

Reformulating Criminal Law Policy on Vigilantism (*Eigenrichting*) to Strengthen Legal Certainty in Indonesia

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Abstract: The recurring practice of vigilantism (*eigenrichting*) in Indonesia reflects a growing tendency to usurp the State's exclusive authority to administer criminal justice, thereby undermining due process of law, the presumption of innocence, and legal certainty. Previous studies have primarily examined vigilantism from criminological, sociological, and human rights perspectives, while limited attention has been given to the absence of a specific criminal law framework recognizing vigilantism as an autonomous criminal offence. This study analyzes Indonesia's existing criminal law policy and formulates a criminal law policy model to strengthen legal certainty. Employing normative legal research, this study uses statutory, conceptual, case, and comparative approaches. The findings reveal that vigilantism is not specifically regulated, resulting in reliance on general criminal provisions that fail to reflect its distinctive legal character. The novelty of this study lies in developing a criminal law policy reformulation that recognizes vigilantism as an autonomous criminal offence through a specific legal definition, constituent elements, criminal liability, and sentencing principles. This study contributes to criminal law theory, provides normative guidance for legislative reform, and offers clearer legal standards for consistent law enforcement.

Keywords: Vigilantism (*Eigenrichting*); Criminal Law Policy; Reformulation; Legal Certainty.

1. Introduction

Indonesia is a constitutional state founded upon the principle of the rule of law, as expressly affirmed in Article 1(3) of the 1945 Constitution of the Republic of Indonesia. (Andi Dhita Yuniar Hasbi, 2026) This constitutional principle requires that every exercise of governmental authority and every legal relationship within society be governed by law in order to ensure legal certainty, justice, and the protection of fundamental rights. (Nur Mutmainnah, 2026) Accordingly, all legal disputes and criminal offences must be resolved through legal procedures established by the State rather than through arbitrary actions undertaken by individuals or groups. Within the criminal justice system, the State possesses the exclusive authority to investigate criminal offences, prosecute offenders, adjudicate criminal responsibility, and execute criminal sanctions through legally established institutions. This exclusive authority reflects one of the essential characteristics of a state governed by the rule of law because it guarantees equality before the law, protects the presumption of innocence, and ensures that criminal liability is determined only through due process of law. Consequently, any person or group that imposes punishment outside judicial procedures effectively usurps the State's constitutional authority to administer criminal justice.

Despite this constitutional and legal framework, acts of vigilantism (*eigenrichting*) remain a recurring phenomenon in Indonesia. (Aida Yumi Kumala, 2025) Individuals suspected of committing criminal offences are frequently assaulted, collectively attacked, publicly humiliated, or even killed before law enforcement authorities are able to complete the criminal justice process. (Widodo Ramadhana, 2026) Moreover, the rapid dissemination of information through digital media has intensified this phenomenon by accelerating the spread of unverified allegations that often provoke collective punishment against suspected offenders. (Pietro Grassio Eko Yulio, 2026). These circumstances demonstrate that criminal justice has not yet become the principal mechanism through

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which society responds to alleged criminal conduct. From the perspective of criminal law policy, the persistence of vigilantism reflects not merely deficiencies in law enforcement but also weaknesses in the legislative formulation of criminal law. Indonesia's positive criminal law regulates the consequences of vigilantism through general offences such as assault, homicide, destruction of property, and criminal participation, yet it does not expressly recognise vigilantism as a distinct criminal offence. (La Ode Awal Saktia, 2024) As a result, law enforcement primarily focuses on the physical consequences of vigilantism while overlooking its essential characteristic, namely the unlawful assumption of the State's exclusive authority to impose criminal sanctions. (Eron Tuna' Limbong, 2026) This condition ultimately diminishes legal certainty because the existing legal framework has not specifically accommodated the unique legal nature of vigilantism. (Nur Mutmainnah, 2026).

Accordingly, the reformulation of criminal law policy concerning vigilantism has become increasingly urgent. Criminal law should function not only as a repressive instrument for punishing offenders but also as a preventive mechanism capable of anticipating new forms of criminality through clear legislative formulation. (Andi Wahyuddin Nur, 2026). A comprehensive reformulation is therefore necessary to strengthen legal certainty, enhance the protection of human rights, reaffirm the State's exclusive authority to administer criminal justice, and improve the effectiveness of crime prevention. (Aswindari Harahap, 2026). Such reform is also expected to foster greater public legal awareness by reinforcing the principle that the authority to impose criminal punishment belongs exclusively to the State. (Nur Aripkah, 2026).

Previous studies have examined vigilantism (*eigenrichting*) from a variety of disciplinary perspectives, each providing valuable insights into the causes, consequences, and legal implications of this phenomenon. Nevertheless, the existing literature remains fragmented because most studies analyse vigilantism from a single perspective without integrating criminal law policy as the principal analytical framework. This fragmentation has limited the development of comprehensive legal solutions capable of strengthening legal certainty in Indonesia. From a criminological perspective, previous studies have consistently associated vigilantism with declining public confidence in law enforcement authorities, low levels of legal awareness, collective emotional responses, and dissatisfaction with the effectiveness of the criminal justice system. These studies successfully explain the sociological factors encouraging members of the public to take the law into their own hands. However, they generally regard vigilantism as a social phenomenon rather than as an indication of deficiencies in Indonesia's criminal law policy. Consequently, they provide limited normative guidance regarding legislative reform aimed at preventing vigilantism through criminal law formulation. (Aida Yumi Kumala, 2025).

