

**THE CAUSE FACTOR AND CRIMINAL LAW ENFORCEMENT OF
VIGILANTE IN YOGYAKARTA CITY**

THESIS



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**LEGAL STUDY PROGRAM
UNDERGRADUATE PROGRAM
FACULTY OF LAW
ISLAMIC UNIVERSITY OF INDONESIA
YOGYAKARTA
2023**

**THE CAUSE FACTOR AND CRIMINAL LAW ENFORCEMENT OF
VIGILANTE IN YOGYAKARTA CITY**

THESIS

**Presented As The Partial Fulfillment Of The
Requirements To Obtain A Bachelor's Degree At
The Faculty Of Law
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Yogyakarta**



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Telah diperiksa dan disetujui Dosen Pembimbing Tugas Akhir untuk
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MOTTO

“Follow Your Heart, And The Universe Will following You”

-MOHAMAD DERIN PUTRA PRADANA-

DEDICATION

This thesis is wholeheartedly dedicated to:

Allah *Subhanallahu wa ta'ala*,

Thanks to Allah SWT who always gives me strength, health, and broad knowledge which made it possible to complete my legal case study;

My Beloved Parents and All of my Family,

who always provided me with love, continuous support, and affection;

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who have taught and guided me to complete my study;

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who always help during my study

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who always be on my side in easy and hard times.

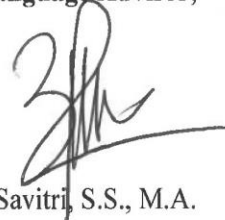
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**THE CAUSE FACTOR AND CRIMINAL LAW ENFORCEMENT OF
VIGILANTE IN YOGYAKARTA CITY**

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Finally, the author realized that there are still a lot of things that need to be improved, hence any kind of suggestion will be gladly accepted and considered for better future knowledge. Hopefully, this legal case study can be useful for anyone who reads this.

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**Faktor Penyebab Dan Penegakan Hukum Pidana Main Hakim Sendiri Di
Kota Yogyakarta**

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ABSTRAK

Tindakan main hakim sendiri merupakan suatu tindakan penyimpangan sosial yang dilakukan oleh masyarakat yang korbannya merupakan pelaku atau diduga pelaku suatu tindak kejahatan. Para pelaku tindakan main hakim sendiri melakukan perbuatannya dengan cara menganiaya dan berusaha mengadili korbannya tanpa melalui proses hukum yang berlaku. Tindakan main hakim sendiri terkadang menimbulkan korbannya meninggal dunia dan membuat lingkungan sekitar menjadi tidak aman karena masyarakat yang tidak taat kepada hukum yang sudah ditetapkan. Penelitian yang dilakukan ini bertujuan untuk meneliti dan mengetahui faktor yang menyebabkan masyarakat melakukan tindakan main hakim sendiri dan penegakan hukum yang dilakukan oleh kepolisian resor kota Yogyakarta. Penelitian ini adalah penelitian hukum empiris yang datanya diperoleh melalui wawancara. Hasil dari penelitian ini menunjukkan faktor faktor yang menyebabkan masyarakat melakukan tindakan main hakim sendiri adalah faktor nafsu, faktor emosional, faktor pendidikan, faktor ikut ikutan, faktor salah sangka, faktor kesempatan, faktor sosial, faktor anomiee. Serta penegakan hukum yang dilakukan oleh kepolisian resor kota Yogyakarta adalah dengan melakukan restorative justice dan apabila restorative justice tidak dapat dilakukan maka kepolisian melanjutkan proses hukum sesuai dengan hukum yang berlaku.

Kata Kunci : *kontrol sosial, main hakim sendiri, restorative justice*

The Cause Factor And Criminal Law Enforcement Of Vigilante In

Yogyakarta City

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ABSTRACT

Vigilantism is an act of social deviation committed by the community whose victim is the perpetrator or alleged perpetrator of a crime. The perpetrators of vigilante actions commit their actions by persecuting that victims without going through the applicable legal process. Vigilante actions sometimes cause the victim to die and make the surrounding environment unsafe because people do not obey the laws that have been set. The research conducted aimed to examine and find out the factors that cause people to take the law into their own hands and law enforcement carried out by the Yogyakarta city police. This research is empirical legal research data is obtained through interviews. The results of this study indicated that the factors that caused people to take the law into their own hands were lust factors, emotional factors, educational factors, participation factors, misunderstanding factors, opportunity factors, social factors, anomie factors. As well as law enforcement carried out by the Yogyakarta city resort police is to conduct restorative justice and if restorative justice cannot be done then the police continue the legal process in accordance with applicable law.

Keywords: Vigilantism, Social Control, Restorative Justice

CHAPTER I

THE CAUSE FACTOR AND CRIMINAL LAW ENFORCEMENT OF VIGILANTE IN YOGYAKARTA CITY

A. BACKGROUND

Humans need rules that regulate the rights and obligations of each other. In order to realize a safe and prosperous life because after all humans are social creatures who need other humans. Law was created to maintain human rights and human responsibilities. The Indonesian State is a State of Law, based on Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia. it can be said that Indonesian society is a law-abiding society in carrying out every action and behavior carried out in accordance with statutory regulations. In social life in general there are written or unwritten rules that must be obeyed, but in fact not all of these rules are obeyed. In order for the rules that are created to be obeyed and implemented, a sanction or punishment is also created in the regulation. In this case, when talking about the law, it will talk about crimes or criminal acts.¹

Criminal action is an act that deviates from the rules that have been made or agreed beforehand and can disrupt the process of stability in social life and can cause a sense of insecurity in the surrounding environment. The reasons people commit crimes can be influenced by various factors, such as a lack of self-awareness of the life around them, and injustice to the applicable law.²

¹ Panjaitan, C, & Wijaya, F (2018). *Penyebab Terjadinya Tindakan Main Hakim Sendiri Atau Eigenrichting Yang Mengakibatkan Kematian* Jurnal Hukum Adigama, journal.untar.ac.id, page 1

² *Ibid* page 2

In this case, the state should not only pay attention to the legal factors but also to the law enforcers. The lack of supervision factor by related parties that causes law enforcers to neglect their duties. This has a direct impact on the decline in public confidence in efforts to deal with crime by law enforcement. The complicated process of the current justice system, and the frequent escape of suspects with absurd reasons such as the lack of supporting evidence in proving the crime and the law that is considered unfair and not commensurate with the actions committed by the suspect, triggered a negative view by the community that it is better to take the action of the vigilante (*eigenrichting*) against the perpetrator than to submit the entire case to law enforcement which in turn allows the suspect to be tried unfairly or even escape the law, so that people take vigilante action which is considered a natural thing to happen in society.³

The act of taking the law into your own hands is an example of a criminal act that exists in society. The meaning of the act of taking the law into your own hands is an action taken by the masses to punish someone without going through the applicable legal process. for perpetrators, vigilante seems to be inherent in social life, there is a tendency for the masses to take vigilante actions, people always judge themselves, not in the right way, but using the wrong way. if the community finds someone committing a crime that is prohibited by law and is considered disturbing to the surrounding community, for example crimes of theft, pickpocketing, or robbery, then the community immediately acts by taking the

³ Dharmawan, Gebyar (2018) *Penerapan Pasal 170 KUHP atas Tindak Pidana Main Hakim Sendiri atau Eigenrechting (Studi di Satuan Reserse dan Kriminal Polresta Malang Kota)*. Sarjana thesis, Universitas Brawijaya p.13

law into their own hands, such as by beating, even burning people alive commit the crime.

The intended action is vigilante action, and vigilante action is prohibited by law. People tend to do it and understand the consequences of these actions, but people who are provoked and feel angry because of a lack of self-control will take vigilante actions which of course can be detrimental to the perpetrators of crimes who are judged and those who commit these vigilante actions.⁴

At this time many people are worried about the legal situation where justice is dynamic but justice will always be dynamic if the formal law that applies to create justice is not trusted by the community. Even though the law was created to regulate community activities and the community as legal subjects should obey and comply with applicable laws. The increasing crime that has occurred lately can cause unrest in the community, which is accompanied by hatred and revenge. This factor can trigger a negative reaction from the community, so that when the community accidentally catches the perpetrators of a crime, the community does not hesitate to retaliate directly against the perpetrators of crimes because that is an expression of frustration.⁵

Vigilantism has made a negative contribution to the law enforcement process. Law enforcement in vigilante cases needs serious efforts and handling, vigilantism should not become a culture in society. If a country in its community life is more dominant in applying jungle law than normative formal law, then society will tend to submit to groups or individuals who have physical strength,

⁴ Hendrawati, H, & Krisnan, J (2019). *Main Hakim Sendiri (Eigenrichting) Dalam Perspektif Kriminologis*. Prosiding University Research , repository.urecol.org p.65

⁵ *Ibid* p.68

such as certain groups that have strong physical strength. mass-based groups or thuggery which shows that our community groups tend to prepare physical strength as a preventive measure in solving every problem rather than using legal channels that they consider ineffective.

Like the recent case situation in the Yogyakarta city, 2 high school students riding motorbikes were intercepted by residents who were chatting at the ronda post because the two students when passing the ronda post rode their motorbikes fast then the students were questioned by several residents and asked for identity but the two students did not carry any identity at all and made the local residents angry and then judged them for their mistakes.⁶

And, At that time the victim was with his partner looking for a cup of coffee which was located around the Yogyakarta monument, then the victim was shouted "klitih" by the perpetrator and chased, then after being checked the victim did not carry any sharp weapons and was confused to answer because he was surrounded by the masses, the victim was beaten and judged by the masses because that the defendant has been charged with article 170 verse 2 KUHP about united force.⁷

A grandmother was judged by a mob for stealing a cake at the Keniten market in Yogyakarta, the grandmother stole the cake because she was hungry

⁶ radarjogja.jawapos.com/kriminalitas/main-hakim-sendiri-pukuli-dua-orang-saat-ronda/ accessed at 12.56

⁷ www.polresjogja.com/2023/08/polsek-jetis-tangkap-pelaku.html accessed at 08.50

and had no money to buy the cake, but the mob who was already furious judged the grandmother.⁸

And vigilante actions still occur a lot in Yogyakarta because the crime rate in Yogyakarta is increasing, the community is furious with this, recently vigilante actions occurred in Badran village Yogyakarta, street criminals were judged by the masses because the perpetrators carried sharp weapons when riding a motorcycle, residents caught the suspected street criminals and the perpetrators were judged by the masses.⁹

And the last case The perpetrator of the theft was caught by residents when he was about to steal a cell phone belonging to one of the hotel guests who was staying at a hotel in the pasar kembang area, the man was desperate to enter the room while the victim was sleeping, then the victim woke up and spontaneously the victim screamed and the suspect panicked then the suspect was caught by local residents, then the suspect was beaten by local residents.¹⁰

It can be seen that the current criminal law in Indonesia is no longer able to accommodate the aspirations of the people who are increasingly growing and demanding a proper justice and criminal law reform that is currently still less than perfect.¹¹

⁸ jogjapolitan.harianjogja.com/read/nenek-yang-lapar-dihakimi-massa-karena-curi-kue-di-pasar-niten accessed at 09.44

⁹ jakarta.tribunnews.com/dihakimi-massa-pelaku-klitih-menggelepar-di-jalan accessed at 09.58

¹⁰ www.polresjogja.com/hendak-beraksi-di-hotel-pencuri-babak-belur accessed at 10.00

¹¹ Zulkarnain, I, & Jaya, I (2019). *Kriminalisasi perbuatan main hakim sendiri (eigenrichting) dalam hukum pidana di indonesia*. Kertha Wicara: Journal Ilmu Hukum, ojs.unud.ac.id, p.72

The Criminal Code (KUHP) does not yet regulate vigilantism, but that does not mean that the KUHP cannot be applied. For example, if a vigilante act occurs, it can be charged with Criminal Code regulations, namely Article 170 on Violence, Article 351 on persecution.¹²

In this case of vigilantism, both parties are victims of the failure of law enforcement which is considered unable to provide a sense of security and peace in society. The decline in public confidence in the performance of law enforcement and the many feelings of injustice imposed on the perpetrators of crime, are the main reasons for the community to carry out the law in their own way, namely trying the alleged perpetrator when caught committing a crime. By committing vigilante actions, the consequences caused are the basis for the imposition of punishment for the perpetrators of vigilantism, which is heavier than the imposition of punishment on suspected perpetrators of criminal acts who are victims of vigilantism by the community.¹³

In criminal law, there is a theory of the purpose of punishment which is divided into 2 purposes, namely *general prevention*, general prevention is a preventive measure to legal subjects not to commit acts prohibited by positive law. the meaning of the legal subject is the public. and special prevention is an action intended for the perpetrator of a crime not to repeat his actions, both theories are in line with the theory of legal functions, which is referred to as a tool

¹² Panjaitan, C, & Wijaya, F (2018). *Penyebab Terjadinya Tindakan Main Hakim Sendiri Atau Eigenrichting Yang Mengakibatkan Kematian (Contoh Kasus Pembakaran Pelaku Pencurian Motor Dengan Jurnal Hukum Adigama*, journal.untar.ac.id. p.44

¹³ Suastini, NPM, & Parwata, IGN (2019). *Pemidanaan Terhadap Pelaku Main Hakim Sendiri (Eigenrichting) Dalam Kaitannya Dengan Kontrol Sosial (Social Controlling)*. Kertha Wicara, Fakultas Hukum, ojs.unud.ac.id, hal 1-2

of social control *social controlling*. the many negative consequences arising from vigilantism, it is appropriate that vigilantism (*eigenrichting*) in Indonesia be clearly regulated to uphold justice and to eliminate legal vacuum.¹⁴

based on the above description of the many cases of vigilantism , the author is interested in examining cases of vigilantism in the city of yogyakarta, because in the city of yogyakarta is a tourism city and of course there are various kinds of actions against the law. so the author wants to examine how the legal handling is carried out by the yogyakarta city resort police and what are the factors that cause vigilantism in Yogyakarta city. And the author will be took the title of research is **THE CAUSE FACTOR AND THE CRIMINAL LAW ENFORCEMENT OF VIGILANTE IN YOGYAKARTA CITY**

B. PROBLEM FORMULATION

- A. what are the cause factors act of vigilante crimes in Yogyakarta city?
- B. How are the law enforcement acts of vigilantism in Yogyakarta police resort ?

C. RESEARCH OBJECTIVE

The purpose of this research is written as a clear statement sentence about what is the problem formulation in the research.¹⁵ The following are the research objectives that will be delivered, namely:

1. to know and explain what causes factor people to do vigilante
2. to know and explain how law enforcement of vigilantism that occurs in the community in Yogyakarta city.

¹⁴ *Ibid* hal 3

¹⁵ Bambang Sunggono, 1996, *Metodologi Penelitian Hukum*, Raja Grafindo Persada, Jakarta, p. 109.

D. ORIGINALITY OF RESEARCH

Originality of research is something that must be maintained from a research. The research must maintain the originality of the research, especially in research that is shown to be academic. Originality of research is the main criterion of academic work. Academic work, especially theses must show that the work is original. therefore the author collected three previous studies that have similar problems to be studied with the research that the author would, so that it can be used as a comparison material to keep the author's work original.¹⁶

Research that can be used as the first comparison is research conducted by Amir, An Nuur Afrianty.

Amir, An Nuur Afrianty conducted a study entitled "criminological review of vigilantism (eigenrichting) which resulted in death (case study in pandaan police station pasuruan district)". In this study there is a similarity in the formulation of the problem, namely about the factors, but the research conducted by amir, an nuur afrianty emphasizes more on the supporting factors. In this study the authors will explain and describe what impact the supporting factors can have.

Research that can be used as the second comparison is research conducted by Rizky Aditya A.

by Rizky Aditya A conducted a study entitled "taking the law into your own hands (eigenrichting) against the perpetrators of khalwat (a study in the city of banda aceh)". In this study, the research has similarities with the author, namely efforts to prevent vigilantism, but the research conducted by Rizky Aditya A emphasizes

¹⁶ <https://eprints.umm.ac.id/37716/3/jiptummp-gdl-septiekasa-47787-3-babii.pdf> p.77

more on preventive prevention efforts. In this study the authors will describe preventive and repressive prevention efforts for the perpetrators of vigilantism..

