

## VIGILANTISM IN MORAL PHILOSOPHY

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### **Abstract**

Vigilantism is an underdeveloped concept in scholarly discourse, particularly within the field of philosophy. By my definition, vigilantes are private citizens who engage in illegal coercive activity, against alleged transgressors of some normative code. Vigilantes seek to fulfill some conception of justice, and in doing so, they presume upon the state's authority. This definition excludes similar activities, like police brutality or terrorism. It also improves upon earlier definitions from other scholars. Some deontological objections to vigilantism include concerns about democratic principles, rights to due process, autonomy and consent. Some consequentialist objections include concerns about negative social prejudices, and long-term instability. Additional objections include psychological damage to the perpetrator, and a lack of necessity. In spite of these valid concerns, vigilantism can be morally justified under the following circumstances: a breakdown of the legal system, protection of vulnerable individuals, proportional punishments, due process, attempts to mend the larger social issues, and the advancement of justice. Depending on particular circumstances, vigilantism can be morally justified, morally optimal, or unjustified. This thesis only provides a cursory examination of vigilantism, and these ideas need more rigorous investigation and development. Further discussion on this subject is also very important, given our volatile political climate.

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## Table of Contents

Introductory Remarks.....	1
Chapter One: Methodology and Definitions.....	6
1.1 Private Citizens.....	9
1.2 Coercive, Illegal Activity.....	14
1.3 Alleged Transgressor of Normative Code.....	27
1.4 Pursuit of Justice.....	35
1.5 Presumption of State Authority.....	43
1.6 Alternate Definitions of Vigilantism.....	50
1.7 Conclusion.....	61
Chapter Two: Is Vigilantism Ever Justified?.....	63
2.1 The Case Against Vigilantism.....	66
2.1.1 Objection from Due Process.....	66
2.1.2 Objection from Democratic Principles.....	69
2.1.3 Objection from Autonomy and Consent.....	73
2.1.4 Objection from Negative Social Prejudices.....	79
2.1.5 Objection from Instability and Damaged Faith.....	83
2.1.6 Effect on Victim and Perpetrator.....	87
2.1.7 Objection from Lack of Necessity.....	91
2.2 The Case in Favour of Vigilantism.....	96
2.2.1 Case Study: Gulabi Gang.....	102
2.3 Conclusion.....	107
Chapter Three: When Is Vigilantism Justified?.....	109
3.1 Conditions to Justify Vigilantism.....	109
3.1.1 Extraordinary Breakdown of Legal System.....	111
3.1.2 Impartial and Publicly Known Procedures.....	114
3.1.3 Proportional Response for a Wrongdoing.....	118
3.1.4 Protection of Vulnerable People.....	121
3.1.5 Attempts to Rebuild Proper Social Structures.....	124
3.2 Necessity and Sufficiency.....	125
3.2.1 Alternative Options for Moral Justification.....	126
3.2.2 Advancement of Justice.....	129
3.3 Different Types of Vigilantism.....	132
3.3.1 Defensive Vigilantism.....	136
3.3.2 Persecution Vigilantism.....	137

3.3.3 Internal Vigilantism.....	138
3.3.4 Spontaneous Vigilantism.....	141
3.3.5 Grudge Vigilantism.....	144
3.3.6 Conclusion.....	146
Concluding Remarks.....	148
Bibliography.....	151

### **Introductory Remarks**

*"The existence of law is one thing; its merit or demerit is another." – H. L. A. Hart*

Vigilantism is an underdeveloped concept in scholarly discourse, particularly within the field of philosophy. This is not a minor oversight as it has real ramifications on law and society. On July 13, 2013, George Zimmerman was acquitted of second-degree murder after shooting an unarmed black man. Given the lack of evidence and the social context, it was unlikely that Zimmerman would be found guilty of murder. However, he might have been convicted of vigilantism, if vigilantism was a better developed concept in law and academia. This thesis seeks to open a discussion about vigilantism in the field of legal and moral philosophy. Specifically, I intend to prove that in the absence of legitimate legal alternatives, vigilantism can be a morally acceptable course of action. To this end, I will also discuss the myriad ways in which vigilantism can become completely unacceptable, and the reasons for maintaining caution in any account of justification.

There is some prior scholarly material on vigilantism, but it is scattered across different academic fields, often without consistency or rigorous discussion. Most academic interest in vigilantism lies in sociological studies on particular cases, without much philosophical debate on what it means to be a vigilante, or

how vigilantism differs from other political activities. Indeed, the lack of a widely accepted definition leads some scholars to label unrelated activities like police brutality as forms of vigilantism, which is problematic for discussions of both police brutality and vigilantism. I will provide a more detailed account of some of my concerns with these earlier accounts in the following chapters.

The first chapter of my thesis outlines my definition of vigilantism, and discusses previous scholarly accounts of vigilantism. I define vigilantism as (a) private citizens who (b) use coercive extra-legal measures (c) against alleged transgressors of some normative code, (d) to fulfill their conception of justice (e) in place of state-sanctioned police or judicial authorities. This definition also sets vigilantism apart from other similar activities, such as police brutality, terrorism, and domestic abuse. These are crucial distinctions to make for clarity on vigilantism. Finally, I end Chapter One by discussing some prior attempts to define vigilantism, and my concerns with each. I discuss definitions from anthropologist Ray Abrahams, historian Richard Maxwell Brown, political scientists H. Jon Rosenbaum and Peter Sedeborg, and sociologist Les Johnston.

Chapter Two aims to prove that vigilantism can be morally justified. To this end, I address several moral arguments against the practice of vigilantism as a whole. Some of these objections are deontological: concerns about due process,

democratic principles, autonomy and consent. Some objections are consequential: concerns about negative social prejudices and long-term instability. Some objections are not exactly in either category: concerns about the effect on the victim and perpetrator, and lack of necessity. Ultimately, I argue that all of these objections can be surmounted in theory, and that the objections raised provide a useful set of conditions from which to justify vigilantism. Chapter Two then discusses the real-world example of the Gulabi Gang as a morally justified case of vigilantism, and I discuss how they avoid the various concerns raised within the chapter.

Chapter Three carries my Chapter Two argument forward by discussing the conditions under which vigilantism can be justified. In particular, I discuss six necessary conditions to justify vigilantism: extraordinary breakdown of a legal system, impartial and publicly known procedures, protection of the most vulnerable members of society, proportional response for a wrongdoing, attempts to rebuild proper social structures, and some objective advancement of justice. I also discuss some other criteria, such as consent, accountability, rational demands, and moral limitations. However, these six conditions are sufficient to establish moral justification. Chapter Three also divides vigilantism into various sub-categories: defensive, persecution, internal, grudge and spontaneous. The moral

implications of each sub-category will vary. This is not meant to be an exhaustive list of vigilante types, nor is it the only way to categorize different vigilantes. On the contrary, this chapter's discussion indicates that there is much more work to be done exploring the different ways in which vigilantism occurs.

This project combines a few different topics of personal interest into an examination of the conditions under which vigilantism can fit into morality and legal theory. I have many ambitious goals, not the least of which is to provide some basic understanding of vigilantism for future legal/philosophical discussions. Within this thesis, I intend to discuss the following issues: what is the definition of vigilantism? How does the practice differ from other forms of deviant social behaviour? How does the vigilante alter our perceptions about the structure and stability of law? What does it mean to break the law in order to uphold the law? Most of all, should legal philosophers view vigilantes as a subset of law-breaking criminals? I will address all of these questions over the course of this thesis, though perhaps not with as much depth and discussion as they deserve. Furthermore, I intend to address the relationship between vigilantism, morality, and legitimate legal practices.

Vigilantism poses some important questions in other fields as well. There are psychological questions about the effect of vigilantism on crime rates, and on

people's perceptions of the fragility of law as an institution. There are sociological questions about the role of vigilantism in popular culture, as compared to the public perception toward actual cases of vigilantism. There are questions about the influence of literature and popular culture. While I do not directly address these topics, they provide an interesting context for my discussion.

## Chapter 1: Methodology and Definitions

*"There are more important things than finding the murderer. And justice is a fine word, but it is sometimes difficult to say exactly what one means by it. In my opinion, the important thing is to clear the innocent." – Hercule Poirot (Agatha Christie)*

The initial points of discussion in this chapter will hopefully provide a clearer picture of my prior assumptions, and perhaps some idea of my thinking process for the chapters ahead. My goal is to determine the legality of vigilantism, and to discuss some of the conditions under which vigilantism might be morally justified. As such, this chapter focuses on determining what behaviour should be labeled as vigilantism. In future chapters, I intend to prove that there is space within a civil society for vigilantism, given certain conditions in which the state is unable or unwilling to act. I will also make some observations about the moral justification of vigilantism, and the very real dangers of shaking our trust in the law.

Vigilantism is a difficult term to define, perhaps because the word conjures up vastly different ideas, from mob lynchings to lone avengers. There is surprisingly little scholarly work on the subject within the field of philosophy. Moreover, among the scholars who have engaged with vigilantism, there is a tendency to group it with other, very different activities such as terrorism or police brutality. Among the different definitions, there are at least two major points in

common. First, scholars agree that vigilantism involves people taking the law into their own hands (Brown 22), (Little and Sheffield 797), (Johnston 226), (Abrahams 179), Rosenbaum and Sedeberg 4). Second, scholars agree that vigilantism involves seeking some form of justice (Brown 93), (Little and Sheffield 797), (Johnston 233), (Shotland 31), (Stettner, 65), (Abrahams 180), Rosenbaum and Sedeberg 10). My own definition of vigilantism is also based around these two commonly accepted factors.

While much of this chapter will discuss what is not vigilantism, here are two clear cases to illustrate the concept. Suppose there is a small, rural town in which the local law enforcement consists of negligent drunks. The town is plagued by bandits who conduct occasional raids in which they steal supplies, attack innocent citizens, and cause property damage. These bandits also prevent townsfolk from traveling for assistance by setting up patrols along the roads out of town. Eventually, the good townsfolk round up a posse, hunt down the bandits and hang them. A second clear case of vigilantism involves an inner-city environment in which organized crime runs rampant. The police force is overworked and understaffed, and some members are on the gang's payroll. In this situation, a masked man takes it upon himself to intercept and destroy drugs, attack gang members, and otherwise intervene in street crime.

On the face of it, these two cases are very different. The first case involves a group of people, operating openly and with some direct provocation. In the rural town example, there is effectively no aid from ordinary legal officials. The townsfolk are not merely trying to stop the bandits, but also exact some retribution for their actions. The second case involves a single individual operating anonymously, with a strong state authority nearby. The masked man is trying to stop the practice of organized crime, not just certain individuals. Moreover, he is only trying to stop criminal activity; he does not seek retribution through additional punishments. Yet both of these cases are paradigm examples of vigilantism, and a good definition of vigilantism should accommodate all of their differences.

My definition is as follows: vigilantes are (a) private citizens who (b) use coercive extra-legal measures (c) against alleged transgressors of some normative code, (d) to fulfill their conception of justice (e) in place of state-sanctioned police or judicial authorities. This definition synthesizes ideas from other scholars, most notably sociologist Les Johnston, but it also contains some new additions. Below, I justify my own definition of vigilantism and discuss some of my objections to earlier scholars.

### **1.1 Vigilantism is committed by private citizens.**

This criterion is based on the widely-accepted idea that vigilantism involves people taking the law into their own hands. Presumably, this suggests that vigilantes do not ordinarily have the law in their hands. The good townsfolk do not have the authority to hunt down or imprison bandits, just as the masked man has no authority to intervene in gang activities. For this reason, vigilantism is set apart from regular government activities or action taken by state officials. Police officers, judges and other state officials already have some measure of control over the law. While police brutality and coercive government actions are very problematic for a society, these actions should not be classified as vigilantism. Police officers already have a special role in society, and police brutality is a kind of violation of trust. There is no notion of breaking trust for a vigilante, precisely because they have not been granted any special status before the law.

As for coercive government policies, they cannot be classified as examples of vigilantism if they fulfill the criteria for valid law within that jurisdiction. First, as discussed above, state officials cannot really be considered vigilantes even when they abuse their power. They are instead violating the trust placed upon them, by using their legitimate authority in illegitimate ways. When those state

officials are carrying out valid laws – as they are required to do – there is no connection to taking the law into one's own hands. Coercive government policies can be extremely harmful to society, and they can cause as much trouble for the ordinary citizen as vigilantism. However, these are two different problems, each requiring different solutions.

While vigilantes must be private citizens, their targets can range from other private citizens to state officials. For example, the Black Panthers have had a long history of contentious activity toward police officers (Marx and Archer 137). Crucially, the important factor is not whom the vigilante targets, but why they are targeting someone. I discuss this idea in greater detail under Section 1.3.

### *Vigilantism and Police Brutality*

Some state officials have colluded with vigilantes or joined vigilante groups, sometimes openly and sometimes through a pretense of resistance (Brown 125-127), (Rosenbaum and Sedeberg 14), (Marx and Archer 145). Additionally, Rosenbaum and Sedeberg argue that death squads of off-duty police officers and excessive coercive measures by on-duty police officers are both instances of vigilantism (11). In the latter instance, any on-duty activity should be classified as police brutality rather than vigilantism. As discussed earlier, police brutality

comes with its own set of moral concerns, including violating trust and dereliction of duty. Vigilantism does not involve either of these concerns, and it challenges the existence of state structures in a way that police brutality does not. However, Rosenbaum and Sedeberg raise a valid concern about the actions of off-duty police officers. There are at least three ways to account for this overlap between state sanctioned activity and vigilantism. First, one could argue that these state officials are acting in their capacity as private citizens, rather than using the authority vested in them by the state. They cannot claim to be carrying out their appointed duties, especially if the collusion in question involves neglecting their duties. In this manner, the act of vigilantism is still being carried out by private citizens.

On the other hand, we could accept Les Johnston's argument that state officials like police officers never really lose their special authority (Johnston 225). Under this view, the officers' actions should not be classified as vigilantism. There is good reason to follow Johnston's line of reasoning here, as police officers are judged by different standards and punished by different standards than average citizens. Victims of police brutality often fear reporting the crime, and often, other members of the police will protect their fellow officers (Miller 152). Prosecutors can be reluctant to jeopardize their relationship with the police force (Miller 153),

and local governments often have additional legislation to protect officers (Levine 1200). In return, police officers can be reluctant to arrest prosecutors or judges without a higher degree of evidence. Since state officials already have widely discretionary powers, and since they are always protected in ways that ordinary citizens are not, perhaps they cannot be classified as private citizens even in their off-duty actions. By this second interpretation, actions of off-duty police officers or other state officials would also be classified as an abuse of their powers.

Alternately, these cases might fall into a kind of gray area between state-sanctioned violence and vigilantism. For instance, the aforementioned Brazilian death squads are “self-appointed interpreters of the law, thought to be mainly off-duty policemen, [who] have executed an estimated five hundred to twelve hundred people” (Rosenbaum and Sedeberg 10). These people have some characteristics of police brutality and corruption, in that they are using police training and resources, possibly even their special status among the citizens. At the same time, these officers are not using their state sanctioned powers, and choose to act as part of a larger group that includes private citizens. Another example is the involvement of law officers in nineteenth century vigilante activities. Officers would offer a token resistance when a lynch mob took one of their prisoners, though both sides were aware that the officers supported the

vigilantes (Brown 124). In this case, the officers were not themselves joining the vigilantes, and they were even preserving the appearance of disapproval. However, they were clearly involved in the process, thereby violating their own duties. These two cases, among various others, suggest that there is some overlap between police brutality and vigilantism. Nonetheless, a distinction should be made between the two, if only to identify clear cases of each activity.

It is crucial to note that other private citizens are committing vigilantism even if they receive assistance from police officers or other state officials. Private citizens do not have the same expectations as state officials, and they are not bound by public trust. They cannot control the law in the manner of state officials, and they do not receive special discretionary powers to interpret the law. Additionally, they are not protected by any kind of special status before the law, even when they have tacit official support. In this manner, the private citizen is still taking the law into their own hands rather than exercising or abusing their existing power.

These distinctions are not minor quibbles, as they can have drastic consequences on our understanding and treatment of each type of action. Recently, the Black Lives Matter movement exposed widespread institutionalized racism within the American policing and judicial system. In distinguishing

vigilante activity from police brutality, we get a clearer idea of both concepts for future academic studies. More importantly, we can form legislation or regulations to address each of these problems in different ways. For instance, this could involve creating additional training requirements for police officers, as well as creating laws to regulate neighbourhood watch patrols. For these reasons, vigilantism should be understood as an activity undertaken by private citizens.

### **1.2 Vigilantism involves the use of coercive, illegal action.**

My second criterion goes against the consensus view of vigilantism, by including non-violent tactics and by excluding legally permissible actions. Since each of these points is somewhat controversial, I have outlined my justification for them below. While some scholars argue that violence or threats of violence are a necessary part of vigilantism (Johnston 227), (Rosenbaum and Sedeberg 270), (Brown 93), this restriction would leave out what Edward Schneier describes as “white-collar vigilantism” (Schneier 124). Schneier argues that physical violence is not a necessary feature for vigilantism (124). While he casts a wider net than my definition allows – for instance, including some government activities (117) – his notion of non-violent vigilantism is fairly compelling. One example might be hactivism groups, which are politically or morally motivated individuals who use

cyberspace to commit certain crimes. Hactivists like the group Anonymous acquire personal information, gain access to private communications, and spread information to a global audience (Workman, Phelps and Hare 187). As such, they are largely unable to provide physical threats of violence, albeit some of the information released can have dangerous consequences for others. However, hactivist groups still seem to be taking the law into their hands, as their actions seem analogous to the two paradigm cases of vigilantism.

Another example of white-collar vigilantism might be the classic Robin Hood scenario of stealing from rich and giving to the poor. This activity does not involve violence, but it still seems reasonable to say that the individual is taking the law into their own hands to punish or to uphold a moral code. Yet a third example might be certain cases of eco-terrorism, which can range from violent to non-violent action. The somewhat misleading name eco-terrorist refers to radical environmentalists who seek to protect the natural environment through sabotage, violence, or other means (Eagan 2). Some eco-terrorists do employ violence – for instance, by attacking whaling ships, or using incendiary bombs (Eagan 5). However, other eco-terrorists are committed to the safety of humans as well as the environment (Vanderheiden 426). In the latter case, some of their tactics include disabling construction machinery, removing snowmobile signs, destroying

billboards, and other acts aimed mainly at damaging property (Eagan 8-9). In this manner, non-violent eco-terrorist groups seek to punish or prevent individuals from damaging the natural environment.

One could argue that hactivism, illegal wealth redistribution and non-violent eco-terrorism should not be considered forms of vigilantism since they do not involve violence or threats of violence. This would resolve the tension between my account and those of other, more established scholars. However, leaving out the three aforementioned activities seems to be a mistake, as does focusing on violence as a necessary condition. *Prima facie*, the notion of taking the law into one's hands does not make reference to violence or threats, unless we make the odd assumption that something is physically being taken. Conceptually, it is reasonable to say that a hactivist, or a Robin Hood-like figure is taking the law into their own hands. As such, my definition does not restrict vigilantism to cases involving violence or threats thereof.

