance of law and law enforcement is still considered less meet the expectations and feelings of community justice. The judiciary that should be the last fortress to get justice is often unable to provide the coveted justice. As a result, the respect and trust in this institution is virtually non-existent, to the maximum extent that people do not submit legal matters to the courts.¹¹

In the field of law in general can be argued that the main obstacles faced is law-making and law enforcement. In the case of law enforcement is certainly not independent of the judicial system and the main highlight of the performance of the Court can be detailed such as:¹²

1. Law can only be enjoyed by a capable group;
2. Seeking justice is a costly undertaking;
3. Law enforcement officials (in this case the judicial authorities are not always clean);
4. Inadequate quality of the legal profession; and
5. There are some judgment decisions that are not always consistent.

¹¹ Sunarmi, *Membangun Sistem Peradilan Di Indonesia*, Medan : Fakultas Hukum Universitas Sumatera Utara, 2004, page 3.

¹² R.E. Barimbing, *Catur Wangsa Yang Bebas dari Kolusi Simpul Mewujudkan Supremasi Hukum*, Jakarta : Pusat Kajian Reformasi, 2001, page 2.

In general, public awareness of the high law resulted in citizens comply with the provisions of applicable legislation. Conversely, if public awareness of the law is low, the degree of compliance will also be low.¹³ It is one of the factors that unlawful acts often occur in the territory of Indonesia, one of which is the act of vigilante (*eigenrichting*).¹⁴ Then according to him, the factors causing the community to do the vigilante act is due to lack of public confidence in law enforcement apparatus that exist in jurisdiction of Indonesia, it is caused by existence of view and appraise that not good by society to law enforcers apparatus, plus so far, law enforcement apparatus, especially Police Personnel, lacks a place in the community. Then The more important factors that cause the community to do vigilante act is because of the existence of the legal culture factor in the society, the Indonesian people generally assume that the vigilante act is something that is true and does not violate the law.¹⁵

If an individual or group has acted outside the legal means, it is called self-judging, unilateral or "*eigenrichting*" action. The act of self-judgment is nothing but an act of exercising arbitrary right, without the consent of the other interested party.

In essence, this act of self-judgment is the implementation of sanctions / groups. It's just that sanctions performed by individuals and groups is difficult to measure its weight, because the mass can sometimes act crazy and uncontrollable.¹⁶

Smelser questioned why collective behavior occurred? He specifies six factors he finds decisive for the occurrence of collective behavior or violence; the six factors are:¹⁷

1. Structural Conduciveness
2. Structural Strain
3. Growth and spread of generalized belief
4. Precipitating Factors
5. Mobilization of Participants for action
6. The operation of social control

¹³ Ahmad Irfandi, *Pertanggung Jawaban Pidana Terhadap Pelaku Main Hakim Sendiri Di Wilayah Hukum Kepolisian Resort Siak*, Skripsi, Pekanbaru : Fakultas Hukum Universitas Riau, 2013, page 66.

¹⁴ Pusat Pembinaan dan Pengembangan Bahasa Depdikbud, *Kamus Besar Bahasa Indonesia (KBBI)*, Jakarta : Balai Pustaka, 1995, page 99.

¹⁵ Rayon Syaputra, *Penegakan Hukum Terhadap Kasus Perbuatan Main Hakim Sendiri (Eigenrichting) Di Wilayah Hukum Kepolisian Sektor Cerenti*, Pekanbaru : JOM Fakultas Hukum Volume 1 Nomor 1 Februari 2015, page 9-10.

¹⁶ Sudikno Metrokusumo, *Mengenal Hukum Suatu Pengantar*, Yogyakarta : Liberty, 2003, page 23.

¹⁷ Sosiologi Hukum, http://www.google.com/Sosiologi_hukum/index.php.htm, accesse date 14 August 2017, pukul 18.00 WIB.

