

An Analysis on the Fulfilment of Justice Principles for Victims of Fatal Vigilantism

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Abstract

The phenomenon of vigilantism represents a violation of the law that arises due to the low level of public trust in the effectiveness of formal law enforcement in Indonesia. In the context of criminal law, such actions not only eliminate the role of law enforcement officers as justice enforcers but also deprive victims of their rights to legal protection, justice, and legal certainty that should be guaranteed by the state. Acts of vigilantism also reflect a crisis of legitimacy in law enforcement institutions, a weak legal culture in society, and the state's limited presence in providing security for its citizens. This study aims to analyze the fulfillment of the principle of justice for victims of vigilantism that resulted in death by applying the theory of justice and the theory of punishment purposes as the conceptual framework. The research method used is a qualitative approach through literature study involving statutory regulations, legal literature, and relevant court decisions. The results indicate that the implementation of justice for victims remains suboptimal since the legal system is still offender-oriented, while the protection, recovery, and respect for victims' rights are often neglected. Sentences imposed are relatively light and disproportionate to the fatal consequences caused, namely the loss of life. Therefore, a reformulation of sentencing policies, strengthened victim protection mechanisms, and transparent, firm, and fair law enforcement are needed to restore public trust in the justice system sustainably. This study contributes to the study of justice, especially in the proceedings of criminal law.

INTRODUCTION

The phenomenon of vigilante justice or *eigenrichting* is a form of lawlessness that still frequently occurs in Indonesian society.¹ This behavior generally arises due to low public trust in formal law enforcement agencies and the presence of momentary emotional impulses caused by criminal incidents that are perceived as violating their sense of justice.² In practice, people often take direct action against criminals, such as assault, arson, or even murder, before the legal process has run its course. This phenomenon demonstrates a weak awareness of the law and a lack of trust in the criminal justice system in Indonesia, which should guarantee fair legal protection for all parties.³

Cases of vigilante justice resulting in death raise serious issues in the context of law enforcement and the fulfillment of the principle of justice. Such cases are not only a matter of violating public order, but also violate the most basic human right, namely the right to life. Vigilante justice is also a form of spontaneous retaliation against the actions of criminals, but on the other hand, it clearly violates the law and ignores the principle of due process of law.⁴ The death of a person as a result of mob action not only violates the human rights guaranteed by the constitution, but also causes new suffering for the victim's family. Sanctions against vigilantes who cause death have not been sufficiently effective. From the perspective of the criminal justice system in Indonesia, it should be able to effectively prosecute perpetrators and provide justice for victims and their families. However, in reality, there is a lack of mechanisms for redress and justice for victims who have lost their lives or their families.⁵

The phenomenon of vigilante justice (*eigenrichting*) still often occurs in Indonesian society and is a form of violation of the principle of the rule of law as stipulated in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which states that "The Indonesian state is a state based on the rule of law." In a state based on the rule of law, every violation must be resolved through legal mechanisms, not through acts of violence by the community. Vigilante justice that results in the loss of life is classified as a serious crime because it violates the most fundamental human right, namely the right

¹ Muh. Iksan Putra Kai et al., "Asas Pemaafan Hakim Dalam Pembaharuan Hukum Pidana Di Indonesia," *Doktrin: Jurnal Dunia Ilmu Hukum Dan Politik* 2, no. 1 (2023): 162–74, <https://doi.org/10.59581/doktrin.v2i1.1936>.

² Oliver Escobar, "Between Radical Aspirations and Pragmatic Challenges: Institutionalizing Participatory Governance in Scotland," *Critical Policy Studies*, 2022, <https://doi.org/10.1080/19460171.2021.1993290>.

³ Moeljatno, *Asas-Asas Hukum Pidana* (Jakarta: Rineka Cipta, 2015).

⁴ Soejono, *Kejahatan Dan Penegakan Hukum Di Indonesia* (Jakarta: Rineka Cipta, 2016).

⁵ Willi Adiansyah and Warih Anjari, "Penegakan Hukum Tindakan Main Hakim Sendiri Yang Memenuhi Unsur Pasal 170 Dan Pasal 351 Kitab Undang-Undang Hukum Pidana," *Jurnal Hukum Staatrechts* 5, no. 1 (2022).

to life, as stipulated in Article 28A of the 1945 Constitution and Article 9 paragraph (1) of Law Number 39 of 1999 concerning Human Rights.⁶

Juridically, acts of vigilantism causing death can be prosecuted under the provisions of the Criminal Code (KUHP), including Article 351 paragraph (3) concerning assault resulting in death. Additionally, Article 170 paragraph (2) point 3 of the KUHP also regulates violence committed collectively resulting in death.⁷

These provisions serve as the basis for judges in imposing criminal liability upon the perpetrators. In this context, law enforcement officials play a crucial role in ensuring that the law is enforced fairly for both the victim and their family, so that substantive justice can be realized in accordance with the purpose of criminal law, namely protecting the legal interests of individuals, society, and the state.

