

Law Enforcement Against Violence (Engenrichting)

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<p>Article History Received : 2019-09-04 Revised: 2019-09-10 Published: 2019-09-30</p> <p>Keywords: <i>Law Enforcement,</i> <i>Engenrichting</i></p>	<p>Indonesia is one of the largest archipelagic countries in the world and a country based on the rule of law. This means that all aspects of life within the territory of the Republic of Indonesia must be based on law. This is in accordance with Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia. Therefore, everything, including vigilance operations, must be carried out in accordance with the provisions that have been made. Mob violence, also known as vigilantism (Engenrichting), is an arbitrary act carried out by individuals or groups who commit acts of violence or abuse against someone known to have committed an unlawful act without being handled through the existing legal process. Criminal prosecution of those who commit acts of violence and abuse is an unlawful act that must be handled according to existing laws and regulations. In fact, legal norms serve as guidelines for every individual to relate to the law in living in society and the nation. In reality, criminal prosecution related to vigilantism, including in Articles 170 and 351 of the Criminal Code, has not been reflected. Scientists have used normative legal research methods, namely by using data obtained from existing sources and data obtained directly as well as two additional data from the results of interviews with two legal experts. The results of the study are explained as follows: (a) Criminal prosecution of vigilantes who have met the criteria of Article 170 of the Criminal Code concerning violence or Article 351 of the Criminal Code concerning assault must be followed up with established legal provisions, in order to create criminal prosecution, legal certainty, and justice for the victims. (b) Vigilantes have an impact on the law no longer functioning as it is in Indonesia and are contrary to the theory of the rule of law. Taking action alone can have a negative impact on the victims, both those who suffer minor or serious injuries, physical disabilities, mental disabilities, and death. Therefore, to achieve law enforcement, it is necessary to strengthen the law that should be for everyone. So that they can understand the difference between their rights and obligations, and law enforcement agencies need to improve their skills in enforcing the existing law.</p>

I. INTRODUCTION

Indonesia is known as a country based on law. As a country based on law, all actions must be based on established laws. This is stated in Article 1, paragraph (3) of the 1945 Amendment to the Constitution of the Republic of Indonesia, which states, "Indonesia is a country based on law." In this way, everyone has existing rights, has the right to a good life, and the state must protect without exception the position of every person before the law.

The very rapid rate of speed that exists in each individual in terms of society has an impact on the tendency for each group of people to carry out interactive relationships between one society and these relationships often trigger the emergence of actions that can be disturbing for other people and the surrounding environment, for example, actions that violate the law or are also called criminal acts.

There are many illegal acts, one of which is vigilantism (Engenrichting) or mob violence.

Violent action (Engenrichting) is an arbitrary act committed by an individual or group that commits violence or abuse against someone known to have committed an unlawful act without being prosecuted through the existing legal process.

In the Criminal Code there are provisions governing acts of violence, namely Article 170 of the Criminal Code which reads:

1. "Anyone who openly and with joint force uses violence against people or property, shall be subject to a maximum prison sentence of five years and six months."
2. The guilty party is threatened with:
 - a. With a maximum prison sentence of seven years, if he intentionally destroys goods or if the violence used results in injury;
 - b. With a maximum prison sentence of nine years, if the violence results in serious injuries;
 - c. With a maximum prison sentence of twelve years, if the violence results in death."

Criminal prosecution of those who commit acts of violence and abuse is an unlawful act that must be handled according to existing laws and regulations. Law enforcement is a conscious act undertaken to create legal will, thereby fostering peace and justice in living within society, the nation, and the state.

It is stated in Article 351 of the Indonesian Criminal Code that:

1. "Assault is punishable by a maximum prison sentence of two years and eight months or a maximum fine of four thousand five hundred rupiah.
2. If the act results in serious injury, the guilty party is threatened with a maximum prison sentence of five years.
3. If it results in death, the threat of a maximum prison sentence of seven years is imposed.
4. With abuse is equated with intentionally damaging health.

5. Attempts to commit this crime are not punishable."

The explanation above confirms that this has yet to be fully implemented in society, which is why vigilante justice still persists. A person who is sentenced must have actually committed a crime, meet the requirements, and present evidence, and at least two witnesses. Police, judges, prosecutors, and others are state officials tasked with enforcing the law.

Based on Law No. 16 of 2004 concerning the Attorney General's Office of the Republic of Indonesia, the attorney general's office is one of the law enforcement apparatuses that should be forced to play a more active role in upholding the supremacy of law, protecting public interests and respecting human rights.