I do argue that vigilantism must involve illegal activity, whether or not it involves violence. This, too, seems to follow from the notion of taking the law into one's hands. If an action is already legally permissible, it is not necessary to take the law upon yourself. In fact, it is no longer accurate to say that you are taking the law upon yourself. The idea that vigilantism is necessarily extra-legal

activity is in accordance with some scholars (Abrahams 180), (Brown 93), (Schneier 111), but it conflicts with others. Johnston claims that vigilantism can include legally permissible actions, citing two examples: neighbourhood watch groups and shooting a burglar in self-defence (222). Similarly, Rosenbaum and Sedeberg argue that legitimate government actions, such as instituting a pro-torture policy, should be counted as vigilantism. However, none of these examples can establish that vigilantism should include legally acceptable actions.

#### *Vigilantism and Self-Defence*

First, there should be a clear distinction between vigilantism and self-defence. According to section 34(1) of the Canadian Criminal Code, self-defence occurs when someone reasonably believes that force or a threat of force is being used against themselves or another person (*Criminal Code* 52). However, this defence is limited by the fact that the action should be solely for the purpose of defending someone from a physical attack, and the act should be reasonable under the circumstances (*Criminal Code* 52). Crucially, self-defence is in response to a physical threat, which leaves out cases of vigilantism pertaining to theft, social infractions, or other similar factors. Moreover, even this permissible action is limited by a number of factors listed in section 34.2, ranging from the immediacy

of the impending attack, to the proportionality of the response, to whether there were other means of avoiding the danger (*Criminal Code 52-53*). Although the above description of self-defence is drawn from Canadian law, similar restrictions are used in other countries.

These restrictions are extremely useful for distinguishing vigilantism from self-defence. Self-defence involves an unprovoked attack, whereas vigilantism does not always involve the same. Self-defence requires the use of the minimum possible force, intended to defend rather than to cause harm to another. Vigilantism has no such restrictions; it can lead to the serious harm or even death of the vigilante's target. Self-defence is about immediate bodily protection, with the goal of safely removing yourself from a dangerous situation. This is not the case in vigilantism, where a vigilante might seek out individuals or groups whom they believe to be dangerous. Most of all, self-defence is a necessary inclusion in any legal system. As such, it does not involve taking the law into one's hands, since it is a freely permitted form of action. This point is further discussed below, with regard to social peer pressure. Finally, self-defence does not seek to punish a wrong-doer; it aims only at protecting someone from immediate harm. For these reasons, any legitimate case of self-defence should not be grouped under vigilantism. With regard to Johnston's example of shooting an armed burglar in

one's house, this is a case of self-defence.

There are a few complicating factors to consider, particularly as my third criterion will argue vigilantism can be proactive. In other words, a vigilante could target a perceived future threat. Suppose that Person A is not immediately being threatened by Person B, but they have reason to believe that they will be harmed in the future. Whether this is a case of vigilantism or of self-defence would depend on the circumstances of the case. For example, in the Canadian case *R. v. Lavallee*, a woman strongly believed that her abusive husband would kill her later that night, and shot him while his back was turned (*R. v. Lavallee* 852). The Court of Appeal felt that self-defence could only apply to situations of immediate danger, but the Supreme Court overturned the ruling and acquitted the woman of murder (*R. v. Lavallee* 853). In this case, the woman was not facing an immediate danger, but she had every reason to believe that there was an imminent threat to her life. In this situation, Person A is committing an act of self-defence.

By contrast, suppose that there are a string of violent robberies in a neighbourhood, and Jenny (Person A) is aware that Jack (Person B) is one of the robbers. Jenny could be targeted by the robbers in the future, as she has a valuable and famous collection of jewelry. Fearing for her property and her own physical safety, Jenny tracks down Jack to assault and threaten him. Even though there is

still an imminent future threat, this would be a case of vigilantism rather than self-defence. There are certain key differences between this case and *R. v. Lavallee*. First, there is a difference in the likelihood of attack from Person B. In Lavallee's case, her husband explicitly threatened to kill her, and she had experienced many previous violent encounters. In Jenny's case, although she is a likely target for robbery, she may not be targeted at all. There is also a difference in how Person A responds to the threat. Jenny sought out one of the robbers when she could have informed the police or even barricaded her house.

Suppose that Jenny does not track down one of the robbers, and that Jack breaks into her house that night. If Jenny assaults Jack at this point, she would be committing an act of self-defence. While these cases can sometimes be very close, there are still ways to reasonably distinguish between self-defence and vigilantism. This is also true of cases in which someone acts in self-defence, but causes more harm than is necessary to protect themselves. Suppose Person A is robbed at knife point by Person B, with no nearby witnesses or police officers. If Person A manages to disarm Person B and knocks them out with a punch, this is an act of self-defence. However, if Person A then proceeds to kick and punch Person B when the latter is no longer a threat, their actions would be veering into the realm of vigilantism.

A more problematic complicating factor is that some cases of vigilantism have been legally justified as self-defence. George Zimmerman, a member of a neighbourhood patrol group, took it upon himself to confront and shoot a black teenager whom he believed was acting suspiciously (Alvarez and Buckley, n.p.). His defence against the charge of murder was that he was acting in self-defence, and he won that case. Yet Zimmerman's actions are more in line with vigilantism: following Trayvon Martin, confronting him over a perceived transgression, and ultimately killing him. Moreover, Zimmerman was acting against police orders, as he was explicitly told not to follow Martin, and to leave the area (Alvarez and Buckley, n.p.). With the official legal ruling that Zimmerman acted in self-defence, the line between self-defence and vigilantism is understandably confusing. However, this kind of confusion is precisely the reason that we need a clear account of vigilantism, and how it differs from other forms of activity.

Finally, some scholars describe vigilantism as a kind of communal self-defence or self-protection (Brown 94), (Marx and Archer 130). In doing so, these scholars are conflating two different conceptions of self-defence, one being the immediate defensive action that is a legitimate defence before the law, and the other being a wider scope of activities relating to any perceived threats. This confusion can be clarified by drawing a distinction between “self-defence” as a

legal excuse for certain actions and “self-protection” as a moral or philosophical concept. Vigilante groups are arguably engaging in self-protection, in that they intend to create a safer space for themselves and their communities through punishing or preventing apparent threats. They are not engaged in self-defence, in that they are not responding to an immediate or imminent physical aggressor in a defensive manner.

*Vigilantism, Social Peer Pressure, and State Cruelty*

Johnston's second example of legally permissible vigilantism is neighbourhood watch patrols, but not all watch groups should be counted as vigilantes. People are already allowed to walk around their neighbourhoods, and they are already allowed to inform police officers of criminal activities. As such, a watch group that combines these legally permissible activities does not seem to be taking the law into their hands. Additionally, the close involvement of police and existing legal institutions lends state permission to the situation. This is something that Johnston rules out of his own definition, as he argues that vigilantism can only be committed by private citizens (Johnston 224). Johnston notes that neighbourhood patrols were only permitted in England after some time had passed, and the watch groups would only call the police to inform them of in-

progress crimes (227). He also discusses the Bald Knobbers watch group, which both patrolled neighbourhoods and carried out punishments (220). Yet these examples all involve extra-legal activity, which lends further credence to my argument.

Finally, contrary to the views of Rosenbaum and Sedeberg, social peer pressure should not count as vigilantism. There are all kinds of legally permissible ways for private citizens to punish each other: boycotts, refusing to speak to people, denying private business services, blacklisting among employers, etc. None of these actions should be considered forms of vigilantism. It is interesting to note that we have always allowed a kind of internal social policing within our communities; consider, for instance, the attitude of communal shunning toward adulterers in the Victorian era. Today, job employers might search potential applicants' Facebook pages for unprofessional behaviour. Some forms of social policing may have very detrimental effects on a person's life, but as argued above, these forms of legally permitted social peer pressure do not seem to fit the model of taking the law into one's hands. After all, social peer pressure does not seem to take anything from the law given that all of these actions are already freely permissible. It seems conceptually strange to say that I am taking the law into my hands by exercising my freedom to speak to whomever I choose, or by avoiding

business services that I regard as immoral. Moreover, if all of these cases are included in the definition of vigilantism, it becomes difficult to distinguish between vigilantism and any form of social interaction.

Johnston agrees with this point to some extent, as he also struggles with drawing a line between vigilantism and permissible actions. He gives the example of a parent slapping their child as a social policing action that should not be considered vigilantism (Johnston 229). Johnston suggests that a normative distinction can be made, in that vigilantism is a reaction to perceived social deviance and it affirms some kind of autonomous citizenship among private individuals. However, a parent slapping their child for misbehaviour seems to be a reaction to perceived social deviance. It is also affirming a form of autonomous citizenship within the bounds of the family; presumably, the parent would not allow any stranger to slap their child, even if the child committed the same misbehaviour. As such, there must be some other limiting factor to distinguish vigilantism from social behaviour policing.

In my definition, this limitation has two parts: vigilantism is illegal activity, and it involves some form of coercion. There is an important benefit to making legality the line between social policing and vigilantism, namely that we can use this criterion to legislate against vigilantism, or at least identify it in legal

texts. We cannot legislate against various forms of social peer pressure without infringing on basic human rights, such as freedom of speech, or freedom of assembly. It is also important to note that social peer pressure does not challenge the law's authority in the way that vigilantism does; I expand upon this idea in Section 1.5 of this chapter.

A further distinction should be made regarding which type of illegal activity is employed in vigilantism. Suppose that there is a traffic jam around an accident site, and a person gets out of their car to direct the traffic. The person in question is a private citizen who is breaking laws to uphold some normative code, for the purpose of maintaining social justice and in the place of a police officer. Yet I would not consider their actions to fall under the category of vigilantism. There is some conceptual difference between directing traffic and other illegal activities, such that the former does not fall under vigilantism. That difference seems to be the coercive element of taking the law into one's hands. Even an Internet hactivist or a Robin Hood-like character is exerting some sort of coercive pressure to achieve their ends. Ultimately, the use of coercive extra-legal activity distinguishes vigilantism from social policing, traffic coordination, and other similar activities.

It is odd that neither Johnston nor Rosenbaum and Sedeberg use third

party defence or citizens's arrests as examples of vigilantism within the bounds of law. Both of these cases seem to fit the idea of vigilantism better than self-defence or social conformity. For my own account, I would say that third party defence falls outside the realm of vigilantism for the same reason that self-defence should not be included. In Canada, third party defence is listed as a form of self-defence, in that an individual can take action to protect someone else from imminent physical danger or threats thereof (Criminal Code 34.1(a), 52). Other countries list third-party defence as a separate action from self-defence, but the criteria for each are similar enough that the same arguments should apply.

Citizen's arrests are trickier, but since the actual punishment part is carried out by police and the existing legal system, it should not count as a form of vigilantism. This argument is supported by other scholarly accounts of vigilantism (Brown 125), (Shotland 32). However, citizen's arrests are very much on the borderline between what should count as vigilantism and what should not. This is especially true if the citizen takes it upon themselves to dispense hard treatment while detaining someone. Further discussion of specific cases may help to identify the point at which a citizen's arrest crosses into vigilantism.

**1.3 The vigilante's target is an actual, potential or imputed transgressor of some normative code.**

Several implications arise from this criterion. First, vigilantes are operating on some kind of code, be it the existing laws of their society, widely accepted social norms, religious beliefs, or some wholly idiosyncratic set of values. They are not killing or intimidating people at random, and they are not purposely targeting innocent bystanders. Rather, the vigilante is following a set of normative rules, and they target only those individuals whom they believe to have broken those rules. The vigilante's code of ethics may be based on biased or skewed presuppositions, and it may be immune to logical reasoning or real-world facts. Their targets may not even be aware of this code of ethics, and they may not have an opportunity to justify themselves. However, having that code of ethics or set of rules is key to the vigilante's actions, because it is their justification for breaking the law. In their eyes, it is more important to uphold this ethical code than it is to follow ordinary, legally permissible practices.

One of the paradoxes of vigilantism is when the vigilante seeks to uphold the rules of a legal system by breaking the procedural laws of that legal system. In his discussion of the psychological implications of vigilantism, William Kreml notes that certain personality traits seem to reoccur among vigilantes. For

instance, vigilantes have positive feelings toward the use of power (Kreml 48), as well as a tendency to avoid introspection (Kreml 53). As such, breaking the law to uphold the law is not merely hypocrisy on the vigilante's part, but rather the exercise of power without consideration for the moral or philosophical implications of doing so. However, this lack of introspection is hardly exclusive to vigilantism. For instance, members of persecuted minorities sometimes join hate groups that target their own communities (Kreml 52). It is not entirely clear how or why this inconsistent behaviour persists, but given the recent American election and other world events, further work needs to be done on this area.

Another major implication is that the vigilante's target may not have actually committed whatever transgression they are charged with. The vigilante could be mistaken, or could maliciously frame someone. For instance, a key witness in the Emmett Till murder trial recently admitted that she had lied about Till's actions in order to support her husband (Perez-Pena, n.p.). Vigilantes do not need to meet any standard of proof, let alone the very high expectation of proving guilt beyond a reasonable doubt. This is one of vigilantism's strengths over the justice system, but also one of its greatest weaknesses. As proven by the Emmett Till case, there is a high risk of false accusations leading to severe and unfair harm. Vigilantism can also be proactive, in that the vigilantes may target

individuals whom they believe to be future threats. For instance, a gypsy family in England had to be relocated when local residents sent around a petition threatening to do them violence (Johnston 227). In this case, the family had not actually done anything to warrant this harsh response. Instead, the local residents considered them to be a future threat due to popular prejudices about the gypsy community.

The type of alleged transgression can also vary, from legal, to social, to personal codes. In India, a group of upper-caste Brahmin landowners assaulted and fined lower-caste labourers who were trying to take part in the sacred thread ritual (Rosenbaum and Sedeberg 13). While the labourers had not broken any laws, they were violating the traditional social norms of the area. Vigilantes could also be upholding some personal code of ethics, such as a bounty hunter who kidnapped runaway wives or daughters for the men of a British-Islamic community (Johnston 228). It is difficult to find a single common factor among the various codes or systems of value that vigilantes choose to uphold. Some scholars argue that the common factor is upholding the established order of legal or traditional values (Rosenbaum and Sedeberg 6), (Johnston 229), (Brown 93). However, there is no reason in principle to restrict vigilante activity to only those cases that serve the established order. I refer back to the case of eco-terrorism;

even if the vigilantes are acting against the established order, it still seems to be a case of vigilantism. Likewise, even if someone is acting on a radically new value system or wholly idiosyncratic guidelines, they should still be classified as vigilantes.

Finally, vigilantism targets specific individuals for committing specific transgressions. Vigilantism cannot be enacted against a whole ideology or some vague political entity; it involves punishing Person A for committing Action B. Even in the case of future-oriented vigilantism, it concerns a specific Person A appearing to commit or intending to commit Action B. While some vigilantes only target members of a certain race or political group, they must justify each attack as a separate, justified punishment. Vigilantes can be mistaken, or malicious, or even outright lying when they accuse someone of committing some transgression. Nonetheless, they must give some reason for attacking that person in particular. If someone attacks all members of a race, gender, orientation or religion without explaining how each individual is guilty of some transgression, this is no longer an act of vigilantism; it is an act of terrorism.

### *Vigilantism, Terrorism and Activism*

With the introduction of ethical codes and future-oriented actions,

vigilantism might be confused with similar activities such as terrorism or social activism. Many of the previous scholars' accounts are vague on whether vigilanism differs from these activities, with the exception of Moritz Schuberth's account of extra-legal activities. Schuberth notes that vigilantes target specific wrongdoers and aim to provide security, whereas a terrorist seeks to disrupt society and aims to make a political statement (Schuberth 298). This is a key distinction, as vigilantism does not aim at lawlessness or destabilizing society. Rather, it is a warped system of law in itself, with its own set of rules and enforcement procedures. Additionally, while vigilantes may intend to make political statements and change an overall society, meting out punishment for each individual case has the immediate goal of punishing this one person for this one action.

Because of this distinction, terrorists can attack innocent bystanders to make a statement; vigilantism does not allow the same action. Similarly, terrorists can assure their followers that any harm caused will result in some greater good, whereas vigilantes would have to justify their actions toward every individual person who is harmed by their actions. In this way, terrorism is perhaps more insidious, and better insulated from factual evidence. This is not to say that vigilantism is necessarily better, as both practices are very dangerous in their own

way. Moreover, the same person or group can engage in both vigilantism and terrorism. For example, the Ku Klux Klan engages in both vigilantism and terrorism. On the one hand, the KKK pursued and punished particular individuals for particular alleged actions (Kreml 62). On the other hand, they also committed violence against black people without provocation, apparently to maintain social superiority over them (Rosenbaum and Sedeberg 13). However, these kinds of overlap should not make the two activities fall under one label. If a person commits both theft and murder, the two activities are not conflated as the same thing. Similarly, there is a valid distinction to be made between terrorism and vigilantism, even if some people engage in both activities.

Terrorists might argue that they are in fact vigilantes, and that their targets are all guilty by virtue of race, gender, or some other factor that the terrorist condemns as a whole. However, there are several problems with this position. First, it is extremely unreasonable to label an entire race or group of people as transgressors by virtue of their existence. Among other things, in order to have committed a transgression, people have to do something of their own accord. Even if some things are now within our control, such as gender changes or skin pigmentation, we do not choose the way that we come to exist. Additionally, it is not clear what terrorists are accusing an entire race, gender, or culture of doing,

what transgression they have committed. There is no rational connection between being a certain race and being guilty of some transgression. As such, these terrorists cannot rationally uphold the claim that they are vigilantes.

Other terrorists criticize groups of people for their way of life, such as the 9/11 attackers who claimed to be attacking American materialism, sexual freedom, and political decisions. As noted by Johnston, the terrorist's rhetoric of transgression is not logically consistent with their activities (Johnston 230). The terrorist's targets sometimes include children or infants who could not possibly be guilty of the transgressions that they claim have occurred. At other times, terrorists may hurt people outside their alleged target group. Some terrorists do claim that everyone is guilty – children, bystanders, people outside of the alleged targeted group – but this argument is completely unreasonable (Johnston 230), (Primoratz 700). Moreover, none of the aforementioned activities seem to bear any resemblance to our paradigm cases of vigilantism, and none of these activities follow the pattern of targeting Person A for Action B. Again, terrorists cannot reasonably claim to be vigilantes under any of these circumstances.

This is not a new insight, as terrorism has been analyzed by many philosophers and political scientists for decades. Igor Primoratz points out that terrorism is particularly characterized by indiscriminate violence (699). The

terrorist's direct victims are often innocent people, people who have not done anything to justify being attacked by the terrorist. In fact, even if the terrorist's victims were responsible for the terrorist's alleged suffering, the terrorist is not in a position to know that (Primoratz). Both Primoratz and C. J. Coady argue that terrorism can be directed against private property as well (Primoratz 702), (Coady 52). Terrorists target anyone or anything that can bring about some general political or social goal. This includes destroying private property, and it also involves destroying public goods, for instance by poisoning water supplies. Again, this does not fit with the model of attacking Person A for Action B.

Vigilantism should also be distinguished from social activism, even if the latter involves civil disobedience. Social activism includes actions such as disobeying laws to provoke state action, gathering peaceful groups in solidarity, using marches or rallies to promote awareness, and even using violent tactics such as smashing windows. Arguably, social activism has more in common with terrorism than it does with vigilantism. Like terrorism, social activism is a tool for sending political and/or social messages, aimed at widespread change in a society. Activism tends not to target specific people for specific actions; rather, it aims at a general political goal. As discussed in relation to terrorism, this is significantly different from the aims and actions of a vigilante.