Although victims in vigilantism cases have passed away, the right to justice remains inherent and must be fulfilled by the state through a fair and proportional law enforcement process. Philosophically, justice for deceased victims is realized in the form of imposing commensurate punishment upon the perpetrator (retributive justice) as well as state acknowledgment of the suffering of the victim and their family (restorative justice). According to Aristotle, justice means giving every person their due, while John Rawls emphasizes that justice must ensure protection for the most disadvantaged parties. Thus, the fulfillment of the principle of justice does not cease with the victim's life, but also encompasses respect for the rights of the deceased victim and moral recovery for the victim's family.⁸

In the context of criminal law, the principle of justice holds a fundamental position as it serves as the foundation for the entire law enforcement process. Justice is not only intended for the perpetrator of a crime but also for the victim and society as a whole. However, in practice, the fulfillment of the principle of justice for victims of vigilantism is often overlooked. Law enforcement focus is more frequently directed at punishing the perpetrator without regard for the recovery of the rights of the victim or the victim's family. The position of victims in the Indonesian criminal justice system remains very limited; victims often serve merely as witnesses rather than as active parties obtaining

⁶ Muhamad Al Ansori, I Gede Sukarmo, and others, "Tinjauan Kriminologi Terhadap Main Hakim Sendiri (Studi Kasus Diwilayah Sekotong Lombok Barat NTB)," *Unizar Recht Journal (URJ)* 3, no. 4 (2024): 557–67.

⁷ Muhammad Riefky Alfathan et al., "Landasan Hukum Terhadap Perilaku Main Hakim Sendiri Dalam Perspektif Sosiologi Hukum," *Jurnal Hukum Lex Generalis* 5, no. 10 (2024).

⁸ Salaisyah Nur Amani, "Efektivitas Hukum Terhadap Tindakan Main Hakim Sendiri (Eigenrichting) Yang Menyebabkan Kematian Di Kota Samarinda," *Jurnal Inovasi Hukum Dan Kebijakan* 6, no. 3 (2025).

rights recovery or justice. This indicates an imbalance in the application of the law, which should prioritize substantive justice rather than merely formal justice.⁹

The principle of justice is one of the fundamental principles in the Indonesian criminal law system, functioning as a guideline in the judicial and law enforcement processes. This principle is implicitly enshrined in the Preamble to the 1945 Constitution of the Republic of Indonesia, which asserts that the state must enforce social justice for all Indonesian people. In practice, the principle of justice is implemented through the principle of equality before the law, protection of human rights, and guarantees of a fair and transparent legal process. However, in the context of vigilantism cases, this principle is often violated because society acts outside formal legal mechanisms and imposes sanctions without a court process.¹⁰

In criminal law, justice must be reflected in all stages of law enforcement, ranging from preliminary investigation, full investigation, prosecution, to the execution of the verdict. For victims of crime, justice means acknowledgment of the suffering experienced and a guarantee that the state will provide proper protection and recovery. Law Number 31 of 2014 concerning the Amendment to Law Number 13 of 2006 on Witness and Victim Protection serves as the legal basis regulating victims' rights, including the right to obtain restitution, compensation, and rehabilitation. However, in practice, victims of vigilantism often do not receive adequate recovery because the attention of law enforcement officials is focused more on the criminal aspects against the perpetrator than on the recovery of victims' rights.¹¹

The state's failure to uphold the principle of justice in such cases can generate public distrust in the law, which subsequently exacerbates the cycle of violence and acts of vigilantism.¹² Therefore, the enforcement of the principle of justice is not sufficient through criminal punishment alone but must also encompass a restorative approach that prioritizes the restoration of social relationships and victim welfare. This restorative justice approach aligns with the spirit of legal reform in Indonesia, which places substantive justice above procedural justice. Thus, the concept of the principle of justice

⁹ Dayu Andini and Dani Sintara, "Tinjauan Yuridis Penerapan Hukum Pidana Terhadap Tindakan Main Hakim Sendiri (Studi Kasus Pada Polres Serdang Bedagai)," *Jurnal Hukum Bisnis* 12 (2023): 159–65.

¹⁰ Abdullah Sulthon Assidiq, Azi Supala, and Sri Damayanti, "Fenomena Sosial Main Hakim Sendiri Perspektif Sosiologi Hukum (Studi Kasus Tewasnya Pencuri Ayam Akibat Pengeroyokan Di Subang)," *Equality: Law and Social* 1, no. 2 (2025): 86–91.

¹¹ Syamsul Bachri, "Penegakan Hukum Pidana Terhadap Tindakan Main Hakim Sendiri (Eigenrechting)," *Jurnal Tana Mana* 3, no. 2 (2022): 99–111.

