

## APPLICATION OF THE LAW AGAINST VIGILANTES (EIGENRICHTING) WHICH RESULTED IN DEATH (Decision Study No: 2526/pid.B/2022/PN.Mdn)

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### ABSTRACT

Vigilantism (Eigenrichting) is the act of individuals or groups taking the law into their own hands through violence outside of the legitimate legal process. This practice is often fuelled by disillusionment with the justice system, anger, or a desire for revenge, but leads to human rights violations and severe legal consequences. Therefore, vigilantism must be condemned and resisted. Law enforcement must be conducted through a legitimate and fair process, and everyone must respect the law. This research evaluates the phenomenon of vigilantism in Indonesia. The research conducted is normative legal research with a Normative Juridical approach that uses descriptive analysis with data obtained in the form of data sourced from Islamic law and secondary data supported by tertiary legal materials. The results showed that the regulation of criminal offences in the form of vigilantism according to the Criminal Code is regulated in Article 170, Article 351, Article 406, Article 338 and in the verdict of the act as regulated and punishable in verdict Number 2526/Pid. B/2022/PN.Mdn the perpetrator of the vigilante action was charged with Article 170 paragraph (2) book 3. The qualification of the offence of vigilantism (eigenrichting) that resulted in fatalities in criminal law is that the defendant's actions have fulfilled all the elements of the indictment in Article 170 of the Criminal Code paragraph (2) book 3 so that the panel of judges sentenced the defendant to 10 (ten) years imprisonment. Although the verdict was based on the fulfilment of the elements of the indictment, research states that law enforcement against vigilantism has not yet reflected its effectiveness. In this context, a legal process that is more in line with justice and legal certainty for victims is needed. The research method used is Normative Juridical with secondary data and legal expert interviews. The findings highlight the importance of effective law enforcement against vigilantism that fulfils the elements of Article 170 or 351 of the Criminal Code in order to achieve justice for the defendant as well as the victim.

**Keywords: Vigilante, death, law enforcement.**

### A. Introduction

Indonesia is a country of law, not a country based on power. The principle that

"Indonesia is a country of law" is explicitly stated in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia. Indonesia encourages all levels of society to respect the rules that govern it. The impact of the rule of law (rechstaat) and the rule of law (manchstaat) has been explained in detail in this article. This implies that all decisions and actions must be based on the law. Law is a social code that regulates behavior with the aim of maintaining justice, security and order in the surrounding environment. The act of taking the law into your own hands (Eigenrichting) has a direct relationship to the illegality of every criminal act. Usually, when someone commits a crime, they lose something. Sometimes, the victim tries to end her own harm, acting as if she made the decision herself and not waiting for intervention from State agents such as police or prosecutors.<sup>1</sup>

Vigilante in the Dutch term (Eigenrichting) which means taking rights without regard to the law, the practice of enforcing the law on your own, without the knowledge or assistance of the government, is translated as "taking the law into your own hands". When someone is punished without following proper legal procedures, this is also called eigenrichting. Be alert and careful

Discussion of "vigilantes" has sparked considerable controversy in the realm of law and public security. Vigilantes are the actions of individuals or groups who bypass the existing legal system and use violence or even cause death. The question of whether vigilantism is the result of dissatisfaction with the current justice system or constitutes a violation of human rights principles and an essential component of a civilized legal system is the subject of complex debate. An element that adds complexity to this discourse is when vigilantism results in someone's death. The phenomenon of acts of abuse is nothing new in acts of physical and psychological violence, and can be found in the family environment, in public places, or in other places and can happen to anyone if they face a problem with another person. Criminal

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<sup>1</sup> Wirjono Prodjodikoro, 2012, *Tindak-tindak Pidana Tertentu di Indonesia*, Bandung: Refika Aditama

acts of violence committed jointly in public in the Criminal Code are regulated in the provisions of Article 170 of the Criminal Code.

Article 170 of the Criminal Code regulates the legal consequences for individuals who engage in illegal activities in public that harm other people or property. Article 170 of the Criminal Code can be considered the same as Article 351 of the Criminal Code in conjunction with Article 55 of the Criminal Code. However, if you look more closely, the differences between the two articles will be clear, both in terms of understanding and the goals to be achieved by each article. Care needs to be taken when applying Article 170 of the Criminal Code, because it can have implications for the provisions in Article 351 of the Criminal Code. Therefore, Public Prosecutors often use alternative charges, which allow the judge to choose the most appropriate charge based on the circumstances or evidence presented during the trial.