One potential objection is the argument that vigilantism, activism and terrorism only differ if we view the same activity from different perspectives. Authority figures might label anti-government political activism as terrorism, whereas activists would argue that they are only engaged in civil disobedience. An interesting future discussion could explore how we choose to label a particular group or activity, based upon which perspective we take. There are certainly overlapping cases, where certain social groups can be classified in multiple ways. Real-world vigilantes, terrorists, or activists may not confine themselves to a single behaviour for scholarly convenience. There are also some difficult borderline cases, such as political assassinations targeting a specific person or persons. Still, there should be distinctions made between each of these activities in order to better understand how to deal with each problem separately.

#### **1.4 Vigilantism centrally concerns the pursuit of justice.**

This point is fairly uncontroversial among academic accounts, as most scholars agree that the vigilante's activities aim at punishment or dispensing justice. However, different scholars offer different conceptions of what is entailed by the concept of justice. Punishment theory focuses around many different conceptions of justice, including retribution, deterrence, restorative justice, and

restitution (Corlett 29). Even within these branches, there are different interpretations of justice. For example, retribution is sometimes interpreted as vengeance, in that the victim or society needs to witness their oppressor being brought low (Corlett 33). It can also be interpreted in a much weaker sense, allowing plea bargains and mercy to factor into proportional punishment (Corlett 36). There should be space for these differing interpretations of justice in the definition of vigilantism. As such, instead of stating that vigilantes aim at punishment, I have simply stated that vigilantes aim at fulfilling justice, whatever they believe justice to be. Under my definition, different cases of vigilantism will aim at different conceptions of justice.

Retributive justice is perhaps the popular idea associated with vigilantism, and it appears in several scholarly accounts (Abrahams 179), (Brown 93), (Shotland 31). Retributive justice involves using some form of hard treatment in response to the offender's act of wrongdoing (Duff, s. 5). This conception of justice stems from the idea that the offender deserves hard treatment for the harm that they inflicted upon society (Duff, s. 5). There are many examples of this line of thinking in vigilantism, and vigilantes will often use the rhetoric of deserved punishment to justify their actions. For example, three Exeter men assaulted a fourth man with a baseball bat, after hearing that the latter had been burgling

houses in the neighbourhood (Johnston 223). The vigilantes were not merely attempting to stop the man from committing further crimes, which they could have accomplished through less violent means. They also sought to inflict physical and psychological pain in response to the man's alleged past actions. In another case, several cab drivers caught a man who had stolen one of the taxis, and assaulted him (Shotland 30). The drivers could have simply held the man until the police arrived, but they took it upon themselves to inflict hard treatment as well.

Deterrence is a forward-thinking, consequentialist conception of justice, aiming to prevent future crimes (Duff, s. 3). On this view, justice involves ensuring that this particular offender does not reoffend, and/or ensuring that other potential offenders are deterred from acting similarly (Duff, s. 3-4). Again, there are many examples of vigilantism in which deterrence is explicitly referenced, or otherwise seems to be the goal. For instance, an eco-terrorist group called Orcaforce sank several fishing boats and released the fish caught in nets (Eagan 5). The vigilantes in this situation were not necessarily punishing fishermen, who after all, had not yet killed the fish. Rather, they sought to prevent future fishing incidents by stopping that particular boat and scaring off others. Similarly, members of the Earth First! group claimed that they sabotaged logging equipment

and spiked trees to make anti-environmental businesses unprofitable (Eagan 8). These are forward-thinking ideas, not merely attempts to punish people for their actions.

A third conception of justice involves restitution rather than hard treatment. This line of reasoning often comes from scholars who believe that retributive justice is an improper response (Duff, s. 7). Instead, some scholars argue that enforced restitution allows the offender to make reparations to the victim (Duff, s. 7). The actions of Robin Hood-like vigilantes would be an example of restitution. Instead of physically or personally harming the alleged offenders, these vigilantes seek to redistribute wealth in a more equitable arrangement. Admittedly, vigilantes may not be opposed to restitution, which perhaps undermines the strength of their retributive philosophy. However, their actions certainly aim toward this conception of justice.

Vigilantism can even aim at rehabilitation, or restorative justice. This version of justice also holds that hard treatment is an improper method of dealing with criminal behaviour (Duff, s. 7). Restorative justice seeks to heal the relationship between the offender and society, often through mediation or making amends (Duff, s. 7). Similarly, vigilante patrols in predominantly non-white neighbourhoods often appealed to the idea of helping criminals rejoin society

rather than punishing them (Marx and Archer 145). Some patrols were conducted by ex-felons who did not want their friends to go to jail, nor did they want the local youth to become criminalized. Patrol leaders explicitly claimed that their purpose was “looking after people”, and that they sought to help rather than police the neighbourhood (Marx and Archer 145). In this manner, these vigilantes sought to protect and rehabilitate the offenders.

Ultimately, it does not matter which conception of justice a vigilante aims to fulfill. Indeed, many vigilantes will be motivated by multiple reasons. However, the crucial point to fulfill this criterion is that the vigilante seeks justice of some kind. As noted earlier, vigilantes can be mistaken in their decisions. They can target the wrong person, or disproportionately harm a target. Vigilantes can also be malicious and manipulative, for instance, by fabricating evidence against a target (Perez-Pena, n. p.). All of these possibilities are consistent with one or more of the above conceptions of justice. It is also important to note that vigilantes can be mistaken or inconsistent about their conception of justice. For instance, a vigilante could aim to deter future crimes while inadvertently increasing crime rates. The criterion still holds, as long as vigilantes claim to be motivated by some form of justice.

*Vigilantism, Domestic Abuse and Gangs*

This fourth aspect of vigilantism brings up a troubling parallel in domestic abuse, particularly as abusers often use the rhetoric of punishment and just desert to explain their actions. However, there are several crucial differences between the two situations. As such, it would be a mistake to treat the two cases similarly. Domestic abuse occurs in an intimate relationship, and follows a pattern of psychological manipulation and coercive control. Abusers often use a variety of tactics from gaslighting<sup>1</sup> and destroying property, to controlling their victim's money and isolating abuse victims in order to maintain power over them (Carden 546). None of these actions seem to fit vigilantism, as they have no purpose other than intimidating and coercing the individual. Indeed, the tactics described above are more in line with a kind of micro-level terrorism, designed to destabilize social support structures and pressure individuals into blindly obeying the abuser.

The actions of abusers also differ from the vigilante's goal of upholding some set of rules. For instance, some abusers change their demands when their victims adapt to their initial rules (Carden 549). Abusers can also coerce their victims by harming people that the victim loves, such as siblings, children,

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Named for the film *Gaslight*; this tactic refers to lying or manipulating someone so that the target believes that they are paranoid, overreacting, or otherwise mentally unstable.

parents or friends (Carden 551). Additionally, some abusers may express guilt or remorse for their actions. Many abuse victims reported that in between attacks, their partner “became extremely contrite and loving, tearfully apologized, and promised never to be violent again” (Carden 550). In these cases, the abuser acknowledges that they are acting wrongly, and that their partner did not deserve any kind of punishment. The cyclic nature of this kind of abuse indicates that the abuser is already aware of this injustice, but continues their abuse for their own satisfaction. By contrast, since a vigilante at least claims to be punishing guilty individuals, they have no reason to apologize or make reparations. The vigilante also has no reason to make promises of never re-offending, since from their perspective, they never committed any offence.

Perhaps the most important difference between an abuser and a vigilante is that domestic abusers do not treat their victims as equal citizens. Since domestic abuse is focused around limiting or controlling power, the abuser is focused on maintaining a higher position of power over their victim (Carden 552). Indeed, risk of domestic abuse decreases drastically in relationships that involve egalitarian decision-making (Carden 552). Vigilantism does involve some power imbalance, in that the vigilante is exercising some kind of physical or emotional threat over the victim. However, the vigilante is in a way acknowledging their

victim as a rational, equal citizen who should be held accountable for their actions. The vigilante would presumably have to accept the same punishment, if they were guilty of the same alleged crime.

Finally, domestic abuse is a very intimate act of violence, as the abuser and the abused are closely related as lovers, parents and children, spouses, or some other familial connection (Carden 542). As such, the abuse tends to extend over a period of time, during which the abuser is constantly undermining their victim's agency (Carden 542). Vigilantism can also occur between close relations, but it could just as easily happen between strangers. There is no intimacy to the activity, no employment of trust, no manipulation of personal feelings. Moreover, as described by Schuberth (300), vigilantism should aim to punish or rectify specific actions rather than maintain a lengthy power imbalance over someone. There may be some borderline cases, especially in societies that accept domestic abuse as an ordinary practice. However, as a matter of clarification between different types, domestic abuse should not be considered a form of vigilantism.

This criterion also distinguishes vigilantism from gangs and organized crime. In many ways, gangs resemble vigilante activity: private citizens, engaging in illegal activity, upholding some normative code, etc. However, gangs generally do not aim to bring about some concept of justice. Gangs often seek to bring

about economic advantages for their members, and they generally do not seek to assist people outside their group (Schubert 309). Alternately, they can form around the desire to find belonging and vent frustrations, especially among youth gangs (Schubert 310). Again, there may be borderline cases between vigilantism and gang activity. After all, gangs do take part in political activities, and sometimes gang members will argue that they are seeking some semblance of fairness for themselves. Nonetheless, there is a valid distinction to draw between the gang's main motivations and the vigilante's main motivations.

### **1.5 Vigilantes presume upon authority granted only to state officials.**

I have already touched on the concept of authority in some of the earlier sections, but it bears repeating explicitly. Vigilantes are not only breaking the law, they also presume upon state authority by placing themselves in the position of state officials. To clarify, vigilantes may not actually hold any kind of authority. Various legal scholars have described legitimate political authority as both the ability to issue demands or grant privileges, along with the people's obligation to obey (Raz 138), (Hart 77), (Finnis 190). There is also *de facto* authority, in which someone has the ability to issue demands because the people do obey them, even without any obligations to do so (Friedman 61), (Raz 124). For the purpose of my

definition, it is not really relevant whether a vigilante succeeds in taking either legitimate or *de facto* authority upon themselves. The fact that a vigilante presumes to hold any authority is sufficient to fulfill this criterion. In practice, the vigilante need only take on some facsimile of the state's authority, as described below.

In Canada and the United States, state authority is divided among police officers, judges and legislators. Many scholars have already pointed out that vigilantes take upon themselves the authority of police officers (Johnston 221), (Marx and Archer 130), (Abrahams 179). This includes apprehending suspected targets or their associates, interrogating them, physically restraining them, and dealing out punishment. There are several examples in which vigilantes exercise police-like powers. Two men kidnapped and interrogated a boy whom they suspected was involved in local robberies (Johnston 227). Another example involves an 1884 case in which a gang of men hunted down a group of horse and cattle thieves, killing thirty-five of them altogether (Brown 101). Unlike police officers, who are at least restrained by protocol, paperwork and chains of command, vigilantes freely exercise this kind of coercive authority on those whom they view as wrongdoers.

Vigilantes also take judicial powers upon themselves by determining the

scope of their chosen rules, deciding who is guilty of breaking these rules, and determining sentences. Sometimes, the vigilante does not express their decisions, or indeed, seem aware that they are making judicial decisions. For instance, there are cases of spontaneous vigilantism in which bystanders will converge on a perceived wrongdoer to deliver punishment (Shotland 31). Presumably, there is not much discussion of sentencing or application in these cases. At other times, vigilantes are very much aware of their role as pseudo-judicial authorities. The Illinois Regulators held mock-trials for each of their victims, in which they called upon sworn witnesses and assigned a defence lawyer to the accused (Brown 109). The trials themselves were largely for show, but the vigilantes clearly understood their pseudo-judicial powers and exercised them fully.

Legislative power is a bit different, in that vigilantes do not really use this form of state authority. For instance, vigilantes do not form widely promulgated rules, nor organize coordination problems, nor handle resource management. Perhaps one could argue that vigilantes do presume upon legislative authority by determining which rules to uphold. Suppose a vigilante repeatedly punishes people who gamble in a particular area, even though the written law permits it. People in this area will probably stop gambling, because this is the rule that the vigilantes choose to enforce. While this is an awkward and inefficient way to

form rules for a civil society, it can have very effective results in the long run. There are many examples of social customs that are upheld through force, such as the Muslim Brothers Society's imposition of various Islamic morals across Egypt (Rosenbaum and Sedeberg 14). Vigilantes may also forcibly redistribute resources, another action that seems to presume upon legislative authority. Admittedly, these arguments on legislative authority are not very strong. However, even without presuming upon legislative authority, vigilantes can still fulfill this criterion by using police and judicial powers.

Crucially, vigilantes take over these forms of authority by themselves. They are not elected by the general population, nor are they appointed by an existing authoritative source. By taking these forms of authority upon themselves, vigilantes pose a unique problem for the state. More specifically, they provide a dual challenge for the state to address, by (1) challenging the state's authority and (2) questioning the state's worth. In the first place, vigilantes are breaking the law by engaging in assault, theft, coercion, and other activities that are illegal for the average citizen. Ordinary criminals also challenge the legal system in this manner, but there is an additional dimension to vigilantism. As discussed earlier, the vigilante has a hand in determining which rules are enforceable in society, thereby affecting the behaviour of ordinary citizens. Even if the vigilantes are arrested and

forcibly disbanded, they still might have long-term effects on social behaviour.

Vigilantism also forces the state to prove its own worth. Since they are not restrained by official policies, financial budgets or other factors, vigilantes present themselves as a more efficient alternative to the existing legal system. This dimension is especially challenging for the state when state officials must catch and punish those whom the vigilante targets, as well as the vigilantes themselves. After all, if a vigilante is better at dispensing justice than a judge or police officer, why have the latter at all? Many vigilantes have expressed disappointment or distrust toward the state for failing to do its duty (Abrahams 180). From the vigilante's perspective, if the law was truly as it should be, they would not have to act. This, too, sets vigilantism apart from other forms of criminal activity.

### *State Responses to Vigilantism*

If vigilantism is part of a larger debate between the state and its citizens, the state's response is often quite ambivalent. On the one hand, state officials cannot support vigilantism without raising questions about their own authority and worth. On the other hand, they may be sympathetic toward vigilantes or even consider them an alternative source of justice. Some police officers acknowledge that they are grateful when vigilantes take the law into their hands to threaten or

punish alleged offenders, and claim that it cuts down on crime rates (Marx and Archer 134). Other officers condemn vigilantism as an illegitimate activity, and view vigilantes as part of the problem rather than a solution to crime (Marx and Archer 144). Similarly, some politicians denounce vigilante activity (Marx and Archer 147), while others claim responsibility for organizing vigilante groups (Johnston 223).

One way for the state to respond to the twofold challenge presented by vigilantism is by simply arresting the vigilante. For instance, the South Carolina Regulators were disbanded by state officials after years of vigilante activity (Brown 99). Arrests would serve to demonstrate the state's authority over vigilantes both physically, through forcible confinement, and conceptually, through creating a criminal record. Arresting vigilantes would also demonstrate the state's worth, as compared to the vigilante. In the eyes of the law, vigilantes are no better than ordinary criminals, whereas state officials are carrying out those duties granted to them by the law. This last point has particular weight in democratic systems, as it suggests that state officials carry out the people's will, whereas vigilantes merely carry out their own will.

Another way for the state to respond is by bringing vigilantes under the aegis of lawful activity. For example, a Kansas police chief used members of a

vigilante group to infiltrate other local groups and report on their activities (Marx and Archer 145). At other times, police officers have helped to draft guidelines for neighbourhood watch groups and issued special identification for them (Marx and Archer 133). This response also demonstrates state authority over the prospective vigilantes, in that the state can actually directly regulate the vigilante's activity. State officials can even prevent some groups from turning to vigilantism by setting up strict guidelines for group members' behaviour. Meanwhile, this solution effectively demonstrates the state's worth because it forces the vigilantes (or prospective vigilantes) to acknowledge the state's worth and authority.

State officials may also respond indirectly to the vigilante's twofold challenge by setting up new laws and increasing police activity. This is a particularly effective solution for vigilantism that focuses on criminal activity. Police officers can make the vigilantes redundant by combating crime directly, and state officials can likewise prevent crime through additional regulations. However, this solution is less desirable than the options discussed above, as it does not adequately address either branch of the challenge. It is still unclear how the state has a greater authority than the vigilantes, if police officers are not challenging or disputing the actions of vigilantes. Moreover, this response may lead to an escalation of vigilante activity if the vigilantes believe that their

methods are an effective way to influence state behaviour.

Regardless of how the state chooses to respond to vigilantism, one thing is clear: this fifth criterion reiterates the fact that the vigilante must be a private citizen. It would be absurd to say that police officers, judges or legislators presume upon their own authority. While police officers could presume upon judicial authority, and judges upon police authority, these actions would not damage the authority of the state. Power is still being concentrated in the hands of specific individuals who have been charged with official responsibilities, even if those individuals are misusing their position. As such, there is no external threat to the state's position within society. Judicial or police corruption does damage the integrity of the state, and thus presents a different problem for state officials to address. However, it should not count as a form of vigilantism.

### **1.6 Alternate Definitions of Vigilantism**

Although there is still very little philosophical discussion on vigilantism, scholars from other academic fields have offered widely varying definitions. Below, I identify my concerns with four of these earlier definitions, and argue that my account of vigilantism can better accommodate these concerns. My intention is not to disprove or discredit these earlier scholars, but rather to build upon their

work for a better understanding of vigilantism. Indeed, my philosophical definition is stronger because of its interdisciplinary roots.

*Definitions from Abrahams, Brown, Rosenbaum and Sedeberg, and Schubert*

Anthropologist Ray Abrahams defines vigilantism as a grass-roots movement aiming to provide security and policing (179). He argues that vigilantes appear around physical or figurative frontiers, where state control and influence are much weaker (Abrahams 180). There is some overlap with my definition, especially the notion that vigilantes take over state powers. Other parts of this definition are more problematic, such as the claim that vigilantism is a grass-roots movement. I stand by my first criterion that vigilantism is carried out by private citizens, but there are many ways in which state officials can still be involved. Some vigilante groups are formed by police officers (Marx and Archer 145) or political parties (Rosenbaum and Sedeberg 16). Other vigilante groups have judges and politicians working alongside the vigilantes (Brown 127), while still others are tacitly supported or funded by state officials (Johnston 223).

The biggest problem with Abrahams' definition is the idea that vigilantes form along frontiers due to weaker state influence. While this claim is true in some cases, such as Abrahams' own example of Tanzanian village patrols

(Abrahams 184), there are too many examples of vigilantism in settled or urban environments where state control is fairly strong. For instance, a crowd of bystanders converged on a man who had shot three people (Shotland 31). In another case, several taxi drivers chased down and assaulted two men who had stolen one of their cabs (Shotland 30). Neither of these cases take place at frontiers, and both take place in close proximity to efficient police systems. Yet both seem to be cases of vigilantism, in which someone takes the law into their hands.

Abrahams tries to get around this problem by arguing that “frontiers” do not need to be physical, and that they can be frontiers of new ideas (Abrahams 180). This is not a very convincing argument, for a number of reasons. If Abrahams is referring to new, counter-cultural ideas, urban vigilantism can involve the affirmation of widely accepted conservative views (Kreml 52), (Brown 93). In fact, police officers are less likely to interfere in such cases, as evidenced by the long history of cooperation between between the KKK and the local police (Marx and Archer 154). If Abrahams is referring to any new ways of thinking, even if that entails adding to long-held views, he does not explain how to identify these figurative frontiers. Ultimately, Abrahams does not resolve the problem of how to explain urban vigilantism, when law enforcement is in good

working order, and people are largely satisfied with their legal system.