Other scholars have focused on the criminal liability of individuals involved in acts of vigilantism by analysing the application of existing statutory provisions governing assault, homicide, destruction of property, and criminal participation (*deelneming*). Their analyses contribute significantly to understanding how perpetrators may be prosecuted under Indonesia's positive criminal law. Nevertheless, these studies remain largely confined to the perspective of *ius constitutum*, concentrating on the application of existing legislation without critically evaluating whether the current legislative framework adequately accommodates the distinctive legal characteristics of vigilantism as an autonomous legal problem. (Muhammad Fajar Lubis, 2025).

Furthermore, studies adopting human rights and rule-of-law perspectives have consistently concluded that vigilantism violates fundamental rights, particularly the right to life, the right to legal protection, and the presumption of innocence. These studies have strengthened the normative argument that punishment should only be imposed through judicial procedures established by law. However, their primary concern lies in protecting individual rights rather than examining deficiencies in the legislative formulation of criminal law policy that permit vigilantism to persist within society. Consequently, recommendations for comprehensive criminal law reform remain relatively underdeveloped. Taken together, the existing literature demonstrates that important opportuni-

ties remain for further research. Previous scholarship has explained why vigilantism occurs, how perpetrators may be prosecuted, and why such conduct violates human rights. Nevertheless, relatively little attention has been devoted to developing a comprehensive criminal law policy model capable of strengthening legal certainty through legislative reform. Moreover, comparative analysis concerning the regulation of vigilantism in other jurisdictions remains limited, thereby restricting the development of reform-oriented legal recommendations for Indonesia.

The novelty of this study lies in its development of a comprehensive model for the reformulation of criminal law policy concerning vigilantism (*eigenrichting*) in Indonesia. Unlike previous studies, which primarily emphasise criminological explanations, criminal liability, or human rights protection, this study evaluates the existing legislative formulation of criminal law policy and proposes a normative framework that clearly defines vigilantism, identifies its constituent elements, establishes an appropriate model of criminal liability, and formulates sentencing principles reflecting the distinctive characteristics of vigilantism. Through this approach, the study contributes not only to the development of Indonesian criminal law but also to broader scholarly discussions concerning criminal law reform and legal certainty.

Building upon the empirical, theoretical, normative, and comparative gaps identified in the existing literature, this study examines the adequacy of Indonesia's current criminal law policy in regulating vigilantism (*eigenrichting*) and analyses the necessity of its reformulation to strengthen legal certainty. Unlike previous studies, which have primarily focused on criminological explanations, criminal liability, or human rights implications, this research adopts a criminal law policy perspective by critically evaluating the legislative formulation governing vigilantism and its capacity to respond to contemporary social developments. The novelty of this study lies in the development of a comprehensive reformulation model of criminal law policy that not only clarifies the legal concept and constituent elements of vigilantism but also establishes an appropriate framework of criminal responsibility and sentencing principles consistent with the rule of law and the protection of fundamental rights. Through this approach, the study is expected to contribute both academically and practically by enriching the discourse on Indonesian criminal law reform while providing normative guidance for legislators and law enforcement authorities in developing a more coherent and responsive legal framework for addressing vigilantism.

2. Materials and Methods

This study employs normative legal research, which examines law as a system of norms embodied in statutory regulations, legal principles, legal doctrines, and judicial decisions concerning vigilantism (*eigenrichting*). To achieve the research objectives, the study adopts the statutory approach, conceptual approach, case approach, and comparative approach. (Aina Putri Ayu, 2026) The statutory approach is employed to analyse the Indonesian legal framework governing vigilantism, while the conceptual approach examines legal doctrines relating to criminal law policy, legal certainty, criminal responsibility, and the rule of law.

The case approach is conducted through an analysis of District Court Decision No. 8/Pid.B/2018/PN Bks, District Court Decision No. 929/Pid.B/2021/PN Lbp, and District Court Decision No. 148/Pid.B/2021/PN Unh. These decisions were selected because they represent judicial practice concerning acts of vigilantism and illustrate the application of existing criminal law provisions in cases involving collective violence and unlawful punishment by members of the public. The analysis is intended to evaluate judicial interpretation, identify normative inconsistencies, and assess the adequacy of the current criminal law framework in responding to acts of vigilantism.

The comparative approach compares Indonesian criminal law with the criminal law systems of the Netherlands and Germany. These jurisdictions were selected because both belong to the civil law tradition that has significantly influenced the development of Indonesian criminal law and provide well-established legal doctrines concerning the State's

monopoly on punishment, criminal responsibility, and criminal law policy. The comparative analysis aims to identify legal principles and regulatory models that may serve as references for the future reformulation of Indonesian criminal law policy concerning vigilantism.

