

Human Rights

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THE ROLE OF SOCIETY IN CRIME PREVENTION: A Third Generation Response of Human Rights

ABSTRACT

The high crime rate and the lack of alertness of the apparatus in handling every case that occurs in society is a unique phenomenon. This makes people sometimes have to walk alone to solve problems. Therefore, the role of society is necessary in eradicating crime, both general and specific crimes such as criminal act. This study aims to see whether the role of people who play a direct role in law enforcement has an impact on law enforcement. This research had not previously been conducted in any area because it was considered that community involvement in law would directly cause violence or even chaos due to its negative impact. The sample areas used are Bone, Pinrang, Gowa and Bantaeng. The community union is called Forbes (Common People's Forum). This forum will be used as a counter response to thousands of criminals. With Forbes emerging to deal with crimes such as animal theft, property theft and rape, it is justification for society to take on this role. The results are simply stunning. That from 1999 to 2003 it can be said that no more criminal acts have occurred. That is, the role of society is very effective.

Keywords: Role of Society, Crime, and Human Rights

INTRODUCTION

Every 9th December is commemorated as *World Corruption Eradication Day* where the Indonesian people also took part in taking action by *walk out to the streets* as a form of resistance that corruption must be eradicated. This is regulated in the laws of Republic of Indonesia articles 41 and 42 Law 31 of 1999 as updated through Law No. 20 of 2001. The role of society has also been mentioned by the author in his research¹ in 1999 until 2003, This research was motivated by a phenomenon of crime which was interesting enough to be investigated at that time, where crimes in South Sulawesi greatly disturbed the people. They were like theft of livestock, the confiscation of property in the form of plantation products, and up to rape of the girls. There are four districts which illustrated how these crimes are disturbing the public. The districts include Pinrang, Bone, Bantaeng, and Gowa.

The highlight of the impatience of citizens occurred in 1999, and finally society formed a forum called the *Forum Rakyat Bersama* (Forbes). Forbes was formed because the judgement that the police could not longer be expected to protect the public from the widespread crime.

Based on such a developed social phenomenon, then Prof. Satjipto Rahardjo gave a gesture to the author that it was called "*A deconstruction trial of vigilant action (eigenrichting)*". Society could not longer resist the dissolution of widespread crime, so it must be forced to take action, and then formed Forbes. Although in reality, action taken by society is constructive and others are destructive.

Constructive actions like as the members do respond back to the perpetrators of crime to surrender to the local police. The risk is that if he does not surrender, then Forbes will handle it by

¹ Kamri, 2007, *Peran Masyarakat Dalam Penyelesaian Tindak Pidana di Sulawesi Selatan* (Disertasi, Undip, Semarang, Indonesia)

themselves. Meanwhile, a destructive act is capturing criminals who do not want to surrender to the police. For the criminals who are not willing to surrender, then carried out by Forbes execution. This act is called vigilante. But it can also be judged as deconstruction because there are facts in the community has been an impasse legal corridor, distortion, *eerbaarheid*, so it made the defense argument that it is forced (*noodweerexces*) by society. This role is called the third generation of Human Rights. For defending his own property and the property of others as stipulated in Article 49 of the Criminal Code. This research has never been done and reviewed before, even though it has often happened in the community.

RESEARCH METHOD

There were two approach used in this study, namely first the *doctrinal* approach or also commonly called the *normative* approach. Second, *non-doctrinal* approach or commonly called the empirical approach (*empirical approach*). The main point of the study is qualitative descriptive method.

Both types of approach are used, because factually in the field, the cases of community role in settlement of crime in South Sulawesi very difficult to be approached if only by doctrinal approach only. Vice versa, if only a non-doctrinal approach is used, it does not exist, because the legal and non-legal indicators in the case are accumulated. That is why this study used two approaches, because the data type also consists of two, namely empirical data in the form of social facts, and legal facts. Legal facts include both those relating to both written and unwritten legal norms.

Especially with legal certainty, a legal research is generally through a *doctrinal* approach. Perhaps this is called a special form of legal bibliography, as Cohen in *Legal Research in a Nutshell* puts it a special form that is needed and used to understand the language of law.