Historian Richard Maxwell Brown defines vigilantism as extra-legal activity aiming to reaffirm conservative values in the community, and maintain law and order (Brown 93). Brown argues that unlike rioting, vigilantism involves regular organization and exists for a definite period of time (Brown 98). I drew upon some of Brown's ideas in my definition of vigilantism, such as the idea that vigilantism is necessarily extra-legal activity. My biggest concern with Brown's definition is that he specifically limits vigilantism to the spread of conservative values. In actuality, some vigilante groups hold very radically new values that completely oppose a community's long-standing traditions. Perhaps the best example of this is eco-terrorism. In the Western tradition, the conservatively-held belief is that the natural environment has instrumental value only (Glasser 53). By contrast, eco-terrorists aim to spread the very radical view that the environment has intrinsic value, equal to or above humans.

Another example is the Gulabi Gang, a group of women in rural Uttar Pradesh who punish abusive husbands, child molesters, and other oppressive men (White and Rastogi 318). These women actively fight against the long-standing patriarchal values in their society. Perhaps Brown could alter his definition to say that vigilantism seeks to spread social values of any kind, but there are other

problems with his definition. For instance, vigilantism is not always organized, as evidenced by the case in which bystanders suddenly converged upon a shooter. Moreover, Brown seems to assume that vigilantism requires group action. This leaves out lone vigilantes, such as a case in which a man pursued and shot his son's killer (Johnston 223). For these reasons, Brown's definition does not adequately cover the variety of cases that fall under vigilantism.

Political scientists H. Jon Rosenbaum and Peter Sedeborg argue that vigilantism is “[w]hen individuals or groups identifying with the established order defend that order by resorting to means that violate these formal boundaries (4). This includes any form of establishment violence, from cowboys lynching a horse thief to state-sanctioned coercion by dictators (Rosenbaum and Sedeborg 4). They also divide vigilantism into three groups: crime control, social control and regime control (Rosenbaum and Sedeborg 11). I have incorporated some of these ideas in my definition, such as the idea of violating formal boundaries to uphold some legal or ethical code.

Unfortunately, Rosenbaum and Sedeborg's definition is both too inclusive and too narrow. On the one hand, they explicitly include excessive police brutality (Rosenbaum and Sedeborg 11), rioting and violent protests (14), legally mandated discrimination (15), and coups d'etat (17) as forms of vigilantism. As discussed in

earlier sections, none of these activities should be considered vigilantism. On the other hand, Rosenbaum and Sedeberg's definition leaves out too much by restricting vigilantism to pro-establishment cases. Cases like eco-terrorism or the Gulabi Gang indicate that vigilantism can be highly counter-cultural, going against the established order. Finally, Rosenbaum and Sedeberg also leave out cases of vigilantism that do not involve violence, such as hactivism or forcibly redistributing wealth. As discussed earlier, there is good reason to include all of these cases as vigilantism.

Moritz Schuberth subdivides vigilantes into two types: crime control vigilantism and social control vigilantism. He defines the first form of vigilantism as: “citizens who organize themselves into groups to take the law into their own hands in order to reprimand criminals” (Schuberth 302-303). He defines the second form of vigilantism as: “associations in which citizens have joined together for self-protection under conditions of disorder” (Schuberth 303). Schuberth seems to be following Rosenbaum and Sedeberg's lead, as they use very similar terminology and ideas. However, he sets vigilantism apart from regime-control activity, arguing that the latter pertains to militias (Schuberth 300). Vigilantism tends to be motivated by a desire for security rather than political goals, although Schuberth acknowledges that there are some overlapping cases

(301). Schuberth also suggests that on a larger scale, vigilantism can transform into para-state activity.

I found Schuberth's account very interesting and very useful in many ways. My own definition allows for the fact that vigilantism can escalate into para-military activity, and my definition also focuses on the goal of security rather than political change. I have also applied some of Schuberth's ideas in my own arguments. However, there are some problems with Schuberth's account of vigilantism. First, vigilantes are not always citizens of a community. They can be immigrants, permanent residents, even illegal migrants. They may not even be residents of a particular community, as some vigilantes would travel from place to place (Rosenbaum and Sedeberg 10), (Brown 96). There is also nothing in Schuberth's account to exclude state officials, and as discussed earlier, this is a major omission. Most of all, vigilantes are not always organized in groups. Many of the examples listed in this chapter, and in the following chapters, involve individual vigilantes.

*Definition from Johnston*

Sociologist Les Johnston provides a six-part definition of vigilantism, with the goal of providing a basis for future studies in criminology. For Johnston,

vigilantism occurs when:

- (a) there is premeditation by the participants
- (b) the participants are private citizens, whose engagement is voluntary
- (c) it is a form of autonomous citizenship action
- (d) the use or threat of force is involved
- (e) it arises when an established order is under threat from the potential, imputed or actual transgression of institutionalized norms
- (f) it aims to control crime or other infractions by offering assurances of security to their participants, and to others (Johnston 220)

My own definition borrowed many of Johnston's elements, albeit with some alterations. For instance, I agree with Johnston that vigilantism concerns private citizens, not state officials, that it can range from lone individuals to mobs, and that it is different from terrorism or social peer pressure. I also agree with many of Johnston's criticisms of other scholarly views, including his arguments against Rosenbaum and Sedeberg's definition of vigilantism.

However, I disagree with several of Johnston's specific criteria for vigilantism. For instance, Johnston argues that private citizens must act voluntarily in order to be properly considered vigilantes (226). Johnston claims that through this voluntary aspect, the vigilantes affirm their belonging to some

larger group or society (226). Presumably, this distinguishes vigilantism from actions performed at gunpoint. However, there are two major problems with using voluntary consent as a criterion of vigilantism. First, members of a vigilante group can be coerced into obedience by the group leaders, through threats of violence or other deprivations. For instance, during the height of America's communism paranoia, people were forced to identify and punish suspected communists under the threat of suspicion toward themselves (Schneier 117). As such, members of a vigilante group may not have chosen to join voluntarily.

A second major issue is that voluntary consent is difficult to determine. Alan Wertheimer argues that voluntary consent is questionable in many circumstances, even without explicit coercion. These circumstances range from living under difficult or desperate circumstances, to enduring strong pressure or persuasion, to living under obligations towards others (Wertheimer 275). As an example, he argues that a severely impoverished person is not really consenting to a price hike on life-saving medication when they do not have any other options (Wertheimer 286). In the same way, Wertheimer's various scenarios could affect the ability of individuals to voluntarily engage in vigilantism. For example, a group of impoverished Chilean peasants seized farms and factories to ward off desperate poverty in the 1970s (Rosenbaum and Sedeberg 9). Although the

farmers made a clear choice to seize the property, they were living in such severe conditions of deprivation that they had few alternatives. In another case, a group of former felons in Baton Rouge sought to regulate each other without involving the legal system (Marx and Archer 145). Members of the group did not want their friends to be jailed again, and due to these strong ties of obligation, they could not take their problems to the local police. In this manner, determining a vigilante's voluntary participation may not be as straightforward as Johnston suggests.

Similarly, I do not want to include rationality or affirmation of some autonomous citizenship as a feature of vigilantism, because doing so would raise new complications. Under Johnston's definition, a vigilante must have sufficient rationality when committing the act (232). Yet this seems to leave out too many cases of what would otherwise be vigilantism. Indeed, it is still an open question as to whether humans primarily employ their reasons or their emotions when making political/ideological decisions (Kreml 46-47), (Tonry 246). For instance, are people acting rationally when in the throes of some powerful emotion, such as rage or grief? Steven Owens shot a drunk driver after the latter killed Owens' son in a hit-and-run, and was acquitted for his actions (Johnston 223). Are people truly capable of rational decision when they are part of a mob? A crowd of bystanders erupted into violence after a man shot a small boy and a police officer,

kicking the shooter until the latter had to be hospitalized (Shotland 31). Are people with depression, anxiety or anger management issues considered rational? These psychological traits have been tracked in some vigilantes who are unable to pass through police training (Marx and Archer 141). Are children sufficiently rational for vigilantism? A group of boys aged nine to fourteen set up an armed patrol in the slums of Sultanpur, Hyderabad to drive out undesirable or hostile people (Sen 276). All of these cases would have to be left out of Johnston's definition of vigilantism, even though they all seem to involve private citizens taking the law into their own hands.

Johnston also argues that vigilantism must be premeditated, in that it involves some level of planning (222). I have left this feature out of my definition as well, as it seems to exclude certain cases in which mobs form and act without any prior planning or clear intention. Johnston does address this issue, and he argues that public predispositions toward vigilantism are sufficient to establish premeditation when a mob forms suddenly and attacks someone (222). However, his description does not seem to capture the kind of mindless anger associated with mob action (Brown 22). Moreover, some instances of mob vigilantism occur in places where there is no public predisposition toward vigilantism (Shotland 37). These spontaneous cases of vigilantism indicate that premeditation is not

necessary for vigilante activity.

### **Conclusion**

In summary, I am approaching my justification of vigilantism from the perspective of inclusive legal positivism. My definition of vigilantism remains the following: vigilantes are (a) private citizens who (b) use coercive extra-legal measures (c) against alleged transgressors of some normative code, (d) to fulfill their conception of justice (e) in place of state-sanctioned police or judicial authorities. The definition above provides a basic description of vigilantism as an identifiable activity, with discernible methods and goals that can be identified in real-life cases. It also incorporates many ideas from Les Johnston's seminal account, while leaving out potentially problematic factors such as the maintenance of an established order. Additionally, my definition rules out various activities like domestic abuse, terrorism, social activism and gang activity. This will be my general account of vigilantism for the purpose of this thesis.

There may be borderline cases where groups or individuals engage in multiple activities, as is proven by the Ku Klux Klan's use of terrorism to suppress vulnerable minorities. However, there is a core paradigm that can still be identified, and engaged with in law and academia. Moreover, further studies and discussion on the subject could resolve some of this confusion over borderline

cases. Chapter Two addresses the question of whether vigilantism can ever be morally justified, and discusses both deontological and consequentialist objections to the practice as a whole.

## **Chapter 2: Is Vigilantism Ever Justified?**

*"Many that live deserve death. And some that die deserve life. Can you give it to them? Then do not be too eager to deal out death in judgment." – Gandalf the Grey (J. R. R. Tolkien)*

This chapter aims to discuss the negative side of my argument, namely the many ways in which one might argue that vigilantism is never justified. From the Chapter One definition, vigilantes are private citizens who perform illegal coercive acts to punish people for breaking some arbitrary normative code, thereby assuming state authority under the guise of justice. Clearly, there are many ethical problems surrounding this practice. Since they are not bound by standards of proof, vigilantes may act upon false evidence or even fabricate evidence. Vigilantes are unpredictable, not always upholding the validly formed laws of a society, and not always using the same tactics or rules. Vigilantes assume a power that they have not been granted, placing themselves in the role of duly appointed state officials. In this manner, they challenge the authority of the existing legal system, and also place themselves above the rest of society as arbiters of justice. For all of these reasons, vigilantism can be a very dangerous practice, and any argument on its moral worth requires a detailed account. In this chapter, I will not establish that vigilantism is a morally justified course of action, but rather that it is not unjustified under particular circumstances.

Two preliminary clarifications should be made for this chapter's arguments. First, I am not committed to any one school of moral thought, and therefore will address both deontological and consequentialist arguments. Second, I am adopting the position of legal positivism as my approach to legal validity. According to this position, laws are valid as long as they meet the conditions for the existence of law in that jurisdiction, regardless of whether these conditions include principles of morality or not (Kramer 2004, 3). Legal positivism can be subdivided into inclusive and exclusive positivism, but this chapter's argument should apply to both branches. Some philosophers who endorse this view include John Austin, H. L. A. Hart and Joseph Raz. Legal positivism can also be contrasted with natural law theory, which holds that certain moral principles are necessary preconditions for any system of law (Kramer 2004, 4). Under natural law theory, laws are not valid unless they are consistent with certain principles of morality, even if these laws have been passed and enforced by every branch of government. Natural law theory is endorsed by philosophers such as Thomas Aquinas, William Blackstone and John Finnis.

My reasons for using legal positivism are twofold. First, legal positivism matches my own views regarding the relation between law and morality. Second, I believe that there is a more interesting debate on how to view vigilantism under

legal positivism. Vigilantism occupies a strange position between law and morality, precisely because the vigilante chooses to follow their moral code over the existing law. They are not acting randomly, or merely out of anger, or from a nihilistic position. Instead, vigilantes truly believe that their own moral principles are enough to justify their actions, even if that means breaking valid laws. This is a very interesting moral and legal conundrum, and it has been noted as such by other scholars (Rosenbaum and Sedeberg 270), (Johnston 235), (Schubert 296). As a scholar of legal positivism, vigilantism raises many questions about the relationship between citizens and the state.

For instance, after one man fired into a crowd, mortally wounding a four-year-old boy, the crowd turned upon him and attacked him (Shotland 31). When the man was subdued, most of the mob dispersed and people went about their business. Perhaps vigilantes are proof against long-standing theories such as the normal justification thesis, or perhaps their presence indicates that a society is no longer operating under ordinary conditions. Many vigilantes will still pay taxes, obey police officers, vote in elections, and otherwise follow the rules of a civil society. As such, they seem to hold themselves to the authority of that society, even as they take authority upon themselves. Some governments tacitly allow vigilantism, or even actively support it. Perhaps some vigilantes eventually

become legitimate authorities in a society. The clash between law and morality will be a central question for this chapter and the next.

## **2.1 The Case Against Vigilantism**

Below, I discuss some of the reasons against justifying vigilantism under any circumstances, even if the existing government is weak or broken. Since endless arguments could be generated for or against vigilantism, the ones listed below will not address every possible objection. Instead, I address some of the stronger deontological and consequentialist arguments against vigilantism. There is not much to go on for many of these arguments, from previous scholarly accounts. As such, I have extended some of these arguments beyond the initial objections raised by various scholars. In these cases, I have indicated where my extensions occur. To clarify, any refutations of these arguments would not establish that any kind of vigilantism is a morally acceptable practice. Rather, this section aims to disprove arguments against all forms of vigilantism.

### *2.1.1 Objection from Due Process*

One of the stronger deontological arguments against vigilantism is that it violates basic human rights to due process. These rights are described in Articles

VII to XII of the United Nations Declaration of Human Rights, including the right to a fair and impartial hearing, lack of arbitrary detention or arrest, and a presumption of innocence until proven otherwise (UN General Assembly, art. 7-12). The objection from due process is briefly raised by J. Angelo Corlett in his discussion of retributive punishment (Corlett 39). Since Corlett does not discuss the matter extensively, I have extended his argument below.

As mentioned in Chapter One, vigilantes can miscalculate, overreact, or maliciously manipulate outcomes rather than seek fairness and impartiality. These are the kinds of problems that a fair and public hearing would weed out more easily than emotional private citizens. Vigilantes can act contrary to evidence or testimony. Additionally, due process necessitates some degree of transparency. Evidence, personal statements, fair representation, and the meeting of a high standard of proof are all important ways to ensure honesty in the judicial process. An angry mob or reckless individual may not try to publicly prove their accusations to some reasonable standard. Indeed, vigilantes target those individuals whom they have already judged to be guilty of some infraction. As such, they may not feel motivated to prove their suspicions, which can only increase the potential for injustices. Most of all, there is no predictability in a vigilante's behaviour. Vigilantes may follow the same set of rules and procedures,

but people have no way of guaranteeing this predictability.

There are examples of vigilante groups who regularly employed quasi-judicial practices. For instance, the South Carolina Regulators would arrange immediate public trials for their victims. There was a prosecutor, a defence representative, and sworn testimony from witnesses (Brown 109). These proceedings ensured public satisfaction that justice was being carried out. However, these proceedings amounted to a mock trial rather than a fair hearing, a bone to throw to the public's conscience. The vigilantes' victims were always found guilty and were usually hanged immediately. The proceedings were rowdy and emotional, and the evidence was not verified in an impartial manner.

Nonetheless, in theory, a vigilante group could certainly follow some form of due process, especially if they chose to follow the behaviour state officials exhibited when they were not in the grip of corruption or catastrophe. Some vigilantes seek to fill a gap in what would have been an operating system of law, but for corruption or catastrophe. For such vigilantes, there is already a model of fair treatment and practices to follow. Thus, in principle, some group of vigilantes could overcome this objection.

### *2.1.2 Objection from Democratic Principles*

On a similar note, another strong deontological argument against vigilantism is that it violates democratic principles. This objection is raised by political scientist Edward Stettner in his discussion of the political implications of vigilantism (Stettner 69). I have not included his discussion here because Stettner's interpretation of vigilantism is largely at odds with my own, and thus many of his claims are not relevant to my thesis. However, the objection from democratic principles is a significant concern within the context of a liberal democracy. Vigilantes claim to protect the larger society, but they would be fundamentally harming that society by breaking its most basic assumptions. They are unelected, unappointed individuals who have no constitutionally or conventionally valid authority. According to the definition laid out in Chapter One, vigilantes are also breaking the democratically agreed-upon laws of a society in some way. Therefore, perhaps vigilantism is never justifiable because it violates democratic principles.

To be clear, this objection does not claim that it is always morally correct to follow the law, nor that it is always morally incorrect to break the law. There are many, many cases that challenge such a simplistic view of the relationship between law and morality, from the Nazi at the door thought experiment to real-

life cases of civil disobedience. Nor does this objection claim that laws must be morally justifiable in order to be valid. In order to be valid, laws only need to be made according to the rules of a particular society. Instead, this objection is over the fact that vigilantes are raising themselves above the rest of the citizens in a democracy. They have more of a voice, more power to influence change than everyone else in society, and the average citizen has no way of checking that power. If a government agent or agency oversteps its bounds, citizens can respond and re-establish the balance of power. In fact, even when a country's legal system establishes procedures and hearings to address these issues, ordinary citizens may still have very little power to actually challenge government agents. This problem is exacerbated by vigilantism, as there is no set procedure by which to challenge a vigilante's decisions, nor any certain method of exacting compensation for a wrongful injury. Taken to an extreme, it could lead to the kind of semi-fascist practices employed by the Ku Klux Klan throughout the twentieth century.

There are a few ways to respond to this challenge. First, some vigilantes justify their actions as being democratic, perhaps even more so than the ordinary legal system. Indeed, vigilante mobs of American pioneers often used this argument to justify themselves, claiming a kind of immediate direct democracy (Brown 115). After all, democracy is meant to represent the will of the people,

and the majority of citizens are supposed to have political power. Indeed, the democratic uprising that preceded the United States' formation, or the similar uprisings that prompted the Arab Spring seem to support these vigilantes' claims to moral justification. Both of these activities are praised by various scholars as expressions of the people's will (Aras and Falk 2255), (Ismael and Ismael 231), (Greene 99). Perhaps vigilantism could be similarly an expression of the will of the people. This poses an important challenge to legal philosophers with regard to liberal democracies, further indicating the importance of seriously critiquing vigilantism as a philosophical and political issue.