Research that can be used as the third comparison is research conducted by Heni Hendrawati.

Heni Hendrawati conducted research entitled "Vigilantism (Eigenrichting) in a Criminological Perspective" in the study has similarities about efforts to prevent vigilantism, but research conducted by Heni Hendrawati only emphasizes preventive efforts without providing repressive efforts that can be done.

After comparing the three previous studies above, it can be concluded that the research to be carried out by the author has a difference, namely research that has elements of novelty and originality from research that has been done before. So that research that has this element of renewal can add insight into the research process.¹⁷

E. LITERATURE REVIEW

In discussing the problems that have been formulated in the writing of this thesis, the theoretical basis used is the theory of vigilantism (eigenrichting), and several aspects of aspects that may be violated from vigilantism (eigenrichting).

1. Vigilante (Eigenrichting)

The definition of vigilantism (eigenrichting) based on the legal dictionary is "the act of exercising rights according to one's own arbitrary will, without

¹⁷ <https://eprints.umm.ac.id/37716/3/jiptummpg-gdl-septiekasa-47787-3-babii.pdf> p.80

having the consent of other interested parties, and as the execution of sanctions by individuals".¹⁸

It can be concluded that the definition of vigilantism (*eingenrechting*) is an action that takes rights without regard to the applicable law. In addition, vigilantism can also be interpreted as an act to punish a party without going through a process/procedure in accordance with the law.¹⁹ To protect fellow human beings and to create a sense of security in social life, the law must be enforced.

Furthermore, according to Teguh Prasetyo, the purpose of criminal law is divided into 2 (two) parts, namely:

- 1) The purpose of criminal law as a law of Sanctions, This goal is conceptual in nature which has the aim of providing the basis for criminal sanctions. forms and types of criminal sanctions as well as a reference in resolving criminal offenses. This objective is not written in the criminal law article but based on the provisions of criminal law.²⁰
- 2) The purpose of imposing criminal sanctions on people who violate criminal law, this goal is clear, which arises because there is a violation of criminal law.²¹

¹⁸ Agen Sindikat, *Kamus Hukum Terlengkap - 11.000 istilah bahasa Inggris & Belanda*, p. 158,

¹⁹ Pujayanti, N, & Soeskandi, H (2018). *Pelaku Persekusi dan Tindakan Main Hakim Sendiri*. Mimbar Keadilan, jurnal.untag-sby.ac.id, p. 240

²⁰ Teguh Prasetyo, 2010, *Hukum Pidana*, Jilid II, Jakarta, Rajawali Press, p. 7.

²¹ *Ibid* p. 8

From the statements expressed by experts, the author can conclude that vigilantism (*eigenrichting*) is the act of carrying out one's own will to punish someone without going through the applicable legal process.

2. Legal Aspects of Vigilantism According to the Criminal Code.

Vigilantism is a retaliation that stems from the concept of street justice or justice created by the community itself, which sees crime as a personal problem. A person who feels that they are the victim of someone else's actions, will express their emotions towards the perpetrator of the crime.²²

vigilante actions that result in property damage and can cause victims, need attention from the government, especially law enforcement officials. according to Sanford H. Kadish, violent crime is defined as:

“all types of illegal behavior, either threatened or actual that result in the damage or destruction of property or in the injury or death of an individual”.²³

It can be concluded that according to the definition above, crime is an unlawful act, which can be in the form of a threat or is an action taken directly, which can cause harm.

In the criminal code (KUHP), it does not clearly regulate vigilantism. criminal law requires that every prohibited or required act be expressly regulated in a statutory regulation (principle of legality).

²² Fathul Achmadi Abby, *Pengadilan Jalanan Dalam Dimensi Kebijakan Kriminal*, Jala Permata Aksara, Jakarta, 2016, p. 19.

²³ Sanford H Kadish dikutip dalam Nyoman Serikat Putra Jaya, *Aspek Hukum Pidana Terhadap Tindakan Anarkis Dan Main Hakim Sendiri Dalam Masyarakat*, Makalah Seminar Kecenderungan Tindakan Anarkis dan Main Hakim Sendiri dalam Masyarakat, Tegal, p. 3.

Based on the actions arising from vigilantism against a person suspected of being a perpetrator of a criminal offense, there are articles and provisions in the Criminal Code (KUHP) that can be imposed on the perpetrators of vigilante crimes depending on the impact of these actions, namely as follows:

1. Committing an offense against the Criminal Code as referred to in Article 170 of the Criminal Code, which states as follows

1) Any person who openly and with united forces uses violence against persons or property, shall be punished by a maximum imprisonment of five years and six months.

2) The guilty are punished:

1. By a maximum imprisonment of seven years, if with deliberate intent property is destroyed or if the violence used results in an injury;

2. By a maximum imprisonment of nine years, if the violence results in a serious physical injury;

3. By a maximum imprisonment of twelve years, if the violence results in death.

3) Article 89 shall not apply to this article.²⁴

2. If the act results in the death of the victim of the vigilante action, then an offense has been committed as referred to in Article 338 of the Criminal Code, which states as follows

“Any person who with deliberate intent takes the life of another person, shall, being guilty of murder, be punished by a maximum imprisonment of fifteen years.”²⁵

²⁴ <https://jdih.mahkamahagung.go.id/legal-product/kitab-undang-undang-hukum-pidana> p. 41

3. Committed a violation of criminal law Article 351 of the Criminal Code, which states as follows
 1. Maltreatment shall be punished by a maximum imprisonment of two years and eight months or a maximum fine of three hundred Rupiahs.
 2. If the fact results in a serious physical injury, the offender shall be punished by a maximum imprisonment of five years.;
 3. If it results in death, he shall be punished by a maximum imprisonment of seven years.;
 4. With maltreatment is equated with intentionally damaging health;
 5. Attempt to commit this crime is not punishable.²⁶
4. Violating and committing criminal acts under Article 352 of the Criminal Code, which states as follows:
 1. Except for those described in Articles 353 and 356, maltreatment which does not result in illness or an obstacle to the performance of official or professional activities shall, as light maltreatment, be punished by a maximum imprisonment of three months or a maximum fine of three hundred Rupiahs. The punishment may be enhanced by one third in the case of a person who commits the crime against a person who is in his service or subordinate.
 2. Attempt to commit this act is not punishable.²⁷
5. Committing a violation of criminal law as referred to in Article 354 of the Criminal Code, which states that :

²⁵ *Ibid* p. 79

²⁶ *Ibid* p. 81

²⁷ *Ibid* , p. 82

1. Any person who with deliberate intent seriously injures another person, shall, being guilty of serious maltreatment, be punished by a maximum imprisonment of eight years.;
 2. If the fact results in death, the offender shall be punished by a maximum imprisonment of ten years.²⁸
6. Committing a violation of criminal law as referred to in Article 406 of the Criminal Code, which states that :
1. Any person who with deliberate intent and unlawfully destroys, damages, renders useless or removes property which wholly or partially belongs to another, shall be punished by a maximum imprisonment of two years and eight months or a maximum fine of three hundred Rupiahs.
 2. The same punishment shall be imposed on the person who with deliberate intent and unlawfully kills, damages, renders useless or removes an animal which wholly or partially belongs to another person.²⁹

The articles described above all refer to the act of vigilantism (eigenrichting). However, the article does not clearly mention the act of vigilantism, but it clearly states the legal elements that can ensnare the perpetrators of vigilantism. The advancement of information technology has made people well aware of the laws that apply in Indonesia, but differences in the mindset of people who are more selfish, has led to a wrong application of the law in the community, and is more likely to be solidarity between fellow communities

²⁸ *Ibid*, p. 82

²⁹ *Ibid*, p. 95

rather than mutual justice. This kind of law implementation can be called a deviation.³⁰

Vigilante actions in society can be categorized as anomie, anomie is commonly referred to as *normless*, which means that there are no binding rules³¹. The implementation of the principles of legal expediency and legal certainty is seen by the community as not fulfilling a sense of justice, so people often carry out these anarchist actions to implement a sense of justice in accordance with life in society.

According to Donald Black, when social control through law does not work in accordance with the applicable law, a new action will automatically arise. In this case, the new action is vigilantism, which is a form of social control applied by society.³²

The current vigilante action as social control in society is termed according by Smelser as "*hostile frustration*".³³ Hostile frustration is the unrest of people who do not believe in a system that has been previously established.³⁴ It is common knowledge that when people do not trust the law, the level of vigilantism increases as a form of social control in society. Therefore, the government should implement clear laws and increase public trust through its law enforcers.

According to Iswanto, vigilantism is based on the relationship between the victim and the perpetrator not being resolved properly so that the victim demands

³⁰ *Ibid* .p. 8

³¹ Orru, M (1986). *Anomie: History and Meanings.*, elibrary.ru, diakses pukul 12.18

³² Donald Black dikutip Zainudin Ali, *Sosiologi Hukum*, Sinar Grafika, Jakarta, 2008, p. 24-25

³³ Smelser dikutip Zainudin Ali, *Sosiologi Hukum*, Sinar Grafika, Jakarta, 2008, p. 25

³⁴ *Ibid* .p. 26-27

justice, and feels that his rights have been destroyed. Therefore, sometimes the victim takes a more violent way against the perpetrator to demand back the rights that have been taken away by the perpetrator of the crime.³⁵

3. Cause Of The Crime Theory

Theories about the causes of crime have been researched and revealed by criminologists. In the research conducted by criminologists, various theories have emerged that can be used as a reference for law enforcers to conclude what causes a person to commit a crime. In the research conducted by criminologists there are various theories, including theory of criminologist perspective.

F. OPERATIONAL DEFINITION

1. Vigilante

Based on the legal dictionary of vigilantism (*eigenrechting*), is an act of exercising rights according to one's own wishes that is arbitrary without thinking about the consequences of what is caused³⁶. Usually, vigilante actions are carried out in the form of persecution, destruction of property belonging to victims of vigilante crimes, as well as severe persecution and can make victims of vigilante crimes die at the scene.³⁷

³⁵ Iswanto dikutip oleh Lidya Suryani Widayati, *Tindakan Main Hakim Sendiri dalam Info Singkat Hukum (Kajian singkat Terhadap Isu Aktual dan Strategis)*, Vol. VII, Nomor /05/1/P3DI/Maret 2015, Pusat Pengkajian, Pengolahan Data dan Informasi Sekretariat Jendral DPR RI, Jakarta, 2015, p. 2-3.

³⁶ Agen Sindikat, *Kamus Hukum Terlengkap - 11.000 istilah bahasa Inggris & Belanda*, p. 158

³⁷ Dharmawan, Gebyar (2018) *Penerapan Pasal 170 KUHP atas Tindak Pidana Main Hakim Sendiri atau Eigenrechting (Studi di Satuan Reserse dan Kriminal Polresta Malang Kota)*. Sarjana thesis, Universitas Brawijaya p.70

2. Criminal Offense

Crime in the Big Indonesian Dictionary means unlawful acts, criminal acts³⁸. While the criminal offense in Dutch is "*Strafbaar Feit*" while the criminal offense in Latin is called "*Delict*" or "*Delicticum*".³⁹ In a broad sense, a *Strafbaar Feit* or criminal offense is a person who commits an act or actions that violate the law and the person is considered responsible for the actions he committed.⁴⁰

3. Law Enforcement

Law enforcement is an act that regulates the relationship of values formulated in solid laws and expressed in an attitude of action which is the final stage in the development of values to create, maintain and maintain a peaceful social life. In social life, humans have their own standards to achieve life goals, but these standards are often contradictory between one individual and another. Law enforcement is not the task of applying the law to certain events, but human activities with all their characteristics that aim to fulfill the expectations desired by law. In law enforcement, the human factor plays a major role in law enforcement. Law enforcement is not a simple logical process, but with the participation of all mankind, law enforcement is no longer seen as an effort of logical reasoning, but as the result of a choice.⁴¹

4. Restorative Justice

In the practice of criminal law enforcement, we often hear the term Restorative Justice, Restorative justice means a restoration of relations and

³⁸ Big Indonesian Dictionary (*kbbi*)

³⁹ Soedarto, *Hukum Pidana Jilid IA-B*, Fakultas Hukum Universitas Diponegoro, Semarang, 1975.

⁴⁰ *Ibid*, p 33

⁴¹ M. Ali Zaidan, *Towards Criminal Law Reform*, Sinar Graphic, Jakarta, 2015, p. 110.

atonement that the perpetrator of the crime wants to make against the victim of the crime (*peace efforts*) outside the court with the intention and purpose that the legal problems arising from the criminal act can be resolved properly by reaching an agreement and agreement between the parties. Justice that has been taking place in the criminal justice system in Indonesia is retributive justice. What is expected is restorative justice, which is a process where all parties involved in a particular criminal offense together solve the problem of how to deal with the consequences in the future. Restorative Justice is a criminal case resolution model that prioritizes the recovery of victims, perpetrators, and the community. The main principle of Restorative Justice is the participation of victims and perpetrators, the participation of citizens as facilitators in case resolution, so that there is a guarantee that the child or perpetrator will no longer disturb the harmony that has been created in society.⁴²

G. RESEARCH METHODS

1. Type of Research

This type of research is empirical juridical legal research, empirical juridical research is a research that uses a sociological approach by using research data collection based on direct observation to obtain results that are used as a source of research data sources.⁴³ used to draw discussions and conclusions in this research.

⁴² Arief, H, & Ambarsari, N (2018). *Penerapan Prinsip Restorative Justice Dalam Sistem Peradilan Pidana Di Indonesia*. Al-Adl: Jurnal Hukum, ojs.uniska-bjm.ac.id, p .174

⁴³ Soerjono Soekanto dan Sri Mahmudji, *Penelitian Hukum Normatif, Suatu Tinjauan Singkat*, Raja Grafindo Persada, Jakarta, 2003, p. 15.

H. RESEARCH APPROACH.

1. Research Methods

The research approach method carried out by the researcher is the empiris method

2. Research Object

The object of thesis research conducted by researchers is the things that become the formulation of problems in this study which are sourced from primary legal materials, secondary legal materials, and tertiary legal materials.

3. Research Subject

Subjects in this study are used to assist researchers in obtaining concrete data from various parties associated with this research.

4. Research Sites

The location of the research sites was carried out in places in the police office, and several places that have something to do with this research.

I. RESEARCH DATA SOURCE

1. Primary Data

data obtained comes directly from direct observations site with the interviews with person resources made by researchers

2. Secondary Data

Legal materials that will be the main reference for researchers are:

- 1) Primary Legal Materials.

Primary legal materials in this research are sources from the interview with resource persons.

2) Secondary Legal Materials

Secondary legal materials used by researchers are legal materials that reinforce the author's theories based on legal certainty. which refer to articles 170 paragraph (1) on criminal acts of violence, 351 paragraph (1) to paragraph (3) on criminal acts of persecution, article 352 of the Criminal Code on light maltreatment, article 353 of the Criminal Code on premeditated maltreatment, article 354 of the Criminal Code on serious maltreatment, article 338 of the Criminal Code on criminal acts of murder, article 406 of the Criminal Code on criminal acts of destruction of property of others.

3) Tertiary Legal Materials

This legal material is used to complement research data sources from primary and secondary legal materials, tertiary legal materials referred to by the author are: legal dictionaries, large dictionaries of the Indonesian language.

4) Data Collection.

The data collection technique that will be used in this research uses two method:

- a. library research, library research is ways to collecting data by reading and study of book, document, magazine, or another resources has a related with the object of research

- b. directly observation (interview), the interviews is a ways to colecting data by question and answer session, and the research is will interviews data from the law enforcement of city Yogyakarta especialy is police officer

5) Data Analysis.

Data analysis used by researchers in collecting sources of information sources used for this research is qualitative descriptive data analysis, qualitative data analysis is an analysis that emphasizes the grouping of data data obtained from various existing sources and then analyzed to find systematic, structural, and logical conclusions that will be used by researchers.