The legal materials employed in this study consist of primary, secondary, and tertiary legal materials. Primary legal materials include statutory regulations and judicial decisions, while secondary legal materials comprise books, peer-reviewed journal articles, and the opinions of legal scholars concerning criminal law policy, legal certainty, and criminal responsibility. (Aina Putri Ayu, 2026). Tertiary legal materials consist of legal dictionaries and legal encyclopaedias.

The legal reasoning applied in this study is based on statutory interpretation, conceptual analysis, doctrinal analysis, and comparative legal reasoning. Statutory interpretation is employed to determine the meaning and scope of the relevant legal provisions, whereas doctrinal analysis evaluates their consistency with the principles of legal certainty, justice, and the rule of law. Comparative legal reasoning is subsequently used to assess the relevance of legal doctrines and regulatory models adopted in the Netherlands and Germany for the reformulation of Indonesian criminal law policy concerning vigilantism.

The analysis of legal materials was conducted systematically through four stages. First, legal materials were identified and classified according to their relevance to the research issues. Second, statutory regulations, judicial decisions, and legal doctrines were interpreted using appropriate methods of legal interpretation and doctrinal analysis. Third, judicial decisions and comparative legal materials were critically evaluated to identify normative inconsistencies and alternative approaches to regulating vigilantism. Finally, the findings were synthesised through prescriptive legal reasoning to formulate recommendations for the reformulation of Indonesia's criminal law policy concerning vigilantism in order to strengthen legal certainty.

3. Results and Discussion

3.1. Criminal Law Policy on Vigilantism (*Eigenrichting*) under Indonesia's Positive Law and the Problems of Legal Certainty

Indonesia is constitutionally established as a state governed by the rule of law (*rechtsstaat*), in which every exercise of governmental authority, including the administration of criminal justice, must be based upon law. Consequently, every allegation of a criminal offence must be processed through the criminal justice system by competent law enforcement authorities acting within the powers conferred upon them by legislation. The determination of criminal responsibility and the imposition of punishment therefore constitute the exclusive authority of the State and may only be exercised through judicial proceedings that uphold due process of law, the principle of legality, and the presumption of innocence. These principles are indispensable safeguards against arbitrary punishment and serve as the constitutional foundation of Indonesia's criminal justice system. (Basuki, 2026).

Despite these constitutional guarantees, acts of vigilantism (*eigenrichting*) continue to occur in various regions of Indonesia. Individuals suspected of committing theft, robbery, or other criminal offences are frequently subjected to assault, public humiliation, unlawful detention, or even death at the hands of members of the public before any judicial determination of guilt has been made. Such practices demonstrate that social responses to crime often deviate from the legal procedures prescribed by law and instead substitute collective retaliation for judicial adjudication. From the perspective of criminal law, this phenomenon is not merely an issue of public violence but reflects a more fundamental challenge to the authority of the State in administering criminal justice.

Doctrinally, *eigenrichting* refers to the unlawful assumption of the State's authority by private individuals or groups who impose punishment upon a person suspected of violating the law without any legal authorization. The essential characteristic of vigilantism therefore lies not simply in the use of physical violence but in the deliberate

substitution of the judicial process with private punishment. This characteristic distinguishes vigilantism from ordinary offences such as assault or homicide. In conventional violent offences, the protected legal interest primarily concerns bodily integrity or human life. By contrast, vigilantism simultaneously infringes multiple legal interests, including the administration of justice, the authority of the State, legal certainty, and the constitutional guarantee that criminal liability may only be determined through lawful judicial procedures. Consequently, treating vigilantism merely as a form of ordinary violence fails to capture its broader constitutional and criminal law implications.

From the perspective of criminal law policy, the phenomenon of vigilantism should be analysed primarily at the legislative formulation stage because this stage determines the scope of criminalization, the constituent elements of criminal offences, the model of criminal responsibility, and the sentencing policy to be implemented by courts. Legislative formulation therefore constitutes the foundation upon which the effectiveness of criminal law enforcement depends. Where legislative policy fails to define a particular form of conduct adequately, subsequent stages of law enforcement are likely to experience interpretative uncertainty and inconsistent judicial application. This relationship illustrates that deficiencies in legislative formulation cannot be remedied solely through judicial interpretation, but instead require normative reform at the level of statutory regulation. (Zulfan Ahmadi, 2023).

A critical examination of Law No. 1 of 2023 concerning the Criminal Code demonstrates that, although the enactment of the New Criminal Code represents a significant milestone in Indonesia's criminal law reform, it has not specifically addressed vigilantism as an autonomous criminal offence. The New Criminal Code continues to regulate acts arising from vigilantism through general offences such as assault, collective violence, homicide, deprivation of liberty, or destruction of property, depending upon the legal consequences suffered by the victim. Consequently, the legislative policy embodied in the New Criminal Code remains primarily consequence-oriented, emphasizing the harmful result of the conduct rather than the distinctive legal nature of vigilantism as an unlawful usurpation of the State's authority to administer criminal justice.