¹² Yeni Haerani et al., "Pertanggung Jawaban Pidana Terhadap Pelaku Main Hakim Sendiri (Eigenrichting) Putusan Nomor: 194/Pid. B/2022/PN Unaha," *Academy of Education Journal* 15, no. 1 (2024): 373–83.

in Indonesian criminal law demands that every law enforcement effort not only upholds legal norms but also ensures that all parties receive humane, equal, and just treatment.¹³

Acts of vigilantism also reflect a crisis of public trust in law enforcement institutions. When the public does not believe that the law is capable of providing a sense of security and justice, they tend to take matters into their own hands to "judge" criminals. This situation is dangerous as it has the potential to cause social anarchy and worsen the image of the rule of law. The state, which should be the protector of every citizen's rights, loses its authority because the law is no longer used as an instrument for lawful conflict resolution. Therefore, an analysis of the fulfillment of the principle of justice in such cases becomes crucial to assess the extent to which the legal system still functions effectively.

Through the research titled "Analysis of the Fulfillment of the Principle of Justice for Victims of Vigilantism Resulting in Death," the author attempts to examine the extent to which Indonesian criminal law has fulfilled the principle of justice for crime victims who lost their lives due to vigilantism, both in terms of legal application, judicial considerations, and the impact on the sense of justice for the victim's family and society.

Thus, it is important to conduct an in-depth study regarding the analysis of the fulfillment of the principle of justice for victims of vigilantism resulting in death. This study is expected to provide a comprehensive understanding of the extent to which the legal system in Indonesia is capable of upholding justice for all parties involved, as well as providing recommendations for legal mechanism improvements to prevent similar actions in the future. This research is also expected to strengthen the principle of the rule of law that guarantees the protection of human rights and restores public trust in the criminal justice system in Indonesia.¹⁴

Based on the background description in the research titled "Analysis of the Fulfillment of the Principle of Justice for Victims of Vigilantism Resulting in Death," the research problem can be formulated as follows: 1) how is the analysis of the fulfillment of the principle of justice for victims of vigilantism resulting in death.

METHOD

This study utilizes a qualitative approach employing a literature study method (library research). This approach was selected because the research focuses on a

¹³ Dave Hamonangan and Ade Adhari, "Kepastian Pemberatan Pemidanaan Perbuatan Main Hakim Sendiri (Eigenrichting) Dalam Putusan Pengadilan Negeri Unaaha Nomor 148/Pid. B/2021.," *Jurnal Ilmu Hukum, Humaniora Dan Politik (JIHHP)* 5, no. 2 (2024).

¹⁴ et al Hamzah, A. A., "Perlindungan Hukum Terhadap Anak Korban Salah Tangkap Oleh Kepolisian Ditinjau Dari Perspektif HAM," *Jurnal Transparansi Hukum*, 2025, 242–253.

conceptual and theoretical analysis of the fulfillment of the principle of justice for victims of vigilantism resulting in death, rather than on empirical field data. The qualitative approach emphasizes a deep understanding of the meanings, values, and social contexts embedded in legal texts, theories, and relevant scientific documents. Through literature study, the researcher collects and reviews various library materials, such as statutory regulations, books, scientific journals, previous research results, and other academic sources related to the theory of justice, the theory of punishment purposes, and the principle of justice in Indonesian criminal law. This approach enables the researcher to interpret various scholarly perspectives critically and holistically, thereby providing a comprehensive understanding of how the principle of justice should be applied in cases of vigilantism resulting in loss of life.

In this study, the data utilized are entirely secondary data, namely data obtained from literature reviews without involving interviews or field observations.¹⁵ The secondary data consists of primary legal materials, such as the 1945 Constitution of the Republic of Indonesia, the Criminal Code (KUHP), and Law Number 31 of 2014 concerning the Amendment to Law Number 13 of 2006 on Witness and Victim Protection. Secondary legal materials include legal textbooks, academic articles and/or journals, and the opinions of criminal law and legal philosophy experts. Tertiary legal materials include legal dictionaries and legal encyclopedias. All data are analyzed using a descriptive qualitative method, involving the steps of reading, interpreting, comparing, and drawing conclusions from various relevant sources. This analysis aims to describe how the principle of justice is realized within the Indonesian legal system, as well as to analyze the extent to which the theory of justice and the theory of punishment purposes can explain the form of justice fulfillment for victims of vigilantism. The results of the analysis are expected to provide a conceptual contribution to the development of legal science, particularly in efforts to realize substantive justice for victims of crime.

RESULTS AND DISCUSSION

1. The Analysis Of The Fulfillment Of The Principle Of Justice For Victims Of Vigilantism Resulting In Death

The phenomenon of vigilantism, or *eigenrichting*, represents actions taken by individuals or community groups to enforce justice unilaterally without going through legitimate legal procedures. In the context of Indonesian criminal law, these actions are

¹⁵ Teguh Tri Handoyo, Nasrullah Arsyad, and Azwad Rachmat Hambali, "Tinjauan Kriminologis Terhadap Tindak Pidana Main Hakim Sendiri," *LEGAL DIALOGICA* 1, no. 1 (2025): 1-16.

classified as criminal offenses because they violate the principle of due process of law and human rights. Vigilantism typically occurs when the public feels that the law is ineffective or slow in delivering justice, leading them to take matters into their own hands against alleged perpetrators. Forms of vigilantism vary widely, ranging from minor assault, property destruction, and arson of homes or vehicles, to murder against those suspected of being criminals. This phenomenon causes not only physical loss but also social and psychological damage within society.¹⁶