Between legal certainty and legal accountability are two sides that cannot be separated in normative legal studies. Therefore, the word "legal certainty" is two words that should not be separated. Because the term certainty of the word "sure" in law, puts the law in a position but must refer to the values of justice in order to be made a comparable measure or general measure. This is where the law requires something exact.

Science (including legal science of course), according to Muladi, should be seen as a branch of knowledge based on the logic of what is right and what is wrong. Other branches of knowledge include knowledge of good and bad (ethics). The combination of two branches of knowledge that is true-wrong based on logic, and based on morality, namely good and bad.

The following approach used in this study was *socio-legal research* (SR) as the research type. According to SR approach, in order to draw the common thread between the research substance and the method used, it was related to Malinowski's opinion that '*an anthropologist, has noted that laws are not necessarily written*', (Milovanovic, 1994). This is important in relation to the Indonesian constitution which states "the State of Indonesia is a state of law" (Article 1, paragraph 3). Andi Zainal also has same view, that "The law covers both norms and rights, d.k.l and wider, because it also include unwritten law." Then, Jonkers (in Andi Zainal) shares the same view by saying that "laws include legislation as well as unwritten law". Satjipto Rahardjo uses the term "Habit in legal life". It is intended to distinguish the formal form of the definition of written law.

Therefore there are two types of data that are needed, namely empirical data and social facts. Empirical data is required as a minor premise. While relevant facts are used as major premises which are then processed through syllogism to achieve a conclusion. Empirical data as a minor premise, obtained through the steps that have been established in this study.

When listening to both logic systems in such research methods, such as the scheme above, it is true that the appropriate method used in the discussion of this research problem is qualitative method with derivative analysis. The quantitative method is possible to assist and provide argumentative support to strengthen the results of the description and analysis of research results in the form of data and social facts. Furthermore, the merging of the two methods of analysis does not mean bringing them together. In addition, the research hypothesis is a formulation.

The socio-juridical approach meant is related to the widespread phenomenon of crime at the time, while legal personification does not respond adequately enough to laid down and restore law and justice to disturbed social circumstances. This is called the socio-juridical paradigm in this paper.

RESEARCH RESULT AND DISCUSSION

The specification of this research is descriptive analytical. Descriptive analytical refers to qualitative methods. Therefore, this study will describe how to understand data and legal facts, other social facts relating to law. One of the important things Kerlinger's affirmations is "Observation is another important road to knowledge" (Kerlinger (1979).

From the survey results the that it is believed that there is an interesting and growing phenomenon in the community in South Sulawesi, the community movement against various crimes. The survey results became one of the important paths in the descriptive analysis.

This research with normative (*doctrinal*) approach is necessary because of the first problem, assessing how the sense of legal justice society does. The sense of legal justice is certainly concerned with the normative things as well. Either empirical or normative approaches, it is necessary to study the problem.

According to Satjipto Rahardjo, the legal principle is "the heart" of the rule of law. It is called so because, first, it is the broadest foundation for the birth of a rule of law. This means that the rules of law can ultimately be restored to these principles. The principle of law also contains ethical demands then the principle of law is like a "Bridge" between the rule of law with social ideals and ethical views of society. Furthermore, Satjipto Rahardjo quotes Paton's view that the principle of law is the means by which the law is alive, growing and developing not merely a collection of rules. According to Mertokusumo (Shofie, 2002) interpret the legal principle that is: "... that the principle of law is not a concrete law, but the common basic thoughts and abstract...."

Since the middle of 2004, a series of field studies have been conducted in a row and directly in areas designated as research sites. The things the author does is look directly at the social facts in the field (including a series of interviews, interview). Then the social facts that the authors connect with the data obtained (both information from informants who are called as sample resource, and data in the form of documents), collected by taxonomy (classification), texture and eliminate that is not related at all.

Silverman in his book *Interpreting Qualitative Data: Methods for analyzing Talk, Text, and Interaction*, among others, that there are four broad outline qualitative methods (the variety of qualitative methods), namely observation, analyzing text and documents, interviews, recording and transcribing.

For brevity, the implementation of data analysis and legal facts refers to the method as described previously, which may be described as follows the figure 1.

The analytical blades here are the relevant theoretical concepts, the legal substance confronted with social facts. Coupled with the paradigm used, namely the paradigm of positivism.