J. SCRIPT FRAMEWORK

CHAPTER I : INTRODUCTION

This chapter contains the background, formulation problems, objectives and benefits of writing, scope, framework theory, research methods, and writing systematics

CHAPTER II : LITERATURE REVIEW

Chapter 2 contains a discussion of the regulations and norms that apply in Indonesia related to vigilantism, a legal review of the crime of vigilantism based on the Criminal Code, what rights can be requested and given to victims by the perpetrators of vigilantism, as well as a review of cases of vigilantism in

Indonesia, and what is the background of vigilantism in Indonesia based on juridical review, criminological review, and sociological review.

CHAPTER III : DISCUSSION

In this chapter researchers discuss the legal implications of laws relating to vigilantism, as well as discussing what is behind the criminal act of vigilantism, and what is the correlation with existing laws in Indonesia regarding the criminal act of vigilantism.

CHAPTER IV : CLOSING

This chapter contains conclusions and suggestions given by researchers in this research based on the materials that have been collected by researchers in making this research.

CHAPTER II

LITERATURE REVIEW

A. CRIMINAL OFFENSES

1. Definition Of Criminal Offense

The definition of criminal offense in the Big Indonesian Dictionary means an act that violates the law, a crime.⁴⁴ Meanwhile, criminal offense in Dutch is *strafbaarfeit*.⁴⁵ Crime has several terms and has changed in the law, some of these terms are used in the law, among others:

- a. The term criminal event was used in the interim constitution of 1950 specifically in Article 14.
- b. The term criminal act is used in Law No. 1 of 1951 on Temporary Measures to organize a unified structure of civil judicial power and procedure.
- c. Punishable acts, this term is used in emergency law number 2 of 1951 concerning the amendment of *Ordonantie Tijdelijk Byzondere Strafbepalingen*.⁴⁶

There are two views of criminal law, namely the monistic view and the dualistic view, the dualistic view is a view that sees a criminal act as a punishable

⁴⁴ Kamus besar bahasa Indonesia

⁴⁵ Moeljatno, "Asas-asas hukum pidana", Bina Aksara. Jakarta . 1987, h.50

⁴⁶ Soedarto, *Hukum Pidana Jilid IA-B*, Fakultas Hukum Universitas Diponegoro, Semarang, 1975. hal.31-32 dalam Buku Tongat, 2012, "Dasar-dasar Hukum Pidana dalam Perspektif Pembaharuan", UMM Pres, Malang. p. 91

⁴⁶ *Ibid* p.92

act.⁴⁷ . This view sees all the conditions for criminal acts. The following are expert opinions regarding criminal acts:

While based on the opinion of criminal law experts according to Bambang Poernomo, argues:

"that a criminal act is an act that by a regulation criminal law is prohibited and punishable for any person who violate the prohibition"⁴⁸

The meaning of the quote from bambang poernomo's statement is that an act committed by someone will be included in the crime if the applicable law at that time prohibits the act. so that someone who violates the prohibition by committing an act prohibited by law can be subject to criminal punishment in accordance with what is determined by the rules prohibiting the act. For example, theft cases, theft cases are acts of seizing and intending to own other people's property for their own interests. This is included in criminal acts, because theft is prohibited by criminal law.

While the criminal law expert Van Schravendijk, formulated *strafbaarfeit* as a punishable act, which argues as follows:

"A person's conduct is so contrary to the law that the conduct is is punishable provided that it is committed by a person who is therefore can be blamed."⁴⁹

The meaning of van Schravendijk's statement is that an act committed by a person can be considered violating and contrary to the applicable law if the person actually commits the prohibited act. However, in van Schravendijk's statement, the person can be punished if the person really made a mistake and can take

⁴⁷ *Ibid* p.92-93

⁴⁸ Bambang Poernomo, "*asas-asas hukum pidana*", Ghalia Indonesia, 1992.

⁴⁹ *Ibid* p.18

responsibility for his actions. For example, if someone hits another person, this is considered persecution. But the person who hits is a person who cannot be held accountable because the perpetrator is a person with a mental disorder.

Criminologist Jonkers also refers to *Strafbaarfeit* as a criminal event, saying that:

"An unlawful act (*Wederrechtelijk*) that is related to intentionality or wrongdoing committed by an accountable person."⁵⁰

The meaning of the statement from jonkers is that criminal acts or unlawful acts committed by a person can be held liable if the person commits unlawful acts intentionally or consciously and the person can be held liable if the person does fulfill the elements of criminal liability.

And according to criminal expert Wirjono Prodjodikoro, criminal acts are:

"an act for which criminal sanctions may be imposed."⁵¹

The meaning of Wirjono Prodjodikoro's statement about criminal acts is an act that the person who commits the act can be given criminal sanctions by the applicable law. For example, in the case of theft with violence, the perpetrator tries to take the victim's property by threatening to use a weapon, but the victim defends himself so that the perpetrator is injured, legally the victim's actions cannot be punished because it is included in the category of forced defense so that the victim is free from any punishment that can ensnare him.

And the criminal expert Simons said that *strafbaarfeit* is:

"An unlawful act that has been intentionally committed by a person who can be held responsible for his or her actions, which is declared to be lawful."⁵²

⁵⁰ *Ibid* p 18-19

⁵¹ *Ibid* p 19

⁵² *Ibid* p 19

The meaning of the statement expressed by Simons is that an act committed intentionally that has the purpose of violating the applicable law, and the unlawful act is carried out by someone who meets the elements of criminal liability, can be subject to criminal punishment and can be declared to meet the elements contained in the article. for example, as in the case of defamation, the perpetrator deliberately brings down the victim's dignity in public so that it makes the victim's good name bad, and causes harm to the victim. This fulfills the elements of criminal liability because the perpetrator is conscious and not under circumstances that can cancel out the elements of criminal liability.

Hazewinkel-Suringa defines *strafbaarfeit* as:

"A human behavior that at a certain time has been rejected in a certain association of life and is considered as behavior that must be eliminated by criminal law using the coercive means contained therein." ⁵³

The meaning of the statement expressed by Hazewinkel-Suringa is that a criminal act is an act that is considered contrary to the norms of the surrounding community and is considered deviant behavior, so it is necessary to have a written law that must provide punishment for someone who commits the act, so that deviant acts do not occur in the future.

Strafbaarfeit is defined by *Van Hamel* as

"an attack or a threat to the rights of others."⁵⁴

The meaning of the statement expressed by van hamel regarding criminal acts is an act that is threatening to someone and the act has the aim of depriving

⁵³ *Ibid* p 20

⁵⁴ *Ibid* p 20-21

someone else of a right that can be categorized as a criminal act that can be punished in accordance with the actions committed.

In addition to the monistic view contained in criminal law, there is also a dualistic view. Dualistic view is a view that *criminal act* and criminal responsibility are not important elements in a criminal offense. As expressed by the criminal expert Pompe who adheres to his dualistic view, Pompe argues that the meaning of a criminal offense (*Strafbarkeit*) is:

"A violation of norms (disturbance of legal order) that has been intentionally or unintentionally committed by an offender, where the imposition of punishment on the offender is necessary for the maintenance of legal order."⁵⁵

Thus, according to Pompe, fault in the act or criminal act alone without the element of responsibility is not an absolute requirement to be categorized as a criminal act. And according to Moeljatno's expert view on criminal acts, he argues that criminal acts (*strafbarkeit*) are:

"an act prohibited by a rule of law which prohibition is accompanied by a threat (sanction) in the form of a certain penalty, for anyone who violates the prohibition."⁵⁶

So that in both views of the criminal experts explain that the things that cause a criminal offense must be an act or criminal offense and there must be criminal responsibility. The main difference between these two views is in the monistic view, where the monistic view of the entire requirement for the existence of a criminal offense is considered attached to the criminal act, while in the dualistic view it is considered separate from the criminal act, therefore the notion of criminal offense is covered by both views.

⁵⁵ *Ibid* p.22

⁵⁶ Moeljatno, "*asas-asas hukum pidana*", Bina Aksara. Jakarta. 1987. P.59

2. Punishment Of Criminal Offense

In the legal system that exists and is applied in Indonesia, there is a punishment if the legal subject violates the provisions of the law and the applicable norms called sanctions or punishment. The forms of punishment vary which are regulated through the laws applied in Indonesia today.⁵⁷

Punishment means where someone has committed a criminal act, and punishment is intended so that someone who has committed a crime that violates the applicable law can have a deterrent effect and not repeat his actions in the future. In punishment there are several theories that have been explained by criminal law experts, these theories are absolute punishment theory, relative punishment theory, and combined punishment theory.

a. Absolute punishment theory (*Vergeldings Theorien*)

This theory of punishment has the basis of retaliation, what is meant by retaliation in this theory is that a crime that causes suffering to others, then the perpetrator who committed the crime must be given the same suffering according to what the victim of the crime feels from the perpetrator.⁵⁸

The basis of this theory is the act of revenge against the perpetrator of the crime. From the point of view of this theory, those who are convicted will receive a punishment that will result in exactly the same harm that the perpetrator caused to his victim, which of course can lead to different views from the community.

⁵⁷ Mulaidi and Barda Nawawi A. 1984. "*teori-teori dan kebijakan pidana*". Alumni. Bandung. P. 38

⁵⁸ Chazawi, Adami. 2013, *Hukum Pidana Bagian 1*. Rajawali Pers. Jakarta, hal. 157

b. Relative Theory of Punishment (*Doel Theorien*)

This theory of relative punishment is a theory that does not only look at the crime that has been committed by the perpetrator of the crime but also from the human side, whether the person needs to be sentenced to criminal punishment or not, if not sentenced to criminal punishment whether the perpetrator will be likely to commit the crime repeatedly, This aims to create and provide self-awareness in the perpetrators of crimes so that the perpetrators of these crimes really understand that what they do is detrimental and has a bad impact on others and on themselves so that these harmful actions are not repeated in the future.⁵⁹

c. Theories of Combined Punishment (*Verenigings Theorien*)

The combined theory of punishment is a combined theory of the theory of absolute punishment (*Vergeldings Theorien*) and the theory of relative punishment (*Doel Theorien*). but in principle this theory prioritizes retaliation. which punishment cannot be heavier than the actions committed and there is a possibility that the perpetrator of a criminal offense is punished very lightly from what was done.⁶⁰

Types Of Punishment

The types of punishment in Indonesia have been separated based on Article 10 of the Criminal Code (KUHP), as follows:

a. Principal Punishment

1. death penalty
2. imprisonment
3. fines

⁵⁹*Ibid* p 160.

⁶⁰*Ibid* p 161-162.

4. confinement
 5. exile punishment /pidana tutupan (based on Law No. 20/1946)
- b. Additional punishment
1. Deprivation of certain rights,
 2. Deprivation of certain goods,
 3. Announcement of judge's decision

Types of punishment based on Article 10 of the Criminal Code are divided into 2 types, namely main punishment and additional punishment as described by the author above, the main punishment is divided into 5 types, the following is an explanation of the main punishment based on the law:

a. Death Penalty

Death penalty, also known as *death penalty* or *capital punishment*, is a criminal sentence or a verdict imposed by the court on the defendant where the defendant is sentenced to the heaviest punishment because his actions are considered as unforgivable actions or actions that are so heinous that there is no appropriate punishment to be given other than by means of the defendant must be sentenced to death.⁶¹

In addition, according to the view of Professor Roeslan Saleh, the death penalty is a radical punishment to eliminate / eliminate the person by eliminating the person's life in a way regulated by the laws of a country.⁶²

Whereas the death penalty in positive law is, the death penalty is known as *uitvering* which means the revocation of the right to life of a person who has been

⁶¹ Muhammadiyah. 2019. "*Sistem Pidana Mati Menurut Hukum Islam dan Hukum Positif Indonesia*" Jurnal Komunike, Vol XI No. 1 Universitas Islam Negeri Syarif Hidayatullah

⁶² *Ibid* p.166

deemed a danger to the surrounding people based on a court decision,⁶³ the death penalty has caused many problems where there is a lot of opposition from various organizations, especially human rights organizations, according to human rights organizations the death penalty should be eliminated because revoking a person's right to life is a very sensitive thing for humanity where according to human rights a person's right to life is given directly by God and no human or state has the right to revoke that person's right to life for any reason.⁶⁴

However, in law the judge has the full right to give a decision that is as fair as possible where the judge tries not to sentence the defendant to the death penalty because the death penalty raises many pros and cons in society. If the defendant is proven to have committed a serious crime and the judge sentences him to death, the death penalty cannot be immediately imposed, because the death penalty requires a *fiat of execution*, the purpose of the *fiat of execution* is that the president approves that the defendant deserves to be sentenced to death, the purpose of this fiat of execution is so that the judge who gives the sentence does not abuse the authority given by the state.

b. Imprisonment

Imprisonment is the most commonly used punishment in law, because imprisonment is the most humane punishment besides the death penalty,

⁶³ Adami Chazawi, *Pelajaran Hukum Pidana Bagian I: Stelsel Pidana, Tindak Pidana, Teori – Teori Pemidanaan, dan Batas Berlakunya Hukum Pidana*, Jakarta: PT Raja Grafindo Persada, 2007, P. 166

⁶⁴ Utama, AR (2023). *Analisis Pro Dan Kontra Terkait Penerapan Pidana Mati Terhadap Pelaku Kekerasan Seksual Anak.*, digilib.unila.ac.id, p.6

imprisonment is considered the most effective punishment because limiting the offender to exercise his freedom is enough to create a deterrent effect.⁶⁵

The definition of imprisonment according to P.A.F lamintang, imprisonment is as follows

"Imprisonment is a punishment in the form of restriction of freedom of movement of a convicted person, which is carried out by closing the person in a correctional institution, by obliging the person to obey all the rules of discipline that apply in the correctional institution which is associated with a disciplinary action for those who have violated the rules."⁶⁶

While imprisonment according to the opinion of criminal law expert Roeslan Saleh is imprisonment is the most important punishment of criminal punishment where imprisonment deprives some of the rights of a person's life temporarily or for life.⁶⁷

Furthermore, based on the opinion of criminal law expert Barda Nawawi Arif, he stated that:

"Imprisonment does not only result in deprivation of liberty, but also has negative consequences on matters related to the deprivation of liberty itself. These negative consequences include the deprivation of a person's normal sexual life, so that homosexual relations and masturbation often occur among convicts. The deprivation of one's freedom also means the deprivation of one's business freedom, which can have serious consequences for the socio-economic life of his/her family. Moreover, imprisonment is said to provide a stigma that will continue even though the person concerned no longer commits crimes. Another consequence that is often highlighted is that the experience of imprisonment can lead to the degradation of human dignity and worth."⁶⁸

Based on the expert opinion above, it can be concluded that imprisonment is a punishment imposed by the court on a person who has committed an act prohibited by positive law in the country by depriving the person of their rights to

⁶⁵ *Ibid* p.10

⁶⁶ P.A.F. Lamintang, *hukum panitensier indonesia*, Armico, Bandung, 1984, p. 69.

⁶⁷ Roeslan Saleh, *Stelsel pidana indonesia*, Aksara Baru, Jakarta, 1983, p. 62.

⁶⁸ Andi Hamzah, *Sistem Pidana dan Pemidanaan Indonesia*, Pradya Paramita, Jakarta, 1993, P. 36-37.

provide a deterrent effect on the person and provide a sense of security in the community so that the same crime does not occur in the environment.

c. Criminal fine

Criminal fines are one of the main punishments in criminalization in Indonesian law, criminal fines are punishments intended for the property of someone who has violated the applicable law. criminal fines are included in the criminal code, criminal fines have the aim of paying a nominal amount to the state or rule makers by paying a certain amount of money or an object or property so that someone who has violated the rule feels a loss impact on himself so that someone who has violated a rule made gets a deterrent effect, thus creating peace in the community.⁶⁹

Fines are one of the primitive punishments that are similar to death penalty because fines have existed since the Majapahit era which has been applied by the kingdoms at that time to punish someone who is considered to have violated orders or rules that have been applied by the kingdom.⁷⁰ Fine is a punishment that is used as an alternative to imprisonment.