In Indonesian positive law, there is no single specific article that explicitly uses the term vigilantism. However, such actions can be prosecuted under several criminal provisions in the Criminal Code (KUHP), such as Article 351 concerning assault, Article 170 concerning mob violence, Article 406 concerning destruction of property, and Article 338 or 340 concerning murder. When vigilantism results in death, the perpetrators can be charged with premeditated or non-premeditated murder, depending on the element of intent proven in court. Nevertheless, in many cases, law enforcement officials often face difficulties in identifying perpetrators because the acts are committed collectively or spontaneously by a mob.¹⁷

The increase in crime, both in terms of quantity and severity, has triggered the emergence of vigilantism in society as crime is perceived to cause unrest and harm to many.¹⁸ Vigilantism usually occurs due to weak law enforcement and declining public trust in law enforcement officials. When the public sees criminals arrested but not receiving commensurate punishment, frustration and dissatisfaction arise against a legal system deemed unfair. Furthermore, social factors such as low legal education, the influence of mass emotion, and environmental pressures play a significant role in triggering vigilantism. In many cases, society views these actions as a form of justifiable spontaneity because they feel they are victims of crimes that are not resolved legally.

Sociologically, vigilantism also indicates a disparity between formal legal norms and social norms. In social norms, justice is often interpreted as commensurate retaliation against the perpetrator, without considering applicable legal principles. However, in positive law, justice cannot be enforced through violence but must go through an

¹⁶ Juniati Juniati and Rahmat Jhowanda, "Analisis Putusan Hakim Terhadap Tindak Pidana Kelalaian Berkendara Yang Mengakibatkan Hilangnya Nyawa Berdasarkan Asas Keadilan Dan Perlindungan Anak," *SEIKAT: Jurnal Ilmu Sosial, Politik Dan Hukum* 2, no. 4 (2023): 383-93.

¹⁷ Abdul Kholiq, "UPAYA PENEGAKAN HUKUM PADA PERBUATAN MAIN HAKIM SENDIRI (STUDI KASUS DI DESA SEDARI KABUPATEN KARAWANG)," *Jurnal Justisi Hukum ISSN* 6, no. 2 (2021): 102.

¹⁸ Muhammad Ridwan Lubis, "Tinjauan Yuridis Sanksi Bagi Pelaku Tindak Pidana Pencurian Dengan Kematian Dalam Konteks Sistem Hukum Indonesia," *J. Educ. Hum. Soc. Sci* 6, no. 2 (2023): 794-803.

objective and measurable judicial mechanism. The imbalance between these two forms of justice causes society to prefer violence as a form of conflict resolution.

The impact of vigilantism resulting in death is highly complex. Beyond the loss of human life, such acts violate human rights guaranteed in Article 28A of the 1945 Constitution of the Republic of Indonesia, specifically the right to life. Death resulting from vigilantism leaves not only deep wounds for the victim's family but also creates social trauma in the surrounding community. In this context, the state is obligated to ensure that such actions do not recur by strengthening a fair and transparent law enforcement system.¹⁹

Thus, it can be concluded that the crime of vigilantism represents a systemic failure in maintaining legal order and social justice. This action not only violates criminal law but also reflects a moral and social crisis in society. Therefore, an analysis of the fulfillment of the principle of justice in this context becomes crucial to understanding how the law can play a role in restoring the balance between the rights of the perpetrator, the victim, and society fairly.²⁰

The principle of justice in criminal law implies that everyone, both perpetrator and victim, is entitled to fair and equal legal treatment. However, in cases of vigilantism, justice for the victim is often neglected. Victims who die as a result of mob action no longer have the opportunity to defend themselves or obtain a legitimate legal process. Meanwhile, the victim's family often experiences uncertainty and dissatisfaction with the legal system because perpetrators are difficult to identify or are not given commensurate sentences. This condition indicates that the principle of justice for the victim has not been substantively fulfilled, even though formally the state has legal instruments regulating it.

According to John Rawls' theory of justice, justice must be measured by the extent to which the legal system is capable of providing protection to the weakest or most disadvantaged parties. In cases of vigilantism, the most disadvantaged parties are the victim and their family. However, in many instances, the state has not been able to provide compensation, restitution, or psychological recovery for the victim's family. This contradicts the principle of fairness, which demands that justice be granted not only

¹⁹ Muhammad Fajar Lubis, Zertia Erma, and Yulkarnaini Siregar, "Pertanggungjawaban Pidana Bagi Pelaku Main Hakim Sendiri Terhadap Pelaku Pencurian Yang Mengakibatkan Meninggal Dunia," *Jurnal Dunia Pendidikan* 5, no. 6 (2025): 2199–2212.