In this study there are primary, secondary, and social facts (which serve as major premises). Primary data includes core data on crime / crime incidents obtained directly from the victims of the

people who experienced the incident. There is also as a Forbes group, and exist as people who participate in an event.

Findings and Discussion

a. Justification of the Role of Society in the Cross Crime

There are at least four basic grounds for justifying the role of society in crime prevention in certain situations as the phenomena that have occurred in South Sulawesi. The basic grounds for the justification are as follows:

1. **Philosophical Foundation.** This foundation lies in the Preamble of the 1945 Constitution of the State of the Republic of Indonesia on humanity and the justice and social justice for all Indonesians people.
2. The Constitutional Basis, as regulated in Article 18B paragraph (2), Article 28G and 28H of the 1945 Constitution of the Republic of Indonesia.

Article 18B paragraph (2) states that "The State recognizes and respects the unity of indigenous peoples and their traditional rights as long as they are alive in accordance with the development of society and the principles of the Unitary State of the Republic of Indonesia laid down in this law".

Article 28G (1) states that "Everyone is entitled to personal protection, family, honor, and dignity of property under his control and entitled to sense of security and protection from the threat of fear to do or not to do something which is a human right".

Article 28H paragraph (2) states that "Everybody shall have the right of private property and the right of property shall not be arbitrarily taken over by anyone".

3. The Foundation of Empirical and Juridical Legality.

Since the emergence of the modern State that coincided with the emergence of modern law, at that time also the life structure of a country's society from traditional pattern changed into a modern pattern structure. The State's governance in modern society is based on modern law. Modern law has succeeded in taking place for the people to take part and engage in all aspects of social life, especially for those countries that call themselves the State of law. This means, in a democratic legal state, highly appreciates the role of society in all aspects of the social life of a State, including the role of society in the life of punishment. This is also be a question for various circles when the 61st anniversary of Pancasila as a source of all life in the state on June 1st, 2006 ago. One of the questions which are quite elegant is "Does our country still a country that embraces the rule of law?"

Satjipto Rahardjo, argued that, "The state of law is not instant, but it must be built. The state of the law is a modern concept that does not grow up from within Indonesian society itself, but it "imported goods". The process of becoming a State of law is not a part of our nation's past-political history, as it did in Europe. State of law is imposed from outside "(imposed from outside). Thus establishing a State of law is establishing statutory law, establishing a new civilization. It is a gigantic project". Observing the birth history of the rule of law in the world is read the story of collapse of a social system to another. Europe, as a venue for nursery the law state takes no less than ten centuries, before the birth of the Rule of Law and the Constitutional State². Or governance based on law and legal norms.

Coord. Conjunction (ETS)

²² Based on historical observations, we should not assume that building a legal state is like placing a safe board and sim-salabim a legal state was built. (Rahardjo Satjipto, Kompas, September 2003)

Indonesia called itself as "the Democratic State of Pancasila", as stated in the Preamble of 1945 Constitution. As it is known, that within a democratic State, the citizens are the ultimate sovereign holders.

In the view of the State and the law (as often noted by the legal experts), it is illustrated that symbolically the ideas will be directly related to formation of law and society as a place of empirical reality. The image of modern law that was born as an imaginative design through the forming of law will be in direct contact with social facts that also have their own pattern commonly called empirical social norms. It also includes the unwritten laws.

Based on experience, imaginative design to form the law, it seems there are two things. Both of them are the formation of the law through the formation of constitution and the formation of law through natural which commonly called customary law or unwritten law. But both are formed and done consciously and deliberately. The integral implementation of these two forms of law in the concept of the rule of law, Seno Adji calls it "Legality Principle".

In relation to the law, according to Satjipto Rahardjo (1991), among others are mentioned: actions that can be categorized into various categories of legislation, either in the form of adding to existing or changing regulations. The law produced by such a process is referred to as the law enacted in face of an unenacted law (common law). Romans people called it *scriptum ius* and *non-scriptum ius*.

State and the modern law that leads a legal construction with the aim of regularity for the life of the people (society) in a country, mechanically often take place by displaying an irregularity also. Why does often arises instead of irregularity? Because in the implementation and achievement of legal objectives under the sovereignty of the State in the name of the people's sovereignty, between the elements of one country to another dominate each other. This means there is ambivalence in the development and application of the law. But it was not intends that way. The originally intended was the synergy between the elements of the state and the creation of the objectives of the law.

