

CRIMINAL RESPONSIBILITY OF MASS OFFENDERS FOR ACTS OF GOING TO JUSTICE (*EIGENRICHTING*) AGAINST PERFORMERS OF THE CRIME OF THEFT BASED ON THE CRIMINAL LAW BOOK (KUHP)

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Abstract

Judging the perpetrators of criminal acts yourself is not the right way, but is a violation of human rights and has made a negative contribution to the law enforcement process. Therefore, it is very interesting and important to study further about how criminal liability is regulated for acts of taking the law into your own hands (eigenrechting) against perpetrators of criminal acts of theft based on the Criminal Code? and is the act of taking the law into your own hands (eigenrichting) against the perpetrator of the crime of theft punishable? To answer these problems, normative juridical legal research methods are used with statutory and conceptual regulatory approaches. Data obtained from primary, secondary and tertiary legal material sources were collected and then analyzed using qualitative data analysis techniques. From the research results, it was found that the regulation of criminal offenses in the form of vigilante action according to the Criminal Code is regulated in Article 170, Article 351, Article 406 and Article 338. The qualification for the offense of vigilante action (eigenrichting) which results in fatalities in criminal law is that the act has been fulfill all the elements of the indictment in Article 170. Depends on fulfilling the elements of Article 170 of the Criminal Code or Article 262 of Law Number 1 of 2023 concerning the Criminal Code as well as Article 351 of the Criminal Code or Article 466 of Law 1/2023 concerning abuse. So, victims of vigilantism can report to the authorities.

Keywords: Criminal Liability, Vigilante, Theft

Abstrak

Judging the perpetrators of criminal acts yourself is not the right way , but is a violation of human rights and has made a negative contribution to the law enforcement process. Therefore, it is very interesting and important to study further about how criminal liability is regulated for acts of taking the law into your own hands (eigenrechting) against perpetrators of criminal acts of theft based on the Criminal Code? and is the act of taking the law into your own hands (eigenrichting) against the perpetrator of the crime of theft punishable? To answer these problems, normative juridical legal research methods are used with statutory and conceptual regulatory approaches. Data obtained from primary, secondary and tertiary legal material sources were collected and then analyzed using qualitative data analysis techniques. From the research results, it was found that the regulation of criminal offenses in the form of vigilante action according to the Criminal Code is regulated in Article 170, Article 351, Article 406 and Article 338. The qualification for the offense of vigilante action (eigenrichting) which results in fatalities in criminal law is that the act has been fulfill all the elements of the indictment in Article 170. Depends on fulfilling the elements of Article 170 of the Criminal Code or Article 262 of Law Number 1 of 2023 concerning the Criminal Code as well as Article 351 of the Criminal Code or Article 466 of Law 1/2023 concerning abuse. So, victims of vigilantism can report to the authorities.

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INTRODUCTION

Community life activities in Indonesia cannot be separated from all kinds of problems that arise. The forms of problems that arise are often influenced by differences in the conflicting interests of each individual which can trigger disputes, not only that, problems triggered by economic inequality, crime, and disharmony between citizens, as well as a lack of public awareness to comply with applicable laws. adding to the factors that create conflict and problems.

Crime does not arise by itself, it could be said that crime is a deviation in behavior by individuals in society from agreed rules. An individual's behavior or pattern of rules is influenced by several things, as explained by Arif Gosita as follows:

1. Interests or interests that become motivation in behaving and acting;
2. Social institutions such as families, schools, madrasas, houses of worship, government institutions and so on;
3. Social values;
4. Norms;
5. Status;
6. Role.

For example, the crime of theft. The crime of theft is the crime that most often occurs in society. The difficulty of meeting personal and family (economic) needs allows people to take shortcuts by stealing. Based on existing observations both factually and in print and electronic media, it shows fluctuations in theft crimes of various types, one of which is motivated by inadequate living needs. Like the case in Garut, a father stole a cellphone so that his child could attend school online. Likewise in the case in Blitar, he admitted that he was forced to steal baby milk and eucalyptus oil because his child's needs were very urgent.