It is important to note that within the framework of Smelser's theory these determinants of collective behavior are organized with the concept of added value. According to Smelser, the preceding factors need to exist before the next factor can be realized. Thus, the factors causing such behavior form a combination according to a definite pattern. The determinants are as follows:¹⁸

1. The first determinant of collective behavior, structural conduciveness, is the structural aspects of the social situation that permit certain collective behaviors. This can be seen, for example, by incidents of attack, destruction and burning of assets owned by individuals / groups with no reaction of related apparatus, and omission from the wider community.
2. The second factor of structural strain, according to Smelser refers to various types of structural tensions that do not allow the occurrence of collective behavior. But in order for collective behavior to take place there needs to be a correspondence between this structural strain and the preceding structural impulse. But the situation will not give birth to collective behavior, because it requires advanced conditions.
3. The third factor Growth and spread of a generalized belief is the growth and development of shared beliefs. For example, stamp and claim against a stream as heretical. Such an understanding is shared and shared equally by group members. This situation refers to when the situation becomes meaningful for people who have the potential to become collective actors with the dissemination of ideas that can open the horizons of individuals toward a more dynamic. This condition can lead to collective behavior of individuals who have experienced the development of thought. The meaning to be understood is contained in a generalized belief that is capable of identifying the source of tension determining the source and detailing the response to the source. Although the determinants have arrived at this stage, but for the emergence of collective behavior required the existence of special conditions that are determinants.
4. The fourth factor Precipitating factors, a situational factor, is the presence of an event that confirms structural drivers, structural tensions and common beliefs of the range of sources of tension that lead to the emergence of collective behavior. But although the four factors above have been accumulated will not give birth to collective behavior. For the occurrence of collective behavior still requires the next factor.

¹⁸ Perbuatan Main Hakim Sendiri “Eigenrichting” Ditinjau Dari Aspek Sosiologi Hukum, <http://buumbang.blogspot.co.id/2011/09/perbuatan-main-hakim-sendiri.html>, accesse date 14 August 2017, pukul 18.00 WIB.

5. The fifth factor, Mobilization of participatory actions, according to Smelser is what needs to be lived up to then happen collective behavior. In this process the role of the figure who can give sympathy to the community to take collective action is necessary.
6. The sixth factor, the operation of social control, plays an important role for the occurrence of collective behavior. In each stage of the above process, if the rules of social control can interfere with the stages of determinants of collective behavior above, then the emergence of collective behavior can be avoided.¹⁹

There are several things that trigger the emergence of vigilante, among others:

1. First, there is a fracture of relationships between criminals or suspected criminals and victims or those who feel disadvantaged, which is not immediately solved by the problem. Victims or parties who feel disadvantaged feel their rights trampled and even destroyed, then the party who feels aggrieved is to defend the interests and rights directly.
2. Second, the emergence of vigilantism is a public distrust of the law. The public considered the punishment provided by law enforcement officers to be unfair and worthy of what the perpetrator did.
3. Third, the spontaneous nature of a group of people derived from social pressure factors. The high number of unemployed and difficult economic conditions make people frustrated and not long-termed. It is this vigilante act that becomes the "field" of impingement from the stress of the soul.
4. Fourth, people do not know how to report a crime. The absence of police contact numbers is easily known to the public as well as the distance between the scene and the distant police station. This causes the police to come after the criminals or the alleged crimin is already being judged by the masses.
5. Fifth, the absence of the sealer or the party trying to block the vigilante action. In this high-tech era even many people are busy perpetuating the moment of vigilante with his cell phone, not to mediate.

¹⁹ Neil Smelser, *Theory of collective Behavior*, New York : The Free Press, 1962, page. 15-17.

Basically the factors causing vigilante action can be analyzed in two scopes of analysis namely the scope of law and the scope of social psychology. Both scopes are linked. First, on the scope of the legal aspects of existence, vigilante indirectly indicates the existence of legal overturning efforts in society. While in the second sphere, social psychology, vigilante is not a behavior that arises as it is but arises from a cause and arises through a process.

Law and legislation are two things that have similarities but on the other hand are also different. The similarities of both are equally functioning as a code of conduct or norm in order to create a peaceful and peaceful life, the law serves as a tool of social engineering. While the difference between the two associated with the shape and scope. Law is a form of broader regulation than legislation. The law is not always in written form but can also be in an unwritten form. Conversely, legislation is a written law and is part of the law.

Every society, in both rural and urban areas of the country that primitive and modern cultures own and enforce the law. Types of applicable law may vary in form and execution. In most rural communities, cultures tend to use customary law as a tool to solve problems. Solving legal problems is still done conventionally by promoting customary law that is not written. The still strong kinship system also contributes to the legal settlement of rural communities. Medium in urban community is more likely to put forward written law in solving legal problem.