This legislative approach gives rise to an important normative criticism. Criminal law should not merely protect individual legal interests such as life, bodily integrity, or property, but should also safeguard constitutional values underlying the rule of law. Vigilantism does not only produce physical harm; it also directly challenges the State's monopoly over criminal punishment, weakens public confidence in judicial institutions, and undermines the legitimacy of the criminal justice system. By failing to recognize these broader legal interests within the legislative formulation of the New Criminal Code, Indonesian criminal law remains unable to distinguish adequately between ordinary violent offences and violence committed for the purpose of privately administering punishment. As a consequence, the current legislative framework only partially reflects the legal harm created by vigilantism.

This deficiency may also be examined through the theory of criminalization. Criminalization is not merely concerned with whether conduct causes harm, but also with whether the conduct threatens fundamental legal interests that deserve protection through criminal law. Within modern criminal law theory, conduct may properly be criminalized where it substantially endangers public order, constitutional values, or the institutional functions necessary for maintaining the rule of law. Vigilantism satisfies these criteria because it replaces judicial determination with collective retaliation and thereby negates the constitutional principle that punishment may only be imposed by lawful authority. Nevertheless, the current Criminal Code continues to criminalize only the tangible consequences of vigilantism while overlooking its institutional and constitutional dimensions.

The absence of an explicit legislative formulation concerning vigilantism further affects the realization of legal certainty. One of the essential functions of criminal

legislation is to provide clear normative guidance regarding the distinction between lawful and unlawful conduct. Indonesian criminal procedure permits members of the public to apprehend a person caught in the act of committing a criminal offence, provided that the suspect is immediately handed over to competent law enforcement authorities. However, the transition from lawful apprehension to unlawful punishment is not expressly regulated in the Criminal Code. As a result, the boundary between permissible citizen participation in law enforcement and prohibited acts of vigilantism becomes increasingly uncertain, creating divergent interpretations among both the public and law enforcement authorities. (Kadir, 2026).

From a criminal law policy perspective, this normative ambiguity demonstrates that the principal weakness of Indonesia's positive criminal law does not lie in the absence of sanctions against violent conduct, but rather in the absence of a legislative policy that conceptualizes vigilantism as an independent legal phenomenon. Existing criminal provisions undoubtedly provide a legal basis for prosecuting offenders; nevertheless, they fail to acknowledge that the defining feature of vigilantism is the unlawful assumption of the State's authority to determine guilt and impose punishment. Consequently, the current legislative framework remains inadequate to provide comprehensive legal certainty or to protect the constitutional principles underlying the administration of criminal justice. This finding forms the normative basis for evaluating judicial practice through selected court decisions and subsequently examining comparative criminal law policies in order to formulate a more coherent model of criminal law reform concerning vigilantism in Indonesia.

The effectiveness of a criminal law policy cannot be assessed solely by examining statutory provisions but must also be evaluated through judicial practice. Within normative legal research, judicial decisions serve as an important source for assessing how legislative norms are interpreted and applied by courts in resolving concrete legal disputes. Accordingly, an examination of judicial decisions concerning vigilantism (*eigenrichting*) is essential to determine whether the existing criminal law framework is capable of providing legal certainty and adequately protecting the constitutional principles underlying the administration of criminal justice. District Court Decision No. 8/Pid.B/2018/PN Bks illustrates the tendency of Indonesian courts to prosecute acts of vigilantism through the application of general criminal offences rather than recognising vigilantism as a distinct criminal law issue. In this decision, the court primarily focused on establishing the constituent elements of the offence charged by the public prosecutor, including the existence of unlawful conduct, the defendant's culpability, and the causal relationship between the defendant's actions and the harm suffered by the victim.

From the perspective of criminal procedure, such reasoning is consistent with the principle of legality because judges are bound by the statutory provisions applicable to the indictment submitted by the public prosecutor. However, from the perspective of criminal law policy, the judgment demonstrates a significant limitation. The court confined its legal analysis to the physical consequences of the defendant's conduct without addressing the broader legal significance of vigilantism as an act involving the unlawful assumption of the State's exclusive authority to administer criminal justice.

This approach reflects a consequence-oriented interpretation of criminal law. The legal reasoning concentrated on proving bodily injury or violence while overlooking the constitutional implications of private punishment. Consequently, although the decision successfully established criminal liability under the applicable statutory provisions, it failed to recognise that vigilantism also constitutes an attack upon the rule of law itself. This omission illustrates the limitations of the current legislative framework, which provides no explicit legal basis for analysing vigilantism beyond the ordinary structure of violent offences.

A similar pattern can be identified in District Court Decision No. 929/Pid.B/2021/PN Lbp. The court examined whether the constituent elements of the offence had been fulfilled on the basis of witness testimony, documentary evidence, and other evidentiary materials presented during trial. The judicial reasoning therefore

remained centred upon proving criminal responsibility according to the statutory offence charged by the prosecution.

Nevertheless, a critical examination demonstrates that the court did not analyse the collective intention of the perpetrators to substitute the judicial process with private punishment. Such intention distinguishes vigilantism from ordinary assault because the perpetrators do not merely seek to inflict physical injury but deliberately assume a function that constitutionally belongs to the State. By failing to examine this distinguishing characteristic, the judgment treated vigilantism as an ordinary violent offence, thereby overlooking its broader implications for legal certainty and the legitimacy of the criminal justice system.