Normatively, the regulation of criminal acts of theft is regulated in the Criminal Code (KUHP) Book II Chapter XXII Articles 362 to Article 367. The limits of the definition of theft are regulated in Article 362, regarding types of theft and aggravated theft are regulated in Article 363, regarding Light theft is regulated in Article 364, violent theft is regulated in Article 365, and Article 367 regulates theft within the family.

In difficult conditions like today, demands for the basic necessities of life that cannot be postponed have resulted in criminal acts of theft increasing. The increase in criminal cases of theft certainly gives rise to many further problems. Like how serious law enforcement officials are in handling it. This is certainly a big question for people who want security and comfort in their environment. Public lack of confidence in the handling of the perpetrators of theft by law enforcers and a lack of good legal awareness by the public. People who are easily provoked by emotions and lack legal awareness will of course spontaneously take action against the perpetrators of theft together. It is not uncommon for acts of beatings to be a solution to a problem that exists in society as a result of which the perpetrator of the theft suffers injuries, whether minor injuries, serious injuries or even loss of life. The phenomenon of cases of beatings or also known as "mob justice" like this has become the subject of mass media coverage while members of the public do not show regret and even express their satisfaction.

The problem of taking the law into your own hands (*eigenrichting*) has long been an ongoing problem and often occurs in Indonesian law, in accordance with Article 1 paragraph (3) of the Constitution of the Republic of Indonesia which states that: "The Indonesian state is a state of law", The practice of taking the law into your own hands (*eigenrichting*) in Indonesia should receive firm action because in reality this is still often found in countries that are based on this law.

Cases of taking the law into your own hands are generally found in criminal acts of theft, where the perpetrator is caught in the act, because of this the residents will be very angry with the actions taken by the perpetrator so that the residents will use their collective energy to chase, beat and gang up on the perpetrator.

Like the incident that occurred in Sukamaju Village, Cikakak District, Sukabumi, Rahmat (40) died after being put on trial because he was accused of stealing. It is known that before being assaulted, Rahmat was picked up by a number of people who were suspected of being victims of theft. Likewise, the case that occurred in Rabesen Village, Kwanyar District, Bangkalan, Madura. A suspected motorbike thief (curanmor) was burned to death by a mob because he was suspected of being the perpetrator of motorbike theft. This suspicion arose after residents found a sickle and a T key. And there are many other cases of eigenrichting that occurred in the community.

In connection with taking the law into your own hands (eigenrichting), according to Mardjono Reksodiputro, there are 2 (two) problems most often faced, namely:

1. It is difficult to determine victims clearly (because there are abstract victims and collective victims), and
2. The difficulty in carrying out criminal prosecution of the perpetrators is partly due to the difficulty in collecting evidence.

Acts against the law, especially acts of taking the law into your own hands, are indeed one of the criminal acts that need to be given more supervision, sometimes the perpetrator is considered to be the person most guilty and causes great harm to many people, but they also still have human rights, where they are obliged to obtain the right to live. Meanwhile, vigilantism can injure or take the lives of other people without any legal protection.

RESEARCH METHODS

This type of research is normative juridical legal research. This normative juridical legal research can also be called doctrinal legal research. Dogmatic legal science studies, maintains and develops positive legal buildings with logical buildings, which are called "doctrinal" studies or also called "normative" legal studies. The research approach uses the statutory approach, case approach and conceptual approach. The type of data in this research is Secondary Data. This is a very important factor, because the data source will relate to the quality and results of the research. Therefore, the data source is a consideration in determining the data collection method. The data collection technique used in this research is library research techniques. Data collection tools can be in the form of document studies or library research to obtain secondary data.