Criminal fine as an alternative to imprisonment is a short-term deprivation of liberty, because if a person who has violated the regulation and the court or judge has imposed a fine then the person pays the amount of the fine imposed on him, the person will be free from the sentence that ensnares him. And based on Indonesian law, Indonesia applies a legal system created by the Dutch and the nominal currency at that time is not in line with the nominal currency today due to an advanced economic system and inflation so that if a nominal fine is applied

⁶⁹ *Ibid* p.38-39

⁷⁰ Andi Hamzah, *Sistem Pidana dan Pemidanaan Indonesia*, Pradnya Paramita, Jakarta, 1993. p.34

based on the criminal code, of course the nominal is too small and cannot create a deterrent effect on someone who has violated the rules. When viewed from the legal system in Indonesia, the application of criminal fines does not have a minimum and maximum limit on the application of criminal fines, in the criminal code only has to mention the amount of fines that must be paid which of course the amount of fines given must be in accordance with the losses made by the person with a nominal amount that has been adjusted by the judge in court.

Fines are usually juxtaposed with imprisonment by judges because the nature of the fine itself is an alternative punishment and does not really create a deterrent effect so that judges sometimes juxtapose fines with a certain nominal amount or a certain amount of property in accordance with the losses incurred by someone who violates the law with imprisonment. For example, in corruption cases, the defendant has caused considerable losses to the state so that convicted corruption cases must pay fines or losses to the state in addition to the convicted person being sentenced to imprisonment, but the application of fines depends on the judge in court whether imprisonment alone is sufficient or there is a need for additional punishment given to the convicted corruption case.

Nowadays, fines are usually imposed for very minor offenses. Fines are the only punishment that can be borne by other people, the meaning of being borne by other people is that fines can be paid by other people on behalf of the person who has committed the offense. fines are mostly applied in administrative cases, such as tax administration.

d. Confinement

Confinement punishment is a punishment that is similar to imprisonment, confinement punishment is lighter than imprisonment, it can be carried out at the house of the defendant of a crime. Regarding the distinction between imprisonment and confinement punishment, basically both of them limit a person's right to freedom, but the rights that are limited in confinement punishment are not severe, in contrast to the limitation of freedom rights in imprisonment.⁷¹

Confinement punishment has several provisions regulated by the Criminal Code. One of the provisions is that a person sentenced to imprisonment has the right to *pistole*, based on Article 23 of the Criminal Code, this right regulates that a person sentenced by the court to imprisonment is given the opportunity to take care of his own food and bed at his own expense and not at the expense of the state.⁷² In addition, based on Article 19 of the Criminal Code, a person sentenced to imprisonment is obliged to do lighter work than a person sentenced to imprisonment.⁷³

However, in confinement punishment, a person who is sentenced to confinement punishment based on article 18 of the Criminal Code, the maximum period of detention is only 1 year and a minimum of 1 day if accompanied by aggravation of punishment due to repeated incidents, the maximum punishment is 1 year and 4 months based on articles 52 and 52 a.⁷⁴ Confinement convicts can also be detained in correctional institutions (lapas), and convicts serving

⁷¹ Andi Hamzah, *Sistem Pidana dan Pemidanaan Indonesia*, Pradya Paramita, Jakarta, 1993 p.44

⁷² Criminal code

⁷³ Criminal code

⁷⁴ Criminal code

confinement punishment in correctional institutions must be provided with a separate place, this is in accordance with article 28 of the Criminal Code.⁷⁵ Based on Article 21 of the KUHP, convicts who serve confinement punishment are usually detained in the place where the convict comes from.⁷⁶

Based on a book written by criminal law expert Jan Remelink whose book is entitled "criminal law" in the book Jan Remelink argues that:

"For criminal offenses, confinement is the only form of punishment that is possible. However, confinement punishment is not limited to violations only but also to several forms of crimes, such as those committed without intent (Articles 114, 188, 191ter, 193, 195, 197, 199, 201, 359, 360, 481 KUHP), all of which are punishable by imprisonment or confinement."⁷⁷

Article 28 of the Criminal Code stipulates that custodial detention can be carried out in prisons, but in reality not all prisons in Indonesia have a place to carry out custodial sentences.

e. Exile punishment

Exile punishment is based on the Law of the Republic of Indonesia No.20 of 1946, the State Gazette of the Republic of Indonesia No.24 of 1946, in Article 2 paragraph 1, which states that: if a person who commits a crime punishable by imprisonment is motivated by an intention that should be respected, the court may impose exile punishment on the convicted person. This exile punishment will be imposed by the court judge if the judge considers the act to be respectable, such as in political offenses.⁷⁸ Political offense is an offense that is almost the same as *treason*, which is an act that expresses a feeling of hatred, or a feeling of hostility

⁷⁵ Criminal code

⁷⁶ Criminal code

⁷⁷ Jan Remelink, *Hukum Pidana ; Komentar Atas Pasal-Pasal Terpenting Dari Kitab Undang-Undang Hukum Pidana Belanda Dan*, Gramedia 2003.

⁷⁸ Sayyaf, Ar (2016). *Analisis Terhadap Pidana Tutupan Dan Perkembangannya Dalam Pembaharuan Hukum Pidana Indonesia*.

that is degrading towards the government in public to be used against the government. However, closure punishment is basically only used for political crimes, because political criminals generally move because of political will not personal will, political criminals generally attack the government only and sometimes attack the community. So it can be concluded that exile punishment is a punishment that can only be imposed when there is a crime that has a motive against the government for political interests or a government institution.

B. RESTORATIVE JUSTICE

Restorative Justice as an important development in human thought is based on the justice traditions of the ancient Arabs, Greeks, Romans and civilizations that accepted the restorative approach even in murder cases, the restorative approach of the general assemblies (Moots) of the Germanic societies that swept across Europe after the fall of Rome, Hindu India as ancient as the Vedic Civilization for whom "he who atones is forgiven", and the ancient Buddhist, Taoist, and Confucian traditions that it sees mixed with Western influences today in North Asia.⁷⁹ The concept of law enforcement is called the Restorative Justice System. The main concern of the concept is the interests of the offender, the victim and the community.⁸⁰ Restorative Justice is a popular alternative in many parts of the world for handling offenders in trouble with the law because it offers a comprehensive and effective solution. Restorative Justice aims to empower victims, offenders, families and communities to make amends for unlawful acts,

⁷⁹ John Braithwaite, *Restorative Justice & Responsive Regulation*, Oxford University Press, England, 2002, p. 3.

⁸⁰ Rudi Rizky, 2008, *Reflections on Legal Dynamics (Series of Thoughts in the Last Decade)*, Perum Percetakan Negara Indonesia, Jakarta. p.142

using awareness and conviction as the basis for improving social life and explaining that the concept of Restorative Justice is essentially simple. In Indonesia, Restorative Justice is a fair resolution involving perpetrators, victims, their families and other parties involved in a criminal offense jointly seeking a resolution to the criminal offense and its implications by emphasizing restoration to the original state.⁸¹

Restorative justice is a concept of punishment, but as the concept of punishment is not only limited to the provisions of criminal law, Restorative Justice must also be observed from the correctional system.⁸² In Indonesia itself, several terms are known for solving community problems, such as Musyarawah. Some of these approaches can be developed into *restorative justice* media. The application of *restorative justice* emphasizes the pure willingness of the perpetrator to repair the harm he has caused as a form of responsibility. The repair of losses must be proportional by taking into account the rights and needs of the victim. To produce an agreement between the parties, it is necessary to informal dialogues such as mediation and deliberation. The active involvement of relevant and interested members of the community is essential in this part of the process to reaccept the offender into the community in which the offender lives. "*Restorative justice*" as an attempt to find peaceful conflict resolution outside of court is still difficult to implement. In Indonesia, there are many customary laws that can serve as *restorative justice*, but their existence is not recognized by the state or codified

⁸¹ Hartono, B (2015). *Analysis of Restorative Justice in the Context of Ultimum Remedium as a Resolution of Offender Crime Problems*. P.56-60

⁸² Bagir Manan, *Rhetorative Justice (An Introduction)*, in *Reflections on Legal Dynamics A Series of Thoughts in the Last Decade*, Perum Percetakan Negara RI, Jakarta, 2008. P.33-37

in national law. Customary law can resolve conflicts that arise in society and provide satisfaction to the conflicting parties. The emergence of the idea of *restorative justice* is a criticism of the application of the criminal justice system with imprisonment which is considered ineffective in resolving social conflicts. The reason is that the parties involved in the conflict are not involved in resolving the conflict. The victim remains a victim, the perpetrator who is imprisoned also raises new problems for the family and so on.⁸³

C. VIGILANTE

1. Vigilante

Eigenrechting or vigilante action is the act of exercising rights according to one's own will based on the desire for revenge against the person who committed an act that is arbitrary, without the consent of other interested parties, and is the implementation of sanctions by certain individuals or groups⁸⁴.

The legal opinions expressed by mertokusumo are

"Vigilante, unilateral action or "eigenrichting" is an act of exercising rights at one's own discretion, without the agreement of the interested party. In essence, vigilantism is the implementation of individual sanctions."⁸⁵

The definition of vigilantism (*eigenrichting*) based on the above definition is vigilantism is an act of imposing sanctions on someone who has committed an act that is considered to violate the applicable law, is arbitrary, and sometimes imposes excessive sanctions on someone who violates the law, and vigilantism is

⁸³ Setyo Utomo, *Punishment System in Criminal Law Based on Restorative Justice*, Mimbar Justitia, Faculty of Law, Suryakencana University, Volume 5 Number 01, pp. 86.

⁸⁴ Agen Sindikat, *Kamus Hukum Terlengkap - 11.000 istilah bahasa Inggris & Belanda*, p. 158,

⁸⁵ Mertokusumo, *mengenal hukum suatu pengantar*, Cahaya Atma Pustaka, 2012

carried out by individuals or groups who have the same intention to impose sanctions.

Vigilante actions carried out by certain individuals or groups are usually in the form of persecution of someone suspected of breaking the law, the persecution is in the form of physical violence such as beating, or kicking, and all other forms of violence aimed at sanctioning, but the sanctioning is not based on applicable laws, but rather arbitrary sanctions on the basis of revenge for someone who has committed an act against the law. Sometimes the sanctions are so excessive that the person who broke the law died at the scene.

Vigilante actions that exist in society are a wrong phenomenon, because these actions are considered by the community to be punitive actions and sanctions that are considered to have a deterrent effect on someone who violates the law in that place. Vigilante actions can actually cause new problems to arise because solving problems with violence will not help law enforcers to uphold dynamic justice. Instead, it adds new problems for law enforcers and causes losses for victims of vigilantism and perpetrators of vigilantism, both in terms of material and in terms of the psychological aspects of the perpetrators and psychological victims of vigilantism, and of course this can be prevented if they do not commit an act that violates the law.

2. Vigilantism is a Crime

A vigilante action is an act of crime or an act that violates the law, the perpetrator of the action is an individual or a certain group of people who feel that the law is not fair enough for the perpetrator of the crime and must receive a

punishment that is considered fair from the perspective of the surrounding community or the group that committed the vigilante action.

Vigilante actions violate the applicable law in Indonesia, this action violates several articles that have been determined by the Criminal Code, the following articles can be charged to the perpetrators of vigilante actions:

Article 170 of the Criminal Code

- 1) Any person who openly and with united forces uses violence against persons or property, shall be punished by a maximum imprisonment of five years and six months.
- 2) The guilty are punished:
 1. By a maximum imprisonment of seven years, if with deliberate intent property is destroyed or if the violence used results in an injury;
 2. By a maximum imprisonment of nine years, if the violence results in serious physical injury;
 3. By a maximum imprisonment of twelve years, if the violence results in death.
- 3) Article 89 shall not apply to this article.⁸⁶

Based on Article 170 of the Criminal Code, the criminal elements that can be fulfilled and can be charged to the perpetrators of the crime of vigilantism are the elements contained in Article 170 paragraph 1 of the Criminal Code which states that with: *united forces uses violence against persons or property*, so that a person can be sentenced to a maximum imprisonment of 5 years 6 months.

Article 338 of the Criminal Code

"Any person who with deliberate intent takes the life of another person, shall, being guilty of murder, be punished by a maximum imprisonment of fifteen years."⁸⁷

In article 338 of the kuhp, the perpetrator of the vigilante action can also be charged with murder if the perpetrator of the vigilante action causes the victim

⁸⁶ Criminal Code

⁸⁷ Criminal Code

to die because the elements of the article contained in the kuhp article state that: *Any person who with deliberate intent takes the life of another person*, so it is considered murder in the article.

Article 351 of the Criminal Code

1. Maltreatment shall be punished by a maximum imprisonment of two years and eight months or a maximum fine of three hundred Rupiahs...;
2. If the fact results in a serious physical injury, the offender shall be punished by a maximum imprisonment of five years..;
3. If it results in death, he shall be punished by a maximum imprisonment of seven years..;
4. With maltreatment is equated with intentionally damaging health;
5. Attempt to commit this crime is not punishable.

Vigilante actions can also be charged with Article 351 of the Criminal Code on persecution, because what is meant by persecution in Article 351 of the Criminal Code is: *intentionally damaging health*. Because vigilante actions mostly provide suffering to others through physical means that cause the person to feel suffering or pain and these actions are carried out by the perpetrator in a state of consciousness and of his own free will. And the persecution itself can be interpreted by making a feeling of physical discomfort or pain that results in injury or discomfort to a person's body.⁸⁸ regarding the form of persecution itself, the criminal law expert R.soesito states in his book entitled "Kitab Undang-Undang Hukum Pidana (KUHP) Serta Komentar-Komentarnya Lengkap Pasal Demi Pasal" the form of persecution varies from making a feeling of discomfort, making other people injured and making other people's health decline. A form of maltreatment that causes unpleasant feelings is for example telling the person to run around in the sun which causes unpleasant feelings, another example of

⁸⁸ R.soesito, *Kitab Undang-Undang Hukum Pidana (KUHP) : serta komentar-komentarnya lengkap pasal demi pasal*, Politeia, 1992 p.249

making people hurt is hitting, kicking or injuring with sharp objects that cause physical injury, and the last example of making other people's health decline is someone eating then someone else gives unhygienic food so that after eating the person feels diarrhea. All of these things are the jurisprudence of Article 351 of the Criminal Code according to criminal law expert R.Soesilo.

Article 352 of the Criminal Code

1. Except for those described in Articles 353 and 356, maltreatment which does not result in illness or an obstacle to the performance of official or professional activities shall, as light maltreatment, be punished by a maximum imprisonment of three months or a maximum fine of three hundred Rupiahs. The punishment may be enhanced by one third in the case of a person who commits the crime against a person who is in his service or subordinate...
2. Attempt to commit this act is not punishable.⁸⁹

Acts of vigilantism are punishable under Article 352 of the Criminal Code. This article explains the same persecution as in article 351 of the Criminal Code, but what distinguishes it from article 351 of the Criminal Code is that in article 352 of the Criminal Code what is meant is light persecution. Light maltreatment according to criminal law expert R.Soesilo in his book entitled "Kitab Undang-Undang Hukum Pidana (KUHP) Serta Komentar-Komentarnya Lengkap Pasal Demi Pasal" states that what is included in light maltreatment such as the maltreatment does not make him sick or the maltreatment does not prevent the victim of the maltreatment from doing his daily work.⁹⁰ It can be concluded from the explanation put forward by R.Soesilo regarding light persecution that if the act of persecution committed by the perpetrator of the vigilante action does not cause the victim to experience interference to carry out his usual daily activities, so that

⁸⁹ Criminal Code

⁹⁰ R.soesilo, *Kitab Undang-Undang Hukum Pidana (KUHP) : serta komentar-komentarnya lengkap pasal demi pasal, Politeia, 1992 p.250*

it is considered light persecution based on Article 351 of the Criminal Code. The meaning of Article 351 of the Criminal Code can be understood through the doctrine or legal opinion that has been put forward by the criminal expert R.Soesilo.

article 354 of the Criminal Code

1. Any person who with deliberate intent seriously injures another person, shall, being guilty of serious maltreatment, be punished by a maximum imprisonment of eight years.;
2. If the fact results in death, the offender shall be punished by a maximum imprisonment of ten years.⁹¹

In the act of vigilantism, the perpetrator can be charged with Article 354 of the Criminal Code if the elements of the article on *serious* maltreatment are fulfilled, but the difference between Article 354 of the Criminal Code and Article 352 is that Article 354 states *deliberate intent seriously injures*, which means that the perpetrator of the vigilante act intends to injure the victim with an action that can cause serious injury, while in Article 352 of the Criminal Code the perpetrator only intends to injure lightly, for example, Mr. X hit Mr. Y 3 times, Mr. Y felt pain, but Mr. Y was still able to do his work as usual. With the example of such a case, the perpetrator of the vigilante action can still be subject to Article 352 of the Criminal Code.