From the perspective of criminal law policy, this decision confirms that existing statutory provisions remain inadequate to capture the specific legal character of vigilantism. The court's reasoning was legally correct within the existing legislative framework, yet that framework itself does not provide judges with a normative basis for recognising vigilantism as an autonomous legal phenomenon.

District Court Decision No. 148/Pid.B/2021/PN Unh further illustrates the fragmentation of Indonesia's criminal law policy concerning vigilantism. As in the previous decisions, criminal liability was constructed through the application of general offences based upon the legal consequences suffered by the victim. Judicial consideration focused primarily on proving the elements of violence and the resulting harm rather than evaluating the broader constitutional implications of collective punishment imposed outside judicial proceedings.

From the standpoint of legal certainty, this judicial approach raises an important issue. Individuals engaging in similar acts of vigilantism may be prosecuted under different statutory provisions depending upon the severity of the resulting harm rather than the nature of the conduct itself. Consequently, the legal response becomes highly dependent upon factual circumstances rather than a consistent legislative conception of vigilantism. Such fragmentation inevitably produces divergent judicial outcomes and limits the ability of criminal law to provide clear normative guidance.

Furthermore, this approach creates uncertainty regarding the legal distinction between lawful citizen participation in law enforcement and unlawful vigilantism. While members of the public may lawfully apprehend offenders caught in the act and immediately surrender them to competent authorities, the absence of explicit statutory regulation concerning vigilantism makes it difficult to determine the precise point at which lawful intervention transforms into unlawful punishment. This ambiguity weakens the preventive function of criminal law and reduces its capacity to reinforce public confidence in the criminal justice system.

Taken together, the three judicial decisions demonstrate that Indonesian courts have consistently applied the existing Criminal Code in accordance with the principle of legality. The courts correctly established criminal liability through the constituent elements of general criminal offences, including assault, collective violence, homicide, and criminal participation, depending upon the factual circumstances of each case. From the perspective of positive law, such decisions cannot be regarded as legally erroneous because judges remain bound by the statutory provisions enacted by the legislature.

Nevertheless, these decisions simultaneously reveal a more fundamental weakness within Indonesia's criminal law policy. Judicial reasoning is necessarily confined by the legislative framework, which does not expressly recognise vigilantism as an autonomous criminal offence. Consequently, courts are unable to evaluate the unlawful assumption of the State's authority to impose punishment as an independent legal interest deserving criminal protection. The legal analysis therefore remains focused upon the physical consequences of violence while neglecting the broader constitutional values threatened by vigilantism, namely the rule of law, legal certainty, and the State's monopoly over criminal justice.

This analysis demonstrates that the principal problem does not lie in judicial interpretation but in the legislative formulation itself. As long as the Criminal Code

continues to regulate vigilantism exclusively through fragmented general offences, judicial practice will remain limited to consequence-oriented legal reasoning. Accordingly, strengthening legal certainty requires not only consistent judicial application but also a reformulation of criminal law policy capable of expressly recognising vigilantism as a distinct criminal offence reflecting its unique constitutional and criminal law characteristics.

3.2. Konsep Reformulasi Kebijakan Hukum Pidana terhadap Tindak Pidana Main Hakim Sendiri dalam Mewujudkan Kepastian Hukum di Indonesia

The reformulation of criminal law policy constitutes an integral component of Indonesia's broader national criminal law reform agenda. Criminal law reform should not merely replace existing statutory provisions but must ensure that criminal law remains responsive to social development, technological advancement, and the evolving forms of criminal behaviour within society. Accordingly, reformulation should be directed toward strengthening the capacity of criminal law to protect legally protected interests while simultaneously realizing the fundamental objectives of law, namely justice, legal certainty, and legal utility. Therefore, every legislative reform concerning vigilantism (*eigenrichting*) must be based upon philosophical, juridical, and sociological considerations so that the resulting legal norms possess both constitutional legitimacy and practical effectiveness. From a philosophical perspective, the reformulation of criminal law policy concerning vigilantism is inseparable from Indonesia's constitutional identity as a state governed by the rule of law (*rechtsstaat*). Under this constitutional framework, the authority to investigate criminal offences, determine criminal responsibility, and impose criminal sanctions belongs exclusively to the State through institutions established by law. Consequently, punishment carried out by private individuals or groups outside judicial proceedings constitutes not only an infringement of individual rights but also a direct challenge to the constitutional order itself. In this regard, the reformulation of criminal law policy is intended to reaffirm that the administration of criminal justice remains the exclusive prerogative of the State and cannot be delegated to private actors under any circumstances. (Sabila Amelia Mayesti, 2025)

From a juridical perspective, the necessity for reformulation becomes evident when examining Indonesia's existing criminal legislation. Although Law No. 1 of 2023 concerning the Criminal Code represents a comprehensive reform of Indonesia's criminal law, it does not expressly recognize vigilantism as an autonomous criminal offence. Instead, acts of vigilantism continue to be prosecuted through fragmented provisions governing assault, collective violence, homicide, or destruction of property depending upon the consequences suffered by the victim. (Nur Dahlia, 2025) Such legislative policy demonstrates that the current Criminal Code adopts a result-oriented criminalization model, whereby criminal liability is determined primarily by the harmful consequences of the conduct rather than by the unlawful assumption of the State's authority to administer criminal justice. (Cika Yuniar, 2026)