This cultural distinction clearly indicates that the prevailing form of law has a relationship with the form of society. The existence of different forms and culturally, the laws prevailing in the community still have the same function that aims to create order and peace of society. On that basis then various ways are done so that the goal can be achieved, ranging from the formation of devices and legal institutions to the formation of a legal culture. But these efforts do not always go according to what is aspired. The existence of legal instruments, authorized institutions, still some people in solving legal problems do so in ways outside of existing legal procedures, both in terms of rules and authority. This is then what we call a vigilante act or *Eigenrichting*.

Most of the people in Indonesia have a tendency to take vigilante action "*Eigenrichting*", when people find the perpetrators of crime. Ordinary people make a

beating when they find the perpetrators of crime. The behavior of the society arose spontaneously when finding the perpetrator of the crime.

Growing and increasing the problem of this crime raises the public's assumption that law enforcement officers fail to cope with the problem of crime and are considered slow in carrying out their duties and public dissatisfaction against law enforcement that does not work properly. Such an assumption triggers some people who feel their security and tranquility disturbed to take vigilante action against the perpetrators of crime without following the applicable legal process. Though the vigilante act is not a true punishment because the punishment process against the perpetrators of crime depends on the legal system. In addition, in the realm of criminal law, there is a principle of presumption of innocence, so one should not be guilty before there is sufficient evidence and the record must be dealt with by the authorities.

The rise of vigilante action is largely due to the handling of cases like this which are largely unresolved, in the sense that many cases are abandoned and not followed up by law enforcement officials in accordance with legal procedures and often do not fulfill the sense of justice for society, causing an outburst of community anger. Given this reality, the community feels that vigilance is a firm action within sanction the perpetrators. The community finds it easier to shed their anger with the perpetrators by ganging up in physical actions, ranging from minor beatings to causing the death of the victim or the perpetrator of a crime.

The vigilante action that occurs in this community occurs most diarrhea is very emotional in dealing with perpetrators of criminal cases directly, especially the lower middle class society, it is also due to the low knowledge of law, some people do not know that the perpetrators of crimes must be taken by the parties authorized. In addition to the existence of negative public behavior such as drinking so easily trigger anger and prefer to do the punishment itself to the perpetrators of crime because for society such punishment is more effective.

Public belief that the state in this case that is represented by the judiciary in upholding legal justice in the community is very low in addition to the sense of humanity some members of the community have started to dull. This is due to the long process of a less educative judiciary system where there are often suspected criminals and detrimental to the public is released by law enforcers by reason of the

lack of evidence and if it is processed to court, the law is not in accordance with the expectations of the community.²⁰

B. The Role Of Local Government In Handling Vigilante Actions By Mass Groups

The Law of 1945 Indonesian Constitution states that the state of Indonesia is a constitutional state, meaning that everything in Indonesia is governed by a rule of law, including the rules of the judiciary itself. The enactment of law within the community from the formation, enactment and implementation in the community must still see and explore the values and norms that live and thrive in society. Many people's problems are viewed only on one side, regardless of the other. If it goes without any improvement in the handling and prevention of a problem, then what will arise is a sense of injustice gained by society. So in looking at a problem must examine from many aspects such as juridical aspects, sosiologi, economy, and aspects of expediency. In this discussion, the phenomena that occur in society will be examined from several aspects.²¹

1. The role of local government in law enforcement and social control.

Law is classified as a means of social control, a process of influencing people to behave in accordance with the expectations of society. The control of the law is carried out in various ways and through the establishment of the necessary bodies. In this connection commonly referred to as a means to exercise normal social control.²²

The phenomenon that occurs in the community is an accumulation of many social problems that occur, so in assessing the existing phenomenon in the community must see the factors that cause the occurrence of a problem. Some of the factors that most influence the pattern of community behavior, such as:

- a. Poverty;
- b. Educational;

²⁰ Febry Nur Naim, *Tinjauan Kriminologis Terhadap Tindakan Main Hakim Sendiri (Eigenrichting) Yang Menyebabkan Pada Kematian (Studi Kasus Di Kota Makassar 2011 s/d 2014)*, Skripsi, Makassar : Fakultas Hukum Universitas Hasanuddin Makassar, 2015, page 54-55.