In exercising the power granted by the state in the field of law enforcement, this power must carry out what has been mandated to it independently and also free from external shocks, such as the influence of government power and other powers.

In the Prosecutor's Office Law, Article 1 paragraph (1) explains that: "A prosecutor is a professional civil servant who is authorized by law to act as a public prosecutor and implementer of court decisions that have obtained permanent legal force and other authority based on law."

From a practical perspective, judicial case handling is the foundation of practical, low-cost law enforcement currently in use, but it doesn't fully achieve the goals desired by the general public. Consequently, various handling and actions by law enforcement officials and victims' families remain.

Article 2 paragraph (2) of Law No. 48 of 2009 concerning Judicial Power states that "State courts administer and enforce law and justice based on Pancasila" to comply with the law concerning unlawful acts in cases of violence or abuse committed in the form of deliberate or negligent actions; All of these are unlawful acts,

crimes committed without any defense or anything else, so that they are punished by the state, making them serious crimes or minor crimes.

According to Article 170 of the Criminal Code and Article 351 of the Criminal Code, vigilante actions involving violence or abuse must be prosecuted. However, in reality, there have been several cases of alarming actions, including inaction by law enforcement agencies. For example, on April 19, 2021, a car theft occurred in Jukong Village, Labang District, Bangkalan Regency, Madura Province, East Java. A group of Madurese citizens violently attacked the car thief, 24-year-old Nardin from West Kwanyar Village. The blows from the group hit the perpetrator, leaving him unconscious and his back bruised and bruised, but without further consequences.

Law enforcement officers are expected to be able to realize justice by referring to the laws and regulations that have been made by investigating information from the public to minimize the opportunity for vigilante actions and providing education to the public about the legal impacts of vigilante actions.

II. RESEARCH METHODE

This study employs a normative legal research method using a statutory approach and a conceptual approach. The research examines legal norms, legal principles, and regulations related to vigilantism (*eigenrichting*) and criminal prosecution under Indonesian criminal law, particularly provisions stipulated in the Criminal Code (KUHP). The data used in this study are secondary data, consisting of primary legal materials, secondary legal materials, and tertiary legal materials obtained through library research. The collected data are analyzed using a qualitative analysis method by interpreting and relating applicable legal provisions to social realities regarding vigilantism in society. The purpose of this study is to analyze criminal prosecution

efforts against acts of vigilantism and their implications for legal certainty and justice in Indonesia.

III. RESULT AND DISSCUSION

According to the 1945 Constitution of the Republic of Indonesia, Indonesia is a state based on law. A state based on law here refers to a state that upholds the supremacy of law to protect truth and justice. In general, countries that uphold the supremacy of law adhere to three basic principles: the supremacy of law, equality before the law, and due process of law.

Legislation is a mandatory regulation that governs human behavior within a local environment and is issued by public authorities. Violation of these regulations will result in litigation and certain consequences. Indonesia is known as a country based on the rule of law. Therefore, all actions must comply with established legal regulations.

Indonesia is a constitutional state committed to upholding justice, and Indonesian citizens must obey the applicable laws so that the law can function properly as a tool of social control to achieve justice.

However, prosecutions carried out by institutions that enforce the law often do not conform to the values of social justice and result in deviant behavior, such as mob violence or taking the law into one's own hands (*Eigenrichting*).

Law enforcement is one way to uphold or use actual legal norms as a reference for human behavior in establishing social contact, which has recently become a problem for law enforcement in Indonesia.

Enforcement of the law without going through the authorities, or acts of violence and abuse, are unlawful. A criminal act is any action that is not permitted by law and is punishable by law, whether active or passive.

Criminal acts such as violence and assault are strictly regulated in criminal law. Acts of violence

against others are a form of human action that violates the law or is believed to be contrary to applicable legal regulations, is realistic, causes damage to the victim's property, and in some cases includes words and physical actions that can cause the death of the victim.

The reasons and motivations for committing violence can vary, even though the impact is the same. The primary factors influencing someone to commit violent behavior are their emotional state and circumstances.

According to Stefan, the emotional state suspected to be the primary cause of aggression is anger. Regarding acts of violence, Garr said there's currently more emphasis on political violence, with every incident involving threats of violence.

The legalization contained in Article 170 of the Criminal Code or Article 351 of the Criminal Code cannot enforce the law in cases of vigilantism. Deedsvigilantism or unlawful acts in cases of violence committed by the perpetrator can be punished in accordance with Article 170 of the Criminal Code.