Habermas and Peters built a model that he called the model of law as critical discussion and linked it to the theories of social modernity. He offers a series of structural components -procedures, citizenship, legal discussion, society as project, de-reification, legitimacy indepth- which support the role of law as a democratizing force in modern society.

Satjipto Rahardjo in various ordinary scientific meetings said "Indonesia is the most complete laboratory to be used for research on legal issues, because the problems related to law are all here in Indonesia". Unconsciously the statement is as meaningful as Sampford's view in his book *The Disorder of Law* which states that 'law encompasses many activities and aspects of social life. It is use reflects this, cropping up in a fascinating variety of language game...' Among the many legal problems in the interaction of social life in relation to the criminal justice system or the system of criminal trial as the term used by Pizzi in his book *Trials Without Truth* (1999) -back again on the front of page- that one of the interest to the author is the role of society to combat the crimes committed in South Sulawesi, as a manifestation of the role of society in law enforcement in the field of criminal law. Although the fact such problems also occur in other parts of Indonesia.

The emergence of the role of society in the settlement of a crime in some areas in South Sulawesi does not apart from the elements of criminogen. The criminogenic elements in question are the quality of reality of the crime which is very disturbing the public, lack of optimization of law enforcement that has been enforced by law enforcement officers in procedural, as well as the peaceful maintenance. And that is the main task/authority given by the state to him.

Coord. Conjunction (ETS)

P/V (ETS)

The influence of these criminogenic elements, which ultimately form a new reality of a conflict called discrimination in application of the law. The new reality is what awakens a high awareness of society. High awareness that causes the community comprehension even obsessed/trying to hold and take **role** of realizing the wisdom of social wisdom into *the order of law*. The disorder of society born of the criminogenic element, then the mass power appears inevitable as a reaction to the previously manifested crime and never resolved thereafter. According to Abidin Farid, AZ, that such urgings and powers arise because "There are attitudes of Bugis people - Makassar, do not want a problem for too long buried. Always want a problem to be solved quickly". Regarding the assessment of Abidin Farid, the author points out an interesting fresh example here, that is "when the Ambalat Block reached high voltage early March 2005, a number of youths in South Sulawesi and Java declared themselves every to volunteer to defend the sovereignty of the Republic of Indonesia", although it was only a high spirit.

The aggressiveness of the community to be directly involved in the settlement of criminal offenses in South Sulawesi is part of the high legal awareness it knows, which adheres to the principles of social norms and legal norms (including *living law*) which have been neglected, include in the field of criminal law. The legal awareness that encourages the formation of such maximal societal roles legally seems not wrong and even justified, both in the culture of law, the substance of law, social morals (commonly referred to as local wisdom), to the implementation of legislation.

4. Juridical Foundation

a) The Criminal Code (Penal Code)

In the Criminal Code, the role of society in the settlement of criminal acts as long as the author knows, has not regulated explicitly as well as the Act. No. 31/1999 jo. PP. No. 71/2000 concerning the procedures for the implementation of the role of the community in handling of criminal acts of corruption. But implicitly, those possibilities appear.

Formulation of Article 49 paragraph (1) of the Criminal Code

Coord. Conjunction (ETS)

The formulation of Article 49 Paragraph (1) of the Criminal Code includes: "Anyone who is forced to do an act for defense, because there is an attack when it is against the law, against himself or other, against the honor of decency (*eerbaaheid*) or property itself and others, are not punished".

It has become common knowledge that the meaning of Article 49 paragraph (1) is for a forced defense (*noodweer*) for the object or so-called individuality, if individuality is not collectivity. That is the first understanding that can also be said to comprehend in a narrow sense that is widely known so far.

Object (the person who did a forced defense), the author calls it offenders second level. Because before there are first-rate offenders or makers of the cause of the birth of a forced defense. This is what some legal experts interpret as individual traits.

Error (ETS)

According to the author of the article besides being individualized also contains the meaning of the nature of collectivity. This collectivity property is another element of both first and second level offenders. If so, if there are other elements other than the first and second level offenders, then that's what the author calls "community involvement".