This legislative construction gives rise to a fundamental weakness in Indonesia's criminal law policy. The legal harm caused by vigilantism extends beyond physical injury or material loss. Vigilantism simultaneously undermines the constitutional principles of due process of law, the presumption of innocence, equality before the law, and the State's monopoly over criminal punishment. Nevertheless, these constitutional dimensions remain absent from the legislative formulation of the New Criminal Code. Consequently, the current statutory framework is capable of punishing the consequences of vigilantism but fails to criminalize the unlawful substitution of judicial authority itself. This omission creates normative ambiguity regarding the legal nature of vigilantism and weakens the ability of criminal law to provide comprehensive legal certainty.

The foregoing weakness may further be explained through the theory of criminalization. Modern criminal law no longer views criminalization solely as a mechanism for responding to harmful consequences but also as an instrument for protecting constitutional values and institutional interests essential to the maintenance of the rule of law.

Accordingly, conduct that intentionally usurps the authority of judicial institutions and replaces lawful adjudication with collective punishment possesses an autonomous legal significance deserving independent criminal regulation. The absence of such legislative recognition demonstrates that the current criminal law policy has not yet fully accommodated the constitutional function of criminal law as a protector of legal order rather than merely a sanction against individual acts of violence.

From a sociological perspective, the urgency of reformulation has become increasingly apparent due to the continuing occurrence of vigilantism throughout Indonesia. Rapid technological development and the widespread use of digital communication platforms have significantly accelerated the dissemination of allegations concerning suspected criminal offenders. In many instances, information circulating through social media is accepted by the public without prior verification, thereby encouraging collective retaliation before competent authorities have conducted any legal investigation. Consequently, the occurrence of vigilantism today is no longer limited to spontaneous community reactions but has increasingly evolved into organized collective action facilitated by digital technology. These developments illustrate that contemporary manifestations of vigilantism differ substantially from those anticipated by the existing legislative framework.

The sociological transformation of vigilantism demonstrates that the shortcomings of Indonesia's criminal law policy cannot be addressed merely by increasing criminal penalties. Rather, legislative reform must provide a legal framework capable of distinguishing between lawful public participation in law enforcement and unlawful acts of private punishment. Members of the public may legitimately apprehend offenders caught in *flagrante delicto* and immediately surrender them to competent authorities. However, once such intervention evolves into physical violence, humiliation, unlawful detention, retaliation, or collective punishment outside judicial proceedings, the conduct constitutes vigilantism that directly threatens the rule of law. The absence of explicit statutory criteria distinguishing these situations has contributed to inconsistent public understanding and inconsistent law enforcement practices.

Accordingly, the philosophical, juridical, and sociological foundations discussed above demonstrate that the proposed reformulation is not intended to expand criminalization excessively (overcriminalization). Instead, the objective is to refine Indonesia's criminal law policy by introducing legislative norms capable of recognizing vigilantism as an autonomous criminal offence possessing distinct legal characteristics that cannot be adequately accommodated within existing general offences. Such reform is expected to strengthen legal certainty, improve consistency in judicial application, reinforce constitutional protection of due process of law, and reaffirm the State's exclusive authority to administer criminal justice. (Kurniawan, 2026).

The findings of this research demonstrate that the principal weakness of Indonesia's existing criminal law policy concerning vigilantism does not lie in the absence of criminal sanctions, but rather in the absence of a legislative formulation that explicitly recognizes vigilantism (*eigenrichting*) as an autonomous criminal offence. Under the current Criminal Code, acts of vigilantism are prosecuted through general offences such as assault, collective violence, homicide, or property destruction. Although these provisions enable criminal liability to be imposed upon offenders, they fail to reflect the distinctive legal nature of vigilantism as an unlawful assumption of the State's exclusive authority to administer criminal justice. Consequently, the existing legislative policy remains fragmented and provides insufficient legal certainty for law enforcement authorities as well as for society.

Accordingly, this study proposes a conduct-oriented criminalization model as the basis for reformulating Indonesia's criminal law policy on vigilantism. Unlike the existing result-oriented approach, which focuses primarily on the harmful consequences suffered by victims, the proposed model criminalizes the conduct of assuming the State's authority to investigate, adjudicate, and punish individuals suspected of committing criminal offences. Under this model, the principal protected legal interest is not merely

the physical integrity of the victim but also the constitutional principles of the rule of law, due process of law, the presumption of innocence, and the State's monopoly over criminal punishment.

The proposed model is also consistent with contemporary theories of criminalization, which recognize that criminal law serves not only to protect individual legal interests but also to safeguard institutional and constitutional interests essential to maintaining public order. Vigilantism directly threatens these interests because it replaces judicial determination with collective retaliation, thereby eroding public confidence in the criminal justice system and encouraging the normalization of extrajudicial punishment. Consequently, criminalization should be directed not solely toward the consequences of violence but equally toward the unlawful exercise of coercive authority by private individuals or groups.