RESULTS AND DISCUSSION

A. Regulation of Criminal Liability for Vigilante Actions (Eigenrechting) Against Perpetrators of Crimes of Theft Based on the Criminal Code

Vigilante is a translation of the term from Dutch "eigenrichting" which means the act of taking the law into your own hands, taking rights without heeding the law, without the knowledge of the government and without the use of government tools of power. Apart from that, taking the

law into your own hands means judging other people without regard to existing laws (usually done by beatings, torture, burning, and so on).

The term vigilante action in Indonesia is very synonymous with the term "street justice" which means vigilante action carried out by several people or groups of people (masses) against people suspected of being perpetrators of criminal acts. Acts of vigilantism are always in line with the rights - other people's rights and therefore this action is not permitted shows that there is an indication of low legal awareness.

A person is not permitted to impose sanctions on someone to enforce the law because the implementation of sanctions is the monopoly of the authorities. As Blackstone emphasized "Law is a rule of action prescribed or dictated by some superior which some inferior is bound to obey". "Law is a rule of action determined by those in power for those who are controlled to obey." The proposition emphasized by Blackstone indicates that all forms of legal action against violations and crimes are under the authority of the government. Communities outside of the government as the owner of authority have no right at all to take action because normatively they have no basis for legitimacy.

Eigenrichting (taking the law into your own hands) from a sociological context is still widespread. The tendency of the masses when they find a criminal who is caught red-handed is to immediately start beating them. It is clear that this action has no justification from a legal perspective, especially when we return to the conclusion that the law is the ruling authority, in this case represented through legal institutions. This tendency will often be found in the rise of cases of beatings carried out by mobs. The masses cannot control their emotions when faced with situations like this.

The Criminal Code (KUHP) in Indonesia itself does not specifically regulate acts of vigilantism, but this does not mean that the Criminal Code (KUHP) does not provide regulations regarding acts of vigilantism. Even though it is not directly stated, a regulated action is called vigilante action. For example, the regulations regarding acts of abuse in Article 351 of the Criminal Code do not state that abuse is an act of taking the law into your own hands. However, if you look closely at the elements of this article, it can be concluded that in certain situations (for example, when a motorbike theft perpetrator is beaten up by a group of residents), the act of abuse by the residents can be categorized as an act of taking the law into their own hands.

The act of vigilantism is basically retaliation which originates from the concept of personal justice which views crime as a personal or family matter without interference from the authorities. Individuals who feel that they are victims of other people's actions will seek revenge against the perpetrators of crimes that happened to them or those around them. In essence, this act of self-judgment is the implementation of sanctions/groups. It's just that the severity of sanctions carried out by individuals or groups is difficult to measure, because the masses can sometimes act wildly and uncontrollably. Smelser questions why collective behavior occurs. He detailed six factors which according to him determine the occurrence of collective behavior or violence, these six factors are:

- a. The existence of structural drivers (structural conduciveness);
- b. structural tension (structural strain);

- c. The growth and spread of a generalized belief (Growth and spread of belief);
- d. Precipitating factors (precipitating factors);
- e. Mobilization of Participants for action; And
- f. The operation of social control.

Regulations in positive law regarding acts of vigilantism against criminals are regulated in the Criminal Code and outside the Criminal Code, as below:

a. Criminal Code

1) Article 170 of the Criminal Code

(1) Anyone who publicly commits violence against people or property, is sentenced to imprisonment for a maximum of five years and six months.

(2) Wrongfully convicted:

(a) with imprisonment for up to seven years, if he intentionally damages the property or the violence he does causes an injury.

(b) with imprisonment for up to nine years, if the violence causes grievous bodily harm

(c) with imprisonment for up to twelve years, if the violence results in the death of a person. The elements contained in this article are as follows:

a. Anyone. This shows the person or person as the perpetrator.

b. In public. The act is done in a place where the public can see it;

c. Jointly, meaning carried out by at least two or more people. The meaning of these words together shows that the action was done intentionally or had a definite purpose, so it was not an accident.

d. Violence, which means using physical force or strength that is not small and illegal. Violence in this article usually consists of "damaging property" or "assault".

e. Against people or things. The violence must be directed at the person or object as the victim.