²¹ Tindakan Main Hakim Sendiri Dalam Perspektif Sosiologi Hukum, <https://arbaniblog.wordpress.com/2017/02/03/tindakan-main-hakim-sendiri-dalam-perspektif-sosiologi-hukum/>, accesse date 14 August 2017.

²² Satjipto Raharjo, *Hukum dan Perubahan Sosial*, Bandung : Alumni, 1979, page 122-123.

- c. Factors;
- d. Cultural; and
- e. Information.

From some of the above factors, the core solution exists there is the role of government in this case especially the role of local government. With the commitment and willingness of the community will easily be solved.

To realize it all, then the key to the problem lies in political will. Whether the equity of income or any other will be truly cultivated or not depends heavily on the political will of the government. In carrying out the development, the income-generating efforts are equitable for all people in accordance with the sense of justice in order to realize the principle of social justice.²³ So as to create equity in obtaining justice.

Equity is essentially a step that must be taken to lift low-income groups from the poverty gap. The problem, however, is why equity arises, who or which community groups deserve the priority of equity, as well as what impacts will arise if there is inequality in the distribution of income. There needs to be a closer look at the extent to which public policy has been decided that it can achieve its objectives. Further scrutiny also needs to be based on the role that the law can play in order to realize the purpose of that policy.²⁴

One of policy besides dealing with policy is the policy in the case of legal instruments, especially with the Presidential Instruction Number 2 of 2013 concerning the handling of domestic security disturbances in 2013, as well as the rules contained in the criminal law.

In addition to legal instruments, to anticipate the problem, there must be cooperation between community leaders, religious leaders, government apparatus, police, non-governmental organizations and others. "The community leaders should socialize to the community that violence in any case is not

²³ Esmi Warrasih, *Pranata Sosiologi Hukum "Sebuah Telaah Sosiologis*, Semarang : Pustaka Magister, 2014, page 110.

²⁴ *Ibid.*, page 111.

allowed. Actions in handling things are still not allowed, but it is necessary to have uniform steps with the community, among others:²⁵

- a. First, communication between law enforcers and the public. Give awareness of the importance of law enforcement for public safety. The intensity of communication between law enforcers and the public will improve the image and public confidence of law enforcement in this country.
- b. Second, firm and transparent law enforcement. Clear law enforcement or in accordance with applicable legal standards will provide satisfaction to the public for services provided by law enforcement. Hopefully this can be a trigger so that people no longer solve all problems with vigilante.

The behavior of people who always use the way of violence is an expression of a disappointment both to the government mapun apparatus berweanang. In this case, to provide a justice, kemanfaatn and certainty, it will be studied in terms of legal norms, related institutions and community culture.

Based on the legal norms, it will be obtained in the criminal law regulations and the President's instructions. The legal norms governing the matter are used as the basis for the application of sanctions and provide legal certainty, but not the main benchmark in solving the problems in the society.

In Indonesia Criminal Code (KUHP), there are several articles regulating the Main Judge itself. However, in such arrangement it is not stated directly, that the regulated action is called the "Main Judge" action. For example, the arrangement of the act of "Persecution" in article 351 of the Criminal Code. In the Article it is not mentioned that "persecution" is an act of Justice. However, if we read the elements of the chapter, it can be concluded that under certain circumstances (for example, when a motorcycle thief is caught by a citizen then beaten by the citizens), the act of "persecution" may enter or be categorized as an act Play Your Own Judge. Several articles in the Criminal Code, related to the act of Main Judge:

- a. Article 351 of Indonesia Criminal Code on Persecution, subject to imprisonment or fines.

²⁵ Ketika Masyarakat Sudah Main Hakim Sendiri, Negeri Ini di Ujung Kehancuran? http://www.kompasiana.com/dillah48cules/ketika-masyarakat-sudah-main-hakim-sendiri-negeri-ini-di-ujung-kehancuran_552f98836ea834be748b457a, accesse date 14 August 2017.

- b. Article 170 of Indonesia Criminal Code on Violence with the threat of imprisonment.
- c. Article 406 paragraph (1) of Indonesia Criminal Code on Destruction with the threat of imprisonment or a fine.
- d. There are other chapters that may be related to the act of Main Judge, such as: Articles 187, 188, 200, 201, 338, 354, 358, 406, 408, and 409 of Indonesia Criminal Code.