The comparative analysis demonstrates that, despite differences in legislative structure and criminal law traditions, the legal systems of the Netherlands and Germany share several fundamental principles that are highly relevant to the reformulation of Indonesia's criminal law policy concerning vigilantism. (Whittaker, September 2021) First, both jurisdictions consistently recognize that the authority to investigate criminal offences, determine criminal responsibility, and impose criminal sanctions constitutes the exclusive prerogative of the State. Second, both legal systems distinguish clearly between lawful public participation in assisting law enforcement authorities and unlawful acts of private punishment. Third, criminal law protection extends beyond safeguarding individual victims from physical harm and includes the preservation of constitutional values, particularly due process of law, the presumption of innocence, and public confidence in the administration of justice.

These comparative findings demonstrate that Indonesia's existing criminal law policy remains predominantly consequence-oriented because it criminalizes only the harmful effects resulting from vigilantism while failing to recognize the unlawful assumption of the State's authority as an independent legal interest deserving criminal protection. Consequently, the reformulation proposed in this study does not merely recommend the introduction of additional criminal sanctions but seeks to establish a legislative model capable of distinguishing vigilantism from ordinary violent offences through the formulation of a specific criminal offence reflecting its unique constitutional and juridical characteristics.

Accordingly, the proposed reformulation adopts the fundamental principles identified through the comparative analysis while adapting them to Indonesia's constitutional values embodied in Pancasila and the 1945 Constitution. Rather than transplanting foreign legal provisions, the proposed model selectively incorporates universally accepted principles concerning the State's monopoly over criminal punishment, the protection of due process of law, and respect for human rights. These principles subsequently form the normative basis for the proposed criminalization model and the draft legislative provisions presented below.

Furthermore, the proposed criminalization model seeks to distinguish clearly between lawful citizen participation in law enforcement and prohibited acts of vigilantism. Indonesian law recognizes the public's right to apprehend an offender caught in *flagrante delicto* and immediately surrender that person to the competent authorities. Such participation represents legitimate assistance to law enforcement. However, where individuals proceed to assault, detain, publicly humiliate, torture, or otherwise impose punishment upon a suspect outside judicial proceedings, the conduct exceeds lawful participation and constitutes vigilantism. A clear legislative distinction between these situations is indispensable for ensuring legal certainty and preventing inconsistent interpretation in judicial practice.

From a criminal law policy perspective, the proposed model therefore aims to establish vigilantism as a specific criminal offence possessing constituent elements distinct from ordinary offences against the person. Such legislative recognition would provide clearer normative guidance for investigators, prosecutors, and judges while reinforcing

the constitutional principle that the authority to impose criminal sanctions belongs exclusively to the State. Ultimately, this reformulation is expected to strengthen legal certainty, enhance consistency in criminal law enforcement, and reaffirm public confidence in Indonesia's rule-of-law system. Based on the weaknesses identified in Indonesia's existing criminal law policy and the comparative analysis undertaken in this study, the reformulation of criminal law policy concerning vigilantism should not merely amend the existing provisions governing assault or collective violence. Instead, the reform should introduce a specific statutory provision that explicitly recognizes vigilantism (*eigenrichting*) as an autonomous criminal offence. Such a legislative approach would strengthen legal certainty by distinguishing vigilantism from ordinary violent crimes while simultaneously reaffirming that the authority to impose criminal sanctions belongs exclusively to the State. Accordingly, this study proposes the following legislative formulation.

Article X (1) Any person who, without lawful authority, intentionally imposes punishment, retaliation, or coercive action against another person suspected of committing a criminal offence outside the procedures prescribed by law shall be punished with imprisonment. (2) Where the offence referred to in paragraph (1) is committed collectively by two or more persons acting together, the maximum punishment shall be increased by one-third. (3) Where the conduct referred to in paragraph (1) results in serious physical injury, permanent disability, or death, the offender shall be subject to a heavier penalty in accordance with the gravity of the consequences. (4) Any person who intentionally organizes, commands, incites, or facilitates the commission of vigilantism shall bear criminal responsibility in accordance with his or her respective role. (5) The provisions of this Article shall not apply to persons who lawfully apprehend an offender caught in flagrante delicto and immediately surrender that person to the competent law enforcement authorities without imposing any form of punishment.

The proposed formulation is intended to provide a clearer legislative boundary between lawful public participation in crime prevention and unlawful private punishment. Existing legislation recognizes the public's right to assist law enforcement authorities in apprehending offenders under certain circumstances. Nevertheless, such authority does not extend to determining guilt, imposing sanctions, or carrying out acts of retaliation. The explicit inclusion of this distinction within statutory law is expected to reduce ambiguity in law enforcement practice while preventing misinterpretation by members of the public.

Furthermore, the proposed provision reflects the constitutional principle that criminal punishment constitutes an exclusive function of the State. Consequently, the prohibited conduct under the proposed Article is not limited to physical violence but encompasses every intentional act through which private individuals assume judicial or law enforcement functions without legal authorization. Such formulation ensures that criminal liability is based upon the unlawful exercise of coercive authority rather than solely upon the physical consequences suffered by the victim.

