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Public support for Vigilantism

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Introduction

1.1 Introduction

Lübeck, West-Germany, March 6, 1981. Klaus Grabowski, a 35-year-old butcher who has previously been convicted of the sexual abuse of two girls, is now on trial for the abduction, sexual abuse and murder of 7-year-old Anna. On the third day in court, Anna's mother pulls out a gun and fires eight times at the suspect. He dies on the courtroom floor. Marianne Bachmeier is arrested and charged with murder.

This case of the 'Avenging Mother' was covered extensively by the media at the time. Television crews from around the world traveled to Lübeck, the case inspired several movies and plays, and Marianne Bachmeier sold her exclusive life story to German newspaper "Stern". Many people felt sympathy for the vigilante, and sent her support letters, flowers and money while she was in detention. Interestingly, public opinion shifted once more information surfaced about Marianne Bachmeier's life. It became common knowledge that she had an additional child at age 16 and another one at age 18, who were both given up for adoption. Additionally, the restaurant that she operated in Lübeck was said to be frequented by squatters and dropouts, and her father was linked to the Waffen-SS. All in all, she no longer seemed to fit the role of the 'innocent' mother that was initially ascribed to her, which affected the public's judgment of her vigilantism act.

The trial against Marianne Bachmeier started in November 1982. The opening session was adjourned by the judge after eight minutes, as over 300 reporters, photographers and spectators were fighting over the 200 available seats. The following March, two years after the shooting, Marianne Bachmeier was sentenced to six years imprisonment for manslaughter and the unlawful possession of firearms. She was released after three years and died from illness in 1996 at the age of 46.¹

Citizens who take the law into their own hands tend to spark heated debates. Moreover, it is not uncommon for vigilantes to receive considerable public support for their behavior, even when they go as far as killing someone, like Marianne Bachmeier. Support for vigilantism can for instance take the form of public outrage when vigilantes are prosecuted for their criminal behavior. A well-known example of such a response occurred in 2002 in Amsterdam, when two supermarket employees chased and arrested a robber, and were subsequently prosecuted for their use of disproportionate violence (Althoff, 2010). There was also support for a jeweler in Tilburg who assaulted and fatally shot a robber in 2002, and for the Oosterhout 'pedokiller' who in the same year stabbed the violator of his son to death (Hageman, 2005). Another Dutch vigilante who could count on some public sympathy was a woman who in 2005, after being robbed of her purse, backed up her car to chase the robbers and ended up killing one of them in the process. A famous case in the United States that evoked considerable support for vigilantism is that of Bernhard Goetz, who became known as the 'subway vigilante' (Fletcher, 1988). In December 1984, he shot at four black males on a New York subway after one of them had asked him for five dollars. Goetz confessed to the shooting but was acquitted by a jury of 17 of the 18 charges, and was only found guilty of illegal gun possession.

1 "Justiz und Selbstjustiz," 2008; Köpcke, 2006; "Mother stands trial for shooting daughter's alleged killer," 1982; "Selbstjustiz. Die Rache der Marianne Bachmeier," 2008; Weber, 2000.

Interestingly, citizens normally do want to see a formal reaction from the authorities when someone breaks the law (Tyler & Smith, 1995). Public support for vigilantism thus implies that there is something peculiar about vigilantism which causes people to make an exception to the general idea of punishing harm doers. Support for vigilantism is commonly presumed to reflect a lack of confidence in the criminal justice system (Goldstein, 2003; Lenz, 1988). After all, it involves approbation of citizens who deal with crime in spite of the law. However, as the next chapter will reveal, there is not much empirical evidence for this supposed role of confidence. Furthermore, there is reason to believe that other factors may have an important impact on public reactions to vigilantism. Importantly, if support for vigilantism is not (entirely) based on a lack of confidence in the criminal justice system, this should have implications for how such support is commonly interpreted.

Little is known about what it is that causes people to express support toward those who take the law into their own hands. We do not know what public support for vigilantism constitutes, or what it means in light of our criminal justice system. There does exist an extensive body of knowledge on related topics, such as public support for the death penalty, perceived seriousness of crimes, attitudes toward sentencing, empathy with crime victims, and so on. However, despite its relevance from both a social and legal perspective, support for vigilantism has been relatively overlooked in the criminological literature. This is unfortunate, as it can potentially provide unique insights into how people view justice within and outside of the criminal justice system. Studying public opinion about vigilantism can offer an interesting perspective on the psychology of (in)justice. Why do citizens find certain acts of vigilantism justified even though such acts are against the law? How do people view the vigilante and his victim? Why does the public not always find it necessary for vigilantes to be punished for their criminal behavior? Is the legitimacy of the criminal justice system at stake? In the current thesis we seek to improve our knowledge on support for vigilantism. To this end we will use a theoretical and empirical approach to answer the following main research question:

How can public support for vigilantism be explained?

In this introductory chapter we will first provide a background to the topic. This is followed by an outline of the structure and contents of the thesis.