Article 406 of the Criminal Code

1. Any person who with deliberate intent and unlawfully destroys, damages, renders useless or removes property which wholly or partially belongs to another, shall be punished by a maximum imprisonment of two years and eight months or a maximum fine of three hundred Rupiahs.

⁹¹ Criminal Code

2. The same punishment shall be imposed on the person who with deliberate intent and unlawfully kills, damages, renders useless or removes an animal which wholly or partially belongs to another person.⁹²

This article does not contain the elements of persecution, but vigilantism sometimes does not have to be hitting or hurting someone but can be in the form of destroying someone else's property, then the goods are severely damaged and cannot be used by the owner. Destruction of other people's property in a case of vigilantism, for example, is when a person accidentally bumps into another person but because of panic the person runs away and is chased by the local community, because they are angry with the actions of the perpetrator, then the residents destroy the perpetrator's vehicle so that it cannot be used by the owner. With this example, vigilantism does not have to be an individual or group attacking the person but it can damage the goods used by the person who is the victim of vigilantism.

D. CAUSE OF CRIME THEORY

Theories about the causes of crime have been researched and revealed by criminologists. In the research conducted by criminologists, various theories have emerged that can be used as a reference for law enforcers to conclude what causes a person to commit a crime. In the research conducted by criminologists there are various theories, including:

⁹² Criminal Code

1. Theory of Criminology Perspective

In the sociological perspective theory explains the reasons for differences in crime rates within social environments, within the sociological theory there are three general categories such as

a. Anomie Theory

Anomie theory is a theory that explains the occurrence of a deviation caused by two types of factors, the first is the factor of opportunity and the second is the factor of opportunity to achieve a goal. This factor causes a social conflict, which makes people become frustrated and there is a feeling of dissatisfaction with certain individuals, which is getting bigger and bigger and there is social anxiety that makes people disobey the rules that apply.⁹³

The theory of anomie is likened to a society that does not understand or obey existing rules, but these rules are still considered to exist by society. The absence of rules that are considered by society is also referred to as *normless* which describes a situation where life in society is chaotic and irregular and causes social imbalances that occur in society.

The term anomie is also explained by Robert K. Merton who states that anomie is a difference in goals between one individual and another, causing social inequality.⁹⁴ And what Robert K. Merton means is that community groups or individuals will try to achieve the goals of a particular society, but to achieve these goals they use illegitimate or unlawful means because of the social limitations that occur in the society itself.

⁹³ Tedi Supriyadi, 181000344 (2022) *Perbuatan Main Hakim Sendiri Masyarakat Terhadap Penganiayaan Yang Menyebabkan Kematian Dalam Perspektif Kriminologis*. Skripsi(S1) thesis, Fakultas Hukum Universitas Pasundan. p.40

⁹⁴ *Ibid* p.42

In general, those who resort to unlawful means to achieve a certain goal are from the minority. The difference in social status in society is the main thing why minority communities take such actions for their own satisfaction. According to Robert K. Merton, this kind of behavior is based on the pressure in the environment itself, the complex structure of society regarding the social inequality that occurs, the differences in each individual's goals themselves result in considerable pressure in the community.⁹⁵

In relation to the case of vigilantism associated with the theory of anomie is the difference in opinion between the majority and minority communities that makes a significant difference in goals within the community so that minority communities look for ways to fulfill their goals based on the criteria set by the minority community. that way there is a situation where the law does not apply in the minority community and the community makes new laws based on the goals that the community itself wants to achieve.

b. Social Control Theory

Based on sociologist E.A. Ross, social control theory is a concept of control carried out by individuals and groups universally used to control behavior in the community, which does not question the social and cultural gaps and beliefs that exist in the community.⁹⁶

Social control theory is a theory that emphasizes the control of society in its environment. In contrast to other theories, this social control theory questions why not everyone violates the rules that apply, why there are people who break the law even though the law is considered to exist, and why there are people who

⁹⁵ *Ibid* p.42

⁹⁶ *Ibid* p.42-43

obey the rules and laws that apply. in this theory focuses on explaining techniques and strategies in regulating social life and guiding the community to carry out these rules in order to create legal obedience in society.

Based on the opinion of criminologist Travis Hirschi, criminals are a form of failure of social control in the community. what causes the failure of the social control system is derived from existing social groups such as family, school, and friends.⁹⁷ Based on the above arguments, it can be concluded that breaking the law does not have to be from the minority community but can also be done by the majority community. However, it all depends on the individual where the individual still has a choice between breaking the law or obeying the law.

The perpetrators who commit vigilante actions are one of the failures of the existing social control system, differences in the life patterns of each individual are an important key to the occurrence of unlawful acts. The perpetrators are unable to distinguish between the right thing and the wrong thing and are only based on individual desires to achieve a certain goal in a way that harms others. Society needs to understand and know where the limits are allowed to achieve a certain goal and society must understand very well that to achieve social balance there must be cooperation between individuals and groups.

c. Sociogenic Theory

Sociogenic theory is a theory that explains criminal behavior caused by sociological factors, this theory defines social influence, pressure within certain groups to achieve a goal and social roles that cause deviant behavior in offenders. In social life, environmental factors are the main cause in the formation of a

⁹⁷ *Ibid* p.45

person's character, the formation of a person's character can be in the form of patterns of interaction with fellow humans. This theory reveals that the causes of crime can come from the surrounding environment, and the factors that cause a person to commit a crime because of a process of imitating the surrounding circumstances that tend to be negative.⁹⁸

d. Theory of opportunity

Opportunity theory based on criminologists richard A and llyod E ohlin argues that the emergence of a crime committed by individuals or groups because there is an opportunity that is considered profitable and can achieve a goal very easily.⁹⁹ This theory states that vigilantism can arise because of the opportunity to commit the act. an example of the emergence of this opportunity is the distance of the police station which is far away and makes the surrounding community wait a long time, so as a form of punishment the community acts arbitrarily as a form of venting disappointment with the problems that occur.

E. LAW ENFORCEMENT

1. Definition of Law Enforcement

Law enforcement is an act that regulates the relationship of values formulated in solid laws and expressed in an attitude of action which is the final stage in the development of values to create, maintain and maintain a peaceful social life. In social life, humans have their own standards to achieve life goals, but these standards are often contradictory between one individual and another. Law enforcement is not the task of applying the law to certain events, but human

⁹⁸ *Ibid* p.48

⁹⁹ *Ibid* p. 49-50

activities with all their characteristics that aim to fulfill the expectations desired by law.¹⁰⁰

In law enforcement, the human factor plays a major role in law enforcement. Law enforcement is not a simple logical process, but with the participation of all mankind, law enforcement is no longer seen as an effort of logical reasoning, but as the result of a choice. Therefore, the application of the law can not only be based on logical predictions, but also on “non-logical” issues.

Law enforcement is carried out by agencies authorized to carry out this task, such as police, prosecutors, judges, and government officials. The definition of law enforcement can also be seen from its object, namely in terms of law. In this case the meaning also includes broad meaning and limited meaning. In general, the application of law also includes the values of justice contained in healthy official rules and the values of justice that exist in society. However, the application of law in a narrow sense can only involve the application of formal and written regulations.¹⁰¹

The national language can distinguish the meaning of law enforcement and justice. The application of law can be related to the concept of "applicable law" in a narrow sense, the application of law in a broad sense is called the application of justice in the sense of material law.

In terms of the subject, law enforcement can be a subject in a broad sense, or it can be understood as a subject's efforts in law enforcement in a narrow sense.

¹⁰⁰M. Ali Zaidan, *Towards Criminal Law Reform*, Sinar Graphic, Jakarta, 2015, p. 110.

¹⁰¹Laurensius Arliman S, *Law Enforcement and Public Awareness*, Deepublish, Yogyakarta, 2015, p. 12-13.

Broadly speaking, the law enforcement process involves all subjects in every legal relationship. Every person who implements normative rules or does something or does not do something in accordance with the applicable legal rules, means that he makes or applies rules as an effort by certain law enforcement officials to protect and ensure law enforcement, law enforcement officers can use force if necessary.

With the description above, it is clear that the concept of the executive is more or less an attempt to make laws, both narrowly and broadly, as guidelines for behavior. as an official executive officer entrusted by law with the task and authority to ensure the functioning of legal standards that take place in the reality of social and national life.¹⁰²

2. Law Enforcement Purpose

Humans are God's creations who have the power to exploit and explore the world. Power is the central point of all human life in carrying out activities in the world. Humans are actors or subjects, not tools or objects that have interests and demands that are expected to be carried out properly.¹⁰³

Legal rules protect human interests against threats that threaten to regulate relations between humans. Regulating relations between humans in order to create order or stability and it is hoped that conflicts or disturbances of interests can be prevented or overcome.

Teguh Prasetyo in his book on philosophy of theory and law, Jeremy Bentham in his teachings stated that the purpose of law and the form of justice is to realize *the greatest happiness of the greatest number* (the greatest happiness for as many

¹⁰³ Sudikno Mertokusumo, *Knowing the Law is an Introduction* , Yogyakarta, Liberty, 1999 Thing. P.45

people as possible). Bentham also argues that the purpose of legislation is to produce happiness for the community. Legislation should seek to achieve four objectives, namely:

- a. *To provide subsistence* (to provide a living)
- b. *To provide abundance* (to provide abundant food)
- c. *To provide security* (to provide protection)
- d. *To attain equity* (to achieve togetherness).¹⁰⁴

Dellyana Shant in the book *Concept of Law Enforcement* writes that law enforcement is an effort to realize the ideas and legal concepts that the people expect into reality.

Law enforcement is a process that involves many things. Joseph Goldstein distinguishes criminal law enforcement into 3 parts, namely:

- a. *Total Enforcement* , namely the scope of criminal law enforcement as defined by the substantive *law of crime*. Total enforcement of criminal law is not possible because law enforcers are strictly limited by criminal procedural law, which includes: includes rules for arrest, detention, search, confiscation and preliminary examination. Besides, it is possible that substantive criminal law itself provides limitations. For example, a complaint is required in advance as a condition for prosecution of complaint offenses (*klacht delicten*). This restricted scope is referred to as *the area of no enforcement* .
- b. *Full Enforcement* , after the total scope of criminal law enforcement is reduced by *the area of no enforcement* in law enforcement, law enforcers are expected to enforce the law to the fullest.

¹⁰⁴Teguh Prasetyo, *Criminal Law* , Jakarta, Raja Grafindo Persada, 2012 P.13

- c. *Actual Enforcement* , according to Joseph Goldstein, full enforcement is considered *not a realistic expectation* , because there are limitations in the form of time, personnel, investigative tools, funds and so on, all of which result in the necessity of discretion and the rest is called *actual enforcement*.¹⁰⁵

As a systemic process, the enforcement of criminal law manifests itself as the application of criminal law (*criminal law application*) which involves various structural sub-systems in the form of the police, prosecutors, courts and prisons. This includes, of course, legal advisory bodies. In this case the application of the law must be viewed from 3 dimensions:

- a. The application of law is seen as a normative *system*, namely the application of the entire rule of law that describes social values supported by criminal sanctions.
- b. The application of law is seen as an administrative system (*administrative system*) which includes the interaction between various law enforcement officials who are the sub-judicial system above.
- c. The application of criminal law is a *social system*, in the sense that in defining a crime, various perspectives of thoughts that exist in society must also be taken into account.¹⁰⁶

¹⁰⁵Dellyana, Shant, *Concept of Law Enforcement* , Yogyakarta, Liberty, 1988. p. 39

¹⁰⁶*Ibid* p. 40

F. ISLAMIC PRESPECTIVE REGARDING CRIMINAL ACT OF VIGILANTISM

1. Vigilantism And Its Punishment According To Islamic Prespective

The act of vigilantism has been prohibited in Islam because Islam prohibits wrongdoing (dzalim) against the creatures of AllahSWT, wrongdoing is a despicable act and harms others. the verse of the Al-Quran explains:

وَالَّذِينَ إِذَا أَصَابَهُمُ الْبَغْيُ هُمْ يَنْتَصِرُونَ

39. and (for) those who, when they are wronged, defend themselves (Qs. ash-shura 39)

Al-Quran verse explains the word of Allah SWT, if someone is treated injustice then that person has the right to defend himself. Al-Quran does not prohibit if there is someone who is wronged by others the person defends himself.

Wrongdoing is disliked by Allah SWT because it is a sinful act.

وَجَزَاءُ سَيِّئَةٍ سَيِّئَةٌ مِّثْلُهَا فَمَنْ عَفَا وَأَصْلَحَ فَأَجْرُهُ عَلَى اللَّهِ إِنَّهُ لَا يُحِبُّ الظَّالِمِينَ

40. And the recompense for an evil is an equal evil, but whoever forgives and does good (to the wrongdoer), his reward is from Allah. Indeed, He does not like the wrongdoers. (Qs. ash-shura 40)

The verse of Al-Quran says that Allah SWT will give the punishment in accordance with someone who has committed a crime. Allah SWT gives rewards to people who do good attitude and forgive people who do bad attitude . Allah SWT really dislikes people who have done wrong to his creatures. So that Allah SWT will give punishment to people who do wrong or people who commit crimes.

وَلَمَن اذْتَصَرَ بَعْدَ ظُلْمِهِ فَأُولَٰئِكَ مَا عَلَيْهِمْ مِّنْ سَدِيدٍ ۗ

41. But those who defend themselves after being wronged, there is no reason to blame them (Qs. ash-shura 41)

The verse of the Al-Quran explains the word of Allah SWT if the wrongdoing and than that people do some revenge behavior of injustice, then the person will not be punished by Allah SWT, and will not get a sin from that behavior to the person who has committed the wrongdoing to him.

The principle of justice contained in Islam is not only the rules contained in the Al-Qur'an, but the principle of justice is also contained in a person who is related to a person's piety/ketakwaan to his God this is contained in Surah al-Maidah verse 8.¹⁰⁷

يَا أَيُّهَا الَّذِينَ آمَنُوا كُونُوا قَوَّامِينَ لِلَّهِ شُهَدَاءَ بِالْقِسْطِ وَلَا يَجْرِمَنَّكُمْ شَنَاٰنُ قَوْمٍ عَلَىٰ أَلَّا تَعْدِلُوا ۗ اٰعْدِلُوا هُوَ اٰقْرَبُ
لِلتَّقْوٰى وَاتَّقُوا اللّٰهَ اِنَّ اللّٰهَ خَبِيْرٌۢ بِمَا تَعْمَلُوْنَ

8. you who believe! Be upholders of justice for the sake of Allah, (when) bearing witness justly. And let not your hatred of a people prompt you to be unjust. Be just. For that is closer to piety. And fear Allah; indeed, Allah is thorough in what you do. (Qs. Al-Maidah 8)

The verses of the Al-Quran explain and show that we as humans should not behave unjustly towards fellow humans. Humans have mistakes and the Al-Quran explains that we as humans must forgive each other because Allah SWT will give an appropriate reply to someone who has behaved unjustly or someone who has committed a crime. In the research conducted by this researcher, the unjust behavior in question is vigilantism. the Al-Quran has taught many things about how to socialize with society and how to give the right punishment. the

¹⁰⁷ Rizal Ariffin Hairul Nizam Ismail, "Konsep Keadilan dalam Teori Kecerdasan Pelbagai Menurut Perspektif Islam", DP, Vol. 2, 2007, p. 66-73.

meaning contained in the verses of the Al-Quran can be concluded that, humans must be fair creatures and have good morals in their daily life behavior, the prohibition to people to be unfair and unjust to others, the command to people to be compassionate to others and be fair because this behavior is a form of piety to Allah SWT.¹⁰⁸

¹⁰⁸ Saiin, A, & Iffan, A (2018). *Fenomena Tindakan Main Hakim Sendiri dalam Hukum Negara dan Hukum Islam*. PERADA, ejournal.stainkepri.ac.id, p.20

CHAPTER III

THE CAUSE FACTOR AND LAW ENFORCMENT AGAINST VIGILANTISM

A. The Cause Factor To Acts Of Vigilantism

The police as law enforcers should carry out their duties as social control in community life. The police need to implement social control because social control needs to be implemented to regulate life in society. Social control theory is a theory that distinguishes why someone violates the law and why someone complies with it and according to sociologist E.A. Ross, social control theory is a concept of control carried out by individuals and groups universally used to control behavior in the community, which does not question the social and cultural gaps and beliefs that exist in the community.¹⁰⁹ In this theory, criminal law expert John Hagan argues that people have the same opportunity to commit an unlawful act.¹¹⁰ Based on the opinion of criminal law expert Larry J, he argues that a person has the freedom to determine his own behavior based on the social ties that exist in that person's life.¹¹¹

In the theory of social control that has been expressed by criminal experts, there are 4 elements, namely:

- a. attachment
- b. commitment
- c. involvement

¹⁰⁹ Tedi Supriyadi, 181000344 (2022) *Perbuatan Main Hakim Sendiri Masyarakat Terhadap Penganiayaan Yang Menyebabkan Kematian Dalam Perspektif Kriminologis*. Skripsi(S1) thesis, Fakultas Hukum Universitas Pasundan p.33

¹¹⁰ *Ibid* p.39

¹¹¹ *Ibid* p.39

d. norm (belief)

Based on the results of interviews conducted by the author with the police, with the head of the intelligence and security unit (*kasatintelkam*) at the Yogyakarta city police station, namely Mr. AKP. Satrio Arif Wibowo, S.H., M.H. the authors will making a corelation about that theory of social control in cases vigilante in some opinion Mr. AKP. Satrio Arif Wibowo, S.H., M.H.