In addition to the rules contained in the Criminal Code, there are also rules governing the matter that is Presidential Instruction No. 2 of 2013 on the handling of domestic security problems Year 2013. In the application of legal norms that exist, both the authorities and the government should promote and provide a sense of justice and benefit for the community. Until in the end will be realized a trust and awareness by the community itself.

In addition to the above legal instruments, one way to approach the problem is to use a culture or culture that lives and thrives within the community. Society is generally very obedient and subject to customs value. With this approach, many things can be resolved without going through the settlement of the national legal instruments. This is where the sensitivity of the government is required to see it, because if it is deeply analyzed the question of vigilante action is indeed a form of the culture of the people in Indonesia, but in the customs in Indonesia itself still gives compromise to a certain act that can still be solved and how to familiarize. So this is where the government can come in in providing the best understanding and solution to such problems.

2. Non-law approach in overcoming vigilante action.

Almost every area of life today is governed by the rules of law. Through this penalization of human behavior, the law traces almost all areas of human life. The widespread legal intervention into the sphere of community life has led to the issue of the effectiveness of law enforcement becoming

increasingly important. That means, the law must be an institution that works effectively in society.²⁶

Culture is a blue print of behavior that provides guidance on what to do, what to do and what to ban. These social and cultural values serve as guidelines and drivers for human behavior in the process of social interaction. At a more concrete level, culture serves as a behavioral system. That means, the applicable kaedahs are actually rooted in the social and cultural values of the community concerned. Thus, all human behavior is actually guided by abstract conceptions of what is good and what is bad.²⁷

From abstract abstractions will result in a form of a conscious sense of good values in every individual called law consciousness. Legal awareness is not merely something that grows spontaneously in the hearts of the people, but it is also something that must be nurtured consciously, in order to grow in the hearts of society. Von Savigny explains this by declaring, *ist und wird mit dem volke*.²⁸

The phenomenon that occurs in the community is the act of vigilante is one culture that can not necessarily be changed just like that. It needs to do an in-depth study of the factors causing the occurrence of an action, and simultaneously the handling that really becomes the best solution. The role of government in finding the cause of community behavior is a step that must be done and find a way out. As already noted in the previous section that one of the most important factors is economic factors and equity of development. By giving what the needs of the community both in the form of poverty alleviation and equitable development, then by itself a community group will provide a form of trust to the government and eventually the community will play a role in the change and improvement of a behavioral aberration.

Thus, the most decisive step of a government policy in the realization of whether or not the policy is not merely lies in all the ideas and statemen in abstracto spoken by terracotta and politicians in state institutions of the state. Apparently what will be more decisive is all in concreto actions undertaken by

²⁶ Esmi Warrasih, *Op. Cit.*, page 71.

²⁷ Soerjono Soekanto, *Beberapa permasalahan hukum dalam kerangka pembangunan di Indonesia*, Jakarta : Yayasan Penerbit Universitas Indonesia, 1976, page 24.

²⁸ Esmi Warrasih, *Op. Cit.*, page 89.

the implementers in the region with the willingness and community groups to be assisted.²⁹

C. Criminal Threats for Perpetrators Bringing Victims to Death / Pass away

Facing violence and vigilante in mass this is not easy. Our criminal law does not adequately regulate mass committed crimes (criminal acts of the group), except Articles 55 - 56 of the Criminal Code that classify perpetrators of crimes in several categories:

1. Perpetrators;
2. Who ordered to do
3. Conducting (Article 55 Paragraph (1) of the Indonesia Criminal Code),
4. Advocates/ persuaders/ instigators (Article 55 (2) of the Criminal Code, and
5. Who helped to do (Article 56 of the Indonesia Criminal Code);

A work that is not easy for police to arrest and investigate perpetrators of mass crimes, let alone the police tend to be careful to act so as not to slip in acts of violation ("crime") according to Law No. 39 year of 1999 on Human Rights.

Yet the police are still required to act professionally while displaying a sympathetic image of the police in upholding the law. However, the police are the main guard who is at the forefront in combating crime and providing security to the community, the confidence in the security forces must be restored.