Admittedly, this is not a very strong argument in favour of vigilantism. Vigilantes usually do not represent the wishes of the majority, and often, there is no way of determining whether or not the majority of citizens support them. Vigilante mobs can be made up of the dominant group in society, but the other members of this group may not agree with their tactics. For instance, although vigilante activity was rampant across the United States in the mid-1800s, anti-vigilante groups were also quite widespread (Brown 121). Additionally, groups of neutral citizens requested state intervention when the violence escalated on both sides (Brown 122). Vigilante groups cannot reasonably claim to speak for the majority when they face active resistance and tacit disapproval. Lone vigilantes

are even less likely to represent the wishes of the majority of citizens. Finally, even if the majority of citizens supported a vigilante group, or a particular decision, it would not be enough to establish democratic credibility. A liberal democracy professes to protect each citizen's individual rights as well as general expectations of democracy. Many legal systems have a bill of rights to prevent the majority from tyrannizing individuals and vulnerable minorities. A vigilante mob or individual, even one that managed to gather the support of the majority of citizens, might still fail to uphold the liberal aspect of a liberal democracy.

For these reasons, one cannot really hold to the view that vigilantes are a purely democratic expression of the people's will. However, the objections to vigilantism considered thus far are contingent upon our living within a functioning liberal democracy. Many people around the world do not live in functioning liberal democracies, and for most of human history, this has been so. Stettner acknowledges this point, and briefly discusses other political views that might be compatible with vigilantism (Stettner 72-73). Similarly, I would argue that vigilantism may be morally justified in certain other political systems, should their citizens choose to engage in it. Alternately, it could be justified in situations when a liberal democracy breaks down past the point of functioning. I will expand upon this idea in Chapter Three.

### *2.1.3 Objection from Autonomy and Consent*

Vigilantism could also be objectionable to philosophical anarchists and libertarians due to its use of coercive force. Anarchists do not seek the disruption or destruction of a civil society; rather, they hold that a civil society does not need coercive elements in order to function properly, and that such coercion cannot be justified. These coercive elements include anything from collecting taxes to police arrests. If people cannot morally justify imposition of rules upon each other, whether these are laws or vigilante actions, vigilantism would be always morally unjustified. The philosophical anarchist therefore raises two important objections against vigilantism. Through Robert Paul Wolff's view, perhaps vigilantism is never morally justified because it violates individual autonomy. Through John Simmons' view, perhaps vigilantism is never morally justified because it does not have the valid consent of either the victim or the rest of society. Both of these objections are strong deontological reasons against engaging in vigilantism.

Two major forms of philosophical anarchism are the moral autonomy branch and the lack of consent branch. Scholars such as Robert Paul Wolff have formed an *a priori* argument to justify their claim that government coercion can never be justified. On this argument, moral autonomy is incompatible with political authority (Wolff 26). Each person is an autonomous entity, and although

they can voluntarily choose to consent to another's authority, they cannot be compelled to follow someone else's decisions in a morally justifiable manner (Wolff 27). Wolff acknowledges that it may be the most reasonable course of action to choose to follow a state's commands. After all, in a large nation-state, it is a matter of safety and prudence that people follow certain patterns and act in certain ways. However, he argues that people do not have to follow a state's commands merely because they are the law (Wolff 29). Crucially, Wolff does not restrict his argument to the context of the citizen-state relationship. For instance, he suggests that the same reasoning applies to the captain of a sinking ship. While a passenger might obey the captain for prudential reasons, she is not morally bound by the captain's orders. By the same reasoning, a philosophical anarchist could argue that vigilantes are morally illegitimate in all circumstances because they force citizens to follow their demands, and thus violate their basic autonomy.

There are two lines of argumentation in response to this challenge from autonomy. First, one could argue that a vigilante's actions are arguably the anarchist ideal. Consider the situation outlined by Wolff: if the state has no legitimate authority, neither the vigilante nor their victim is bound to follow its laws. Suppose under these circumstances, Person A steals some jewelry by holding someone up at gunpoint. Person B then takes it upon themselves to take

back the jewelry and restore it to its owner, perhaps by threatening Person A or by stealing from them. Both Person A and Person B are acting autonomously, as neither can be morally bound to defer to government authority. Indeed, from the anarchist perspective, Person B has a better moral claim to compel Person A to return the jewelry than a state entity. The state agent is acting as a liaison or representative of an illegitimate system, perhaps not even of their own volition. By contrast, Person B is acting of their own accord, and directly in response to Person A's actions. Wolff agrees that respecting autonomy means that people should be held fully accountable for their actions (Wolff 27). Person B is therefore justified in exercising their own autonomy, while also holding someone else accountable for their actions.

There is a second major argument in response to this autonomy challenge against vigilantism. Over the past few decades, feminist philosophers like Susan Sherwin, Jennifer Nedelsky and Marilyn Friedman have argued that the traditional understanding of autonomy as freedom from interference is both inaccurate and undesirable (Sherwin 34), (Nedelsky 118), (Friedman 40). Crucially, these philosophers argue that people are not bubbles of inviolable space, unaffected by their friends and family's preferences (Nedelsky 121). We feel the pressure of social obligations to be good parents, children, friends, and employees, and we

change our actions accordingly (Sherwin 28). We ask advice, we hear opinions, and we are affected by our wider cultural context. The traditional understanding of autonomy, as described by Wolff and many other philosophers, does not capture these ideas accurately.

Additionally, feminist philosophers argue that we should not aspire to be isolated from other people, as traditional autonomy suggests (Nedelsky 122), (Friedman 47). Indeed, it is almost inhuman to be so unaffected by our loved ones' desires and needs. Imagine a parent abandoning their children in order to pursue their own dreams of travelling the world, or someone telling their friend that they are not going to discourage them from committing suicide because it is the friend's autonomous decision. Many people would find these kinds of decisions very disturbing, even if they demonstrate complete autonomy on the part of the decision-maker. Our laws reflect the influence of relational autonomy as well, for instance, by compelling deadbeat fathers to support their partners and children.

Recent psychological studies also bear out feminist philosophers' concerns, indicating that traditional assumptions about autonomy can have damaging effects upon social relationships, aggression levels, and the ability to empathize. Studies indicate that a lack of empathy has damaging effects on other people's self-confidence and sense of loneliness (Tejada, Montero and Dunbar

224). Other studies suggest that criminal behaviour is better understood and prevented when it is interpreted as an interpersonal activity rather than self-determination or autonomous behaviour (Braur and Tittle 822). As such, Wolff's description of the problem of government is inaccurate. Instead, even if a vigilante did violate that personal bubble of individual desires, it would be a context-specific question as to whether they violated the person's autonomy. Additionally, it would be a context-specific question as to whether the vigilante is morally justified in their actions. Therefore, perhaps vigilantism can be justified under relational autonomy, even if it violated autonomy in the traditional sense.

Philosophical anarchists such as A. John Simmons take a different approach, appealing to *a posteriori* facts. Under this view, a person can only be morally bound to a political authority if they consent to being bound thus (Simmons 23). Simmons argues that governments cannot guarantee that they are only coercing those people who have given valid consent (Simmons 32). Consider a democratic government like Canada, for instance. One could argue that all immigrants, permanent residents and visitors must consent to being governed by Canadian law prior to entering the country. However, what of the people who are born within the country, and are bound by its laws for the eighteen years prior to their age of majority? Legal systems are therefore illegitimate because they are

unable to fulfill the necessary consent criterion, rather than because their very existence is at odds with moral philosophy. Like Wolff, Simmons concludes that no one is required to follow the law, though it may be wise to follow the law for other reasons. However, from the perspective of valid consent, the state has no authority over citizens. Similarly, a philosophical anarchist might be opposed to vigilante activity, which cannot even claim to have the tacit consent of all citizens which other philosophers have tried to establish.

For Simmons, vigilantism may not be the ideal course of action, but it seems to be an acceptable course of action nonetheless. If no one is required to follow laws, then no one is required to refrain from vigilantism because of its threat to the law's authority either. Of course, the vigilante's victim has not given them valid consent to hold them accountable for their actions. However, in the case outlined above, Person A was the initial aggressor. Person A was the one who violated that basic requirement for consent by mugging someone else. Therefore, there are two prospective responses to a philosophical anarchist. First, someone could argue that Person A has forfeited their right to valid consent, especially if the crime is worsened from mugging to something like murder or rape. In fact, some philosophers allow that vigilantism is justified through rights forfeiture, and that the notion of forfeiting rights is necessary for punishment theory (Wellman

2012, 379). However, even if we accept the argument from rights forfeiture, it does not apply well to vigilantes. Among other things, the vigilante did not grant Person A any rights in the first place. Thus it is unclear how Person A would be forfeiting their rights to the vigilante, or how the vigilante is justified in determining that certain rights are no longer applicable.

The second line of argumentation, one that I find more acceptable, is that Person B does not need to gain Person A's consent under these conditions. The relevant consideration is whether or not Person B has the consent of the initial mugging victim, and whether or not they acted proportionally in response. Philosophical anarchists would be quite willing to allow that Person A's victim is morally justified in extracting fair compensation from their attacker (Simmons 30). Under these circumstances, a vigilante or group of vigilantes would merely be the means by which the initial victim extracts compensation from Person A. Therefore, having considered the issue of consent, vigilantism could still be a morally justified course of action.

#### *2.1.4 Objection from Negative Social Prejudices*

Thus far, I have discussed some of the most important deontological arguments against vigilantism, but there are some important consequential

considerations as well. One major objection from consequentialist grounds is that vigilantism will perpetuate very negative conservative values and practices. There are many historical cases of vigilante groups who targeted vulnerable minorities, most especially the Ku Klux Klan (Brown 93), (Kreml 53). In fact, historian Richard Maxwell Brown defined vigilantism as an inherently conservative movement. I have discussed some objections to Brown's definition in Chapter One, but let us grant for the sake of argument that there is at least a greater danger of perpetuating deeply-held prejudices.

There is a great deal of evidence to support this position. Many of our government laws and practices tend to be the result of deeply-held prejudices, in spite of official oversight and various lobbyists. Minority groups tend to be at a disadvantage in many societies, even democratic ones. In a democracy, minorities have a smaller collective voice than the dominant majority. They often face discriminatory laws and regulations, even when no harm is intended directly toward them. Moreover, there are often laws and regulations that do intend to harm minority groups. Under these conditions, vigilantism could very well end up exacerbating the situation by reinforcing these problematic social prejudices. This would cause further harm to vulnerable groups within a society, and perhaps because of these negative consequences, vigilantism should never be allowed.

This is a fairly strong objection, but it would only apply to those vigilantes who hold negative conservative values or target vulnerable minorities. In actuality, some vigilantes are members of historically oppressed groups. Some seek to redress social and political imbalances, rather than uphold them. Some are staunchly opposed to those deeply-held negative social values, and aim to overturn existing prejudices. For instance, eco-terrorists deliberately seek to spread the very radical view that the environment has intrinsic value, equal to the value of human life (Eagan 9). Pro-abolition vigilantes in the 1830s would help fugitive slaves and drive away pursuing slave-owners (Brown 114). Vigilantes of this nature are not perpetuating social prejudices. Instead, they are often seeking to protect vulnerable communities or individuals. Therefore, the objection from negative social values may apply to some cases of vigilantism, but there remains the possibility that vigilantism can be a useful tool in combating these undesirable features many societies.

Since societies are complex, multi-faceted communities with competing interests, there are still some concerns about intersectionality. In other words, some vulnerable minorities could target other vulnerable minorities, or overlook their own prejudices against other social groups. A good example of this situation is the Mahila Aghadi, a group of female vigilantes in India who use violent tactics

to deter or punish rapists and domestic abusers. These women are protecting other women and children within their community, and thus seek to shield one vulnerable population. However, they also support some militantly pro-Hindu extremism, and as such, they refuse to help Muslim women who are also targeted by men (White and Rastogi 323). Similarly, a group of child vigilantes decided to patrol their slums in order to protect the neighbourhood from bomb threats and violent religiously-motivated mobs. However, these children also targeted women who had relationships with Hindu men (Sen 276). Nonetheless, in theory and in practice, there can be vigilante groups who protect vulnerable minorities without perpetuating other negative social prejudices.

#### *2.1.5 Objection from Instability and Damaged Faith*

Perhaps the strongest consequentialist argument against vigilantism is that it could have damaging long-term consequences upon the stability of a legal system. As discussed in Chapter One, vigilantism challenges the authority and stability of a legal system by presuming a kind of authority. A consequentialist might worry that this presumption would cause people to lose faith in the official system of law, especially over an extended period of time. Alternately, vigilantes might provoke a state backlash that could endanger countless people, or set a

precedent for ignoring basic human rights. On-going vigilantism in the United States resulted in uncertainty, blood feuds, counter-vigilantism groups, and general violence for decades (Brown 121-122). In both cases, any short-term benefits of punishing this thief or that murderer would be outweighed by the serious negative consequences of disrupting the relationship between citizen and state. There are a few sides to this argument. People can lose faith in the law, which disrupts the relationship between state and citizen. Vigilantism could lead to a long-term disregard toward the law, encouraging criminal and other vigilante activity.

This is another strong objection, especially given historical precedents like the examples cited above. However, this objection does not have as much force when the legal system is already broken through corruption or calamity. In a foreign invasion, or civil warfare, or severe corruption, vigilantism would not damage the citizens' faith in the law because that faith would already be broken. Under these circumstances, law enforcement officials would already be unable to maintain order, or else would be distracted by the numerous other demands upon their resources. Indeed, vigilantes may be greatly beneficial under these circumstances, if only to maintain some sense of security and stability. For instance, the Illinois Regulators confronted outlaw gangs in the 1840s, while the

local government was largely powerless to stop them (Brown 119). The Regulators disbanded after most of the outlaw gangs were broken up, and the local law enforcement could take over (Brown 119). This group is a particularly useful example, because they voluntarily disbanded when their main objective was completed, allowing legitimate government systems to be established.

Thus, it seems that vigilantism could still be morally justified if it exists under particularly dire circumstances, especially when the long-term goal is to re-establish legitimate social systems. On-going vigilantism results in uncertainty, blood feuds, counter-vigilantism groups, and general violence (Brown 121-122). Vigilantism seems to work best as a stop-gap measure, eventually being replaced by proper law. What this entails will vary, depending on the circumstances, but vigilantes should work toward their own removal by setting up stable social structures. If there is civil warfare or foreign invasion, this might mean promoting peace talks and cooperation. Corrupt governments might require rehabilitation; being cut off from outside help might require setting up a provisional government. It is also important to note that the vigilantes themselves must work toward rebuilding social structures. Because of the potential long-term harm caused by their own actions, they have some moral responsibility to work against such harm. Because their own disregard of the law could prompt the citizens to lose faith in

the law, it is important that the vigilantes themselves acknowledge higher authorities. Without this step, however well the government ends up operating, the citizens might still prefer private vigilantes to solve their problems. If the vigilantes themselves choose to rebuild social structures and work toward repairing the relationship between citizen and state, the long-term negative consequences of their actions could be prevented.

The objection from damaged trust can be framed in Kantian terms, as follows: vigilantes break the law in order to uphold the law. As such, their actions are clearly a logical contradiction, and cannot be morally acceptable. This Kantian argument is not simply a rhetorical trick. It is a fair criticism to say that vigilantes cannot reasonably claim to work against crime, when they are actively contributing to it. As such, according to the Kantian argument, vigilantism is always morally unjustified. I have addressed the more general version of this argument, because there are a few ways to very quickly dismiss the Kantian version. First, not all vigilantes claim to uphold the law. As discussed in Chapter One, vigilantes operate on some normative code, whether that is the existing set of laws, religious beliefs, or personal morality. In the latter two cases, the Kantian objection no longer applies. Vigilantes would be breaking the law in order to uphold their religious beliefs or personal morality. There is no logical

contradiction to that statement.

A second response to the Kantian version is that some vigilantes do not operate within a legal system. Sometimes, the legal system of a civil society is broken down due to calamity or corruption. In civil warfare or foreign occupation, there are arguably two competing systems of law within the society. Again, under these conditions, vigilantes would not be breaking the law to uphold the law. If there is no legal system to speak of, there is no logical contradiction in the vigilante's actions. The situation is even more complicated in cases where there are two functioning legal systems, such as civil warfare or foreign invasions. Under these conditions, the vigilantes may be upholding one set of laws while violating another set. It is difficult to assign blame to the vigilantes when the entire situation is morally contradictory. Moreover, if the ordinary law enforcement mechanisms are dismantled or diverted during warfare, there is no real alternative to vigilantism in order to maintain security within what is left of the society.

Finally, one could respond to the Kantian objection in the following way: vigilantes sometimes take action when the existing law enforcement fails to do so. In such cases, while the legal system is not entirely broken, there is still an injustice committed. This is a situation in which either course of action would be

problematic, whether one allows the wrongdoing to pass, or whether one forcibly extracts compensation. I will discuss the topic of moral optimality in my discussion of the psychological harms on the victim and perpetrator, but there is some question as to how a Kantian could account for these situations. For these reasons, I consider the Kantian objection to be a weaker form of the objection from damaged trust, and I have focused largely on the stronger version of the argument instead.

#### *2.1.6 Effect on Victim and Perpetrator*

Although philosophers have not made many arguments for or against vigilantism, there is an abundance of arguments for and against interrogational torture, some of which could be adapted to apply to vigilantism. Like interrogational torture, vigilantism is a morally gray practice that is currently illegal, but is sometimes romanticized as a necessary evil under extremely difficult circumstances. Two primary arguments against torture are the effect upon the victim, and the effect upon the perpetrator. These arguments can apply to vigilantism as well. In a few of the earlier sections, I suggested that vigilantism may be the better of two potentially bad options. This objection pushes back at that idea, and seriously considers what it entails.

There are important psychological harms to consider for both the victim and the perpetrator of vigilantism. The victim of vigilantism has had their status in society challenged. They have been attacked by an entity with no legal standing, and thus they deserve government protection, investigation, and compensation. These deontological reasons are just as important for an imperfect victim who has wronged someone else. Regardless of their prior actions, a vigilante's victim still deserves some consideration for their rights and their well-being. Moreover, there is the effect on the perpetrator to consider. As argued by Matthew Kramer, there are damaging psychological effects to acting above the law without consequences. Like torturers, perpetrators of vigilantism display a kind of god-like arrogance, which is extremely disturbing and problematic within a civil society (Kramer 2014, 191). This is both a deontological and a consequentialist objection. On the one hand, the vigilante is morally sully themselves by violating someone else's rights and causing them psychological harm. On the other hand, this self-aggrandizing attitude could have negative consequences on the vigilante's perception of themselves and others. All of these considerations must be addressed in order to establish any kind of moral justification for vigilantism.

In his book *Torture and Moral Integrity*, Matthew Kramer suggests that moral permissibility should be sub-divided into strongly morally justified actions

and weakly morally justified actions (Kramer 2014, 5). The latter is when only morally unjustified choices are available, and an agent chooses the least objectionable option. Kramer argues that interrogational torture may be weakly morally justified under extremely particular circumstances, such as the ticking time bomb (Kramer 2014, 212). However, since it is only weakly justified, the agent must be held accountable for their actions in some way. The torturer could offer reparation toward their victims, or they could contribute to society in some way, or they could even undergo legal penalties (Kramer 2014, 220). Kramer describes this course of action as “morally optimal”, in order to convey the idea of choosing between two evils (Kramer 2014, 6). He argues that the accountability factor can balance out the psychological harms to the victim and perpetrator of interrogational torture, by affirming the victim's status and by making the perpetrator face the consequences of their actions.