So Article 170 is relevant to apply to people who are reactionary or spontaneous in committing criminal acts. This is different from an organized society that can use articles on the offense of participation, because the articles clearly state the position of the perpetrators with each other, unlike a reactionary society (not included in the offense of participation, namely advocacy) where the community does not have a clear position with one another. others, and automatically in this case are seen as actors who have the same responsibilities as other actors.

What has been a problem so far is related to legal action and providing fair and effective sanctions against groups and actors or groups of people who experience difficulties in applying them in the field. In criminal acts committed by the community, determining the maximum limit for the number of people is difficult.

Violence carried out in accordance with Article 170 is of course carried out by the perpetrators at the same time or close to each other, provided there is an agreement and understanding to carry out such acts of violence against people or property. Article 170 requires that the action be carried out in front of a large number of people or in an open public space.

The threat of punishment under Article 170 is more severe. The threat of punishment in Article 170 is more severe, if the victim suffers serious injuries then the perpetrator is threatened with a maximum prison sentence of nine years. If the result is the death of the victim, Article 170 threatens a prison sentence of up to twelve years.

2) Article 351 of the Criminal Code

- (1) Persecution is punishable by a maximum imprisonment of two years and eight months or a maximum fine of four thousand five hundred rupiah.
- (2) If the act results in serious injury, the guilty person is threatened with imprisonment for a maximum of five years.
- (3) If it results in death, he is threatened with imprisonment for a maximum of seven years.
- (4) Persecution is equated with deliberately damaging health.
- (5) Attempting to commit this crime is not punishable

The elements contained in this article are

- (a) There is intentionality
- (b) There is action
- (c) There are consequences of the (intended) action, pain in the body, and/or injuries to the body.
- (d) Consequences are the only goal.

If we look at the criminal context relating to crimes against the body or in other words abuse, what is called abuse according to Article 351 of the Criminal Code is a criminal act that fulfills the following elements:

- (1) His actions cause pain or injury to another person's body;
- (2) Not with proper intentions or in other words exceeding permitted limits;
- (3) Deliberately breaking the law.

With the completion and fulfillment of the three elements in Article 351 of the Criminal Code, it can be said that the criminal act of abuse has been committed, because it has fulfilled the elements in Article 351 of the Criminal Code, if it is connected with abuse that results in serious injury then Apart from the elements above, of course there must be an element which can be said to be an additional element, namely that the act caused serious injury.

In this abuse there was no element of prior planning, but it resulted in serious injuries. This serious injury is not the final goal or the desired goal. The ultimate goal is not to cause fatal consequences so that the victim cannot carry out normal duties, or the pain caused cannot be completely cured. The aim is also not to kill the victim but only to cause pain. However, beyond the perpetrator's ability, the abuse caused serious injuries.

In essence, this is ordinary persecution. The perpetrator's aim was only to cause pain to the victim's body. In this case there is an element of planning, just like planned persecution. The specificity of this abuse is that the consequences are not only what the perpetrator wanted and planned, namely simply causing pain to the victim's body and the victim suffering serious injuries.

What is included in Article 351 paragraph (1), is not light abuse, not serious or planned abuse and also does not result in serious injury or death of people. Confusion arises between Article

351 paragraph (1) and Article 352 of the Criminal Code, so that in its application complications arise, especially because violations of Article 352 of the Criminal Code are commonly called "Tipiring" (minor crimes), which are based on the Criminal Procedure Code (Article 205 (1)), investigators immediately submitted it to the District Court, thereby not involving the Public Prosecutor.

If we look closely at Article 351 of the Criminal Code, there are 3 (three) types of ordinary abuse, namely:

- 1) Persecution that does not result in serious injury or death of a person,
- 2) Assault resulting in serious injury,
- 3) Persecution that results in the death of people.