Policy where in the formulation of Article 49 paragraph (1) which states so? That is the phrase which states: "Such an attack or an imminent threat against the law against the 'self' (second level offenders)" or others "... or others "becomes part of the society (collectivity

nature) when the 'other' is the object. It means, *self* turned into a subject in doing that forced defense.

Next, the defense of moral honor (*eerbaarheid*) "self and others". The phrase "as well as others" makes "itself" a part of society (collectivity nature) because in a state of being forced to involve itself to defend others. In South Sulawesi, a concept like this called *masseddi siri*³³. This is what the author calls the third generation of human rights.

b) Government Regulation no. 71 Year 2000 on Procedures for the Implementation of Public Participation and Awarding in the Prevention of Corruption.

Such Government Regulation may also be referred to as a material criminal law policy in a criminal act of corruption, in which the government intends to involve the community to jointly tackle the dangers of corruption. Because the corruption can turn the State's finances and disarm the people's economic rights.

In the Government Regulation of the Republic of Indonesia Number 71 Year 2000 referred to, namely in the framework of implementation of the provisions of Article 41 paragraph (5), 42 paragraph (5) of the Act. No. 31/1999, among other things mentioned:

- Rights and responsibilities of the community in seeking, obtaining, giving advice information, and opinions (Article 2, 3).
- Rights and responsibilities of the community in obtaining services and answers from law enforcement (Article 4).
- Rights and responsibilities of the community in obtaining legal protection (Article 5, 6).
- Awarding (Article 7, 8, 9, 10, and Article 11).

The relationship between the role of society in the prevention of crime and the act of unlawfully in material can also be found some opinions of experts as follows:

1. According to Vost as adherents of the nature of unlawful laws, formulating unlawful acts as: acts which the public is not allowed.
2. Arrest H.R. Nederland in 1919 which known as *Lindenbaum Cohen Arrest* on civil cases. He said: "Unlawful deeds (*onrecht matige daad*) are not only acts contrary to *wet*, but also deeds deemed to be of inappropriate social intercourse".
3. In *Lontara Paseng* (Petta Nabba, Andi Zainal Abidin, Leonard Y. Andaya in Hamid Abdullah: 1985, Marzuki: 1995) mentioned, that "*narekko siri'na naranreng agapi riattangngari. Towarani mateto, tomafata mateto, topelloreng mateto*" (If dignity and dignity are disturbed, it is not necessary to think long, because the brave also died, and the hesitant, moreover the coward will also die)". What is contained in this *Lontara Paseng* is essentially a form of material penal law in a sociological sense combined with the normative principle.

Likewise in efforts to eradicate criminal acts of corruption where the role of society is very clearly regulated in statutory provisions. These provisions can be seen in Article 41 and Article 42 of the Law No. 31 of 1999 as renewed through Law No. 20 of 2001. For example, in Article 41 Paragraph (1) which states that "The public can play a role and assist efforts to prevent and eradicate criminal acts of corruption". Then in Article 42 paragraph (1) states that "The government gives awards to members who have contributed to helping efforts to prevent, eradicate, or reveal non-criminal corruption". Based on these provisions, it can be interpreted that the community has the legitimacy to play a role in eradicating corruption. Therefore, the

³³ *Massedi siri'* is a form which have known in South Sulawesi (research result's Kamri, 1997)

role of society is very necessary. For this role, the government gives awards to people who participate in eradicating corruption (Ahmad, Kamri. 2020, 2022).

b. Overview of Crime in Pinrang and Bantaeng Year 1999-2003

Here are the results of the polls through questionnaires distributed to 107 respondents drawn randomly from four districts which illustrated in the following table 1.

The people judge that crime is rampant because of two dominant factors, first, because the law enforcement apparatus tends to ignore the applicable law. From 107 respondents, 48% stated so, 37% said weak law enforcement other also said there were bad environmental factors. And the rest did not show firmness. It means that the occurrence of crime of attraction between the elements of law enforcement subjectivity and the environment can be a unity. For example, protection by anothers.