The first element in theory of social control is *attachement* (*attachement*), this element explains the extent to which a person can act according to what other people want.¹¹² In this situation of vigilante sometimes people of the society or group of the society that crosses paths with another group/ people and then attacks each other without cleary reason, it can be caused because the group or that people has a goal, the goal is usually set by the leader of the group, and the leader is geting respect from the group member's. Sometimes the group member or people not thingking about causality, because their emotions are not fully under control and the easy incitement given by others to members of the group, can make them take vigilante action.

This element is reinforced by the results of an interview with Mr. AKP. Satrio Arif Wibowo, S.H., M.H. There are also supporting factors that cause vigilantism to occur:

"People who cross paths with a certain group without knowing the factors and motives of the group to gang up on the person can be a supporting factor for the occurrence of vigilante crimes, but it can be concluded that the emotional factor of a person is the cause of this case."¹¹³

¹¹² Tedi Supriyadi, 181000344 (2022) *Perbuatan Main Hakim Sendiri Masyarakat Terhadap Penganiayaan Yang Menyebabkan Kematian Dalam Perspektif Kriminologis*. Skripsi(S1) thesis, Fakultas Hukum Universitas Pasundan p.35-36

¹¹³ Interview with kanit kasatintelkam Mr. AKP. Satrio Arif Wibowo, S.H., M.H., Monday, June 26, 2023.

In the case of vigilantism studied by the author based on the results of interviews, there is also have a sociological role in the behavior of vigilante crime. This sociological role is called sociogenic, sociogenic is explains the causes of crime caused by sociological ¹¹⁴ . Examples of sociological come from the environment in which a person lives. Such as from emotional. Emotional is According to Salim & Nasir, Emotion is an expression of one's feelings that can be negative or positive. emotions that are expressed excessively tend to be negative, and This can lead to negative actions.¹¹⁵

As expressed by Mr. AKP. Satrio Arif Wibowo, S.H., M.H. a person's emotional factor can affect a person's rational way of thinking, this factor causes many kinds of crimes.¹¹⁶ This irrational way of thinking can arise from a person's internal factors such as factors that come from a person's internal, these factors come from within the individual himself in the form of feelings or emotions, emotional factors are a form of feeling as expressed by someone such as happy or unhappy, likes and dislikes, relief, anxiety, pain and not pain, and so on. Someone who has unstable emotions can cause disruption of sensory nerves to think rationally.¹¹⁷

And the second element there social control theory is commitment (*commitment*), this element explains the calculation of the benefits and losses

¹¹⁴ Bungsu, R, & Rosadi, KI (2020). *Faktor Yang Mempengaruhi Berpikir Sistem: Aspek Internal Dan Eksternal*. Jurnal Ekonomi Manajemen Sistem Informasi, dinastirev.org, p.200

¹¹⁵ *Ibid* p.208

¹¹⁶ Interview with kanit kasatintekam Mr. AKP. Satrio Arif Wibowo, S.H., M.H., Monday, June 26, 2023.

¹¹⁷ Bungsu, R, & Rosadi, KI (2020). *Faktor Yang Mempengaruhi Berpikir Sistem: Aspek Internal Dan Eksternal*. Jurnal Ekonomi Manajemen Sistem Informasi, dinastirev.org, p.201

incurred by a person in the involvement of deviant actions/deviant behavior.¹¹⁸ The element of commitment contained in crime cases is an element that is always present in every crime case. All crimes have an element of commitment, be it personal interest or the interest of a certain group of people. In the case of vigilantism, the element of commitment is to make the surrounding environment safer. The opportunity is also including of element of commitment, because opportunity commit a crime is a form of social deviation committed by society in the criminological aspect. This opportunity theory is based on the opinion of criminologists richard A and ilyod E, the emergence of a crime can be committed by a particular individual or group because of the opportunity factor in carrying out an action.¹¹⁹ This theory explains that the perpetrators of vigilante actions act because of the opportunity in the environment itself to achieve the same goal.¹²⁰ The opportunity in question is such as the factor of the atmosphere of the neighborhood where there are many crimes and the police station is quite far away, acting the community to take the law into their own hands.

the above opinion is reinforced by The results of the interview with Mr. AKP. Satrio Arif Wibowo, S.H., M.H. said:

"People tend to be impatient and prefer to try first by being ganged up and persecuted until the police come to the scene, of course this will add new problems and work for law enforcers. There is no difficulty in securing first and there is no need to be tried by jungle law, the wrong thing becomes even more wrong because the vigilante action can later be imitated by other community

¹¹⁸ Tedi Supriyadi, 181000344 (2022) *Perbuatan Main Hakim Sendiri Masyarakat Terhadap Penganiayaan Yang Menyebabkan Kematian Dalam Perspektif Kriminologis*. Skripsi(S1) thesis, Fakultas Hukum Universitas Pasundan

¹¹⁹ *Ibid* p.38

¹²⁰ Handrawan, H, Rizky, A, Idaman, I, & Ridhan, AF (2022). *Penyalahgunaan Narkotika Dalam Perspektif Teori Kriminologis (Studi Kasus Wilayah Hukum Kepolisian Resort Kolaka)*. Lakidende Law Review. P.29

groups and can consider this vigilante act a natural act and becomes a habit to get a justice that is up and down depending on the perspective of the community."¹²¹

The opportunity factor that allows people to take the law into their own hands, because there are so many people that they think if they take the law into their own hands, no one can find out who did it because of the large number of people. The existence of opportunities in society can be a factor in the community taking the law into their own hands, the application of excessive punishment whose purpose is to create a deterrent effect and implement a safe community life, of course, must be done in the right way and has been regulated by the state based on the law. the community cannot wait for the police to come to the location of the crime so that the community chooses to try it first by ganging up and persecuting people who are considered to have violated the applicable law before being handed over to the police to be tried by state law that has been set. The behavior of people who cannot wait for police officers to come to the crime scene can also be categorized into commitment, because people's impatient behavior is deviant behavior/ bad behavior. Whereas if the community is willing to be a little patient it helps law enforcement officials to enforce the applicable laws that have been set by the state, public trust in law enforcement officials as an instrument of the state can give confidence to law enforcement officials to do their best according to what is mandated by the state, the state wants its society to be peaceful by making rules whose purpose is for the common good.

Third element in social control theory is called involvement (*involement*), this element refers to the idea that if someone does an activity and the activity is

¹²¹ Interview with kanit kasatintelkam Mr. AKP. Satrio Arif Wibowo, S.H., M.H., Monday, June 26, 2023.

positive, then the person will not have bad intentions or thoughts, if the activity is negative then indirectly the person will take negative actions.¹²² The person's involvement in committing a crime is a factor that often occurs because a person's involvement in committing a crime is determined due to an impulse from within or what is commonly referred to as participation (*ikut-ikutan*). Why participation including involvement, because before the person sees the negative action happening right in front of them, they don't want to do the negative action, but after the negative action happens, the other person get intention from within to participate.

That opinion above is reinforced Based on the results of the author's interview with the head of the intelligence and security unit (*kasatintelkam*) at the Yogyakarta city police station, namely Mr. AKP. Satrio Arif Wibowo, S.H., M.H. said:

"Participation (*ikut-ikutan*) can also be a factor in why vigilantism and beatings occur, as I said before a person's desire to participate in beating people up without knowing what the root of the problem is, this is because of the urge from within."¹²³

People who accidentally pass by and move to participate in committing a crime are one of the most common factors that cause a person to be exposed to legal cases, such as in cases of vigilantism. Because the sense of community solidarity is high and there is one member of the community who asks for help, then one of the members of the community makes a movement, namely starting a mob and the member of the community is a person who is considered a leader in the area, then

¹²² Tedi Supriyadi, 181000344 (2022) *Perbuatan Main Hakim Sendiri Masyarakat Terhadap Penganiayaan Yang Menyebabkan Kematian Dalam Perspektif Kriminologis*. Skripsi(S1) thesis, Fakultas Hukum Universitas Pasundan p.67

¹²³ Interview with kanit *kasatintelkam* Mr. AKP. Satrio Arif Wibowo, S.H., M.H., Monday, June 26, 2023.

the participation of other members of the community to carry out the act of mobbing will appear and without thinking about taking action that violates the law. whereas originally the person happened to be passing by to participate because of a negative action from the surrounding environment and then an impulse arose from within himself.

The fourth element in the social control theory is is called the norm (*belief*) this element refers to a belief in the norms that exist in society at that time.¹²⁴ Currently, the development of mass media and the ease with which people can access various information is very easy, of course this has a negative impact, namely deviating norms or public confidence in the current law, mass media is more likely to provide information that is negative, but people who do not understand it can immediately make the wrong opinion, such as news that airs about vigilantism, this news if broadcast will create a new view or a new norm that vigilantism is a natural thing even though this action is an example of social deviation.

That opinion in above reinforced an interview conducted by the author with Mr. AKP. Satrio Arif Wibowo, S.H., M.H.

"In this era, the development of technology is quite advanced, the freedom to access information through social media such as *Facebook* and *Instagram* can also trigger people to take the law into their own hands, because they are instigated by the wrong news, which makes vigilantism and beatings considered normal. Even though these actions can be subject to criminal penalties"¹²⁵

Based on the statement from Mr.AKP.Satrio Arif Wibowo, S.H.,M.H., Technological developments can form a wrong mindset if the person does not

¹²⁴ Tedi Supriyadi, 181000344 (2022) *Perbuatan Main Hakim Sendiri Masyarakat Terhadap Penganiayaan Yang Menyebabkan Kematian Dalam Perspektif Kriminologis*. Skripsi(S1) thesis, Fakultas Hukum Universitas Pasundan p.89-92

¹²⁵Interview with kanit kasatintekam Mr. AKP. Satrio Arif Wibowo, S.H., M.H., Monday, June 26, 2023.

know the negative impact of technological developments, freedom of access to information can be a major factor in forming a wrong mindset and harming others, the urge from within to follow the wrong information is one of the factors why vigilantism and cases of beating cases occur in the city of Yogyakarta. The development of technology and information is not used to seek information from valid sources, people tend to interpret information only based on their own personal perspectives and people act according to what they think is right. The use of technology is not used for positive developments for a person, so that even the wrong thing can be considered true only based on minimal information that has not been properly sourced. The rapid development of information technology today indirectly shapes a new mindset. People can access information sources easily with just a cell phone.

Based on the results of interviews conducted by the author with Mr. AKP. Satrio Arif Wibowo, S.H., M.H. the factors people to commit vigilante crimes in the city of Yogyakarta because of wrongdoing or missjudgement :

"Based on what is happening in the field today, which has been resolved by the police, the main factor that makes someone commit a criminal offense is wrongdoing based only on allegations that do not yet have clear evidence."¹²⁶

From the results spoken by Mr. AKP. Satrio Arif Wibowo, S.H., M.H. one of the factors causing vigilantism is the factor of misjudgment, misjudgment is a major factor causing vigilantism due to differences in people's perspectives in assessing someone's movements only with something that is not yet clear, such as seeing someone's clothes assessing the attitude of someone who is considered suspicious. The factor of prejudice carried out by the community at this time can

¹²⁶ Interview with kanit kasatintekam Mr. AKP. Satrio Arif Wibowo, S.H., M.H. June 26, 2023

arise because of a suspicion arising from a phenomenon, such as in the area there are frequent cases of crime cases that cause a lot of losses experienced by victims, so that people in the area feel more vigilant and often the vigilance is too excessive so that excessive hatred arises for strangers who are suspected of being the perpetrators of a crime, and unwanted actions occur, namely the act of beating committed by the surrounding community.

The factor of one's education can also affect the increase in the crime rate of vigilante crimes that occur in the city of Yogyakarta, as revealed by Mr. AKP. Satrio Arif Wibowo, S.H., M.H.

"A person's level of education is also one of the factors that cause cases of vigilantism and cases of beating often occur in the community, but these factors cannot be used as a definite reference because even someone who has a high education cannot think logically about the causes and consequences of what he does to others."¹²⁷

Based from the interview with kanit kasatintelkam kanit kasatintelkam Mr. AKP. Satrio Arif Wibowo, S.H., M.H, Educational factors can shape the mindset of an individual in controlling and thinking about the causes and consequences of what can be caused by education being important in people's lives. but not everyone can think of education as important.¹²⁸ in research examining vigilante acts researched by the author of education being one of the factors of a person committing vigilante acts due to the individual's lack of understanding of the legal impact that can be caused by the actions taken. Educational factors are one of the factors described in sociological theory, educational factors are factors that can arise from within a person, education arises because of a person's desire to

¹²⁷ Interview with kanit kasatintelkam Mr. AKP. Satrio Arif Wibowo, S.H., M.H., Monday, June 26, 2023.

¹²⁸ Interview with kanit kasatintelkam Mr. AKP. Satrio Arif Wibowo, S.H., M.H., Monday, June 26, 2023.

develop their personal competence. Education also has an important role because it helps a person's mindset in determining what is good and what is not. Differences in a person's level of education can be judged by how the person responds to a problem in the social environment, if in the environment there are often social problems, then the educational factor is needed to mediate a problem in the environment.¹²⁹

The passion factor that exists in everyone can be a supporting factor that can lead to vigilantism, as said by Mr. AKP. Satrio Arif Wibowo, S.H., M.H. from the results of interviews conducted by the author in this study:

"A person who becomes a suspect who has been handled by the Yogyakarta City Resort Police in a case of vigilantism or a case of beating is based on lust, the person sees an act of beating or vigilantism, but the person does not understand why the person is being beaten and judged by the masses so that people who happen to pass by become involved in the beating because they see the act of beating as an opportunity to express their desire to hurt others."¹³⁰

Based on the results of the author's interview, one of the factors that cause vigilantism to occur is because of the lust that exists in a person, lust is needed by a person to drive and encourage a person's behavior to carry out an activity, According to Mohd Zulkifli, lust is an urge found in every person that plays an important role in regulating desires.¹³¹ these activities can be positive and negative activities. Lust if not controlled can be detrimental to a person because lust results in a person's disruption in logical thinking, so we often encounter people who carry out an activity that is beyond human logic in general.¹³² The lust contained

¹²⁹ Bungsu, R, & Rosadi, KI (2020). *Faktor Yang Mempengaruhi Berpikir Sistem: Aspek Internal Dan Eksternal*. Jurnal Ekonomi Manajemen Sistem Informasi, dinastirev.org, p. 100-103

¹³⁰ Interview with kanit kasatintekam Mr. AKP. Satrio Arif Wibowo, S.H., M.H ., Monday 26 June 2023

¹³¹Bungsu, R, & Rosadi, KI (2020). *Faktor Yang Mempengaruhi Berpikir Sistem: Aspek Internal Dan Eksternal*. Jurnal Ekonomi Manajemen Sistem Informasi, dinastirev.org,

¹³² *Ibid* p 210-211

in a person needs to be controlled because if lust is not controlled, it will encourage a person to do things that tend to be negative. If the lust is already negative, of course it will harm itself and others. This is why lust can influence a person in acting, if someone has been controlled by lust then that person will act according to what he wants including ignoring an existing norm, even though the norm is a written and unwritten norm that has been applied in the surrounding environment.¹³³

Various kinds of internal factors that can make someone commit vigilante crime are based on a person's different mindset system which is formed through different internal factors in each person. However, it is not only internal factors that cause vigilantism to often occur in the city of Yogyakarta, as well as factors that come from outside that cause various kinds of crimes that occur in the city of Yogyakarta and these factors have a considerable impact and encouragement on certain groups to commit vigilantism.