Regarding the application of Article 351 paragraph (3), namely abuse that results in the death of a person, it does not seem that difficult or complicated, but in practice it is sometimes difficult to differentiate between Article 351 paragraph (2), for example: A was abused by B which resulted in serious injuries, but because not too long ago, someone took him to the hospital so that his life could be saved, with, N was abused by M, which resulted in serious injuries, but because no one helped, he lost blood and died.

Regarding the definition of "serious injury" Article 90 of the Criminal Code defines its meaning. "Severe injury" in the original formulation is called "zwaar lichamelijk letsel" which is translated as "serious bodily injury" which is always abbreviated as serious injury. Some experts refer to "severe injuries" and it is not appropriate to use the word "severe" for wounds because generally the word heavy is intended to express size.

In Article 90 of the Criminal Code, "serious injury" is defined as follows:

Serious injury means:

- (1) Falling sick or getting an injury that doesn't give
- (2) the hope of complete recovery, or the danger of death; Continuously unable to carry out the duties of the position or search work;
- (3) Loss of one of the five senses;
- (4) Having severe disability (verminking);
- (5) Suffering from paralysis;
- (6) Disturbed thinking ability for more than four weeks;
- (7) The abort or death of a woman's womb

3) Article 338 of the Criminal Code

Anyone who intentionally takes the life of another person is threatened with murder with a maximum imprisonment of fifteen years.

Article 338 of the Criminal Code states that the sanction or criminal punishment is imprisonment for a maximum of fifteen years. Here it is stated "a maximum" so it is possible that the judge will impose a criminal sanction of less than fifteen years in prison. From the provisions in this article, the elements of ordinary murder are as follows:

- a) Subjective element: intentional action

"Deliberately" (Doodslag) means that the act must be deliberate and the intention must arise immediately, because deliberate (opzet/dolus) as meant in Article 338 is a deliberate act which has been formed without prior planning, whereas what is meant by deliberate in Article 340 is an intentional act to take another person's life which was formed with prior planning.

b) Objective element: the act of eliminating, life, and other people.

The first objective element of the act of murder, namely: "disappearance", this element is also covered by intent; This means that the perpetrator must intend, intentionally, to carry out the act of eliminating, and he must also know that his action is aimed at eliminating the life of another person. With regard to "other people's lives" this means the lives of other people than the murderer. It doesn't matter who the murder was committed against, even if the murder was committed against the father/mother, including the murder referred to in Article 338 of the Criminal Code.

From this statement, our criminal law does not recognize a provision that states that a murderer will be subject to heavier sanctions because he has intentionally killed a person who has a certain position or has a special relationship with the perpetrator. With regard to the elements of other people's lives too, taking one's own life is not an act that can be punished, because a person who commits suicide is considered to be mentally ill and cannot be held responsible .

With the three articles contained in the Criminal Code, perpetrators of taking the law into their own hands in the crime of motorbike theft can be prosecuted. So that the act of taking the law into their own hands is no longer carried out by the community. Next, the author explains the crime of motorbike theft. The crime of robbery is actually not a new type of crime, referring to the Criminal Code (KUHP), the act of robbery is regulated in Article 365 of the Criminal Code regarding theft accompanied by violence or better known as "Curas".

Acts of vigilantism carried out by the community against perpetrators of motorbike robbery crimes are a phenomenon that is often encountered or heard about in society. The act of taking the law into your own hands is basically a criminal act, because it has committed violence against perpetrators who are suspected of committing criminal acts, while the perpetrators who commit these criminal acts are also protected by law and those who have the right to provide legal proceedings against perpetrators of criminal acts are law enforcement officers.

4) Article 406 paragraph (1)

The application of Article 406 paragraph (1) in this act of taking the law into your own hands, if the act of taking the law into your own hands is accompanied by damage or destruction of property in the surroundings, whether it is property belonging to the victim or someone else, then Article 406 paragraph (1) can also be applied. (1) as an additional sanction that is burdensome.