²⁰ Sabila Amelia Mayesti and Zaid Alfauza Marpaung, "Perilaku Main Hakim Sendiri Pada Pelaku Pencurian: Perspektif Hukum Pidana Di Indonesia," *Jurnal Usm Law Review* 8, no. 2 (2025): 1067–87.

formally but also tangibly in social life. When substantive justice is not achieved, public trust in the law declines further, and the potential for vigilantism increases.²¹

In the context of Indonesian positive law, protection for victims is actually regulated in Law Number 31 of 2014 concerning the Amendment to Law Number 13 of 2006 on Witness and Victim Protection.²² Articles within this law guarantee the victim's right to obtain legal protection, restitution, compensation, and medical and psychological recovery services. However, the implementation of this law still faces many obstacles, such as budget limitations, slow bureaucracy, and minimal socialization to the public. Consequently, many families of vigilantism victims are unaware of their rights or do not receive adequate legal assistance.²³

Furthermore, the aspect of justice in vigilantism cases relates not only to material compensation but also to moral and social recovery.²⁴ Victims often experience negative stigma, especially if the community still regards vigilantism as a legitimate form of "people's justice." In this situation, the state must be present to restore the victim's dignity by affirming that everyone has the right to be judged through legal mechanisms, not through violence. Strict law enforcement against perpetrators of vigilantism is a tangible manifestation of justice for the victim, as it demonstrates that the state does not allow legal violations to proceed without sanctions.²⁵

The fulfillment of the principle of justice for victims must also be viewed from a humanitarian perspective. The law functions not only to punish but also to restore the social balance disturbed by criminal acts. Therefore, the application of the concept of restorative justice can be an alternative to provide space for the victim's family to obtain emotional and moral recovery through mediation and the perpetrator's admission of

²¹ Syaiful Munandar and others, "Studi Komparatif Terhadap Pelaku Main Hakim Sendiri (Eigenrichting) Yang Menyebabkan Kematian Menurut Hukum Pidana Islam Dan Hukum Pidana," *El-Faqih: Jurnal Pemikiran Dan Hukum Islam* 10, no. 2 (2024): 475-90.

²² Handoyo Prasetyo et al., "Fenomena Main Hakim Sendiri Dan Dampaknya Terhadap Keamanan Yang Berujung Pidana: (Sosialisasi Pengabdian Masyarakat Di Kelurahan Pangkalan Jati)," *Kolaborasi: Jurnal Hasil Kegiatan Kolaborasi Pengabdian Masyarakat* 2, no. 3 (2024): 104-15.

²³ Reza Putri, Rini Fathonah, and Aisyah Muda Cemerlang, "Analisis Keadilan Substantif Pada Putusan Bebas Tindak Pidana Penganiayaan Yang Mengakibatkan Kematian (Studi Putusan No 25/Pid. Sus-Anak/2023/PN Liw)," *Judge: Jurnal Hukum* 6, no. 02 (2025): 314-22.

²⁴ Joshua Anugerah Rasubala and Victor Kasenda, "Penegakan Hukum Main Hakim Sendiri (Eigenrichting) Studi Kasus Tindak Pidana Penganiayaan Dan Pembakaran Terhadap Seorang Wanita Di Kota Sorong," *Lex Privatum* 13, no. 3 (2024).

²⁵ Putri Atika Purnama Sari, "Analisis Yuridis Perlindungan Hukum Terhadap Pelaku Tindak Pidana Pencurian Dalam Kasus Main Hakim Sendiri Oleh Masyarakat Di Indonesia Ditinjau Dari Perspektif Hak Asasi Manusia," *Jurnal Kajian Hukum Dan Kebijakan Publik* | E-ISSN: 3031-8882 2, no. 1 (2024): 572-81.

guilt. In this way, justice is not only retributive but also restorative, prioritizing social reconciliation and common welfare.

Overall, the fulfillment of the principle of justice for victims of vigilantism requires a strong commitment from the state to protect victims' rights and uphold the supremacy of law. Without strict law enforcement and recovery for victims, society will continue to lose trust in the legal system and choose the path of violence. Therefore, the principle of justice must be the primary basis for every policy and legal action taken by the state in handling vigilantism cases.

The application of the theory of justice and the theory of punishment purposes in cases of vigilantism is critical to assessing how the legal system responds to violations resulting in death. John Rawls' theory of justice emphasizes the importance of equal and fair treatment for all parties, while the theory of punishment purposes highlights the function of punishment as a tool to restore social balance and prevent the recurrence of crime. These two theories complement each other in providing a normative analytical framework for how justice should be realized in the context of Indonesian criminal law.²⁶

The theory of justice is the main foundation in every legal system because justice is the ultimate goal of the law enforcement process itself. Etymologically, justice comes from the word "adil," which means placing something in its proper place.[8] In the legal context, justice is not merely about equality before the law, but also about how the law is executed humanely, proportionally, and balanced towards all involved parties. Classical thought regarding justice can be found in Aristotle, who distinguished justice into two forms: distributive justice and corrective justice. Distributive justice relates to the division of rights and obligations according to proper proportion, while corrective justice relates to the restoration or correction of injustice occurring in relationships between individuals. In the context of vigilantism, corrective justice becomes relevant as it relates to efforts to restore the losses caused by actions of a society acting outside the law.²⁷surba

Furthermore, John Rawls in his book "A Theory of Justice (1971)" introduced the concept of justice as fairness. According to Rawls, the social system must be arranged in such a way that everyone has the same opportunity to obtain benefits, and inequality can only be justified if it provides advantages to the most disadvantaged parties. This principle asserts that the law must protect every individual regardless of social,

²⁶ Astopan Siregar, Marlina Marlina, and Ibnu Affan, "Pertanggungjawaban Pidana Bagi Pelaku Eigenrichting (Main Hakim Sendiri) Yang Mengakibatkan Korban Jiwa Menurut KUHP (Studi Putusan Nomor 8/PID. B/2018/PN. BKS)," *Jurnal Ilmiah METADATA* 3, no. 3 (2021): 841-65.