Regardless of whether the victim is judged by laypeople because he commits a crime in principle, under the provisions of the Criminal Code ("Criminal Code"), the perpetrator of the vigilante may be criminally charged. In Article 351 Paragraph (1) of the Criminal Code, it is stated that:

"Persecution is punishable by imprisonment of a maximum of two years and eight months or a fine of four thousand five hundred rupiah."

In this case, considering the victim's loss of life resulting from the persecution, in Article 351 paragraph (3) of the Criminal Code it is stipulated that:

"If it resulted in death, is punishable by imprisonment of a maximum of seven years."

²⁹ *Ibid.*, page 122.

So, if we refer to Article 351 verse (3) of the Criminal Code which regulates more specifically the persecution that causes the death of the victim, it is clearly stated that the perpetrator of the persecution shall be subject to a maximum imprisonment of 7 (seven) years imprisonment.

In addition, perpetrators of vigilante can be prosecuted criminally. In Article 170 paragraph (1) of the Criminal Code, it is stated that the Common Whom Itself Collectively Violates persons or property, is sentenced to prison for 5 Years 6 Months (Five years Six months);

In this case, since the victim lost the life / death of the person as a result of the violence, based on Article 170 paragraph 2 of the 3rd Penal Code shall be punished with imprisonment for 12 (twelve) years at a maximum;

So, if we refer to Article 170 paragraph 2 to 3 of the Criminal Code which regulates more specifically the violence carried out jointly against the person who caused death of the person, it is clearly stated that the perpetrators of violence are subject to a maximum imprisonment of 12 (twelve) years imprisonment.

III. Closing

A. Conclusion

Based on the discussion that the author describes above, it can be concluded, such as:

The current state of justice in Indonesia in law enforcement is still considered inadequate to meet the expectations and feelings of community justice. The judiciary that should be the last bastion for justice is often unable to provide the coveted justice. As a result, the respect and trust in this institution is virtually non-existent, to the maximum extent that people do not submit legal matters to the courts.

Violence against the perpetrators of crimes that occur today shows a still low legal awareness of society and is not a legal culture of our society. That legal consciousness is not a legal culture because a good legal culture will give birth to a social process, namely legal awareness. Some factors that cause the occurrence of vigilante action (mass court) among others is the feeling of not believing the public against the firmness of the apparatus in enforcing the law. The number of criminals who escaped from the law and so on. Weak law enforcement seen from the many cases of vigilante.

The act of self-judgment is the exercise of sanctions committed by a collective group or collective power which Smelser termed as a hostile outburst or a hostile frustration which is certainly influenced by various factors that trigger the occurrence of actions that are anarchist.

1. Factors causing vigilante actions committed by the masses against offenders are as follows:
 - a. Internal factors of vigilante actors, among others:
 - i. Distrust of the public against law enforcement in handling perpetrators of criminal acts.
 - ii. Emotions and heartache against offenders.
 - iii. In order for criminals to be deterred and other perpetrators are afraid to do the same.
 - iv. The presumption that judging offenders is a habit in society.
 - v. Catch up.
 - vi. The low level of education.
 - b. External factors of vigilante actors, among others:
 - i. Policing factors that undermine vigilante action by the masses.
 - ii. Slow and unprofessional police factors in handling criminal cases.

2. Efforts to prevent and overcome vigilante actions (eigenrichting) can be done with 3 steps, among others:
 - a. Pre-emptive, ie Early prevention that can be done by law enforcers in instilling values or norms especially the police is to socialize the law against the community, invite the community to obey the law, establish cooperation with the community to maintain security and public order.
 - b. Preventive, namely Building authority and legal certainty that meet the sense of community justice; With legal appeals and counseling; and Implement routine patrols.

- c. Repressive, ie processing vigilante perpetrators against criminals.
But in this case the police have not been optimal, due to the many obstacles faced by the police.

B. Recommendation

Based on the discussion described above, the author's suggestion as follows:

1. The police should be more assertive in cracking down on members of the public or the masses who commit vigilante action against offenders to dispel the assumption that judging offenders is reasonable and appropriate.
2. Increased legal education to build awareness of people's law so as not to take vigilante action.
3. Increase police personnel to further enhance repressive and preventive actions both against perpetrators of criminal acts and against perpetrators of vigilante.

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