Back to what was stated by Head of Pinrang State Attorney, that about law enforcement, we still have to talk about facts. The emergence of the mass movement in the natural settlement of crime is caused by an accumulation of legal limps in society. The lameness of the law exists, for three things. First, certain law enforcement officers cover the case so the substance is not visible on the surface. Second, the criminal case was eliminated (as if it were not a criminal case). Third, criminals succeeded in mastering law enforcement officers. With regard to the lameness of the enforcement of the law as the third cause, there is the fact of the incident like this. "A criminal's head disguised as a worker seeker. Then he begged to work as a driver to the police commander (Kapolres). At that time the personnel of the regional police did not know well and did not know exactly the background of the job seeker. With all the shrewdness of the job seeker, he was accepted as a driver. Briefly, as long as he worked as a driver, he really took the opportunity to know many things about local police performance, including the implementation of any crime operations in the field. He also knew a lot about the weaknesses of the steps that will be done by police in crushing a crime. Therefore, not infrequently he could thwart the police operation by giving information in advance to the target location before the apparatus down the field. Other than that he freely extorted the victim.

According to the Head of Pinrang State Attorney said that the police were not the only law enforcement officers. Forum formed by the community can also generate a very positive repressive force. It means that legal apparatus and the public are two forces of suppression as part of the enforcement of the law itself.

A turning point than it can evoke awareness of criminals. It means that the tribal community movement forum is positive because it can function to build partnership with each other as long as it doesn't exceed the limit. Therefore, the movement of the community is necessary and needed. But according to Pinrang that movement is only a last resort. To take the last resort, the criteria, among others, if law enforcement officers ignore the serious human rights of the apparatus and others.

"A vigilante is a spontaneous mass rampage", said Head of State Attorney. But according to local people, here there is nothing spontaneous because the crime has been going on quite some time and has received little security response. This is what keeps people running out of time to wait longer to let criminals act continuously. It's just that role of society in stressful state can create destructive actions and lead to vigilante action.

According to him, with the accumulation of lameness in law enforcement in society, the legal process is not optimal to the crimes that occur, then there is a phrase in society that states, "Rather than the judges vigilante themselves, it is better judge by the judges themselves". It means judges

decisions that have been examining and deciding criminal cases have not yet satisfied the community, so the community often chooses its own way to settle a criminal case, especially cases that are troubling the community.

The data of the criminal case in Pinrang District Attorney as of June 2003 are as follows table 2.

If we want to measure the prosecutor's performance in South Sulawesi by taking a sample of Pinrang State Attorney, between 1999 until 2003, it shows a performance that illustrates how the role of the community has an effect on the settlement of crime, since no case is excluded in one year. But the data also shows that 2001 was the highest crime peak of the five-year period. Why in 2001 the percentage of crimes handled by the AGO increased? Because at that time the peak of mass forum activity to fight crime was aggressive, so in 2002, and even more in 2003, crime decreased from 232 cases to 97 cases. Or a crime rate decrease of about more 235 percent. This is the influence of society's role in fighting crime in Pinrang.

If assumed, it is estimated that "almost all law enforcement officers just looking for self-benefit" said Pinrang Police Chief, Noviantoro P., SH. "Luckily," said Chief Prosecutor Pinrang, "Now, there is already a supervisory function undertaken by the Supreme Court. This Supreme Court function is indeed very positive. But it is limited to the scope of the judiciary, especially the judges. While other criminal justice subsystems such as prosecutors and police are not included in the supervision. Nevertheless, with the development of the democratization of the life of the criminal justice system, there is now a Commission of Attorney and the Police Commission.

Next, on August 18th 2004 was conducted an interview again with the Chief Public Prosecutor Pinrang. The results of interviews at that time, among others: he re-confirmed the three components of law enforcement as mentioned earlier. As in the first interview, the three were the instruments of legislation, the involvement of the community, and the law enforcement apparatus. But the most dominant of the three of them are law enforcement officers. But when the law is neglected, the very first to get hurt are the people.

Even though people have felt the imbalance of the law's implementation, always the culprit is a classic reason, ie "We are not enough evidence" or also commonly called 'the initial evidence is not enough'.