²⁷ Rizki Prima Surbakti and Mahzaniar Mahzaniar, "Dasar Pertimbangan Hakim Dalam Menjatuhkan Putusan Pengadilan Kepada Pelaku 'Main Hakim Sendiri' (Eigenrichting) Studi Putusan Nomor Perkara 929/Pid. B/2021/PN LBP Pengadilan Negeri Lubuk Pakam," *Kalam Keadilan* 10, no. 1 (2022).

economic, or emotional status. In the context of vigilantism resulting in death, this theory rejects all forms of violence committed under the guise of spontaneous justice, because such actions eliminate a person's basic rights: the right to life and the right to a legitimate trial. Therefore, the fulfillment of the principle of justice cannot be measured by the community's emotional satisfaction, but by the extent to which the legal process proceeds objectively and provides equal protection for all parties.

In Indonesia, the principle of justice also possesses strong moral and social dimensions. Justice does not only mean legal certainty but also a balance between the interests of the individual, society, and the state. In cases of vigilantism, the public's sense of justice is often interpreted subjectively as a form of retaliation against the perpetrator. However, in the positive legal system, such actions cannot be justified because they violate substantive principles of justice. Therefore, the theory of justice in this study is used to assess the extent to which the Indonesian legal system is capable of balancing the interests of victims, perpetrators, and society to create true justice, not just procedural formal justice.²⁸

In the theory of justice, vigilantism cannot be justified because it violates the principle of equality before the law. Justice demands that every perpetrator be judged through a legitimate and transparent mechanism.²⁹ When society takes over the role of law enforcement, the principle of substantive justice is damaged. Not only is the perpetrator harmed, but society as a whole is also harmed due to the loss of a sense of security and legal certainty. Therefore, in applying this theory, the state is obligated to ensure that justice is upheld not only through punishment but also through the prevention of mob violence.³⁰

The theory of punishment purposes also provides a moral and rational basis for punishing perpetrators of vigilantism. Viewed from the absolute (retributive) theory, the perpetrator must be punished for taking a life without right. However, the relative (utilitarian) theory emphasizes that punishment should possess educational and preventive value for society. In this context, punishment against vigilantism perpetrators is not merely retaliation, but also a means to cultivate legal awareness so that society no

²⁸ Ibnu Ubaidillah et al., "Fenomena Main Hakim Sendiri Dalam Kasus Pencurian: Telaah Hukum Positif Dan Hukum Pidana Islam," *Edulaw: Journal of Islamic Law and Yurisprudance* 7, no. 1 (2025): 51–59.

²⁹ Lubis, Erma, and Siregar, "Pertanggungjawaban Pidana Bagi Pelaku Main Hakim Sendiri Terhadap Pelaku Pencurian Yang Mengakibatkan Meninggal Dunia."

³⁰ Prasetyo et al., "Fenomena Main Hakim Sendiri Dan Dampaknya Terhadap Keamanan Yang Berujung Pidana:(Sosialisasi Pengabdian Masyarakat Di Kelurahan Pangkalan Jati)."

longer acts outside the judicial system. Thus, punishment has a dual function: upholding justice for the victim and educating society to obey the law.³¹

The theory of punishment purposes explains why someone is sentenced and what is to be achieved through the sentencing process. In criminal law literature, there are several main theories regarding the purposes of punishment: absolute theory (retribution), relative theory (social purpose), and combined theory. The absolute theory views punishment as a form of retribution that must be given to the perpetrator because they have committed a moral or legal wrong. Meanwhile, the relative theory views punishment not merely as retribution but as having the goal of preventing future crime, both through general prevention (deterrence) and special prevention (rehabilitation). The combined theory attempts to integrate these two views by asserting that punishment must uphold justice while simultaneously providing social benefits.³²

In the context of vigilantism resulting in death, the theory of punishment purposes becomes important for assessing the most appropriate and fair form of sanction for the perpetrator. Viewed from the perspective of absolute theory, perpetrators of vigilantism must be punished for violating another's right to life, regardless of the emotional motives or social reasons underlying the action.³³ However, when viewed from the relative theory, punishment must be directed to prevent similar actions in the future by cultivating legal awareness in society that justice cannot be enforced through violence. Therefore, the imposition of criminal sanctions against vigilantism perpetrators must not only be fair to the victim but also educate society to trust the formal legal process.