Factors that come from outside can be called external factors, this factor is the most important factor in shaping the mindset of the community and a certain group, from the results of interviews with sources, namely Mr. AKP. Satrio Arif Wibowo, S.H., M.H, he said that:

"The association of suspects of acts of beating and vigilantism is on average from economically well-off families, the possibility of the suspect experiencing the wrong association, and the lack of affection from the suspect's parents which caused the suspect to stumble in this legal case."¹³⁴

From the results of these interviews, the factors that influence the way human mindset comes from the closest person, From the results of these

¹³³ Fachrunisa, RA (2021). *An Explanation of Corruption Cases in Indonesia from Al-Ghazali's Psychological Construct of Nafsu*. International Journal of Islamic , journal.iamphome.org, p.11

¹³⁴ Interview with kanit kasatintelkam Mr. AKP. Satrio Arif Wibowo, S.H., M.H., Monday, June 26, 2023.

interviews, the factors that influence the way human mindset comes from the closest person, the closest person is the person who is almost always near us. Parents are among our closest people because the process of interacting with fellow humans comes from the closest people, one of which is parents. The very first thought process we get comes from parents. all activities carried out by parents can indirectly be imitated by their children. The formation of a person's mindset is based on the mindset of the parents who have educated us. From parents we learn how to socialize with the environment, know the norms that exist in the environment and parents become our main reference in learning new things.¹³⁵ Our closest people direct us to a new goal, but sometimes that goal deviates and harms others, the lack of affection and attention from parents can be an external factor that makes cases of beatings occur in Yogyakarta. The above opinion is also corroborated by the results of the author's interview with the head of the intelligence and security unit (*kasatintelkam*) at the Yogyakarta city police station, namely Mr. AKP. Satrio Arif Wibowo, S.H., M.H. Based on the author's interview with the head of the intelligence and security unit (*kasatintelkam*) at the Yogyakarta city police station.

"Many children who are considered by the law to be underage are also suspects in cases of beatings and vigilante cases, because of the lack of upbringing from parents and socializing with the wrong people or what can be called free association, making the perpetrators of this vigilante act unable to think maturely or be responsible for their actions."¹³⁶

The effects of modernization at this time make children who are still minors often commit crimes because they only imitate what adults do around them,

¹³⁵ Bungsu, R, & Rosadi, KI (2020). Faktor Yang Mempengaruhi Berpikir Sistem: Aspek Internal Dan Eksternal. *Jurnal Ekonomi Manajemen Sistem Informasi*, dinastirev.org, p.144

¹³⁶ Interview with kanit *kasatintelkam* Mr. AKP. Satrio Arif Wibowo, S.H., M.H., Monday, June 26, 2023.

environmental factors, association with friends or with the surrounding community affect a person committing vigilante crime. Society is the people who interact with us in the neighborhood. someone who interacts with the community, can imitate the mindset of the community. if the neighborhood tends to have a deviant mindset, then indirectly, someone who lives in the area follows deviant things too.¹³⁷ Not only because of the wrong association factor with the surrounding community, the association factor with friends can also trigger deviant actions. A friend is someone who most often has social interactions with someone. Friends play an important role in narrowing down a mindset contained within a person.¹³⁸ Like someone who is friends with a businessman, his mindset will follow the entrepreneur's mindset. so choosing good and bad friends is very influential in the social interactions that are caused.

Another factor that causes people to take the law into their own hands is the lack of trust in the law and not knowing what legal repercussions can be imposed on suspects in vigilante cases or acts of beating. The complicated mindset of the community and the freedom of expression make people forget the expression in themselves in the wrong way.

This is explained in anomie theory, anomie theory can also explain why there are many vigilante actions, anomie theory is a theory that explains the factors that often occur in society that cause social conflict and cause excessive frustration and the emergence of public distrust of prevailing norms. Anomie theory is explained by robert k merton who states that a difference in one's goals

¹³⁷ Bungsu, R, & Rosadi, KI (2020). Faktor Yang Mempengaruhi Berpikir Sistem: Aspek Internal Dan Eksternal. *Jurnal Ekonomi Manajemen Sistem Informasi*, dinastirev.org, p.192

¹³⁸ *Ibid* p.211-212

can cause social inequality.¹³⁹ The point of this theory is that if a community group has different goals from other community groups, a social gap will arise which can cause social conflicts that lead to deviant behavior in the community itself.

The community's lack of understanding of the applicable laws and the causes and consequences that can be caused by acts committed by the community regarding vigilantism makes cases of criminality cases often occur in the community, especially cases of beatings and vigilantism. This factor is also confirmed by the resource person, namely Mr. AKP. Satrio Arif Wibowo, S.H., M.H who said that:

"Most people don't really understand what legal repercussions can be caused by vigilantism, and people lack trust in the law, the law is considered unfair to people who break the law, justice is considered sharp downward blunt upward but the law is made to regulate what is prohibited and what is allowed, for fair and unfair issues everyone has their own benchmarks, the community must of course obey the applicable law"¹⁴⁰

The community tends to use what is called the law of the jungle, the community considers the law of the jungle to be fair for most communities that exist the law of the jungle is a bad act must be rewarded with bad acts as well. Of course this is wrong and sometimes the application of jungle law is not in accordance with the actions committed by the person who violated the law so that the person is tried excessively by the community group to create a deterrent effect for others who will commit the same act in the future.

¹³⁹ Tedi Supriyadi, 181000344 (2022) *Perbuatan Main Hakim Sendiri Masyarakat Terhadap Penganiayaan Yang Menyebabkan Kematian Dalam Perspektif Kriminologis*. Skripsi(S1) thesis, Fakultas Hukum Universitas Pasundan p.91

¹⁴⁰ Interview with kanit kasatintelkam Mr. AKP. Satrio Arif Wibowo, S.H., M.H., Monday, June 26, 2023.

The author also interviewed the suspect in the case of vigilantism, the suspect with the initials Mr. D, who at that time had been processed by the Yogyakarta City Resort Police, the suspect revealed:

"I was involved in a case of vigilantism because I was drunk with my friends, then I went home, when I was on my way home I saw a crowd and then I approached it, and unfortunately I immediately participated in judging the victim without knowing what happened because when I came the victim was already in a state of mob rage."¹⁴¹

In this case, drunkenness is one of the factors that caused mr.d to be involved in a case of vigilantism due to drunkenness. drunkenness means "feeling dizzy or losing consciousness (due to drinking too much liquor, eating gadung, and so on)."¹⁴² A person's character and thinking can change drastically and quickly due to the use of alcohol, narcotics and when experiencing pain, boredom and discomfort.¹⁴³ Alcohol is an organic chemical compound with the distinctive characteristic that there is a hydroxyl group (-OH) associated with the carbon group of a molecule. Common sources of alcohol include ethanol, methanol, isopropanol, and diethylene glycol. Ethanol is used as a gasoline additive, cosmetic and pharmaceutical solvent and alcoholic beverage. Ethanol is derived from the fermentation of various carbohydrates from grain, fruits or flowers.¹⁴⁴

And than the author is also interview with mr.p in Yogyakarta police resort, he is say :

"I was also drunk at the time, I was with my friend Mr. D when he came home after holding an alcohol party, coincidentally our houses were close together, I saw a crowd but either because of my drunken condition, for no

¹⁴¹ Interview with defendant Mr.D in Yogyakarta police resort Tuesday 12 september 2023

¹⁴² Big indonesian dictionary

¹⁴³ Wijaya, T (2021). *Criminal responsibility for perpetrators of the crime of driving a motor vehicle in a state of intoxication*, repository.unhas.ac.id, p.202-204

¹⁴⁴ Gonzales TA, Vance M, Helpen M, Umbergen CJ, "Legal Medicine Pathology and Toxicology", 2nd Edition, Appleton Century Crofts Inc, 1954, p 781.

apparent reason I immediately participated in judging the victim who was already battered."¹⁴⁵

Based on the informant's statement above, intoxicants that cause intoxicating effects can potentially cause the emergence of a criminal act, in this research contest the emergence of a criminal act intended is the crime of vigilantism, the effect of intoxicating drinks causes the suspect to become confused and unable to think logically, irritable and that is why drunkenness can cause harmful actions to both themselves and others.

And than author also interview with mr. A in the several place in Yogyakarta.

"I first became involved in this case because I felt that my neighborhood was unsafe, then one day a thief was caught in my village, I spontaneously vented my frustration at the perpetrator of the theft, 1 day after I committed this act the police arrested me at my residence, I was sentenced to 8 months and as I recall, I i remember i was charged with article 170."¹⁴⁶

one of the factors in the occurrence of vigilantism is a feeling of insecurity. this feeling is generated because the level of crime that occurs in the neighborhood is increasing. based on the suspect's testimony, the suspect was charged with article 170 kuhp, and the suspect was sentenced to 8 months in prison for the actions that he had caused.

And than author also interview with mr L in several place in Yogyakarta

"The incident occurred at night, I was at that time under emotion, because I had some financial problems, at that time I walked to the store to buy a pack of cigarettes, then I walked home and saw a crowd, I then approached it turns out that the residents had caught the perpetrator of curnamor, at that time the surrounding residents also judged the perpetrator and then I also judged the perpetrator until battered."¹⁴⁷

¹⁴⁵ Interview with defendant Mr.P in Yogyakarta police resort Tuesday 12 september 2023

¹⁴⁶ Interview with defendant Mr. A n several place in Yogyakarta city 17 october 2023

¹⁴⁷ Interview with defendant Mr.l in several place in Yogyakarta city 17 october 2023

Based on mr l's statement, at that time mr l was experiencing emotional stress and financial problems. mr l was returning from the store to buy a pack of cigarettes, mr l walked back to her house then on the way home mr l saw a crowd and approached the crowd. mr l knew why there was a crowd because at that location the mass had caught the perpetrator of the curanmor that was troubling the area, the mass judged the perpetrator of the curanmor and mr l judged with him. financial factors can cause a negative action, mr l saw an incident as an opportunity that could vent his emotions that were happening, but mr l did not think about the impact so that mr l had to be responsible for his actions.

B. Law enforcement acts of vigilantism in Yogyakarta city

The level of vigilante cases based on the author's interview with the resource person, Mr. AKP. Satrio Arif Wibowo, S.H., M.H who serves as the head of the intelligence and security unit (*kasatintelkam*) at the Yogyakarta city police station, tends to decrease. The author's source, Mr. AKP. Satrio Arif Wibowo, S.H., M.H said that:

"The cases of actions and vigilantism that occur in the Yogyakarta city area tend to decrease. because based on the police files that I read, the cases of vigilantism are almost non-existent. Unlike the previous few years when the COVID-19 pandemic hit Indonesia, this case occurred a lot"¹⁴⁸

Based on the results of the interview above, it can be concluded that in the city of Yogyakarta, cases of vigilantism have decreased and even cases of vigilantism are almost non-existent. This proves that the COVID-19 pandemic that has hit Indonesia has also affected the emotional level of the people in the city of Yogyakarta because during the COVID-19 pandemic the government

¹⁴⁸ Interview with kanit kasatintelkam Mr. AKP. Satrio Arif Wibowo, S.H., M.H., Monday, June 26, 2023.

prohibited activities or activities outside the home including work. Of course, the emotional level of the community at that time was higher because the government's ban limited people's freedom to carry out daily activities. So that if a crime occurs in the neighborhood, it can be an opportunity for people to forget the emotions they feel. And community members who take the law into their own hands cannot think logically about the legal repercussions of their actions.

Law enforcement of vigilante cases in the city of Yogyakarta, the Yogyakarta city police resort uses preventive efforts. these efforts are revealed based on the results of the author's interview with the resource person, namely Mr. AKP. Satrio Arif Wibowo, S.H., M.H, who said:

"Yogyakarta Resort Police uses preventive efforts to prevent vigilante cases by ordering members of the Bhabinkamtibmas police to provide socialization to the community in environments prone to crime, so that the community understands very well what legal consequences are done if they take the law into their own hands."¹⁴⁹

Preventive efforts are efforts made to prevent something that has not yet happened. Preventive efforts are made by the police to suppress cases that often occur in society, one of which is the case of vigilantism, which sometimes the community does not understand what legal consequences result from these cases. preventive efforts commonly carried out by the Yogyakarta City Resort Police based on the results of the author's interview are through socialization conducted by Bhabinkamtibmas police. Based on Decree of the Chief of the Indonesian National Police No.Pol.KEP/8/II/2009 concerning the amendment of the Chief of Police field manual No.Pol. :BUJUKLAP/17/VII/1997 , bhabinkamtibnas means

¹⁴⁹ Interview with kanit kasatintelkam Mr. AKP. Satrio Arif Wibowo, S.H., M.H., Monday, June 26, 2023.

bhayangkara Pembina Keamanan dan Ketertiban Masyarakat.¹⁵⁰ Bhabinkamtibnas in the police have important functional duties for the police, these functions are explained in Article 26 of the National Police Chief Regulation Number 3 of 2015, which explains the functions of the bhabinkamtibnas function, namely carrying out visits and listening to community opinions, guiding and instructing the community in the field of law, disseminating information about the police, providing police services to the community, coordinating community activities to behave in an orderly manner, and mediating and facilitating people who need to solve a problem that occurs in the environment.¹⁵¹

The Yogyakarta city police also use repressive efforts when vigilantism has occurred in the community. The author's interview with the source, namely Mr. AKP. Satrio Arif Wibowo, S.H., M.H said that:

"In addition to using preventive efforts through bhabinkamtibnas, the police also use repressive efforts when there has been a case of crime or criminal acts that occur in the community, this effort is made to create a deterrent effect for the perpetrators of crime, and it is hoped that the perpetrators of crime will not repeat their actions again."¹⁵²

Based on KBBI, repressive efforts are an effort that is suppressive, curbing which has the aim of goodness.¹⁵³ Repressive efforts are needed for the police to handle crime cases. This effort is made to suppress acts that violate the law and create a deterrent effect for the perpetrators of crime.

¹⁵⁰ Surat Keputusan Kepala Kepolisian Negara Republik Indonesia No.Pol.KEP/8/II/2009 tentang perubahan buku petunjuk lapangan Kapolri No.Pol. :BUJUKLAP/17/VII/1997

¹⁵¹ Pasal 26 Peraturan Kapolri Nomor 3 Tahun 2015

¹⁵² Interview with kanit kasatintekam Mr. AKP. Satrio Arif Wibowo, S.H., M.H., Monday, June 26, 2023.

¹⁵³ Big Indonesian Dictionary

Making repressive efforts is a challenge for the police because vigilantism is an action that involves many members of the community. Based on the statement of the resource person Mr. AKP. Satrio Arif Wibowo, S.H., M.H.