A matter of law enforcement the classic excuse where the police/prosecutors often "seem" less professional. Particularly in Pinrang, said Kasipidum, there are three major problems faced in law enforcement, especially certain criminal acts, that is, crimes are often covered up, denied cases, criminals inside the nest. For the third constraint, the longer Kasipidum served in Pinrang than the Chief Prosecutor gave an example of the case of the police driver of Pinrang Police Chief who turned out to be a member of the criminals. The driver is the one who often thwart the field operation plan that will be done by the police, by first telling his friends at the location that the date and time so that there will be an operation. Finally, the operation failed because it leaked before it was done. This is just one example, said Kasipidum, who was leading the Chief of Pinrang State Attorney during the interview. For the prosecutor sometimes the case must be covered up because of high risk. For example, Kospin case in year 2000 involving various high-ranking officials of Muspida at the time.

Forbes Mulberry in Pinrang regency cannot be separated from the accumulation of lung law enforcement in the community. But it must be understood, that law enforcement, police is not the only only, but only one of the components of criminal law enforcement (sub-system of criminal justice). The presence of forums built by the community can help solve the problem. The presence of the forum is felt that there is a turning point behind the veil of the truth of the legal fact. Surely the

role of society becomes the suppressor of the criminals, so that two facts arise, namely the response of police officers, and the awareness of the criminals.

"The Forum is able to build partnerships in law enforcement. Partnerships include partnerships between individuals, individuals with groups, and between groups with one another. As long as it does not go beyond the authority of the police force, it is indispensable and a last resort". That is the opinion of Head of Kasipidum of Pinrang State Attorney, Musyafir.

There is also the impression that the initial emergence of the forum because the apparatus is less/not serious in handling a case. For example, an event that happened to farmers of ponds in Pekkabata, where before the presence of mass forums, pond farmers in this area are often deprived of the ponds (harvested) by criminals in front of the eyes that have ponds. Once upon a time, pond farmers came together to fight the raiders. At that moment there was a fight between a group of criminals and a group of tambak farmers, ending with the victory of farmer groups. And the group of ponds farmers managed to kill the head of the criminal group.

Pinrang police chief, Noviantoro, said vigilante is spontaneous. Why is it spontaneous? Because crime usually occur suddenly anyway. On the other hand, most law enforcement officials are mostly seeking their own benefit rather than protecting the community, so that the people become victims of it. "As I know," said the Chief of Police about vigilante act that "the vigilante itself is a personal." (Interview of Kapolres Pinrang dated August 19, 2004, Noviantoro P, SH).

According to Kapolres, "there is no standard in the Criminal Code" (it is unclear what he means with there is no standard in the Criminal Code). Perhaps what is meant is how the police should act according to the Criminal Code. He asserted that the people here (meaning the people in Pinrang) were satisfied when the criminals were punished. It shows that the nature of society is innocent.

The role of society in the settlement of criminal cases is not something impossible. This happens because there is traumatic accumulation. That is why there is tendency of people to rely on police officers. If you want to be objective, look at the ratio between police officers and the population. That ratio is 1 : 1000, -. With such a comparison, the Chief of Police is of the opinion that this is the cause of communication between law enforcement officers and the community very slowly, so that the handling of various crimes is also constrained.

A senior lawyer in Pinrang, among others, said that the existence of a mass forum is very ideal. The reason is there is something idealistic of the reality of law enforcement and suffering experienced by society due to crime that has been chronic. There is a view that the forum formation is not true. They take this view because he thinks that the presence of the forum seems to imply the role of police officers (he feels his authority is taken over). Though only they (law enforcement officers themselves) who understand like that. Society forms power because it does not want to suffer forever because the crime is not handled properly or seriously by the police.

Thus, when all this time people lack confidence to the local police, then it is something that is reasonable. That is why the Peoples' Forum in Pinrang appears, in law enforcement, is not working as it should (or what the community hopes for). "I applaud the presence of such a forum," the lawyer asserted. Because of its existence can be a social control of law enforcement. This is possible and nothing is excessive. Why is that possible? Certainly returns to the existing legal bases on how far the role of society is justified.

On the other hand, for those who feel pressured by the activity of the forum (ie, criminals and law enforcement officials who feel unrivaled), a counter-group emerged from the gangster group (no group name). The counter group emerges because it feels that the sources of his life that have been pleasing to him have been disturbed. Now the forum in Pinrang is no longer active because it

was frozen by the local government. The condition of society itself finally there are pros and cons. Forgadic actions (mass forums fighting crime) some assume that their actions are vigilante actions. Whereas they adhere to social norms, religion and customs, even the positive criminal law.