In the same manner, I would argue that vigilantism may be morally optimal under particular conditions, some of which have already been discussed in this chapter. However, there should be accountability for the vigilante's actions. From the previous sections, we have established that vigilantes need to employ impartial and publicly known procedures, protect vulnerable groups, use proportional punishment and obtain the consent of the initial victim, and rebuild

social structures to eliminate the necessity of vigilantism. From these factors, the vigilantes would certainly be held accountable for their actions. With publicly known procedures, vigilantes would be challenged to prove their honesty. With proportional punishment as a requirement, vigilantes would have to restrain themselves to act fairly. With the task of rebuilding proper social and legal structures, vigilantes would further contribute to their society's development, and work toward their own elimination. These actions should serve to minimize the psychological harm to both the victim and the perpetrator. The victim will have their status as a member of society affirmed, and the perpetrator cannot hold a godlike attitude when they have to answer to society. In this manner, vigilantism could still be a justifiable course of action.

One last clarification on this subject: in previous sections, I have discussed the idea of justifying vigilantism without reference to the terminology of “strong” or “weak” as defined by Kramer. This section may seem confusing, or it may seem to reduce the strength of my earlier arguments. Under Kramer's definition, weak moral justification necessarily indicates that there is something wrong with the action. If I adopt this view for all of the earlier arguments, it suggests that I have already ceded the point that vigilantism cannot be strongly justified. I am willing to make that clarification at this point, at least until we have a better

understanding of the implications of justifying vigilantism. My earlier statements are consistent with this point, as many of the arguments refer to using vigilantism as a worst-case alternative, or otherwise acknowledge the possibility of moral harms. I will expand upon my argument in Chapter Three by identifying strongly morally justified cases, weakly morally justified cases, and morally unjustified cases of vigilantism.

#### *2.1.7 Objection from Lack of Necessity*

The final objection that I want to consider does not concern the morality of vigilantism, but rather its practical utility. Christopher Heath Wellman advances a view similar to this objection in his argument on the governments' exclusive right to punish wrongdoers (Wellman 2009, 430). Here, I have extended the argument beyond Wellman's initial claims. One could argue that vigilantism is simply not needed, because any advantage brought about by vigilantes could be better served by government officials. Under this objection, even when the state is weakened or broken, vigilantism is still too inefficient to help citizens. Additionally, there is always the long-term solution of slowly rebuilding the legal system, changing public attitudes, passing legislation, and forming new social practices. As such, whether or not vigilantism could be justified in any particular case, this objection

suggests that it is simply never needed.

This is an interesting consequentialist argument, particularly because it is not really affected by the moral permissibility of vigilantism. However, vigilantism does have some unique advantages over the ordinary legal system. First, vigilantes can protect vulnerable minorities from active government and social persecution. In this situation, vigilantes can contribute in two important ways that the government is unable to do. They could directly target discriminatory officials, or other members of society who engage in discriminatory violence. Vigilantes could also internally police a vulnerable group, thereby maintaining security in the community without involving the police or local government. In either case, the vigilantes are at a huge advantage over the ordinary legal system, because the legal system itself is the aggressor. Perhaps in the long term, after laws and inquiries and internal review, this kind of official persecution could change. However, these discriminatory practices are extremely hard to eradicate or overturn, and in the immediate future, the vigilantes could supplement the existing system.

Vigilantes also have the advantage of anonymity, and can thus avoid threats from coercive criminal gangs. Police officers, judges and state officials are often been targeted by criminals and gangs, either directly or with threats toward

their family (Brown 113), (Schuberth 311). In this situation, the government is the vulnerable group. An anonymous vigilante or a vigilante mob has the advantage over state officials in this situation as well, and could even protect the police or judges from harm. Gangs and criminals would find it difficult to coerce someone whom they cannot identify, and they would also find it difficult to coerce a large, angry mob of people.

Moreover, vigilantes are not hampered by ordinary procedures of gathering evidence, arranging trials, and presenting reliable testimony (Brown 124). As such, they can punish gang members or criminals when witnesses are afraid to testify. While the notion of a masked vigilante has been somewhat romanticized in popular culture with stories of Batman and Zorro, the point nonetheless stands: anonymous vigilantes do have an advantage over state officials. As mentioned earlier, a mob is a semi-anonymous body, as it is difficult to identify particular actors within it. Finally, this situation can occur much more easily in the age of Internet, given that cyber attacks are anonymous.

These are the two biggest advantages that vigilantism has over the ordinary legal system: its role as a defensive tool, and its potential anonymity. One additional advantage is that vigilantes can fill in the cracks of a well-intentioned but imperfect legal system. Suppose that the government is fairly

benevolent, and that it is not persecuting vulnerable members of society. Even the best systems will have cases that fall through the cracks, especially given the high burden of proof in criminal trials. This is where a vigilante could act, when the ordinary legal system cannot. Vigilantes are free to target individuals whom the police cannot legally pursue, perhaps due to some procedural obstacle.

For instance, sexual crimes are notoriously difficult to prosecute because the nature of the offence makes it easy to build reasonable doubt against a conviction. Even when multiple victims come forward, or with DNA evidence confirmation, it is very difficult to prove a sexual offender's guilt (Decker and Baroni 1117). Many legal systems have yet to find a better way to prosecute sexual offenders, to the extent that these crimes often go unreported or are not investigated (Kaiser, O'Neal and Spohn 300). Vigilantism can supplement the existing legal system by targeting these cases. Additionally, vigilantes can target activity that is not actually illegal. To carry the previous example forward, sexual assault victims often face stigmatization in society, especially if their assailant is acquitted for lack of evidence (Kaiser, O'Neal and Spohn 299). This kind of stigmatization is not illegal, and thus it cannot be addressed by legitimate legal authorities.

Finally, vigilantism affirms the citizens' power and authority over the state.

Even in a liberal democracy, citizens have very little power as compared to the state. Among other things, the state has a fully functioning military, several branches of police, the power to appoint judges and change laws. While in principle, each citizen contributes to the state through voting and publicly expressing praise or grievances, these actions hardly balance out the distribution of power. The government cannot rectify this issue, even if they grant citizens greater power through referendums or other alternatives. In the end, the government is still the source of power for these activities. Yet citizens are not entirely powerless, as they can publicly protest, or take laws into their own hands, or otherwise disrupt the balance of power. Admittedly, this is not restricted to vigilantism, as citizens can also engage in political activism, rebellion and ordinary criminal activity. However, vigilantism serves another purpose that the aforementioned activities do not. It is an additional deterrence on crime, indicating that the community members are willing to take immediate action rather than wait for police assistance (Brown 123), (Marx and Archer 134). In this way, vigilantism can also affirm the citizens' power over criminal behaviour, and over their own lives.

These are some of the ways in which vigilantism has an advantage over ordinary legal practices, or ways in which the law is unable to deal with certain

common social problems. As such, the objection from lack of necessity does not stand. However, it is important to note that the arguments presented here are still insufficient to morally justify the use of vigilantism. Each apparent advantage listed above could be misused to highly negative consequences. Therefore, more work is needed to determine whether vigilantism is actually justified, and under which conditions.

## **2.2 The Case in Favour of Vigilantism**

We are now in a position to draw a tentative conclusion: vigilantism can be morally justified, at least in the optimal sense, but only when a long list of conditions is met by those who undertake this course of action. These include: fair and open treatment, living under impossible conditions, protecting vulnerable minorities, rebuilding social structures, using minimal harm and proportional punishment, and a willingness to be held accountable for their actions. In theory, it is possible for a vigilante or group of vigilantes to fit all of these conditions. In practice, it is highly unlikely, or at least, unusual for them to do so. However, like the implausible ticking time bomb scenario, these conditions establish the parameters of our moral expectations in these extraordinary circumstances.

As for the likelihood of a real-life scenario that fits all of these

requirements, we could establish that it is about as likely as other philosophical thought experiments like the ticking time bomb scenario. There are, however, some real-world analogues that are useful to this discussion. In his discussion on the pathology of legal systems, H. L. A. Hart lists examples of when the legal system breaks down or is severely disrupted, including civil warfare, foreign invasion, and widespread anarchy (118). He notes that there is no longer a guarantee of general obedience to the law under these circumstances, which in turn could have drastic consequences for the citizens (Hart 118). For instance, consider the conditions of civil warfare in which there are two internally competing legal systems. During the English Reformation, Catholics and Protestants were persecuted by turns depending on which Tudor monarch was in power (Marshall 583).<sup>2</sup> Under these circumstances, the content of the law was murky at best. Worse yet, while soldiers and civilians took one side or another, the ordinary work of police and judges was neglected.

In the case of a foreign invasion, the two competing systems of law are the external laws of the invader and the internal laws of the nation. I would add

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<sup>2</sup> Under King Edward, Catholicism was outlawed and Anglican Protestantism became the state religion. A few years later, under Queen Mary, Protestantism was outlawed and Catholicism became the state religion once more. Mary was succeeded by Queen Elizabeth, who once again made Anglican Protestantism the state religion. Since these changes were made within a twenty year period, there was understandable confusion about laws on heresy and religious practice.

colonial settlement to this category, as it also involves foreign invaders taking resources and imposing new laws upon the native population. For both the original inhabitants and new settlers, the rule of law is completely disrupted. Examples include the British invasion of India, where functioning systems of government were purposely dismantled to further imperialist goals (Wilson 1437). Another example is the imposition of American law on the First Nations peoples. This latter example is particularly interesting, as it is an ongoing problem in an allegedly developed nation<sup>3</sup>. Widespread banditry or corruption can also disrupt the rule of law, especially if legal officials are refusing to perform their duties. There are many other situations in which the rule of law breaks down, including settlement in uninhabited lands, or large-scale natural disasters cutting off communities from external aid. Under these conditions, vigilantism may be a morally justifiable alternative to complete lawlessness.

There is an important point to consider, based on the definition of vigilantism provided in Chapter One. Previously, I argued that a vigilante must commit illegal activity in order to be regarded as such. In contrast, I discussed cases of communal shunning in which neighbours expressed their disapproval

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<sup>3</sup> There are many problems with labeling countries as developed or developing, particularly given that the labels follow along racial divides. Additionally, various criteria for “developed”, “developing” countries are often applied inconsistently. For this reason, I have not used terms like “developing nation” or “underdeveloped” in this paper, and I would not support the idea that vigilantism is an acceptable alternative in all “developing” nations.

toward a member of society without breaking any laws. Additionally, I argued that vigilantes take the authority of the state upon themselves, which is part of the reason that they present such a challenge for the existing law enforcement. Yet under the circumstances discussed above – civil warfare, corrupt governments, etc. – there may not be an authority for the vigilantes to threaten, nor a functioning system of law for them to break. As such, perhaps private citizens who take the law into their own hands during periods of lawlessness should not be considered vigilantes, by my own definition.

However, I would still classify this behaviour as vigilantism. Under the circumstances described above, there is still a *de jure* authority of government, which is authorized to take certain actions toward or on behalf of its citizens. There may not be any *de facto* authority on the government's part, but the state still holds the moral and legal claim to authority.<sup>4</sup> By contrast, the vigilantes have no *de jure* authority, and whether they have *de facto* authority would depend on how much the citizens come to rely upon them. This is an especially important point when vigilantes are operating under a colonial invader who may have both *de jure* and *de facto* authority, even though they have no moral claim to that authority. As for whether vigilantes are still committing illegal activities, I would

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<sup>4</sup> I owe this idea to Dr. Wil Waluchow.

give a similar answer: there is an existing set of laws that the citizens are aware of, and would most would likely follow in spite of the catastrophic circumstances. Meanwhile, vigilantes are still unelected and unappointed by the citizens or government. As such, vigilantes are still acting against the widely accepted system of laws, and they still fit the definition formulated in Chapter One.

It is important to stress that while vigilantism may be a useful practice in some cases, there are many, many examples in which vigilantism is not remotely desirable. If the individual vigilante or mob is especially cruel, narrow-minded or emotional, they could cause even more harm than individual troublemakers. The wrong person could be punished, an innocent bystander could be harmed, disproportionate punishment could be administered, or the victim could be further harmed. In 1930, a mob of white men attacked and hanged a black man after the latter was acquitted of raping a white woman (Shotland 36). The police officers and judge acknowledged that the man was clearly innocent, but the narrow-minded social attitude resulted in a wrongful death. In another case, Michael Jones attacked a man whom he suspected of burgling Jones' mother's home (Johnston 227). Jones was emotionally compromised, and accidentally killed his victim by slamming the man's head against a wall. Recently, a group of people called the Creep Busters harassed a mentally disabled man online and in public,

after the latter responded to a false dating account for a fourteen-year-old girl (Rankin, n.p.). The Creep Busters' reaction was disproportionately cruel, especially since the man lost his job through their actions.

With these circumstances in mind, and with all due regard to the many ways in which vigilantism can go wrong, fulfillment of the following requirements seem to be necessary conditions for a justifiable act of vigilantism:

1. Impartiality and publicly known procedures
2. Extraordinary breakdown of a legal system
3. Protection of the most vulnerable members of society
4. Proportional response for a wrongdoing
5. Attempts to rebuild proper social structures

These five features are all necessary for vigilantism to be morally justified, although there may be additional criteria in order to sufficiently justify the practice. Each criterion addresses one of the objections listed in the previous section. In making this list, I am narrowing the number of vigilantes who could be morally justified, perhaps more than is necessary. However, given the potential dangers involved, it seems important to provide more restrictions.

Below, I focus on a particularly interesting case study which I would argue is a justified case of vigilantism. In doing so, I am not making inductive

generalizations from a single case, nor do I intend to argue that my case study is the paradigm example of vigilantism. Instead, I will use this particular case to ground my philosophical arguments in a real-world example. In this manner, I can draw on specific factors of this case that support or challenge my view. I chose this case in particular because I found it extremely fascinating, and also because these vigilantes evoked interest and sympathy whenever I described the case to others. Moreover, there are certain features about this case that fit well with my argument on how vigilantism might fill a necessary gap in the judicial process, given an extremely weakened or corrupt state.

*Case Study: The Gulabi Gang*

The Gulabi Gang is a group of women based in rural Uttar Pradesh, who band together to fight abusive husbands, rapists, corrupt officials, and other social predators. It was officially founded in 2006 by Sampat Pal Devi, who drew the group together and distributed the pink sari uniforms (Biswas). These women began intervening in cases of domestic abuse, rape, child marriages, and other similar social problems (White and Rastogi 318). As people began approaching the group for assistance, the Gulabi Gang intervened in more complex socioeconomic issues. For instance, they assisted a group of farmers who were

seeking recompense for failed crops (White and Rastogi 319). At another time, they restored electricity to a local power plant by threatening the corrupt officials who had turned it off (White and Rastogi 319).

Although media reports tend to focus on their use of violence (Biswas), (Dhillon), the gang's tactics are fairly diverse. They generally try to resolve conflicts without resorting to vigilantism. For instance, the women use dialogue with the wrongdoer, or public shaming tactics (White and Rastogi 320). Failing this, they have used physical violence to punish or coerce the individual in question (White and Rastogi 318). The Gulabi Gang also provides a safe space for women to develop craft skills, economic independence, and social support networks (White and Rastogi 319-320). Yet in spite of their subversive tactics and views, the Gulabi Gang does not aim to break apart the existing legal or social structures. In fact, they have sent several women back to their homes because of the impossibly difficult conditions for women living on their own in rural Uttar Pradesh (Biswas). In this manner, their focus is specific wrongs, rather than wider political goals.

From this description, the Gulabi Gang clearly fits the Chapter One definition of vigilantism. They are composed of private citizens, acting outside the bounds of the *de jure* system of law even though the legal system is weakened and

widely distrusted. The women perform illegal coercive acts, not merely shunning wrong-doers but actively coercing them to compensate their victims or change their behaviour. They uphold a normative code – namely, the existing legal system that state officials do not uphold – and they target specific individuals who break this code rather than razing entire communities or warring against a whole group of non-specific people. The women openly declare their aims to be retributive justice, and they work to restore the stability of the society as well. Finally, by virtue of their actions, these women take on an authoritative role. In fact, hundreds of vulnerable women and impoverished individuals routinely appeal to the Gulabi Gang for assistance, rather than relying upon the official legal system (Biswas).

From the description above, the Gulabi Gang is already a fascinating case study for moral philosophy, sociology and women's issues. They also follow the template above for potentially ethical cases of vigilantism. First, these women take the minimum action or employ the minimum force necessary to resolve a situation. As such, if there are ways to avoid any conflict, that is the first thing they attempt. The Gulabi Gang employs a variety of tactics, beginning with mediation between the affected parties (White and Rastogi 320). In this manner, they involve the community and try to hear both sides fairly.

While the Gulabi Gang is not living under complete lawlessness, they are operating within a very corrupt and weakened judicial system. Police corruption, long-standing patriarchal assumptions, and the rural conditions far away from strong state involvement are sufficient reasons to count this case as a situation of disrupted rule of law. Additionally, vigilantism is a fairly common and widespread practice in India (Sridharan and Cerulli 275). As such, these women are acting in response to other vigilantes as well as state-level intolerance and corruption.

The Gulabi Gang largely protects women and children in rural Uttar Pradesh, in the face of a strongly patriarchal system. They specifically focus on women in rural villages, since these women have fewer alternatives than those who live in larger cities (Biswas). These vigilantes also focus on helping socially discriminated groups like the Dalit caste, and assist economically vulnerable groups like impoverished farmers (White and Rastogi 319). The Gulabi Gang also does not discriminate against people based on caste or religion, seeking to help any needy group (White and Rastogi 323). In this manner, they certainly protect vulnerable minorities, historically oppressed groups, and other vulnerable members of society.

Crucially, the Gulabi Gang seems to use proportional punishment in response to wrongdoings. This is built into their *modus operandi*, which involves

seeking non-violent, non-confrontational solutions first. To date, they have not maimed or killed anyone in their pursuit of justice, because these punishments would not be appropriate responses to issues like domestic abuse. In spite of the fact that they sometimes use violence to achieve their ends, their leadership and organization allows the gang to employ restraint as well (White and Rastogi 324). In this manner, the women do not seek to terrorize their community, nor do they take their actions to unconscionable extremes.

Finally, the Gulabi Gang does not merely punish wrong-doers. Instead, this group of women works toward setting up stronger and more stable social practices. For instance, the Gulabi Gang teaches women useful skills, from self-defence, to economic management, to basic cooking and sewing skills (White and Rastogi 319). They lobby governments to take action on many of the issues that they deal with, including women's rights and economic safety (Biswas). Their goal is to no longer be needed, and they work in such a way that their actions are a stop-gap measure. This should allow for a smoother transition toward a more stable and fair system in place of vigilantism. In this manner, they avoid the issue of self-aggrandizement, and the psychological harm to both victim and perpetrator.

The Gulabi Gang seems to be a morally justified vigilante group, fitting

the extensive list of requirements that have been discussed in this chapter. However, it is important to note that these arguments can only be made to the date of this submission. Perhaps in the future, the Gulabi Gang will grow out of hand, and murder someone with little provocation. Perhaps they will start persecuting religious or social minorities. In either case, vigilante acts on the part of the Gulabi Gang could very easily become morally unjustified. However, this is an issue that many real-world examples face. Morally justified governments can become corrupted or overthrown; morally justified activists can turn to terrorism or violent practices. In terms of their actions thus far, the Gulabi Gang may well provide a good template for morally justified cases of vigilantism.