Specifically for violence against goods, the Article which also regulates vigilantism accompanied by damage to goods, is regulated in Article 406 paragraph (1), which reads:

- a. "Anyone who intentionally and unlawfully destroys, damages, makes unusable or loses something which wholly or partly belongs to another person, is threatened with imprisonment for a maximum of 2 (two) years and 8 (eight) months or a fine of a maximum of Rp. 4,500 ,- (four thousand five hundred rupiah)".
- b. Law Number 39 of 1999 concerning Human Rights
Article 4

Every person has the right to be free from torture, punishment or treatment that is cruel, inhumane, degrading to human status and dignity.

Based on Articles 4 and 33 Paragraph (1) where the two articles conclude that the act of taking the law into your own hands is an act that is also against the law and violates human rights. If we look at the elements of law enforcement, as Lawrence M. Friedman argued, the effectiveness and success of law enforcement depends on 3 (three) elements of the legal system, namely legal structure, legal substance and legal culture. (legal culture).

Legal structure (structure of law), in this case the legal structure concerns law enforcement officials who implement existing legal instruments. In other words, the legal structure shows how the law is carried out according to its formal provisions. For acts of vigilantism, a legal structure that can carry out its functions already exists in the integrated criminal justice system starting from the Police, Prosecutors, Judges to Correctional Officers, so the function of the legal structure to carry out prosecution and law enforcement for perpetrators of vigilante acts already exists and ready to work if acts of vigilantism occur.

The substance of the law is the rules, norms and patterns of real human behavior within the system. So legal substance concerns applicable laws and regulations which have binding force and serve as guidelines for law enforcement officials. Regarding acts of vigilantism, the legal substance already exists, starting from the Criminal Code to those outside criminal law. This legal substance can be used by law enforcement officials to ensnare perpetrators of vigilantism.

Acts of vigilantism carried out by the community against perpetrators of criminal acts are a form of uncultured community attitude, therefore this is one of the factors that weakens law enforcement. Regarding the act of taking the law into your own hands, if you look at the elements of law enforcement above, it is not yet effective because elements of society's legal culture still do not support law enforcement. This is proven by the legal structure being ready to carry out action and enforcement as mandated by the legal substance in Indonesian positive law, but the legal culture of society is not ready to support law enforcement. This is proven by the large number of people who take the law into their own hands against perpetrators. crimes caught by society. Therefore,

juridical studies on law enforcement of vigilantism against criminals have not run optimally.

B. Acts of taking the law into your own hands (Eigenrichting) against perpetrators of criminal acts of theft can be punished

If we refer to Indonesian laws and regulations, there are no provisions that specifically regulate vigilantism. However, in the event of an act of taking the law into their own hands, the victim can report to the authorities based on the provisions of the old Criminal Code which are still in force and Law Number 1 of 2023 concerning the Criminal Code which comes into effect 3 years from the date of promulgation, namely in 2026 are as follows:

Old Criminal Code (KUHP).

Article 351 paragraphs (1), (2), and (3)

- 1) Persecution is punishable by a maximum imprisonment of 2 years and 8 months or a maximum fine of IDR 4.5 million.
- 2) If the act results in serious injury, the guilty person is threatened with imprisonment for a maximum of 5 years.
- 3) If it results in death, he is threatened with imprisonment for a maximum of 7 years.

or Law Number 1 of 2023 concerning the Criminal Code

Article 466 paragraphs (1), (2), and (3)

- 1) Every person who commits abuse will be punished with a maximum imprisonment of 2 years and 6 months or a maximum fine of category III, namely IDR 50 million.
- 2) If the act as intended in paragraph (1) results in serious injury, he will be punished with a maximum imprisonment of 5 years.
- 3) If the act as intended in paragraph (1) results in the death of a person, he will be punished with a maximum imprisonment of 7 years.

Old Criminal Code (KUHP).