Forgadic emerged because of the imbalance of law enforcement in this area, and security issues are out of control. Almost all of the perpetrators of this crime are protected. The Forgadists did not explain this. But he is based on the confessions of the criminals which have caught before.

However, every group of Forgadic masses performs a movement, always followed by intelligence forces (maybe this is the Forgadic means that every criminal is protected, not spied on). Once upon a time (not explained when the incident occur) carried out the movement to eradicate the crime, then Forgadik accused of acting anarchist. With the incident, then emerged a pressure group from the government, so that the movement of the group was stopped. Finally, Pinrang District Government not only stopped the movement of the group, but also very anti to the role of society. In fact, the role of society wants the crime was removed from the earth Pinrang. Or at least reduced, here it is seen that there is no intention of the government to empower the community in law enforcement. Thus, it can mean that evil is allowed to continue to perpetuate society.

According to Forgadic Chairman, Indonesia's biggest disaster is bribery. Including bribes committed by a number of perpetrators of crimes to certain legal apparatus. The emergence of Forgadik in Pinrang, because people's perceived life there is always a threat any time. On the other hand the perpetrators are wandering around. People are frightened by robbery and increasingly widespread crime.

Initially, the Forgadic movement was responded by members of the DPRD Lv. II and local government. According to the criminals who were captured by Forgadik, all have backing. In the end again Forgadik accused of violating the law, such as anarchy, vigilante and others for arresting the criminals, so the forum is frozen. The Regional Government and the Regional People's Legislative Assembly are not longer providing full support since 2002 until now.

RPPC (Regional People's Representative Council) of Pinrang itself, at the beginning of the emergence of Forgadic, it was demonstrated by a group of criminals along with his supporters. The demo reaction was made to protest the Board's support for the formation of forgadists. Over time, the support slowly receded until finally there was no support anymore.

Article Chairman of the Pinrang District Court, H. Abd Samad, among others said "Building a community is not easy, because there are various factors that influence it. Not always a high law (that is, law as commander) ensures the birth of good virtue as well. Of course this is an experience as a judge." Furthermore, he said, "In such circumstances (that is, when the law is not carried out properly and correctly), we do not talk only in the realm of formal law, because the role of society is very good." For the sake of improvement, then I suppose that sort of thing (mass movement) does not hurt. Building a society is not easy, because there are several factors that influence it.

c. The Third Generation of Human Right

How is the third generation of human rights? And how is the importance of punishment life? Before answering it, we need to know which ones first and second generation of human rights. The first generation of human rights is "Rights that are fundamental, fundamental but individual", for example about prestige and dignity. Right to live and to receive and earn a decent living. Second generation is freedom to express responsible opinions. While the third generation of human rights is right of the people to voice a truth and justice, both legal justice and social justice. Then its social collegial. In depth analysis, this content is contained in Article 49 of the Criminal Code. Of course all that is done in the realm of the rule of law.

In this regard, there is a criminal law expert who wishes that Article 49 paragraph (1) of the Criminal Code be extended. The reason that the meaning of passage is expanded because when it is not expanded it does not mean anything. The legal expert of such view is Jonkers in his book *Pedoman Hukum Pidana Hindia Belanda* as well as the view of Abidin Farid AZ. However, in this paper, the author calls it that the deepest substance and philosophical meaning of Article 49 verse (1) of the Criminal Code is a third-generation form of human rights, although there are also called it vigilante (*eigenrichting*) or persecution. What is the difference between a vigilante act and a third-generation form of human rights?

There is no misconception that, "Building a society is not easy". Satjipto Rahardjo states "Law is our own behavior". In his theory of pragmatic law it says that every human being is just an element of goodness and truth.

CONCLUSIONS

Based on the description in advance it can be concluded that in a disturbed condition of social life, especially the massive, it can be ascertained that the people must take part for their community using social forces to combat the crime. This phenomenon has occurred in South Sulawesi.

The participation of the community in prevention of crime as a part of human rights always keeps normative positive thoughts prioritizing constructive actions. But in certain circumstances a destructive act of punishment cannot be avoided when in circumstances and circumstances.

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