### **Conclusion**

In summary, there are strong objections against any kind of vigilantism under any circumstances, from both deontological and consequentialist perspectives. However, these objections do not seem to hold true across all circumstances and in every case. The example of the Gulabi Gang suggests that vigilantism might in fact be morally justifiable, under particular circumstances. Based largely in response to aforementioned objections, some of these circumstances include: impartial and fair procedures, incapacitated or oppressive

legal systems, protection of the most vulnerable members of society, proportional response for a wrongdoing, attempts to rebuild proper social and legal structures, and accountability toward society. There may be other important considerations to add to this list, just as there may be other objections to vigilantism. However, this chapter is only an initial examination of some of the relevant arguments. The following chapter will extend several of these arguments, and further flesh out my case in favour of the claim that vigilantism can sometimes be morally justified.

### **Chapter 3: When Is Vigilantism Justified?**

*“With the first link, the chain is forged. The first speech censored, the first thought forbidden, the first freedom denied, chains us all irrevocably.” – Jean-Luc Picard, quoting Judge Aaron Satie (Star Trek: The Next Generation)*

The previous chapter established that there can be morally justified cases of vigilantism, at least in the weak sense of justification. This chapter aims to flesh out that claim, to determine which conditions enable vigilantism to be morally justified, and to determine whether it can be strongly morally justified. In order to establish this claim, I will discuss each of the five requirements from Chapter Two, and determine if they are necessary and sufficient. Since vigilantism encompasses such a broad range of activities, it is difficult to draw conclusions about the practice as a whole. I will therefore discuss some of the different kinds of vigilantism, and whether each of these sub-types is morally justifiable.

#### **3.1 Conditions to Justify Vigilantism**

Chapter Two raised a series of objections against vigilantism as a whole, and five conditions were established to address these objections. I have rearranged the order of these conditions for a more coherently flowing set of arguments:

1. Extraordinary breakdown of a legal system
2. Impartial and publicly known procedures

3. Proportional response for a wrongdoing
4. Protection of the most vulnerable members of society
5. Attempts to rebuild legal and social structures

The next step is to consider whether each of these conditions is needed, and whether they collectively justify vigilantism. In the sections below, my goal is to establish that each of these conditions is necessary, but I also aim to clarify what each condition entails. It is important to note that these five conditions are not arbitrarily chosen, but were instead developed as a response to several strong objections against vigilantism. While there are other potential objections and other potential factors, these five are therefore very important to maintain.

I also need to establish that vigilantism can be strongly morally justified, rather than simply being the least bad option. For this purpose, I am adopting Matthew Kramer's account of morality, wherein actions can be strongly morally justified, weakly morally justified, or morally unjustified (Kramer 2014, 7). I will also use Kramer's term *moral optimality* for weak moral justification, to avoid confusion with strong moral justification (Kramer 2014, 8). For the rest of this chapter, unless otherwise specified, *justification* will refer to strong moral justification.

### *3.1.1 Extraordinary Breakdown of a Legal System*

This criterion seems fairly straightforward, but it has two valid interpretations. Part of the reason for this criterion is that vigilantism can be a stop-gap measure rather than a full alternative to the legal system. While there is a working system of law that can handle security management, it is better to rely upon that one system, for consistency and for stability. While vigilantism does occur under ordinary circumstances as well, it cannot be strongly justified under these circumstances. This idea links up to Joseph Raz's normal justification thesis. According to Raz, under ordinary circumstances, people should follow the authority of the legal system (Raz 129). Vigilantism cannot be justified under ordinary circumstances. However, there are situations in which the normal justification thesis does not apply, because there is some extraordinary circumstance. In these cases, vigilantism can be justified.

This extraordinary breakdown of the legal system can occur in two very different ways. The first and most evident interpretation of this criterion involves a civil war, or a foreign invasion, or widespread corruption. These are situations when the whole government of a nation is incapable of maintaining stability and security, due to either internal or external pressures that interfere with the state's operation. A situation can also arise in which a community is cut off from external

aid, either due to some geographical barrier, or a plane crash, or for some other reason. In this case, vigilantism would be the alternative to widespread anarchy, a way to provide security on a local level, because there is no government in this community. These are all cases in which the normal justification thesis is clearly not applicable. It is easy to justify vigilantism under these circumstances, given the calamitous events. However, it should be noted that this criterion is not enough on its own to morally justify vigilantism. Without ensuring things like fairness and proportionality, the vigilantes could be even more cruel and dangerous than the total lack of security forces.

The second interpretation of this criterion is somewhat more controversial, as it occurs within a fairly well working legal system. This is a situation in which the system fails or breaks down in one particular aspect, or for one particular group of people. All legal systems will have minor problems and cases that fall through the cracks, but minor miscarriages are not enough to fulfill this criterion. Instead, this is a situation in which there is a long-standing area of oversight within a working system, something that has been badly mishandled throughout history, and is unlikely to be resolved or even dealt with for a long time. A good example is the mistreatment of African American citizens in the United States. African American citizens are brutalized by the police (Scriven 119), face

widespread discrimination from each level of the legal system (Davis and Sorensen 117) and are incarcerated at higher rates than any other group (Muller and Schrage 140). These actions have been fairly consistent for decades, and the situation is unlikely to change for a long time yet. While African American communities still need to maintain some level of security, many feel understandably distrustful toward the police (Muller and Schrage 139). As such, this situation would constitute an extraordinary breakdown of the legal system, even though there is a working legal system that is fairly reliable in many other ways.

This second interpretation raises the question of whether democratic principles are being violated by the vigilantes, which was the original objection raised in Chapter Two. In this situation, people within a democracy are living in impossible and undemocratic conditions. The situation itself is so egregiously undemocratic that it violates many principles of a liberal democracy. Consider the example from the previous paragraph. Black American citizens are often unable to vote, due to procedural barriers (King 9-10). For instance, several states have laws preventing parolees and people in prison from voting. Since African American citizens are disproportionately targeted by the justice system, this is a serious barrier for representation. In some states, committing a felony results in a lifetime

ban from voting (King 10). Again, this is a punishment that is disproportionately faced by black Americans, especially with the recent war on drugs. Pay inequity is a major problem, and another significant barrier within a capitalist system (Mason 6). Given all of these issues, and the many other issues of discrimination faced by black Americans, the situation is unlikely to be resolved through ordinary democratic practices.

From this description, it is clear that a few injustices will not suffice to justify vigilantism. Indeed, even persistent discrimination is not enough to justify vigilantism. Instead, the situation must be so problematic that there is no democratic solution, certainly not in the near future. As such, vigilantes would be operating under conditions that are as bad as civil warfare, or in the case of First Nations people, foreign invasion. However, it is important to note that even when this condition is satisfied, it is not sufficient on its own to justify vigilantism. The vigilantes would also have to employ fair treatment, use proportional punishment, and employ the other criteria listed in this chapter.

### *3.1.2 Impartial and Publicly Known Procedures*

These two factors were developed in response to the concern that vigilantism violates due process. In many cases of vigilantism, the vigilante will

have a personal stake in punishing their victim, or they will be personally connected to the victim. In some cases, the vigilante acts against people who they feel have wronged them. In other cases, the vigilante acts against people whom they know, and may have pre-existing biases against their victim. In these situations, the vigilante is not impartial, in the sense of being totally removed from both their target and the situation. Impartiality is certainly an important matter within the legal system. If police, lawyers and judges have no personal stake in a case, they are more likely to act fairly and without bias. Impartiality also attempts to avoid prejudice, though it is harder to ensure this in practice. As such, vigilantes do need to claim some sense of impartiality in order to be morally justified.

There are two senses of impartiality to consider: one is complete impartiality, in which the person judging a wrongdoing has no personal connection or knowledge of the person whom they are judging. For instance, judges cannot work on cases that involve family members or friends, as this would be a conflict of interest. However, impartiality in a lesser sense can refer to fair judgment, and the ability to maintain one's rationality. Even if a vigilante has a personal connection to their victim, they can treat their victims fairly. The idea of due process is: people should know what they are being charged with, they

should know how they are going to be treated and what their options for self-defence are, and they should know that they will be treated with respect and honesty. All of these things can be accomplished when the vigilante has a personal stake against their victim, or when they know their victim personally. As long as the vigilante is able to act rationally and set aside their biases, impartiality in this second sense should be sufficient.

There is no question that vigilantes need to have solid proof of a wrongdoing, more than distant rumour or personal dislike. Additionally, due process involves honesty and clarity, hence the need for publicly known procedures. The vigilante's victims should know why they are being targeted, preferably before they commit the action that the vigilante will punish. This is an important factor to consider, as vigilantes often do not uphold the written law. Certain moral principles are widely known and accepted, and one could argue that the vigilante's targets ought to be aware that some actions are always wrong. However, some vigilantes may follow their own, entirely idiosyncratic rules. Under these circumstances, their targets would have no way of knowing what wrong they committed, or indeed, if there was a wrong committed. There is a twofold problem here: first, the vigilante's targets cannot defend themselves against charges that they do not know. Second, people should not be held to

irrational or idiosyncratic rules. The latter issue is discussed in more detail in Section 3.1.2, but the need for publicly known rules and procedures is clear.

If a vigilante seeks to uphold the written laws of a community, this requirement is more or less fulfilled. For instance, suppose that vigilantes decide to punish members of the local Mafia. In this case, the rules that they are upholding are already publicly known, because there are laws against extortion, bribery, racketeering, and various other crimes. Vigilantes should also ensure that their victim has a fair opportunity to defend themselves. This last requirement may occur differently in different situations. For instance, in the aforementioned Mafia example, it is hard to imagine vigilantes offering gangsters a chance to prove themselves innocent. The gangster is unlikely to take this demand seriously, and the vigilante would likely suffer a quick death. As such, as long as the vigilante's victim has a chance to explain their side, the exact method of how and when may vary.

On its own, this due process criterion is not sufficient to justify vigilantism. For instance, one could follow due process with all fairness, but still deliver a disproportionately harsh punishment, or persecute a vulnerable group within society. Nonetheless, the condition is necessary in order to morality justify vigilantism, by establishing a basic level of fairness in their actions.

### *3.1.3 Proportional Response to a Wrongdoing*

In some ways, this criterion is related to the previous one, as it pertains to due process in some way. There should be proportional action taken by the vigilante, rather than an excess of violence or hard treatment. Vigilantes can deliver lighter, more merciful treatment as well, and it would be consistent with this criterion. However, they should not deliver disproportionate or cruel punishment, including things like torture, maiming, or disfiguration. There are many difficulties with this criterion, including the fact that vigilantes do not have access to resources like prisons, probation officers, detailed record-keeping, and other factors.

There are also important questions as to what proportional punishment entails, and how to avoid carrying punishment into cruelty. Other scholars have written at length on each of these subjects, as they pertain to the legal system (Corlett 41), (von Hirsch 138-139). Without going into too much detail, proportional punishment should not simply involve doling out precise punishments in accordance to the offender's actions (Tonry 17). As discussed in the previous section, that would place unequal burdens upon some groups in society. Different circumstances should entail different actions as well, according to what is fair for that person, in that situation. The problem of proportional

punishment is thus difficult enough for legitimate legal systems, and it would be far more difficult for vigilantes to follow these rules.

Perhaps a better way of conceiving this criterion is that vigilantes should take the absolute minimum action necessary to ensure their goal. If a situation can be resolved by negotiation or mediation, the vigilantes should be willing to allow that possibility. Similarly, if threats can accomplish the vigilante's goal – for instance, by forcing their target to compensate someone – then additional hard treatment seems both unnecessary and cruel. In this manner, the vigilante would still be engaging in a form of proportional punishment, albeit the action taken is proportional to the situation's needs rather than the offender's actions. It allows for fair consideration of mitigating factors, and ensures a more stable and restorative result than strict application of proportional punishment.

In this manner, the ordinary legal system tends to be somewhat stricter in its application of proportional punishment. Even if an offender expresses regret and a willingness to pay back for their actions, they can still face hard treatment as additional punishment. Vigilantes could follow the legal system in this regard, but the better course of action would be to use minimal force. Given the instability of vigilantism, the lack of detailed discourse, consideration, application of preceding laws or appeals to special experts, it seems reasonable to restrict

vigilantes more than the legal system restricts itself.

Crucially, this requirement for proportional punishment means that the vigilante must make rational demands of their targets. Rationality is a difficult topic in moral philosophy. As discussed in Chapter One, vigilantes may not always be rational persons, and they need not always be rational persons in order to be justified. However, the vigilante must at least make rational demands when they enforce some normative code. For instance, it would be unreasonable to demand that a community should wear polka dots at all times. This is a trivial and highly intrusive requirement. It would be unreasonable to demand that someone should sprout wings. This is a physically impossible requirement. It would also be unreasonable to demand that a person commit some action X and also commit not-X over the same thing. This is a logically contradictory requirement. These demands are all disproportionate, not in terms of excessive hard treatment, but in terms of what humans are capable of doing. Morally speaking, the vigilante cannot expect any of these things from their targets. The latter two are not possible, and the former is a ridiculous request.

In some cases, it is difficult to determine what a rational demand should be, especially considering potential cultural biases. The polka dot example was given somewhat facetiously, but there are many groups and governments who do

place strict rules on people's clothing. An immediate example is Iranian clothing laws for women, which are fairly restrictive. As such, some vigilantes may think it is both rational and tremendously important to enforce clothing laws. In some cases, clothing demands are clearly not rational. For example, Canada very nearly implemented laws against wearing the *niqaab*. This law would not have been a rational demand, as the act of banning facial scarves is not relevant for security purposes. Likewise, a vigilante may make demands about their target's clothing choices or physical appearance, but it is not a reasonable demand to make.

However, in all fairness, it is not fair to assume that our current cultural assumptions about rational demands are the only correct ones. Animal rights activists may take exception to fur or leather clothing, and they may even engage in vigilantism to prevent animals from being used thus. Perhaps several hundred years from now, humans will be horrified that people skinned living beings and wore that skin as high fashion. Therefore, the rational demands requirement may vary in its content across cultures and across time periods.

#### *3.1.4 Protection of Vulnerable People*

This is an important criterion to fulfill, for a number of reasons. A vulnerable group is any group that has historically faced severe barriers within a

society, and continues to face prejudice or difficulties. This could be anything from a racial minority, to people with mental disabilities. Vulnerable communities and individuals require extra protection and consideration, as a matter of restorative justice. There are historical problems leading up to our modern rules, and some inequities are embedded in institutions and practices. Moreover, vulnerable communities and individuals lack many resources that are available to other members of a society, from access to basic necessities to political clout. It is also important to note that this criterion differs from earlier criteria about due process and proportionality. One can be impartial and act according to a known code of rules, while also persecuting a racial minority or causing greater harm than is warranted. Even if none of the people directly involved are members of a vulnerable group, vigilantes should be aware of the disproportionate harm already faced by vulnerable groups in society.

Additionally, this criterion ensures that issues of racism and prejudice should not enter into vigilante behaviour. Many people have unintended biases and mistaken assumptions, even when they try to act fairly. Many laws and social customs are unfairly burdensome on vulnerable populations. Due process and proportional punishments are not enough to ensure fairness in this situation. This goes for whether the vigilante is protecting a vulnerable community, or whether

their target is a member of a vulnerable group. There may be some situations where both of these factors hold true, and vigilantes will have to balance the harm toward one group with the safety of another. However, if vigilantes seek to be morally justified, they will have to factor in these considerations.

Vulnerability can also be case-specific, in that a person could be in a vulnerable position due to the particular circumstances, even if they ordinarily do not face the aforementioned barriers. The vigilante is acting to punish someone for harming someone else. Let us call these people Person A and Person B, respectively. In this situation, Person B is a vulnerable individual because they have already been harmed and there is a risk that they will be disproportionately affected by the vigilante's actions. Person A could seek reprisal against Person B, or Person A might be held partially responsible for the vigilante's actions. The vigilante must be aware of these risks, and ensure that the initial victims are not further victimized by her actions.

This criterion is clearly necessary, but like the others mentioned thus far, it is not sufficient on its own to strongly justify vigilantism. It is still important to ensure that vigilantes seek proportional punishment, or operate when the ordinary legal system is broken. While vigilantes do not always deal with historically vulnerable groups, there will always be sources of vulnerability for different

individuals. Vigilantes should be aware of these issues, and their actions should reflect their awareness.

### *3.1.5 Rebuilding Social Structures*

In Chapter Two, I briefly addressed the importance of rebuilding legitimate social and legal systems, and why the vigilante in particular needs to work toward this goal. Essentially, vigilantism can have serious long-term consequences for the stability of a legal system (Brown 122). With prolonged exposure to vigilantes, people tend to lose faith in the government and police (Abrahams 180). Moreover, as discussed in the section on broken legal systems, the people should view their government as authoritative under normal circumstances. Emergency measures, by definition, cannot apply at all times. Finally, in Chapter One, I raised the idea that governments are challenged to prove their authority when people engage in vigilantism. This kind of power struggle can only be detrimental to society in the long run.

For all of these reasons, it is important to re-establish ordinary conditions as soon as possible. This involves reforming legislation, removing corruption, re-establishing peace and stability, and otherwise working toward a situation in which the government is both capable of handling criminal activity and willing to

maintain the security of its citizens. All of the citizens and residents should take part in working toward this goal, but it is most important for the vigilante to do so for a number of reasons. First, vigilantes are contributing to the state's weakened authority, in some sense undermining this authority by taking over government actions. As such, the vigilante has a duty to rebuild legitimate state authorities, because they contributed to weakening this state.

Additionally, as long as vigilantes exist as a challenge to the state's authority, people will continue to look to them for help. The state cannot claim to have authority if the people refuse to acknowledge it, and there are serious consequences for the state's stability when its citizens do not support it. Vigilantes can combine the people's faith in them with the legitimacy of the state's authority in order to resolve these long-term problems. In this manner, rebuilding social structures is another necessary factor for vigilantism to be morally acceptable. However, this criterion is not sufficient to justify vigilantism on its own. For instance, if a vigilante dispenses disproportionate harm on one of their targets, they cannot make up for it by working to restore the legal system.

### **3.2 Necessity and Sufficiency**

The question becomes whether the five criteria explored in above are

collectively sufficient to justify vigilantism. Together, the five conditions listed above rule out several problematic cases of vigilantism. However, there are many other potential moral considerations that one could argue are necessary factors. Below, I discuss a few other potential criteria, and whether they are also necessary or my account of vigilantism.

### *3.2.1 Alternative Options for Moral Justification*

Accountability is a key issue in moral philosophy, and the vigilante should certainly be held responsible for the consequences of their actions. This should hold true whether these consequences are good or bad. However, accountability is largely covered by other criteria that have already been listed. In particular, restrictions on impartiality, the need for public knowledge, the need for proportionality, and the requirement to rebuild legitimate systems of law all contribute toward this goal. If the vigilante's targets have knowledge of their actions, these people have the chance to defend themselves, or to challenge the vigilante in turn. This ensures that the rest of society, and the targeted individuals are able to hold the vigilantes accountable for their actions. If the vigilante is forced to act minimally, and proportionally to the needs of the situation, they hold themselves to account for their actions, and are forced to monitor their own

behaviour. Finally, by requiring vigilantes to rebuild the legal system, vigilantes must personally see the effect that they have on the community. This final point is especially important, as it ensures that the vigilante takes a role in repairing any harm that they partially contributed to. Between these three points, the vigilante is held accountable for their actions. As such, I have not included accountability as a separate criterion for moral justification.