The main objective of punishment in modern law is to protect society and improve the behavior of the criminal. This view indicates that punishment should have humanitarian and reconstructive dimensions, not merely repressive ones. In cases of vigilantism, sentencing must be directed at restoring the disturbed social balance, providing legal certainty for the victim and their family, and strengthening public trust in judicial institutions. Thus, the theory of punishment purposes in this research is used as a framework to analyze how punishment against vigilantism perpetrators can be a means to achieve justice and social order without neglecting victims' rights.³⁴

³¹ Mayesti and Marpaung, "Perilaku Main Hakim Sendiri Pada Pelaku Pencurian: Perspektif Hukum Pidana Di Indonesia."

³² Hamonangan and Adhari, "Kepastian Pemberatan Pemidanaan Perbuatan Main Hakim Sendiri (Eigenrichting) Dalam Putusan Pengadilan Negeri Unaha Nomor 148/Pid. B/2021."

³³ Munandar and others, "Studi Komparatif Terhadap Pelaku Main Hakim Sendiri (Eigenrichting) Yang Menyebabkan Kematian Menurut Hukum Pidana Islam Dan Hukum Pidana."

³⁴ Indonesia, "Kitab Undang-Undang Hukum Pidana," n.d.

In practice, the application of punishment theories in Indonesia is often hindered by social and cultural factors. Society still believes that true justice can be achieved through direct action against criminals. This view contradicts the principle of the rule of law, which places the law as the sole mechanism for conflict resolution. Therefore, educational and systemic efforts are needed to strengthen public legal awareness so that they understand that true justice can only be realized through legitimate legal processes.^{35a}

Additionally, the theory of punishment purposes contains rehabilitative and restorative values. Punishment against vigilantism perpetrators is not solely to cause suffering, but also to improve the legal consciousness of the perpetrator and society. Through a restorative justice approach, the legal system can create a space for dialogue between society and the state to repair social rifts caused by vigilantism. This approach aligns with the spirit of Indonesian law, which prioritizes a balance between justice, utility, and legal certainty. Everyone in Indonesia is required to demonstrate responsibility and legal awareness through their attitudes and actions while upholding the principle that all individuals must obtain equal rights and treatment before the law.³⁶

The state has a constitutional responsibility to uphold justice and protect every citizen from all forms of legal violations, including vigilantism. This effort involves not only repressive law enforcement through punishment but also sustainable preventive and educational efforts. The government and law enforcement officials must ensure that every citizen has fair access to justice without having to resort to violence. In this regard, the state needs to strengthen the criminal justice system to be capable of providing a quick and firm response to every crime report, so that society no longer feels the need to take matters into their own hands.³⁷

One of the important steps in upholding the principle of justice is ensuring legal certainty and transparency in the judicial process. Many vigilantism cases occur because the public feels the law is ineffective or does not side with the victim. Improving the integrity of law enforcement officials, accelerating the legal process, and enforcing the principle of due process of law are imperative. Law enforcement officials such as the police, prosecution service, and courts must demonstrate professionalism and neutrality in carrying out their duties so that public trust in the law can be restored.

³⁵ Andini and Sintara, "Tinjauan Yuridis Penerapan Hukum Pidana Terhadap Tindakan Main Hakim Sendiri (Studi Kasus Pada Polres Serdang Bedagai)."

³⁶ Hamzah, A. A., "Perlindungan Hukum Terhadap Anak Korban Salah Tangkap Oleh Kepolisian Ditinjau Dari Perspektif HAM."

³⁷ Adiansyah and Anjari, "Penegakan Hukum Tindakan Main Hakim Sendiri Yang Memenuhi Unsur Pasal 170 Dan Pasal 351 Kitab Undang-Undang Hukum Pidana."

The right to justice for the victim does not disappear even though the victim has passed away; this right is normative and institutional, meaning the state's obligation to enforce the law continues. When a victim dies due to a criminal act, the state is obligated to enforce criminal norms to protect the victim's dignity and prevent impunity.³⁸ The fulfillment of justice in this context is not only about restoring what was lost to the victim but also ensuring acknowledgment of the violation that occurred. Thus, the criminal process becomes a formal medium to provide public acknowledgment of the act that took a life. Such public acknowledgment is vital for the honor of the victim and as a statement that society does not tolerate the taking of the law by non-state parties. Furthermore, law enforcement provides legal certainty, which is a basic requirement of a fair legal system. If the state ignores or weakens the prosecution of perpetrators simply because the victim is gone, the principle of the supremacy of law will be eroded.³⁹

In addition, efforts to prevent vigilantism must be carried out through legal education and public awareness. Low public knowledge regarding the law is often a primary factor in the emergence of violent acts. Through legal counseling programs, socialization regarding citizens' rights and obligations, and the formation of a strong legal culture, society can be directed to better understand the importance of legal resolution through official channels. Educational institutions, community organizations, and mass media also have a strategic role in building collective awareness regarding civilized and lawful values of justice.