Legal institutions, based on Law No. 8 of 1981, include the police, the prosecutor's office, the courts, and the Criminal Enforcement Agency (LP). The authority of law enforcement agencies is guaranteed by law, as they are free from state power and other influences in carrying out their duties and responsibilities.

Police face significant challenges enforcing vigilante violence against vigilante groups, and police, as investigators, face challenges in obtaining information. When we engage in vigilantism, we instinctively seek to protect one another because both the information and the perpetrators come from the same community. Vigilante violence is often carried out by groups and involves many people, making it difficult for police to resolve vigilante incidents, and sometimes they persist. These actions by the community lead to victimization.

The authority and duties of the police are

stipulated in Law No. 13 of 1961 concerning the Basic Powers of the State Police. Article 2, Paragraph 1 of Law No. 13 of 1961 concerning the Basic Powers of the State Police is detailed as follows:

- a. Maintain order and ensure public security.
- b. In the judicial field, conduct investigations into crimes and violations according to the provisions of the Criminal Procedure Code and other state regulations.
- c. Monitoring religious beliefs that can endanger society and the state.
- d. Carrying out other special tasks assigned to him by a State regulation.

Another authorized party that enforces the law against unlawful acts in cases of violence and abuse is the prosecutor's office. The prosecutor's office's authority and duties are also stipulated in Law Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia, Article 30, as follows. In the criminal field, the prosecutor's office has the following duties and authorities:

- a. Conducting prosecution.
- b. Implementing judges' decisions and court decisions that have obtained permanent legal force.
- c. Supervise the implementation of conditional criminal decisions, supervised criminal decisions, and conditional release decisions.
- e. Conducting investigations into certain criminal acts based on the law.

Complete certain case files and for this purpose can carry out additional examinations before being submitted to the court, the implementation of which is coordinated with investigators.

Law of the Republic of Indonesia No. 2 of 1986 concerning the Judiciary stipulates that those who seek justice and enforce the law in general are the holders of judicial power. To achieve justice, the nature and existence of courts must be able to

create legal certainty, a value truly embodied in applicable laws.

Pelaw enforcement in cases of vigilantism which includes the criteria in Article 171 of the Criminal Code or Article 351 The Criminal Code and law enforcement agencies must be more proactive in ensuring justice for victims. In reality, alarmism is widespread in society. Those who commit unlawful acts in cases of violence and abuse are often those who act arbitrarily due to a lack of legal knowledge and a lack of faith in its existence.

In this study, an example of vigilante justice is a car theft that occurred on Monday, April 19, 2021, in Jukong Village, Labang District, Bangkalan Regency, Madura Province, East Java. A group of Madurese citizens violently attacked the car thief, identified as Nardin, 24, from West Kwanyar Village. The repeated blows from the group left the perpetrator unconscious, leaving his back bruised and bruised, but without further consequences.

Violent crime refers to an act of violence committed by one person against another as revenge, and is therefore neither permitted nor prohibited by law. As a result of this action, the victim files a complaint with law enforcement. If we are harmed, we as a society should not retaliate against that person; rather, the judicial process must go through legal proceedings, and a judge must decide the case.

According to Wagiman Maltejo, violence and abusive behavior are regulated by criminal law, so vigilantism is fundamentally prohibited. As a legal objective, vigilance reflects the legal system and legal certainty. The implementation of the principle of legal certainty is a fundamental norm arising from positive law. Legal principles are also positive law's legacy in society, as in legal science, positive law is not considered the source of more general regulations.

Criminal law expert James Erickson Tamba believes that Indonesia is a country based on the

rule of law, where everything is governed by the rules established by the state and its laws. In this sense, law can be defined as unwritten law.

Implementation by the state is regulated by law. Law regulates all social ties and the rights and obligations of the community. Every citizen has rights and obligations as a nation, namely by obeying applicable laws. There are also limits to each person's rights. Regarding the transfer of community affairs, including legislation, the community is not permitted to resolve problems because the resolution of the case has been handed over to the judicial authority.

Anyone who fulfills the elements of Article 170, namely the aforementioned individuals, who openly and jointly use violence against people or property, is threatened with a maximum prison sentence of five years and six months. The case of vigilance described above satisfies the element of each person, namely the party who commits violence against another person. And the second element: If the perpetrator intentionally destroys property or if the violence used results in injury, the perpetrator can face a maximum sentence of seven years in prison.

In some of the cases above, alarming behavior occurred and resulted in harm to others. Therefore, it's clear that if the second element is met and the violence results in serious injury, the third element carries a sentence of up to nine years. If death results, the maximum sentence is 12 years.