1.2 Background

The state formally holds a monopoly over the legitimate use of violence in most developed countries, thereby harnessing the emotions of citizens into a civilized justice system.² The modern state in fact characterizes itself by only permitting violence that is used in preservation and enforcement of the law (Sarat & Kearns, 1992). The presence

² Some exceptions to this monopoly, such as self-defense, are addressed in Chapter 3.

of law is generally assumed to result in a less violent society because it provides peaceful alternatives for handling conflicts (Cooney, 1997). In fact, the very existence of a criminal justice system can be justified by contrasting it with the unjustifiability of citizens retaliating against wrongdoers (Gardner, 1998). One of the aims of restricting the prosecution and punishment of offenders to an impartial third party is to minimize emotional excesses. This function has been described in the literature as the *displacement of retaliation*:

The blood feud, the vendetta, the duel, the revenge, the lynching: for the elimination of these modes of retaliation, more than anything else, the criminal law as we know it today came into existence...The displacement function of criminal law always was and remains today one of the central pillars of its justification. (Gardner, 1998, p.32)

The criminal law thus aims to channel the natural instinct for retaliation and ‘turn hot vengeance into cool, impartial justice’ (MacCormick & Garland, 1998, p.26). This channeling is deemed necessary as it is commonly believed that people cannot be rational in the judgment of their own cases:

Self-love will make men partial to themselves and their friends; and, on the other side, ill-nature, passion, and revenge will carry them too far in punishing others, and hence nothing but confusion and disorder will follow, and that therefore God hath certainly appointed government to restrain the partiality and violence of men. (Locke, 1689/1967)

When citizens take the law into their own hands, they pose a clear challenge to the state’s ambition to hold a monopoly on the legitimate use of force (Abrahams, 2002). The very existence of vigilantism begs questions about the performance of the state and its justice institutions (Black, 1983; Spencer, 2008). It makes one wonder whether the state’s capability to displace retaliation is in jeopardy. Moreover, it has been argued that a state can only exist if it is capable of distinguishing itself as “the only source of legitimate violence in society, to define its law and the enforcement thereof as legitimate while consigning all other forms of violence to the realm of irrationality, of savagery, of chaos” (Goldstein, 2003, p.25). The prevalence of vigilantism may therefore serve as a gauge of perceived state legitimacy. However, what may matter most on a societal level is the collective approval of citizens who take the law into their own hands. Even if vigilantism itself is rare, public support for it can be widespread. Formal responses like the prosecution of vigilantes can trigger considerable public controversy. If such reactions are very common, the legitimacy of the criminal justice system may be at stake.

Ideally, a legal system should represent the moral consensus of the community, maximizing voluntary compliance. The criminal law should lay down “both what is *expected* and what is *excepted* by the members of a society and specifies what conduct is believed to be against the interests of the society as a whole, as represented by the state”

(Eindstadter & Stuart, 1995, p.9). In reality, a justice system will never be able to fully match the values and expectations of all citizens that it is supposed to serve. Legal rules will always diverge to a certain extent from citizens' principles. However, when these discrepancies become too large, the danger exists that public respect for the legal system will be lost (Darley, 2001; Roberts & Stalans, 1997). Such a lack of respect for the law would be detrimental to the functioning of the criminal justice system, as citizens often obey the law because they find the norms to be legitimate and deserving of compliance (Coffee, 1991; Tyler, 1990). It has been argued in the literature that moral contempt for specific laws may generalize to the entire criminal code and to those who created it (Greene & Darley, 1998). Thus, if there is no moral consensus in the community vis-à-vis the formal reactions to vigilantism, the state should at least attempt to explain to its citizens why the existing practice is to be preferred (Greene & Darley, 1998). If not, people may lose confidence in the law and the legal authorities, which may ironically result in a higher frequency of vigilantism itself.

1.3 Outline

The central aim of this thesis is to reach a better understanding of public support for vigilantism. To this end, we start by examining the currently available knowledge on this topic in Chapter 2. We will present two theoretical views on how public support for vigilantism can be explained. The first is the *confidence hypothesis* and focuses on the effect of people's general perceptions of the criminal justice system. The second one is the *situation hypothesis*, which emphasizes the role of the situational context of an act of vigilantism. After describing these two theoretical perspectives, we will review several existing studies to find out whether there is any empirical evidence to substantiate the hypotheses. We will conclude that current research does not provide a clear picture of determinants of support for vigilantism. There is no consensus on what vigilantism constitutes, and the measurement of both support and confidence is generally limited. Moreover, studies so far only tested one of the two main hypotheses at a time, so the relative impact of the two factors as of yet remains unclear. The findings nevertheless do suggest that support for vigilantism may indeed be influenced by confidence in the criminal justice system, but also by characteristics of the vigilantism situation itself. The next step is to improve on the currently available methodology, and to test the effects of confidence and of situational characteristics simultaneously. In preparation of this empirical work, Chapters 3 and 4 focus on the conceptualization of 1) vigilantism and 2) confidence in the criminal justice system.