As is the case in the case raised by the author in decision Number 2526/Pid.B/2022/PN.Mdn, the Defendant Suyanto als Siwil, has committed a criminal act of violence or abuse with the indictment stated by the Public Prosecutor (JPU) declaring him dead. as a result of collective violence or vigilantism. On the basis of locus and tempus delicti, or the location of the criminal act is an important matter due to, determining which country's criminal law applies, determining which prosecutor and court have the authority to try the case (relative competence).

There are three theories that discuss Locus and tempus delicti, namely material act theory, instrument theory and consequence theory. These three theories emerged because determining Locus and tempus delicti is not easy. According to the material act theory, what must be considered as the place where a criminal act occurred is the place where the act was committed. Meanwhile, based on instrument theory, what is considered Locus and tempus delicti is a place where the instrument used causes the consequences of a criminal act, such as death, loss, suffering, etc. Finally, according to the consequence theory, Locus and tempus delicti are the places where the consequences of the criminal act arise. Based on the Lotus delicti theory, it cannot be

stated that the perpetrator was punished under Article 170 paragraphs (2) and (3) of the Criminal Code. This is of course not in accordance with the perpetrator's actions. If we look at the case that occurred this year, 2022, which happened to Sapriadi Als Julek, he became a victim in an act of taking the law into his own hands on Jalan Marelan VII Gang Amal IV, Ward IV, Tanah Enam Ratus Village, Medan Marelan District. He was accused of stealing by witness Ristra Nurmalina Sitepu Als Cece and witness Titiadi Br Simamora Als Titi because the victim was known to the local community as a thief. And finally the witness called a person who claimed to be a Marine in a threatening tone so that the victim admitted that he had taken the victim's cell phone. In the end he became the target of violence until the victim lost his life. That based on the Visum Et Repertum from Bhayangkara TK II MEDAN Hospital Number: 04/IKF/IX/2022 dated September 16 2022 by Dr. Ismurizal, SH, MH, Sp.F found the results of the examination with the following conclusions:

Found a lump on the left side of the head, found a lump on the back of the head, found abrasions on the left forehead, found abrasions on the right forehead, found bruises on the forehead, found abrasions on the right eyebrow, found abrasions on the left eyebrow, found bruises on the right cheek, bruises were found on the left cheek, burns were found on the top of the right shoulder, abrasions were found on the right chest, abrasions were found on the left chest, 3 circular burns were found on the right side of the chest, wounds were found bruises were found on the right upper arm, bruises were found on the right lower arm, abrasions were found on the left upper arm, bruises were found on the right upper leg, bruises were found on the right knee, abrasions were found on the outside of the right ankle, bruises were found on the left upper leg . From the results of the internal examination, extensive blood infiltration was found in all layers of the inner scalp, a reddish color was found on almost the entire surface of the skull, extensive blood infiltration was found in the lining of the brain and fractures were found in the second rib on the right, the fifth rib on the right, ribs fifth on the left. From the results of external and internal examinations, the cause

of death of the victim was suffocation due to profuse bleeding in the brain tissue due to blunt force applied to the head.

Looking at the chronology of the case, the judge's decision was not in accordance with the perpetrator's actions, the judge should have decided on Article 351 paragraph 1 because there was a clear difference between the decision and his actions. Where the defendant's act of abuse did not directly result in the death of the victim and the act was only carried out alone without help from other witnesses. And the victim was taken to a field near the house of Witness Sutrisni als Tris who was then judged in a crowd until the victim died.

## **B. Research Methods**

A research cannot be said to be research if it does not have a research method.<sup>2</sup> Research methods are one of the factors of a problem that will be discussed.<sup>3</sup> The study was carried out using secondary data which was analyzed qualitatively using the Desk Research Method. The literature materials used in writing this research are several references originating from the results of research, studies and reviews of several papers which are then summarized into a work of scientific.