The resolution of vigilante cases that meet the requirements of the violence clause in Article 170 of the Criminal Code or the requirements of Article 351 of the Criminal Code must be carried out through judicial procedures to uphold the supremacy of law and to avoid feelings of guilt.

In this case, criminal prosecution occurs when the law is taken independently for the benefit of a specific national goal and to comply with all legal regulations. In relation to the above case, the criminal prosecution procedure in this case is in

accordance with Article 183 of the Criminal Procedure Code, which states that judges may not impose criminal penalties.

The legal consequences of vigilantism that meet the elements of Article 170 or Article 351 of the Criminal Code. Legal consequences are an event that is caused or resulted from a cause, an act carried out by a legal entity, whether the act is in accordance with the law or not, or the act is not in accordance with the law. The settlement of all criminal cases, including the current rampant vigilantism cases, must be carried out through legal channels and in accordance with applicable provisions, but often the public lacks legal knowledge, and this often happens.

Court proceedings are no longer a matter of rules to be followed. The public focuses primarily on legal issues related to organizations, individuals, performance, and products. This situation reflects the public perception that legal institutions lack competence and professionalism, raising questions about the integrity of their personnel and products in enforcing the law. The law itself has a meaning, which is not only a reference for rules of conduct in social and national life, but also includes:

1. The process of lawmaking is furthermore a power struggle involving the interests of those in power. It's very difficult to refuse those in need.
2. The law enforcement process carried out by both low-level executive institutions and high-level judicial institutions in carrying out law enforcement duties, has been criticized for reflecting a decline in legal authority by emphasizing non-legal nuances (Politics and Power) Not law. Inconsistent and discriminatory law enforcement; interference by power in the law is difficult to understand and prove, let alone handle.
3. Law enforcement agencies that lack understanding, management, and integrity need to be reformed. Changing public

attitudes and behavior is far more difficult than changing the legal system or its content. Major changes will be meaningless if law enforcement remains stagnant.

Muhammad Mustafa, a criminologist at the University of Indonesia, argued that while the actions of vigilante groups may appear extremely sadistic, they don't necessarily reflect the personalities of all those involved. He said that residents involved in mass lynchings may be those who typically dislike physical violence or are afraid of the sight of blood. However, they engage in these acts due to problems stemming from distrust of the police.

Violence and abuse against individuals suspected of committing crimes are regulated by criminal law. If a perpetrator of a violent or abusive act commits an element of a crime, they must be held accountable for their actions. A crime is an act committed by a guilty person that violates criminal law and is punishable by punishment.

The description contains several criminal elements:

1. Action: Action in the broadest sense (not doing is also an action).
2. Violation of criminal law provisions: The main criminal provisions of Article 1 Paragraph 1 state that a person's actions are subject to criminal penalties in the following cases: : Regulating criminal regulations before they are carried out.
3. Threat of Punishment: Criminal law that defines crimes includes threats of punishment of various types.
4. It is committed by someone who is guilty (schuld) and has the elements, namely: Dolus (intentional) and culpa (negligence).

According to James Erickson Tamba, the consequences of vigilante law and following the elements of Article 170 or Article 351 of the Criminal Code can be detrimental to both victims and perpetrators. Regulations no longer function

as they should, and the act of usurpation itself is inconsistent with the theory of a state based on the rule of law. In other words, what is meant by a "state based on the rule of law" is a state that aims to uphold legal order, namely an order based on laws generally applicable among humans.

Based on the explanation of the legal situation, the gap between the description of the vigilante case and the application of the elements of Article 170 of the Criminal Code and Article 351 of the Criminal Code is the existence of separate powers and the elements of Article 351 of the Criminal Code, proven to not meet the requirements of the rule of law due to the lack of legal certainty and the existence of vigilante law enforcement efforts. If in society there are many laws that are not enforced and the community takes over the law, then this country will perish and the rule of law as stated in the 1945 Constitution will not be realized.

Law enforcement must be achieved through awareness and enforcement by law enforcement officials. We need to improve our laws and educate the public about the importance of complying with applicable regulations. Criminals who take the law into their own hands and are proven guilty and meet the elements of the crime must be treated according to those standards. However, it cannot be denied that the legal weaknesses of law enforcement officials raise concerns and lead the public to believe that the law cannot be enforced in this country.

As the culture of vigilantism develops, other methods will emerge, including terrorism that uses psychological and physical targets, as well as more sophisticated methods such as intimidation, character assassination, violence, and abuse.