The proposed legislative model also accommodates contemporary developments in society, particularly the increasing influence of digital communication. In practice, many acts of vigilantism originate from the dissemination of unverified allegations through social media platforms, which subsequently provoke collective violence against individuals merely suspected of committing criminal offences. Therefore, the inclusion of organizers, instigators, and facilitators within the scope of criminal liability reflects the evolving modus operandi of vigilantism and ensures that criminal law remains responsive to technological developments without departing from the principles of legality and legal certainty.

From the perspective of criminal law reform, the proposed draft article is intended not to expand criminalization excessively but to improve the coherence of Indonesia's criminal law policy. Rather than creating overlapping offences, the proposed formulation complements the existing provisions governing assault, homicide, and collective violence by addressing the distinctive legal interest threatened by vigilantism, namely the unlawful usurpation of the State's authority to administer criminal justice. Accordingly, the

proposed reformulation provides a more comprehensive legal framework capable of strengthening legal certainty, protecting constitutional rights, and reinforcing public confidence in the criminal justice system.

4. Conclusions

The findings of this study demonstrate that Indonesia's current criminal law policy has not yet provided a comprehensive legal framework governing vigilantism (*eigenrichting*) as an autonomous criminal offence. The existing legal framework continues to rely on general criminal law provisions concerning assault, collective violence, homicide, and property destruction, which primarily emphasize the consequences of the conduct rather than the distinctive nature of vigilantism as an unlawful assumption of the State's exclusive authority to administer criminal justice. Consequently, the current legislative formulation has not been able to fully accommodate the legal characteristics of vigilantism, resulting in normative uncertainty and limiting the effectiveness of criminal law in ensuring legal certainty, protecting human rights, and preventing the recurrence of vigilantism within society.

The reformulation of criminal law policy proposed in this study is intended to establish a more comprehensive normative framework that explicitly recognizes vigilantism as a distinct criminal offence. Such reform should provide a clear legal definition of vigilantism, regulate its constituent elements, establish an appropriate framework of criminal liability, and formulate sentencing principles that reflect the specific characteristics of vigilantism while remaining consistent with the principles of the rule of law, legality, due process of law, the presumption of innocence, and the protection of human rights. The proposed reform also seeks to accommodate the contemporary development of vigilantism, including incidents facilitated by digital technology and the rapid dissemination of information through social media, which increasingly influence collective acts of unlawful punishment.

From an academic perspective, this study contributes to the development of criminal law scholarship by extending the discussion on vigilantism beyond criminological and sociological analyses toward the reformulation of criminal law policy as an integral component of Indonesia's national criminal law reform. It offers a normative model for recognizing vigilantism as an autonomous criminal offence, thereby enriching the theoretical discourse concerning criminal law policy, legal certainty, and the State's exclusive authority to impose criminal sanctions. From a policy perspective, the findings provide a normative reference for legislators in developing future criminal law legislation capable of responding to the continuing evolution of vigilantism. Institutionally, the proposed reformulation is expected to provide clearer legal guidance for the police, public prosecutors, and the judiciary in identifying the constituent elements of vigilantism, determining criminal liability, and imposing proportionate sanctions, thereby promoting greater consistency and predictability in criminal law enforcement.

Nevertheless, the implementation of the proposed reformulation is likely to encounter several challenges. These include the absence of specific statutory regulation governing vigilantism, differences in legal interpretation among law enforcement authorities, limited public legal awareness regarding the prohibition of private punishment, and the continuing tendency of some communities to resolve alleged criminal offences through collective violence rather than lawful judicial mechanisms. In addition, the rapid dissemination of unverified information through digital platforms has increasingly encouraged public vigilantism and may complicate future law enforcement efforts. Accordingly, successful implementation of the proposed reform requires not only legislative reform but also institutional strengthening, effective law enforcement, inter-agency coordination, and sustained public legal education to reinforce respect for due process of law and the authority of the criminal justice system.

This study is limited by its normative legal research design, which focuses primarily on statutory regulations, legal doctrines, judicial decisions, and conceptual analysis without examining the empirical implementation of criminal law relating to vigilantism

or the perspectives of law enforcement officials and affected communities. Consequently, the practical effectiveness of the proposed criminal law reform has not yet been empirically evaluated.

Future research should therefore adopt empirical, socio-legal, and comparative approaches to examine the implementation of criminal law concerning vigilantism across different jurisdictions in Indonesia. Further studies are also recommended to evaluate the effectiveness of future legislative reforms in reducing incidents of vigilantism, strengthening public confidence in the criminal justice system, and improving institutional responses to acts of private punishment. Comparative research involving jurisdictions that have adopted specific legal regulations concerning vigilantism may also provide valuable insights for the future development of Indonesia's national criminal law policy.

Therefore, strengthening Indonesia's criminal law policy on vigilantism requires comprehensive legislative reform accompanied by institutional capacity building, consistent law enforcement, enhanced inter-agency cooperation, and broader public legal education. Such integrated efforts are expected to strengthen legal certainty, reaffirm the State's exclusive authority to administer criminal justice, protect fundamental human rights, and support the continuing development of a criminal justice system that is more responsive, equitable, and consistent with the principles of a democratic state governed by the rule of law.

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