## **C. Analysis And Discussion**

### **1. Analysis of the perpetrator's actions towards fulfilling the elements of Article 170 paragraph (2) 2 and 3 of the Criminal Code**

The case that the author raised in decision Number 2526/Pid.B/2022/PN.Mdn, was the defendant Suyanto als Siwil who had committed a crime of violence using joint force, causing the victim to suffer serious injuries and then causing the victim to die. That the perpetrator was punished under Article 170 paragraph (2) 2 and 3 of the Criminal Code. If you look at the chronology of the case, the defendant assaulted the victim Sapriadi Als Julek at the defendant's house. In carrying out this act against the victim, he was not carried out by the person called Dianah Armyliza Als Diana Saragih.

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<sup>2</sup> Ismail Koto, "Perlindungan Hukum Terhadap Korban Tindak Pidana Terorisme", *Proceeding Seminar Nasional Kewirausahaan*, 2.1, (2021): 1052-1059.

<sup>3</sup> Ida Hanifah, Ismail Koto, "Problema Hukum Seputar Tunjangan Hari Raya Di Masa Pandemi COVID-19", *Jurnal Yuridis* 8.1, (2021): 23-42.

This can be seen from the events described in the first result of the criminal report which has been clearly summarized. After the victim was secured at home, the defendant immediately assaulted the victim 2 to 3 times, hit the victim using a round aluminum rod, a gold curtain hanger with a tangkok attached to one end, and also hit the victim Sapriadi Als Julek's body with his hands and kicked him repeatedly. towards the victim's body along with video evidence recorded by Anak Ristra Nurmalina Sitepu Als Cece. Neither admitted his actions and not long after arriving at the house of the Defendant Suyanto Als Siwil, Witness Dianah Armyliza Als Diana Saragih, Witness Titiadi Simamora Als Titi and Anak Syah Daffa Afiari Esmoko Als Dafa entered the living room and the Defendant Suyanto Als Siwil again asked the victim Sapriadi Als Julek while hit the victim Sapriadi Als Julek to make him confess. Here the defendant had assaulted him 2-3 times, but at that time the victim Sapriadi Als Julek had not yet confessed. Then the witness said to victim Sapriadi Als Julek "I'll pick up the marines so he can confess quickly", then witnesses Dianah Armyliza Als Diana Saragih and Titiadi Br Simamora Als Titi went out of the house.

Public prosecutors usually use this article to arrest those responsible for vigilante crimes committed by disorganized communities. Although the phrase "with joint effort" indicates a group of people, the subject "whoever" alludes to a single perpetrator, giving rise to challenges and controversy in Article 170 of the Criminal Code.

According to his explanation, this offense only targets members of organizations that have a history of violence and a shared desire to commit violence, not communities or groups that are not organized to commit crimes. It is clear that this offense is difficult to apply to a specific group of people.

The relationship between criminals can take several forms: first, they commit crimes together; second, one person plans a crime and uses another person to carry it out; and third, one person commits a crime alone, with the help of other people (Teguh Prasetyo, 2004). Thus, it is appropriate to apply Article 170 to those who commit

crimes reactively or spontaneously. In contrast to organized society, where the articles of the offense of inclusion make clear the relationship between the perpetrators and each other, reactionary society - which does not include the offense of inclusion, namely advocacy - does not have this clarity and is automatically considered to have the same responsibility as the perpetrator. other. For this reason, they can use the articles regarding inclusion offenses.

As long as there is agreement and understanding to carry out acts of violence against people or property, crimes included in Article 170 can undoubtedly be committed by the perpetrators simultaneously or at close intervals. According to Article 170, the crime is committed in front of a large number of people or in a public place that is open to the public.

Heavier penalties are found in Article 170. Heavier penalties are found in Article 170, which threatens up to nine years in prison for the perpetrator if the victim suffers serious injuries. Article 170 threatens a prison sentence of up to twelve years if the victim dies

Related to the actions of the defendant Suyanto Als Siwil who abused the victim Sapiradi Als Julek (deceased). In the act of abuse committed by the defendant, in order for the defendant to be convicted, the act of abuse must be proven. The provisions of Article 351 paragraph (2) and paragraph (3) of the Criminal Code state that:

(2) If the act causes serious bodily injury, the guilty person shall be punished with imprisonment for a maximum of five years.

(3) If the act causes death, the guilty person shall be punished with imprisonment for a maximum of seven years.

## **2. Analysis Results From Ruling Number 2526/Pid.B/2022/PN.Mdn**

Judges as executors of judicial power have authority in the applicable laws and regulations, and this is carried out by the judge through their decisions. The function of the judge is to provide a decision on the case submitted, where in criminal cases, this cannot be separated from the negative evidence system, which in principle

determines that a right or event or error is deemed to have been proven, in addition to the existence of evidence according to law. It is also determined that the judge's beliefs are based on good moral integrity.