On the other hand, the state must also strengthen legal protection for victims and their families. Fulfilling victims' rights is part of the state's responsibility in upholding the principle of justice. The government needs to ensure that victims receive compensation, restitution, and psychological support as stipulated in the Witness and Victim Protection Law. Legal assistance programs also need to be expanded so that victims or victims' families are not left to face the legal process alone. In this way, justice becomes not merely rhetoric but is genuinely felt by the community.⁴⁰

Efforts to uphold the principle of justice must also be accompanied by legal system reform and the improvement of the quality of law enforcement officials. Fair and integer law enforcement will reduce the potential for vigilantism. Furthermore, the application of information technology in the judicial system, such as online reporting and open case

³⁸ Al Ansori, Sukarmo, and others, "Tinjauan Kriminologi Terhadap Main Hakim Sendiri (Studi Kasus Diwilayah Sekotong Lombok Barat NTB)."

³⁹ Juniati and Jhowanda, "Analisis Putusan Hakim Terhadap Tindak Pidana Kelalaian Berkendara Yang Mengakibatkan Hilangnya Nyawa Berdasarkan Asas Keadilan Dan Perlindungan Anak."

⁴⁰ Indonesia, *Undang-Undang Dasar Negara Republik Indonesia Tahun 1945*, n.d.

monitoring, can increase the transparency and accountability of the legal process. In this way, the public will trust more that the law truly works to protect their rights.⁴¹

Fulfilling the principle of justice for victims who have passed away has a preventive and stabilizing effect on society.⁴² When the state enforces the law against perpetrators who take a life, it creates a deterrent effect that reduces the tendency for vigilantism. The fulfillment of justice also restores public trust in law enforcement institutions. Conversely, failure to enforce the law encourages society to take action themselves and increases the risk of recurring violence. Fair and transparent verdicts serve as public legal education that conveys a normative message about the reasonable limits of action and their consequences. Therefore, the fulfillment of justice is not merely a moral demand, but a crucial prevention strategy to maintain order and social cohesion.⁴³

Vigilante behavior is born from distrust in the legal system influenced by social, economic, and cultural factors, while legal theories indicate that social changes in modern society contribute to shaping the dynamics of the relationship between law and society. Thus, the role of the state in upholding the principle of justice and preventing vigilantism cannot be separated from efforts to build a legal system that is just, transparent, and oriented toward the protection of human rights. The state must be present not only after a crime occurs but also before the potential for legal violation arises. Only in this way can justice be realized comprehensively, for the victim, the perpetrator, and society as part of a civilized legal system.⁴⁴

CONCLUSION

Based on the analysis of the theory of justice, the theory of punishment purposes, and their application in cases of vigilantism (main hakim sendiri) resulting in death, it can be concluded that the fulfillment of the principle of justice for victims has not yet functioned optimally within the Indonesian criminal law system. Vigilantism represents a serious violation of the principles of the rule of law and justice because perpetrators usurp the legal authority that should be exercised by law enforcement officials. From the perspective of the theory of justice, such acts negate the victim's right to obtain protection

⁴¹ Indonesia, "Undang-Undang Nomor 31 Tahun 2014 Tentang Perubahan Atas Undang-Undang Nomor 13 Tahun 2006 Tentang Perlindungan Saksi Dan Korban," n.d.

⁴² Juniati and Jhowanda, "Analisis Putusan Hakim Terhadap Tindak Pidana Kelalaian Berkendara Yang Mengakibatkan Hilangnya Nyawa Berdasarkan Asas Keadilan Dan Perlindungan Anak."

⁴³ Mayesti and Marpaung, "Perilaku Main Hakim Sendiri Pada Pelaku Pencurian: Perspektif Hukum Pidana Di Indonesia."

⁴⁴ Rasubala and Kasenda, "Penegakan Hukum Main Hakim Sendiri (Eigenrichting) Studi Kasus Tindak Pidana Penganiayaan Dan Pembakaran Terhadap Seorang Wanita Di Kota Sorong."

and fair legal certainty. Furthermore, in many cases, victims of vigilantism often do not receive adequate recovery, whether morally, socially, or legally. This indicates that law enforcement mechanisms in Indonesia still tend to focus on the perpetrator of the crime, while victims' rights are often neglected. Therefore, a reformulation of criminal law policy is required that emphasizes the fulfillment of substantive justice for victims, not merely the punishment of the perpetrator. Conceptually, the theory of punishment purposes asserts that punishment is oriented not only toward retribution but also toward prevention and social improvement. It is suggested that law enforcement officials enforce the law firmly and consistently against perpetrators of vigilantism resulting in death to realize the principle of justice for victims and their families. The government needs to strengthen prevention policies by increasing public trust in legal institutions and providing protection and recovery for the victims' families, both in the form of legal aid and compensation. The public is expected to realize that the enforcement of justice is the authority of the state; thus, every legal violation must be handed over to authorized officials. For academics and legal researchers, further studies are needed regarding the fulfillment of justice for deceased victims from the perspectives of restorative and retributive justice to enrich the development of criminal law science. Additionally, the criminal justice system must guarantee a legal process that is swift, fair, and humane so that the resulting verdicts not only provide legal certainty but also reflect a sense of justice for the victims and society.

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