Article 170 paragraphs (1) and (2)

- 1) Any person who openly and with concerted force uses violence against people or property, is threatened with imprisonment for a maximum of 5 years and 6 months.
- 2) The guilty are threatened with:
 - a. with a maximum imprisonment of 7 years, if he intentionally destroys property or if the violence used results in injury;
 - b. with a maximum prison sentence of 9 years, if the violence results in serious injury;
 - c. with a maximum prison sentence of 12 years, if the violence results in death.

or Law Number 1 of 2023 concerning the Criminal Code

Article 262

- 1) Any person who openly or in public and with collective energy commits violence against people or property, shall be punished with a maximum imprisonment of 5 years or a maximum fine of category V, namely IDR 500 million.
- 2) If the violence as referred to in paragraph (1) results in the destruction of property or results in injury, it is punishable by a maximum imprisonment of 7 years or a maximum fine of category IV, namely IDR 200 million.

- 3) If the violence as intended in paragraph (1) results in serious injury, the person will be punished with a maximum imprisonment of 9 years.
- 4) If the violence as intended in paragraph (1) results in the death of a person, he will be punished with a maximum imprisonment of 12 years.
- 5) Every person as intended in paragraph (1) and paragraph (2) may be sentenced to additional punishment in the form of payment of compensation as intended in Article 66 paragraph (1) letter d.

Old Criminal Code (KUHP).

Article 406

- 1) Any person who intentionally and unlawfully destroys, damages, renders unusable or loses something which wholly or partly belongs to another person, is threatened with a maximum imprisonment of 2 years and 8 months or a maximum fine of IDR 4.5 million.
- 2) same penalty is imposed on a person who intentionally and unlawfully kills, damages, makes unusable or loses an animal, which wholly or partly belongs to another person.

or Law Number 1 of 2023 concerning the Criminal Code

Article 521

- 1) Any person who unlawfully damages, destroys, renders unusable, or removes property belonging to another person's building or property, shall be punished with a maximum imprisonment of 2 years and 6 months or a maximum fine of category IV, namely IDR 200 million.
- 2) If the criminal act as intended in paragraph (1) results in losses worth no more than IDR 500 thousand, the perpetrator of the criminal act shall be punished with a maximum imprisonment of 6 months or a maximum fine of category II, namely IDR 10 million.

Acts of taking the law into your own hands can be subject to Article 351 of the old Criminal Code or Article 466 of Law Number 1 of 2023 concerning the Criminal Code regarding abuse. Apart from that, vigilantism can be subject to Article 170 of the Criminal Code or Article 262 of Law Number 1 of 2023 concerning the Criminal Code regarding violence if the act is carried out in public and with joint forces committing violence against people or property. Finally, perpetrators of taking the law into their own hands can be subject to Article 406 of the Criminal Code or Article 521 of Law Number 1 of 2023 concerning the Criminal Code regarding damage or destruction of other people's property.

Specifically, answering the problem formulation, the provisions in Article 170 of the Criminal Code regarding beatings. As for Article 170 of the Criminal Code, the threat of punishment is imprisonment for a maximum of 5 years and 6 months. However, if, for example, the victim of a beating suffers serious injuries, the perpetrator will be charged under Article 170 of the Criminal Code paragraph (2), which is a maximum prison sentence of 9 years. So to ensnare perpetrators of vigilantism depends on fulfilling the elements of Article 170 of the Criminal Code or Article 262 of Law Number 1 of 2023 concerning the Criminal Code as well as Article 351 of the Criminal Code or Article 466 of Law Number 1 of 2023 concerning the Code of Laws. Criminal Law regarding persecution.

So, victims of vigilantism can report to the police based on the provisions mentioned above.