Therefore, in building a society that is aware of the law and obeys the law, the government must immediately mobilize moral strength, including law enforcement, by socializing the essence of the need for society to obey the laws of the people.

Organizations or social groups engaging in these illegal acts should use their judgment to resolve the legal issues they face. Vigilante behavior that meets the requirements of Article 170 or Article 351 of the Criminal Code creates legal uncertainty, prevents the law from functioning properly, and is completely inconsistent with the theory of the rule of law in Indonesia.

Furthermore, victims of vigilantism can suffer both material and immaterial losses. Harm, injury, and loss to the victim's family can result in death or serious bodily injury, disability, or mental impairment if not vigilant. Therefore, the consequences of vigilantism have a significant impact on the future of the nation.

If the public fails to follow established rules and acts arbitrarily, state law becomes useless. The importance of complying with all existing regulations leads to legal certainty and enforcement, as well as justice for victims. Law enforcement officers must be able to enforce the law to ensure the public's confidence that the law exists and that all applicable regulations are complied with.

IV. CONCLUSION AND SUGGESTIONS

A. Conclusion

Prosecution for vigilante action is regulated by Article 170 of the Criminal Code concerning violence, or Article 351 of the Criminal Code concerning assault. However, this evidence does not meet the minimum requirement of Article 183 of the Criminal Procedure Code, which requires a minimum of two pieces of evidence. Therefore, it is difficult for law enforcement officials to enforce the law and ensure legal certainty.

The consequences of vigilante law are that the law does not function properly in Indonesia and is contrary to the theory of the rule of law. Taking action alone can harm victims who suffer minor or serious injuries, disability, mental illness, and death.

B. Suggestions

Based on the discussion regarding criminal prosecution efforts against acts of vigilantism, it can be concluded that the persistence of vigilantism in society reflects the low level of legal awareness and the lack of public trust in law enforcement institutions. Therefore, the government and law enforcement agencies need to strengthen legal education and public awareness regarding the legal consequences of vigilante actions, particularly those regulated under Articles 170 and 351 of the Indonesian Criminal Code (KUHP).

In addition, law enforcement institutions, including the police, prosecutors, and judiciary, are expected to improve professionalism, integrity, and consistency in enforcing the law to enhance public trust in the legal system. Criminal sanctions against perpetrators of vigilantism should be implemented firmly, fairly, and without discrimination to ensure legal certainty, protect human rights, and uphold the principle of the rule of law in Indonesia.

Furthermore, reforms in the law enforcement system should continue through improving the quality of law enforcement personnel, accelerating judicial processes, and strengthening victim protection mechanisms. Through these efforts, acts of vigilantism can be minimized, public confidence in the legal system can be restored, and justice, legal certainty, and social order can be effectively achieved in accordance with Indonesia's constitutional principles as a state based on the rule of law.

BIBLIOGRAPHY

Anjari Warih. (2014). The Phenomenon of Violence as a Form of Crime (Violence), Journal ISSN 2338-7785, Vol.1, No.1, April

Asmarawati Tina. (2020). Legal Perspectives on Vigilance, Journal of Legal Studies Vol. 3, Number 1, June

Asshidiqie Jimly. (1998). National Legal Development Agenda in the Age of Globalization, 1st Edition, Jakarta: Balai Pustaka

Chazawi Adami. (2001). Crimes Against Body and Life, Jakarta: Raja Grafindo Persada

Fadjar Mukhtie. (2005). Types of Legal States, Malang: Bayumedia publishing

Harkrisnowo Harkristuti. (2003). Legal Reform in Indonesia: Towards Synergistic Efforts for Its Achievement, National Law Magazine Number 2

JCT Simorangkir and Woerjono Sastropranoto. (1958). Indonesian Law Lessons, 4th edition, Jakarta: Gunung Agung

Madura Newspaper, "Caught Stealing a Motorcycle, Repeat Offender in Bangkalan Beaten Black and Blue by Mob" <https://www.koranmadura.com/2021/04/caught-stealing-a-recidivist-motorcycle-in-Bangkalan-battered-black-and-ravaged-by-a-mob/> Accessed on April 19, 2021 at 19:46

Moho Hasaziduhu. (2019). Law Enforcement in Indonesia Emphasizes Aspects of Legal Certainty, Justice and Benefit, Warta Journal

The 1945 Constitution of the Republic of Indonesia

WowHyuni Fitri. (2017). Basics of Criminal Law in Indonesia, Tangerang: Nusantara Persada Utama