"the Yogyakarta city police force faces a challenge in vigilante cases. due to the large number of community members involved in these cases, the police must be able to sort out the perpetrators of crimes, witnesses, and victims of these vigilante cases."¹⁵⁴

An arrest made by the police is a repressive measure used by the police. The police cannot immediately arrest someone if there is no strong evidence that can be imposed on the perpetrator of the crime. The large number of community members is a challenge for the police to uphold justice and enforce existing laws. Repressive efforts we can say is penal efforts, Penal efforts are efforts made through criminal law. This effort is a countermeasure effort that focuses more on repressive nature, namely actions taken after the crime has occurred by enforcing the law and imposing penalties for crimes that have been committed. In addition, through this penal effort, the actions taken in the context of tackling crime include coaching and rehabilitation.¹⁵⁵

Penal efforts measures are taken after the crime has occurred. This action is in the form of arrest, detention, by imposing a sentence and placing in a correctional institution. The purpose of punishment for the act of a crime is to improve behavior that deviates from the norms that live and is upheld by the community. Both religious norms exist and legal norms. Coaching is an effective

¹⁵⁴ Interview with kanit kasatintekam Mr. AKP. Satrio Arif Wibowo, S.H., M.H., Monday, June 26, 2023.

¹⁵⁵ Andina, Mia (2014). *Kebijakan Penal Upaya Penanggulangan Tindak Pidana Kekerasan Dalam Rumah Tangga Di Kabupaten Banjarnegara: Studi Kasus*, etd.repository.ugm.ac.id, p.64

action so that someone who commits a crime does not repeat actions that are contrary to the norms that live in society.¹⁵⁶

In addition to preventive and repressive efforts, the police also make mediation or restorative justice efforts to reconcile the two disputing parties. According to the resource person Mr. AKP. Satrio Arif Wibowo, S.H., M.H. stated that:

"The police currently carry out a lot of restorative justice actions, this action is carried out by the police because it is considered the right solution to solve a problem that occurs. This restorative justice action can avoid excessive feelings of resentment and can increase public confidence in the law."¹⁵⁷

restorative justice is an approach taken to reconcile the parties to a dispute in a problem, restorative justice is widely used because it is considered to have many advantages such as cases that do not need to be resolved in court, because the principle of restorative justice uses an approach between the parties involved in a problem, restorative justice also has low costs, because restorative justice does not need to spend money to pay for lawyers in court, and the police also facilitate a mediator from the police, if the parties involved in the problem want to do restorative justice. In addition, restorative justice provides an opportunity for offenders to make amends to their victims so that there is a better solution than taking the matter to court. In court, the perpetrator of the crime is certainly punished with a prison sentence, but this punishment is not necessarily fair to the victim's family and the victim himself.

¹⁵⁶ Pujoyono, NW (2020). *Penal Policy dalam Upaya Preventif Kejahatan Carding di Indonesia. Jurnal Panji Keadilan: Jurnal Ilmiah Nasional*, jurnal.umb.ac.id p.142

¹⁵⁷ Interview with kanit kasatintelkam Mr. AKP. Satrio Arif Wibowo, S.H., M.H., Monday, June 26, 2023.

In handling restorative justice the police sometimes have their own obstacles based on interviews with police sources, namely Mr. AKP. Satrio Arif Wibowo, S.H., M.H.

"Restorative justice has its own constraints if the mediation process between the victim and the perpetrator experiences what is called a *deadlock*."¹⁵⁸

The restorative justice process carried out by the police sometimes experiences *deadlock*. Deadlock is a request that cannot be fulfilled between the victim and the perpetrator of the crime so that a new dispute occurs and it is no longer possible to use the restorative justice process. Deadlock is common in the restorative justice process because the parties consider the perpetrator's actions inappropriate to forgive and choose to be handed over to the police to undergo the applicable legal process.

Not all restorative justice can be applied in a criminal case. For cases of vigilantism restorative justice can still be applied, based on a statement from Mr. AKP. Satrio Arif Wibowo, S.H., M.H.

"restorative justice for cases of vigilantism can still be applied, and most cases of vigilantism can be resolved outside the court, so that the police can stop the investigation process because the two parties to the dispute have reconciled, this is a special achievement for the police to handle a case that occurs in the community."¹⁵⁹

Vigilante actions can still be resolved using restorative justice because based on Article 5 paragraph (1) of Kejar Regulation 15/2020, criminal cases can be stopped from being investigated and have been resolved using restorative justice if:

¹⁵⁸ Interview with kanit kasatintelkam Mr. AKP. Satrio Arif Wibowo, S.H., M.H., Monday, June 26, 2023.

¹⁵⁹ Interview with kanit kasatintelkam Mr. AKP. Satrio Arif Wibowo, S.H., M.H., Monday, June 26, 2023.

- a. the suspect is a first time offender
- b. criminal offense is only punishable by fine or punishable by imprisonment of not more than 5 (five) years.
- c. the criminal offense is committed with the value of the evidence or the value of the loss caused as a result of the criminal offense does not exceed IDR 2,500,000.00.¹⁶⁰

However, if the crime includes crimes related to property, crimes against the person, body, life, and independence, and if the crime is committed due to negligence, the application of article 5 paragraph (1) of Kejari Regulation 15/2020 can be waived in accordance with the agreement of both parties. However, there are some cases that cannot be resolved using restorative justice, as written in Article 5 paragraph (8) of Kejari Regulation 15/2020:

- a. criminal offenses against state security, the dignity of the President and Vice President, friendly countries, heads of friendly countries and their representatives, public order, and decency.
- b. criminal offenses punishable by a minimum sentence of 7 years
- c. drug offenses
- d. environmental crimes
- e. criminal offenses committed by corporations.¹⁶¹

Based on the explanation above, the application of restorative justice cannot be applied to several criminal cases committed by a person, but in the case

¹⁶⁰ <https://lbhpengayoman.unpar.ac.id/penerapan-keadilan-restoratif-restoratif-justice-apa-syarat-syaratnya/> accessed at 15.47

¹⁶¹ <https://lbhpengayoman.unpar.ac.id/penerapan-keadilan-restoratif-restoratif-justice-apa-syarat-syaratnya/> accessed at 15.48

of vigilantism it can still be applied because it does not violate in accordance with Article 5 paragraph (8) of Kejar Regulation 15/2020 concerning prohibition or a condition restorative justice cannot be applied.

In the case of vigilantism, the perpetrator does not get leniency, unless the perpetrator and the victim's family have reconciled, as said by Mr. AKP. Satrio Arif Wibowo, S.H., M.H.:

"For leniency, of course the perpetrator will be subject to punishment in accordance with the actions committed, but the perpetrator will get leniency or the possibility of being free from imprisonment if the perpetrator and the victim's family have reconciled using restorative justice."¹⁶²

As explained and based on the results of the interviews, the application of restorative justice provides many benefits such as the possibility of freedom from imprisonment for the perpetrators of vigilante actions. The application of restorative justice for now is always put forward by the police in handling cases of disputes like this, in addition to saving a lot of time restorative justice also provides justice in accordance with the parties who have legal problems.

Vigilante actions can be dealt with directly by the police without the need for a report from the victim. This is commonly referred to as ordinary offense. Based on the results of interviews with Mr. AKP. Satrio Arif Wibowo, S.H., M.H, he stated that:

"For the handling of vigilante cases, the police can handle these cases without the need for a complaint from the victim, but it all depends on the situation and conditions at the scene of the crime."¹⁶³

¹⁶² Interview with kanit kasatintelkam Mr. AKP. Satrio Arif Wibowo, S.H., M.H., Monday, June 26, 2023.

¹⁶³ Interview with kanit kasatintelkam Mr. AKP. Satrio Arif Wibowo, S.H., M.H., Monday, June 26, 2023.

Cases of vigilantism can be directly handled by the police because in law there is a criminal offense called ordinary offense, ordinary offense is an offense that can be processed directly by the police without a report from the victim or the injured party.

However, usually cases of vigilantism are complaints because the victim's family does not accept that one of their family members has been victimized by the community's actions, so they choose to report it to the police. The author's interview with the resource person also said that:

"On average, cases of vigilantism fall into the complaint offense, it is very rare for the police to handle cases of vigilantism that fall into the ordinary offense category, because if they handle this it will add new problems, but the police are trying their best to handle these cases, based on the applicable law"¹⁶⁴

Based on the results of the interviews, the average act of vigilantism is a complaint offense which is indeed a report received from the family of the victim who is a victim of vigilantism. A complaint offense is an offense that can only be processed if there is a complaint or report from the person who is the victim of a criminal offense. Based on Article 75 of the Criminal Code, the victim can withdraw the report that has been made to the police.¹⁶⁵ And based on Article 75 of the Criminal Code a person who has made a complaint in the police has 3 months to withdraw the report that has been made in the police.¹⁶⁶ There are two types of complaint offense, namely relative complaint offense and absolute complaint offense. Absolute complaint offense is where the complainant only

¹⁶⁴ Interview with kanit kasatintelkam Mr. AKP. Satrio Arif Wibowo, S.H., M.H., Monday, June 26, 2023.

¹⁶⁵ Criminal Code

¹⁶⁶ Criminal Code

needs to mention the chronology of the incident. Crimes that fall into this type of absolute complaint offense are:

- a. Indecent crimes (Article 284, Article 287, Article 293 funds Article 332 of the Criminal Code).
- b. Crime of revealing secrets (Article 322 of the Indonesian Penal Code)
- c. And the crime of defamation (310 KUHP).¹⁶⁷

Whereas in the relative complaint offense the complainant must mention who is suspected of being the perpetrator of the crime experienced by the complainant to the police. Crimes included in the relative complaint offense are:

- a. Extortion and threats (Article 370 of the Indonesian Criminal Code)
- b. Embezzlement (Article 376 of the Criminal Code)
- c. Fraud (Article 394 of the Criminal Code)¹⁶⁸

Vigilante cases can be subject to several articles depending on how the chronology of the case occurs in the community. Based on the statement of Mr. AKP. Satrio Arif Wibowo, S.H., M.H.:

"Cases of vigilantism can be subject to several articles, such as Article 170 of the Criminal Code on beatings, Article 351 of the Criminal Code on persecution. The provision of the article depends on how the chronology of events at the scene and if the investigation of the case develops that occurs at a different crime scene (TKP), then the police will provide different articles. For example, if the vigilante does not injure other people but damages personal property belonging to the victim, the police can give article 406 of the Criminal Code on damage to personal property. all of that depends on the results of the police investigation which is based on evidence at the scene of the crime (TKP) "¹⁶⁹

¹⁶⁷ Kumendong, WJ (2017). *Kemungkinan Penyidikan Delik Aduan Tanpa Pengaduan*. Jurnal Hukum Unsrat, ejournal.unsrat.ac.id,

¹⁶⁸ Bazhar, A, & Iqbal, M (2020). *Tinjauan Yuridis Pencabutan Laporan Kepolisian Dalam Tindak Pidana.*, repository.wiraraja.ac.id,

¹⁶⁹ Interview with kanit kasatintekam Mr. AKP. Satrio Arif Wibowo, S.H., M.H., Monday, June 26, 2023.

Based on this statement, cases of vigilantism can be charged with article 170 of the Criminal Code which states:

- 1) Any person who openly and with united forces uses violence against persons or property, shall be punished by a maximum imprisonment of five years and six months....
- 2) The guilty are punished:
 1. By a maximum imprisonment of seven years, if with deliberate intent property is destroyed or if the violence used results in an injury;
 2. By a maximum imprisonment of nine years, if the violence results in serious physical injury;
 3. By a maximum imprisonment of twelve years, if the violence results in death.
- 3) Article 89 shall not apply to this article.¹⁷⁰

Article 170 paragraph 1 of the Criminal Code states that jointly committing an act of violence against persons or property is punishable by 6 months. The meaning of Article 170 paragraph 1 of the Criminal Code is that a group of people who use acts of violence aimed at achieving a certain goal can be punished in accordance with the provisions of the article.

acts of vigilantism based on information from sources can also be charged with the article of persecution, namely Article 351 of the Criminal Code which states:

1. Maltreatment shall be punished by a maximum imprisonment of two years and eight months or a maximum fine of three hundred Rupiahs...;
2. If the fact results in a serious physical injury, the offender shall be punished by a maximum imprisonment of five years..;
3. If it results in death, he shall be punished by a maximum imprisonment of seven years..;
4. With maltreatment is equated with intentionally damaging health;
5. Attempt to commit this crime is not punishable.¹⁷¹

¹⁷⁰ Criminal Code

¹⁷¹ Criminal Code

Based on Article 351 of the Criminal Code, vigilante acts can be charged with this article if the elements of Article 351 of the Criminal Code are fulfilled.

In the investigation conducted by the police, if a case of vigilantism develops, a case of vigilantism can be charged with Article 406 of the Criminal Code on the destruction of personal property belonging to the victim, Article 406 of the Criminal Code reads:

1. Any person who with deliberate intent and unlawfully destroys, damages, renders useless or removes property which wholly or partially belongs to another, shall be punished by a maximum imprisonment of two years and eight months or a maximum fine of three hundred Rupiahs.
2. The same punishment shall be imposed on the person who with deliberate intent and unlawfully kills, damages, renders useless or removes an animal which wholly or partially belongs to another person...

Article 406 of the Criminal Code describes damage to other people's property, in cases of vigilante actions persecuting victims cannot always occur, sometimes the victim has been secured by the police to avoid public anger, sometimes the victim's personal property such as a motorcycle or car can become the target of public anger.

The results of the author's analysis from interviews with sources, namely Mr. AKP. Satrio Arif Wibowo, S.H., M.H, who serves as the head of the intelligence and security unit (*kasatintelkam*) at the Yogyakarta city police station, cases of vigilantism are a phenomenon that often occurs. cases of vigilantism often occur due to several factors that exist within each member of the community. These factors develop according to the mindset that each member of

society understands. The high level of education possessed by one member of society is not a benchmark for why vigilantism can occur in the environment.

The ability to control oneself is the main thing so that community members can control themselves not to commit a crime that will harm themselves or others, a mature physical condition does not guarantee a mature mindset as well. People do not understand the applicable law or even understand the applicable law but choose to ignore it due to certain factors. It is these factors that make community members exposed to various legal problems such as vigilantism. As good as the law is made, it will be useless if the subject of the law chooses to ignore the law.

CHAPTER IV

CONCLUSIONS AND SUGGESTIONS

A. CONCLUSIONS

Based on the results of research conducted by researchers, in this chapter a conclusion can be drawn that:

The cause Factors that influence vigilantism in the community are factors that come from within a person or what is called internal factors. Internal factors can be in the form of various things such as

- 1) Lust factors
- 2) emotional factors

not only internal factors that influence vigilantism can occur, but there are external factors that encourage people to take the law into their own hands such as:

- 1) education factors
- 2) participation (*ikut-ikutan*) factors
- 3) misconception factors
- 4) opportunity factors
- 5) social factors
- 6) factors that do not understand the law/anomiee

The various factors mentioned by researchers can be concluded that these factors affect the mindset of the community in responding to an action that occurs.

Law enforcement related to vigilantism that occurred in the city of Yogyakarta, carried out by the Yogyakarta Resort Police in several ways such as using the restorative justice system, the restorative justice court system is a court

system that prioritizes mediated settlement, this court process has many advantages such as low costs and the achievement of justice in accordance with what is expected by the disputing parties. Then the police also make preventive efforts and repressive efforts. preventive efforts made by the Yogyakarta city resort police are using members of the police bhabinkamtibnas who have functions in accordance with what is written in Article 26 of the National Police Chief Regulation Number 3 of 2015. While the repressive efforts made by the police are to arrest and punish the perpetrators and are subject to criminal sanctions, namely article 170 of the Criminal Code, article 351 of the Criminal Code, and article 406 of the Criminal Code, but the provision of the article depends on how the results of the investigation have been carried out by the police at the crime scene (TKP).

B. SUGESSTION

Suggestions are given by researchers to the police to make the Yogyakarta city resort police better and want to improve themselves to handle cases of vigilante cases in Yogyakarta.

Factors that occur in the community should be law enforcement officials cooperate with community leaders in the neighborhood in order to control each other's community members not to take the law into their own hands. community leaders in the community are considered influential in the neighborhood, and it is hoped that by working with the police and community leaders can reduce vigilantism that occurs in the community.

Law enforcement carried out by the Yogyakarta city resort police is good, because it has used restorative justice. but the Yogyakarta city resort police need

to carry out security patrols in neighborhoods prone to crime, because if a crime occurs, law enforcement officials can immediately secure the perpetrators of the crime so that the community does not take the law into their own hands.

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