CONCLUSION

1. Eigenrichting/acts of vigilantism are clearly not regulated in the 1945 Constitution, the Criminal Code and Law Number 39 of 1999 concerning Human Rights and other statutory regulations, however, to create legal certainty, perpetrators of eigenrichting/acts of vigilantism can be processed/taken legal action if they violate the provisions in the Criminal Code such as abuse, insults and provisions in other laws and regulations. These acts of vigilantism are more often carried out en masse. to avoid personal responsibility and avoid retaliation from the victim's friends or family. Acts of violence taken by the community are considered as appropriate steps to resolve a problem that is considered an unlawful act. Taking the law into your own hands is an arbitrary action against people who are considered guilty. Vigilante behavior against immoral perpetrators is a fact that occurs in society. Perpetrators of taking the law into their own hands will strictly be prosecuted legally. The Criminal Code (KUHP) in Indonesia itself does not specifically regulate acts of vigilantism, but this does not mean that the Criminal Code (KUHP) does not provide regulations regarding acts of vigilantism. Even though it is not directly stated, a regulated action is called vigilante action. For example, the regulations regarding acts of abuse in Article 351 of the Criminal Code do not state that abuse is an act of taking the law into your own hands. However, if you look closely at the elements of this article, it can be concluded that in certain situations (for example, when a motorbike theft perpetrator is beaten up by a group of residents), the act of abuse by the residents can be categorized as an act of taking the law into their own hands. Vigilantes in the Criminal Code are more often referred to as violence. The term violence is used to describe behavior, whether overt or covert, either offensive or defensive, which is accompanied by the use of force by another person. Discussing the issue of violence is not an easy thing, because violence is basically an aggressive act that can be carried out by anyone. For example, the actions of hitting, stabbing, kicking, slapping, punching, biting, are all forms of violence. Apart from that, sometimes violence is a normal action, but the same action in a different situation would be called deviation. The act of vigilantism is basically retaliation which originates from the concept of personal justice which views crime as a personal or family matter without interference from the authorities. Individuals who feel that they are victims of other people's actions will seek revenge against the perpetrators of crimes that happened to them or those around them. In essence, this act of self-judgment is the implementation of sanctions/groups. It's just that the severity of sanctions carried out by individuals or groups is difficult to measure, because the masses can sometimes act wildly and uncontrollably. Smelser questions why collective behavior occurs. The regulation of criminal offenses in the form of taking the law into your own hands according to the Criminal Code is regulated in Article 170, Article 351, Article 406 and Article 338. The qualification for the offense of taking the law into your own hands (eigenrichting) which results in fatalities in criminal law is that the defendant's actions have fulfilled all the elements of the indictment. in Article 170.
2. Acts of taking the law into your own hands can be subject to Article 351 of the Criminal Code or Article 466 of Law Number 1 of 2023 concerning the Criminal Code regarding abuse. Apart from that, vigilantism can be subject to Article 170 of the Criminal Code or Article 262 of Law Number 1 of 2023 concerning the Criminal Code regarding violence if the act is carried out in public and with joint forces committing violence against people or property. Finally,

perpetrators of taking the law into their own hands can be subject to Article 406 of the Criminal Code or Article 521 of Law Number 1 of 2023 concerning the Criminal Code regarding damage or destruction of other people's property. Specifically, answering the problem formulation, the provisions in Article 170 of the Criminal Code regarding beatings. As for Article 170 of the Criminal Code, the threat of punishment is imprisonment for a maximum of 5 years and 6 months. However, if, for example, the victim of a beating suffers serious injuries, the perpetrator will be charged under Article 170 of the Criminal Code paragraph (2), which is a maximum prison sentence of 9 years. So to ensnare perpetrators of vigilantism depends on fulfilling the elements of Article 170 of the Criminal Code or Article 262 of Law Number 1 of 2023 concerning the Criminal Code as well as Article 351 of the Criminal Code or Article 466 of Law Number 1 of 2023 concerning the Code of Laws. Criminal Law regarding persecution. So, victims of vigilantism can report to the police based on the provisions mentioned above.

SUGGESTION

1. Law enforcers should socialize more often with the public about taking the law into their own hands so that the public is aware that taking the law into their own hands is a criminal act or can be subject to articles according to regulations, with socialization also law enforcers and the community will become closer.
2. The public should be aware that taking the law into their own hands is wrong and can be punished, so it is hoped that the public will not hesitate to report it to the authorities.

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