The case discussed in this study is a case of *eigenrichting*, or taking the law into your own hands, which was resolved by the court. Medan District Court with decision Number: Number 2526/Pid.B/2022/PN Mdn stated that the defendant was named Suyanto als Siwil, place and date of birth Barabai 7 December 1977, male, Muslim, residing on Jl. Marelan VII Pasar 1 Tengah Gg. Rahayu Lingk. IV, Ex. Land 600, Medan Marelan District. After hearing that the Public Prosecutor charged the Defendant with the following charges and brought him to court;

First: In the public prosecutor's indictment, the Defendant Suyanto Als Siwil together with Witness Dianah Armyliza Als Diana Saragih, Anak Syah Daffa Afiari Esmoko Als Dafa, Witness Ristra Nurmalina Sitepu Als Cece, Witness Citra Riski Islami Als Citra, and Witness Sutrisno Als Pak Tris (respectively -each will be prosecuted separately) on Thursday 15 September 2022 at approximately 21.00 WIB until Friday 16 September 2022 at approximately 04.00 WIB, or at least at another time in September 2022, or at least at certain in 2022, located at Jalan Marelan V Pasar 2 Barat Gg. Eternal Link. II Ex. Falls District. Medan Marelan, Medan City, on Jalan Marelan VII Pasar 1 Tengah Gg. Charity Link. IV Ex. Land Six Hundred Districts. Medan Marelan or at least in other places which are still included in the Legal Area of the Medan District Court which has the authority to examine and try this case, openly and with joint force used violence which resulted in the death of Victim Sapriadi Als Julek

Second: That the Defendant Suyanto Als Siwil together with Witness Dianah Armyliza Als Diana Saragih, Anak Syah Daffa Afiari Esmoko Als Dafa, Witness Ristra Nurmalina Sitepu Als Cece, Witness Citra Riski Islami Als Citra, and Witness Sutrisno Als Pak Tris (each of whom was prosecuted separately) on Thursday 15 September 2022 at approximately 21.00 WIB until Friday 16 September 2022 at approximately 04.00 WIB, or at least at another time in September 2022, or at least at a certain time



in 2022 , located at Jalan Marelan V Pasar 2 Barat Gg. Eternal Link. II Ex. Falls District. Medan Marelan, Medan City, on Jalan Marelan VII Pasar 1 Tengah Gg. Charity Link. IV Ex. Land Six Hundred Districts. Medan Marelan or at least in other places which are still included in the Legal Area of the Medan District Court which has the authority to examine and try this case, who carried it out, who ordered it to be carried out, and who participated in carrying out the abuse using violence which resulted in the death of Victim Sapriadi Als Julek.

Based on the judge's decision at the Medan District Court, it was stated that the Defendant Suyanto als Siwil was legally and convincingly proven guilty of committing the crime of committing violence against people causing death and was threatened with imprisonment for 10 (ten) years minus the entire period of temporary detention that had been served and determined so that the Defendant remains in custody. Based on the findings of the internal examination, there was extensive blood absorption in the lining of the brain, extensive blood absorption in all layers of the inner scalp, extensive blood absorption in the right second rib, right fifth rib, and left fifth rib, and almost all the surface of the skull is reddish. The cause of death was determined to be asphyxia due to severe bleeding in the brain tissue caused by blunt trauma to the head based on external and internal examination findings.

Judges as executors of judicial power have authority in the applicable laws and regulations, and this is carried out by the judge through their decisions. The function of the judge is to provide a decision on the case submitted, where in criminal cases, this cannot be separated from the negative evidence system, which in principle determines that a right or event or error is deemed to have been proven, in addition to the existence of evidence according to law. It is also determined that the judge's beliefs are based on good moral integrity.