Chapter 3 concerns the concept of vigilantism. Before being able to empirically study support for vigilantism, it is crucial to first establish what vigilantism itself actually entails. From the literature review it will become evident that vigilantism is a broad term that has been applied to a large variety of behaviors. We therefore proceed by developing our own definition of vigilantism, to be used in the remainder of the thesis. We will also introduce a vigilantism event sequence, which describes the main occurrences

in a common vigilantism situation: the precipitating crime, the formal response to the precipitating crime, and the vigilantism act itself. These three components are subsequently used to construct a typology, in which different situational characteristics of vigilantism and its context are identified. This conceptual analysis paves the road for an empirical test of the situation hypothesis, as the characteristics can be varied in an experimental setting to study their effect on support for vigilantism.

Chapter 4 prepares us for an empirical test of the confidence hypothesis. In order to measure the possible effects of confidence in the criminal justice system on support for vigilantism, a reliable tool to assess such confidence is indispensable. However, existing measures of confidence have considerable limitations, and the operationalization of confidence varies greatly between studies. We will therefore conduct a conceptual analysis of confidence and use it to construct our own assessment tool. We start by reviewing a number of theoretical and methodological insights from the literature on confidence. We will examine confidence on the *concept* level (what is confidence?), as well as on the *object* level (confidence in whom?). These distinctions are subsequently integrated into an elaborate measurement tool, to be used for a reliable assessment of confidence as a possible determinant of support for vigilantism.

In Chapter 5, insights from the previous chapters are combined to design and conduct a first empirical study on support for vigilantism. In this study, the confidence and situation hypotheses are tested simultaneously. Vignettes are used that vary systematically on two situational characteristics from the vigilantism typology, in a between-subjects design. Respondents indicate their support for vigilantism as well as their confidence in the criminal justice system. Support for vigilantism is assessed using a measure that integrates a number of different concepts from the literature, including the justifiability of vigilantism and a desire for punishment of the vigilante. Confidence is measured using items that are based on the conceptual model from Chapter 4. The findings provide strong evidence for the situation hypothesis, in addition to a partial confirmation of the confidence hypothesis. This is thus a first indication that the role of confidence in the criminal justice system is not as straightforward as is often assumed.

Even though our first study provides evidence for the situation hypothesis, besides the confidence hypothesis, it is not yet clear why situational factors influence support for vigilantism. Chapter 6 will therefore focus on explaining why people are affected by information pertaining to the context in which a vigilantism act occurs. In other words, what is the psychological mechanism behind such reactions? To this end we will present just-world theory (Lerner, 1980), which is commonly used to explain social reactions to victimization. According to this theory, people like to believe that the world is a just place in which you get what you deserve and deserve what you get. This belief in a just world (BJW) can be threatened when people are confronted with an injustice, such as an innocent victim. As a result, people experience an aversive (unpleasant) state, which they will try to reduce. They can for instance deny the injustice by blaming the victim, or attempt to restore the injustice by expressing a desire for punishment of the offender. We will argue that these and other reactions to victimization can also occur in response

to an act of vigilantism. From this perspective, responses that are commonly labeled as support for vigilantism can be understood as attempts to preserve one's belief in a just world. We will therefore present just-world theory as a tool for identifying and predicting such reactions. We will describe the main ideas of the theory and subsequently apply them to the vigilantism event sequence (cf. Chapter 3).

In Chapter 7 we present the design and pilot of an empirical study on support for vigilantism that is based on insights from just-world theory. We will use concepts from the theory to construct four different measures of support for vigilantism: *empathy* with the victim of vigilantism, *outrage* at vigilantism, *blame and derogation* of the victim of vigilantism, and *desired punishment* for the vigilante. Just-world theory will also be used to select two situational characteristics from the vigilantism typology which are expected to affect these four measures of support. These characteristics are varied systematically using vignettes in order to empirically test the situation hypothesis. The confidence hypothesis is tested by presenting respondents with a more elaborate version of the confidence tool that is first introduced in Chapter 4. The design of the study thus once again allows for a simultaneous test of both theoretical perspectives on support for vigilantism. We end the chapter by briefly describing the results of a pilot study in which the experimental design and methodology are pretested.

Our final study is carried out among a representative household sample of the Dutch population ($N = 2376$) and is described in Chapter 8. Confidence in the criminal justice system is measured one month after assessing respondents' reactions to a fictitious case of vigilantism. The findings once again point to a critical role of situational characteristics. Additionally, evidence is found for the confidence hypothesis. We conclude that support for vigilantism is not a response that is necessarily caused by a lack of confidence in the criminal justice system. Instead, support is a complex reaction which is at least partially shaped by characteristics of the context in which an act of vigilantism occurs. Importantly, general support for vigilantism also proves to be a successful predictor of support for a specific case of vigilantism. The study also reveals the added value of just-world theory in studying support for vigilantism. The theory aids in predicting public support for vigilantism, and provides a theoretical basis for differentiating between various types of support. We additionally emphasize the importance of distinguishing different types of confidence in the criminal justice system when investigating the impact of confidence on support for vigilantism. The thesis concludes with a summary of the main findings and their implications in Chapter 9, and offers suggestions for future research on support for vigilantism.