According to the theory of material acts, what must be considered as the place where the crime occurred is the place where the act was committed, where the victim was assaulted in a different place. First, it was carried out by the defendant himself at

his house and was secured first, then the abuse occurred in stages. The two victims were pulled by another witness, namely Sutrisno Als Tris, to the field on Jl. Marelan VII Pasar I Tengah Gg. Charity Link. IV Ex. Land Six Hundred Districts. Medan Marelan, followed by Anak Syah Daffa Afiari Esmoko Als Daffa, Witness Ristra Nurmalina Sitepu Als Cece and Witness Citra Riski Islami Als Citra, when they arrived at the field Victim Sapriadi Als Julek was again judged by other witnesses and the local community, in this case the Defendant did not take part in the judge. Meanwhile, based on instrument theory, what is considered Locus and tempus delicti is a place where the instrument used causes the consequences of a criminal act, such as death, loss, suffering, etc. In this case, it was stated in the Visum Et Repertum from Bhayangkara TK II MEDAN Hospital Number: 04/IKF/IX/2022 dated 16 September 2022 by Dr. Ismurizal, SH, MH, Sp.F found that the results of the examination concluded that the cause of death of the victim was suffocation due to profuse bleeding in the brain tissue due to blunt force applied to the head. This was caused by a blunt object, such as kicking the head, hitting the head which had such an impact that it caused the victim to die. In the BAP, the perpetrator did not hit the head area, the defendant only abused the victim on the body and back twice, including kicking the victim's body.

Lastly, according to the theory of consequences, Locus and tempus delicti are the places where the consequences of the criminal act arise due to the victim's death, namely when the vigilantism occurs, in this case there are 2 different places. The application of the theory of consequences in cases of vigilantism involving two different places can be complicated and require careful analysis. This is because various factors need to be considered, such as the direct connection between the action in the first place and the consequences in the second place, the circumstances that influence the course or flow of events between the two locations, and evidence that shows a causal relationship between the perpetrator's actions and the consequences that occur. The complexity of determining locus and tempus delicti in cases of death resulting from vigilantism often poses a significant challenge for investigators and law

enforcement. Acts of vigilantism can occur in a variety of locations, including inside the home, in the open, or even in remote locations. Therefore, academic research in this case explores various factors that influence the process of identifying the location of the incident, such as physical evidence, eyewitnesses, and the surrounding environment, to ensure accurate and precise determination of Locus and tempus delicti.

In addition, in research on the application of Locus and tempus delicti to deaths resulting from vigilantism, it is also important to consider jurisdictional differences between regions or countries. Cases involving individuals from various jurisdictions require effective coordination between the law enforcement agencies involved so that the investigation and law enforcement process can run smoothly. This cross-jurisdictional collaboration is crucial in ensuring that criminals cannot avoid legal accountability.

Overall, academic research on the application of Locus and tempus delicti to vigilante deaths produces valuable insights for legal practitioners and law enforcement in handling similar cases in the future. A deeper understanding of the complexities in determining locus and tempus delicti as well as the implementation of cross-jurisdictional cooperation can be a strong foundation in maintaining justice and the effectiveness of law enforcement in this increasingly global context. Research on the application of Locus and tempus delicti in cases of vigilante death is an integral part of effective law enforcement efforts. By deeply understanding the location and time of a criminal act, law enforcement agencies can ensure that justice is served in accordance with applicable legal principles. Therefore, the development of more sophisticated investigative methodologies and cross-jurisdictional collaboration will be key in overcoming the complexities and challenges in handling these types of cases in the future.

#### **D. Conclusion**

Regulations regarding acts of violence that result in death have been regulated in several articles in the criminal law book, including Article 170 paragraph (2) sub 3

of the Criminal Code, Article 338 of the Criminal Code in conjunction with Article 55 paragraph (1) 1st of the Criminal Code, and Article 351 Criminal Code in conjunction with Article 55 paragraph (1) 1st of the Criminal Code. Regarding acts of violence committed by more than one person or together, the applicable provisions are Article 170 paragraph (2) paragraph 3 of the Criminal Code. The act must be carried out in front of many people or in an open public space, at the same time or close together, provided there is an agreement and understanding to carry out acts of violence against people or property. Joint responsibility of the perpetrators who committed violence that resulted in the death of the victim.

That "openlijk" or "overt" is a requirement for a violation so that Article 170 of the Criminal Code can be applied. The extent to which each "participant" contributes to violent crimes is not relevant to Article 170 of the Criminal Code. Only those who can show that a "specific act of violence" caused – serious injury – death are eligible for this function.

According to Article 351 of the Criminal Code, the criminal act committed by the defendant against the victim is included in the category of serious abuse. Therefore, it is clear that persecution is a material crime, and depending on whether the intended impact has been achieved, the persecution can be considered complete.

### **References**

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