Consent is another important issue in moral philosophy. As discussed in Chapter Two, the vigilante need not have the consent of their target in order to be morally justified. Instead, the relevant question is whether or not the vigilante has the consent of their target's initial victim. In other words, if Person A mugs Person B, and the vigilante wants to punish the mugger, they may need Person B's permission. This is the ideal situation, but there are a few important caveats. First, in some cases of vigilantism, the initial victim may be dead or comatose. If the vigilante acts to punish Person A under these conditions, they do not seem to be acting immorally. It is also important to note that Person B may be afraid of further reprisals, or justifiably worried about breaking the law. They may feel intimidated by Person A, or they may wish to set aside the whole incident and forget about it. The issue of consent is trickier in these cases, and it is unclear whether the vigilante is acting morally if they choose to punish or forcibly extract

compensation from Person A. Indeed, the answer may vary from case to case. In the end, while the initial victim's consent is preferable, it does not seem necessary in order to justify vigilantism. It is important to note, the initial victim should not be re-victimized by the vigilante's actions. This last issue falls under protecting vulnerable persons, which was discussed in Section 3.1.4.

Rationality is another potential criterion for vigilantism. The section on proportional punishment discussed the importance of making rational demands of the vigilante's targets. In this case, one might argue further that the vigilante must be a rational person as well. Indeed, moral systems like Kantian deontology presume that all moral agents must be rational and autonomous individuals. As discussed in Chapter One, one vigilante group in Hyderabad was composed entirely of young boys who patrolled their neighbourhood to prevent religious persecution (Sen 276). Children are generally not seen as rational agents in the Kantian sense, but these vigilantes seem justified in their attempts to protect themselves and their neighbourhood. The important factor seems to be whether or not the vigilante has the capacity to reason, and whether they reason well. These two issues are covered in Section 3.1.2 and 3.1.3 respectively. Therefore, rationality does not need to be added as a separate criterion.

Ultimately, various other conditions did not prove to be necessary to

justify vigilantism. The five conditions listed above address all of the concerns raised in Chapter Two, and each is necessary to justify vigilantism. They are jointly sufficient for a weak justification of vigilantism, at the very least. However, there is still a problem for strong justification. My account of sufficiency depends upon a breakdown of the legal system, and a strong justification can be given for preferring to rebuild that legal system without engaging in vigilantism. It is hard to say that vigilantism is intrinsically good, and indeed, my account of vigilantism makes it clear that this is not the case. Instead, sufficiency for a strong justification must come from some other source.

### *3.2.2 Advancement of Justice*

As discussed in Chapter One, vigilantes claim to advance justice by upholding some normative code. In order to establish a strong justification, the vigilante must actually advance justice according to a normative framework<sup>5</sup>. There are two ways that this could happen: a subjective approach and an objective approach. In the first case, the vigilante's normative framework would have to be acknowledged and supported by the other actors involved – the initial victim, the

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I owe this idea to Dr. Elisabeth Gedge.

vigilante's target, and the larger community. Justice would be advanced insofar as the wider community would accept and support the vigilante's reason for acting. They would thus confirm that the vigilante's intentions are correct, even if they do not agree with the vigilante's actions. In the second case, the vigilante's concept of justice must be reasonably defensible, and their action should be relevantly connected to fulfilling that concept. Justice would be advanced insofar as the vigilante can reasonably argue that they are upholding morally correct rules, albeit in an unorthodox fashion due to their difficult circumstances.

My preference is the latter option, for a few reasons. As discussed in previous sections, different cultures or time periods will have different moral views. What one society finds unacceptable may be a moral necessity in another society. Most of my earlier arguments took this into account, and allowed some flexibility in the definition of a wrongdoing, or a rational demand. However, some things are morally wrong regardless of the context or situation, such as child molestation or genocide. The objective approach to strongly justifying vigilantism is better able to accommodate this concern. Another issue is that some vigilantes act very much against the norm, and against what their community would regard as an acceptable normative code. For example, anti-slavery vigilantes would protect runaway slaves in Philadelphia and New York (Brown 114). These people

were years ahead of their time, and the larger community may not have accepted their actions. As such, the community's acceptance and support may not always be a reliable indication of moral justification.

Ultimately, this sixth requirement ensures that the vigilante's actions are strongly justified, rather than merely being the least bad choice from a set of bad options. It is worth noting that this requirement can be derived from the other five criteria, but it can also be overlooked or unfulfilled in certain cases. As such, this sixth requirement is worth restating for a clearer understanding of how vigilantism can be morally justified.

Since this is still a cursory account, and since a lot more research is needed on the subject, there may be other important factors to consider. For now, this is my account of strong justification for vigilantism. It is important to note, if a vigilante fails to fulfill one or more of these criteria, they may still be acting in a morally optimal way, choosing the lesser of two evils. However, they would have an additional duty to rectify the damage that they caused by ignoring one or more of the conditions. In the following sections, I will analyze a few different types of vigilantism according to these five criteria, on the understanding that fulfilling all five criteria can strongly justify vigilantism.

### **3.3 Different Types of Vigilantism**

It should be clear by now that vigilantism encompasses a very broad range of activity, from the race-based violence of the Ku Klux Klan to a lone individual tracking down a sexual predator. In fact, it is too broad-ranging to draw any clear conclusions about the morality of vigilantism. Some types of vigilantism may be morally optimal, though not fully justified. Some types of vigilantism may never be morally justified. In order to clarify the issue, I have listed a few different types of vigilantism below, and I will discuss the moral implications for each.

There are also many different ways to categorize vigilantism, and different insights to derive from each of these categories. Other scholars have recognized the need to subdivide and categorize vigilantism, but there are some problems with these earlier accounts. Richard Maxwell Brown suggests dividing vigilantism by its effects on society: “socially constructive” and “socially destructive” (Brown 118). According to Brown, socially constructive vigilantism involves a vigilante group banding together, dealing with a problem, then dispersing. This type of vigilantism is formed by community consensus, and it improves the community through its actions (Brown 119). By contrast, socially destructive vigilantism involves vigilantes meeting with strong opposition, and

persisting in a mutually destructive war (Brown 118). Unfortunately, cases of vigilantism do not always fall into these two categories, nor is it quite so easy to distinguish constructive cases from destructive ones. For example, Brown cites the Regulators as socially constructive vigilantes who improved their community by targeting “horse thieves, counterfeiters, outlaws, bad men and lower people” (Brown 127). However, as noted by Kathleen Belew, these vigilantes often targeted Native Americans, racial minorities, religious minorities like the Mormons (Belew 96). Brown also couches his terminology, using words like “troublemakers” or “outcasts” to refer to severe and persistent discrimination of religious, racial and cultural minorities. As such, these categories are not particularly useful for analyzing the morality of vigilantism.

Rosenbaum and Sedeberg divide vigilantism according to the type of normative code that the vigilante seeks to uphold: crime-control, social-control and regime-control (Rosenbaum and Sedeberg 19). They describe crime-control vigilantism as acts directed against people who are believed to have broken formal laws (Rosenbaum and Sedeberg 10). By contrast, social-control vigilantism is when the vigilantes are directed against people with competing values to the status quo (Rosenbaum and Sedeberg 12). Regime control involves establishment violence that seeks to alter the state government or regime

(Rosenbaum and Sedeberg 17). There are several issues with this categorization as well. First, Rosenbaum and Sedeberg define vigilantism as establishment violence, which includes everything from state-sanctioned activity to the actions of private citizens (4). As discussed in Chapter One, there are many vigilantes who oppose the established order, and the actions of state officials should not count as vigilantism. The entire category of regime-control does not fit with my account of vigilantism from Chapter One, and in fact seems more in line with political activism or terrorism. Crime-control and social-control are both activities that occur within my definition of vigilantism, but it is unclear what is gained by dividing vigilantism into these categories. Whether the vigilante is upholding a legal code or a social code, they can still act with the same motivations and in the same manner. As far as the morality of the action is concerned, this is not very useful either.

In addition to the earlier scholarly attempts, there are many other ways to sub-divide and categorize vigilantes. They can be divided according to the number of people and level of organization: lone vigilantes, organized groups, and mobs. They can be divided according to their location and composition: whether they occur in the city or rural areas, whether they are made up of the working class, or local residents, or members of some social minority. Vigilantes can be

divided by the type of illegal activity that they engage in: theft, property damage, assault, murder. They can be divided by their motivation: whether they are defending a vulnerable group or persecuting them, whether they are enacting personal grudges. They could even be divided according to their background conditions: whether there is a history of vigilantism, whether there is a stable government, whether the employment rates are high, and other social factors. Given all of these possibilities, it is very difficult to make any generalized statements about the morality of vigilantism.

In some way, all of the factors described above have some influence on the morality of vigilantism. I will focus on the motivation of the vigilante within this chapter, as it seems to be most relevant to the question of morality. The number of people, the location and the composition of vigilantes are not greatly relevant to whether or not they are acting morally. The type of illegal activity is certainly relevant, but it is very difficult to divide vigilantes in this manner. Vigilantes tend not to stay within one type of coercion, and often, they will use a number of different coercive tactics at once. The background conditions of vigilantism is a very interesting question, and contributes at least indirectly toward the morality of the situation, but this topic would require far more extensive research. As such, I have only divided vigilantism according to the vigilante's motivating factors.

### *3.3.1 Defensive Vigilantism*

Defensive vigilantism involves protecting a vulnerable group from government or societal persecution. The Gulabi Gang is a good example of this type of vigilantism, as it targets people who in turn target impoverished women and children (White and Rastogi 323). As discussed earlier, a vulnerable group can refer to racial minorities, or persecuted religious groups, or any other group who has been historically and severely disadvantaged within the society. This casts a rather wide net, but this form of vigilantism only refers to cases in which a vulnerable group is targeted because of this historical vulnerability. Moreover, this is not a situation in which prejudice or mistreatment is expressed through coldness or unpleasantness, but rather outright violence or coercion. In other words, the safety of the vulnerable group is at stake. Hence, the vigilante's actions are in defence of these people. Defensive vigilantism is easier to identify when it occurs against state entities who explicitly or tacitly discriminate against some group within society. It can also occur when other private citizens target a group within society. The vigilante may or may not be a member of this vulnerable group.

Defensive vigilantism is not always an ideal course of action, and it can be completely unjustified under some circumstances. It may also have unintended

consequences, like increasing hatred toward the vulnerable group in question, or triggering heavier state sanctions. Additionally, if one vulnerable group targets another, this form of vigilantism can easily turn into persecution of that other group, which I will discuss further in another section. However, it can be strongly justified under some circumstances as well, provided that it follows the conditions for morality discussed earlier.

### *3.3.2 Persecution Vigilantism*

This form of vigilantism involves targeting a group or individual because of some circumstance beyond the individual's control, such as racial identity, religious affiliation, physical or mental abilities, or some other factor. The most evident example of this form of vigilantism involves persecuting members of a vulnerable population, as defined earlier. Unlike defensive vigilantes, persecution vigilantes may not be willing to openly admit their motives. This might present a problem in terms of classification, since it is not ideal to make assumptions about underlying motivations. In this case, the vigilante's motives should be fairly clear from their pattern of behaviour.

Persecution vigilantism is perhaps the closest form of vigilantism to outright terrorism, largely because the vigilantes seek any target within a certain

social group rather than specific people who have broken specific rules. Additionally, their actions in targeting specific people have the larger goal of terrorizing a community. In this case, the distinction between vigilantism and terrorism comes down to the fact that these vigilantes still claim to adhere to some code of norms, and at least make a pretense at targeting wrongdoers. For instance, they may feel the need to present evidence, or to justify their actions.

This form of vigilantism is never morally justified. Persecution vigilantes are deliberately targeting a group of people because of their membership in a social group, which goes against the first criterion for impartiality. These vigilantes may also fail the third criterion, especially if they are targeting members of a vulnerable group. At the same time, it is important to note that the vigilantes may themselves be members of a vulnerable group, and their targets may be members of the dominant group in a society. In other cases, vigilantes of this form will claim that they are protecting one vulnerable group as they persecute another vulnerable group, such as the anti-Ibo vigilantes in northern Nigeria (Rosenbaum and Sedeberg 14). In any of these cases, vigilantes who persecute other members of society cannot be morally justified.

### *3.3.3 Internal Vigilantism*

This form of vigilantism involves internally policing a community rather than bringing in external security forces. In other words, the vigilante/s act as a pseudo-police force, because the community is unwilling or unable to appeal to the actual police force. There are many reasons for this type of vigilantism to occur, most notably if the legitimate authorities are discriminatory and likely to overreact. For example, certain black communities in the USA have internal policing practices, due to racial prejudice from ordinary police and legal systems (Rosenbaum and Sedeborg 11), (Marx and Archer 145), Brown (129). Another reason for internal vigilantism is that a community may seek to uphold cultural or religious norms that are not illegal, and are thus outside the scope of police activity. For instance, an Islamic community in Huddersfield, England would hire people to track down and forcibly bring back runaway wives and daughters (Johnston 43). In each of these cases, the motivation is to maintain an insular, self-directed community, and to avoid the ordinary legal system.

Internal vigilantism can also occur during civil warfare or a foreign occupation. In the former case, the ordinary legal system is itself under question, and different police forces may enforce different rules. Alternately, the police force may be unavailable during this time, fighting in the war or abandoning their duties. Similarly, in a foreign occupation, there are different sets of rules that

would be enforced by different people. If the invaders took over policing duties, as occurred in British India, citizens may not feel comfortable in bringing their problems to these people. Alternately, the local authorities may be unable or uninterested in police activities during this time. In these situations, some communities choose to police themselves rather than subject themselves to a problematic or non-existent legal system.

Finally, a community could be cut off from external aid due to a plane crash, or flooding, or some other calamitous event. Again, they would not be able to call upon authorities to help them under these conditions. As such, vigilantism could be a viable alternative to a complete lack of security. Unlike some of the earlier cases listed in this section, this is a situation in which vigilantism is used as a stop-gap measure while the ordinary legal processes are temporarily unavailable. Presumably, the vigilantes would be willing to relinquish their temporary police powers as soon as the ordinary law enforcement could reach them.

Internal vigilantism can be strongly morally justified in some cases, but as indicated by the runaway women example, it can be very problematic in other cases. If the conditions for morality listed in this chapter are fulfilled, the vigilantes should be acting within moral bounds. In this situation more than any

other, the vigilantes can simply mimic the ordinary legal system's practices and procedures. Crucially, unlike defensive vigilantism or persecution vigilantism, there is no us and them narrative for internal vigilantism. Instead, it involves a community of us, working together to protect the community. This remains true even if the community as a whole did not appoint the vigilantes, and does not fully accept their authority. The relevant factor is that the vigilantes regard themselves and their targets as part of the community that they are monitoring.

#### *3.3.4 Spontaneous Vigilantism*

Spontaneous vigilantism is an interesting phenomenon, in which there is no prior intention or planning to commit vigilantism. Instead, the vigilante or vigilantes act in response to some immediate stimulus, and attack or otherwise coerce their victims accordingly (Shotland 31), (Brown 103). The most evident cases of this behaviour occurs in mobs, but spontaneous vigilantism can involve smaller groups or individuals as well. Spontaneous vigilantism differs from other forms largely because of the way it occurs. In this situation, people are not acting out of planning or forethought, nor do they consider why or how they are acting. They are triggered by something, be it anger, or injustice, or fear. In fact, it is akin to someone with PTSD acting on impulse, without planning or intention. It is very

different from a deliberately chosen course of action, more reflexive rather than a rationally considered decision.

Sociologist Les Johnston has argued that spontaneous vigilantism is not really something that occurs. Instead, he suggests that these cases still involve premeditation due to a local cultural acceptance toward vigilantism (Johnston 222). However, there are two significant problems with this line of reasoning. First, it is untrue that spontaneous vigilantism only occurs when the culture at large has already accepted vigilantism. There are many documented cases of spontaneous vigilantism in places where vigilantism is not a common or widely accepted phenomenon. For instance, a crowd of bystanders converged on a man with a gun (Shotland 31). In this case, there was no wide acceptance of vigilantism, and there was a well-functioning police system nearby.

Second, even if there is a prior culture of acceptance around vigilantism, this would not constitute premeditation. Premeditation suggests that a person intends to do a specific activity prior to committing that activity. The fact remains that this group of people, without prior planning or intention, chose to take the law into their own hands. They did not form the intention to engage in vigilantism. This situation is very different from other forms of vigilantism, more akin to mob activity. As such, the phenomenon of spontaneous vigilantism is still

be worth studying in isolation from other forms of vigilantism. Indeed, it is an open question as to whether vigilantes are in possession of their rationality in these cases. Logically, their actions make sense in that there is a rational connection between the vigilante's actions and the outcome. The crowd did not attack each other, or random passers-by. Even if they did not intend commit vigilantism, they still seem to own their action to some extent. Further research is needed on specific cases of spontaneous vigilantism, in order to gain a clearer sense of the vigilante's state of mind. Regardless, spontaneous vigilantism is not premeditated, and thus it differs from other forms of vigilantism.

The morality of this form of vigilantism is very complicated. On the one hand, spontaneous vigilantes fail the first criterion outright. There is no sense of due process, no attempt to consider evidence or hear other opinions, or maintain impartiality. The proportionality criterion is difficult to gauge, given that the vigilante or vigilantes are not trying to determine the most appropriate course of action at the time of the attack. The other criteria discussed within this chapter may be fulfilled in some cases, but they may not always hold true. As such, it seems that this form of vigilantism cannot be strongly justified.

Yet at the same time, spontaneous vigilantism is the closest form of vigilantism to self-defence. Chapter One discusses some of the differences

between vigilantism and self-defence, such as the fact that vigilantes perform illegal coercive activities, and the fact that vigilantes presume upon state authority. Nonetheless, there is some gray area between vigilantism and self-defence, and spontaneous vigilantism may fall into this category. In the example described above, the vigilantes' victim had already fired into the crowd a few times, injuring one man and mortally wounding a young boy (Shotland 31). The crowd had reason to fear for their lives, and their actions could perhaps be ascribed to self-defence. In this case, the crowd did not disperse or move away from the shooter. Instead, they attacked him and continued to kick the man long after he had been subdued (Shotland 31). Other cases of spontaneous vigilantism are easier to distinguish from self-defence, such as a group of taxi drivers who chased down a car thief and assaulted him (Shotland 30). Ultimately, spontaneous vigilantism cannot be strongly justified, but it may be weakly morally justified. True cases of self-defence are strongly morally justified, and perhaps a closer examination of some borderline cases could determine more precise distinguishing factors between the two.

### *3.3.5 Grudge Vigilantism*

Grudge vigilantism involves targeting people whom the vigilante has a

personal reason to pursue. It can come about in a few different ways, most notably when the vigilante believes that they are the victim of some wrongdoing. For instance, Les Johnston discusses a case in which a truck driver hit a man's son while driving without his license. The man then tracked down the driver and shot him (Johnston 223). In this case, the vigilante also perceived himself as his target's initial victim. Grudge vigilantism can also occur when someone close to the vigilante was the initial target. For instance, a man was suspected of robbing someone's home. The person's son and two friends then attacked the man, accidentally killing him (Johnston 227). In this case, the vigilante still has a personal grudge against their victim, but it occurs indirectly.

Grudge vigilantism can also occur when the vigilante targets someone whom they have a personal reason to dislike. In this case, the vigilante is not personally affected by their target's actions, nor was someone close to the vigilante injured. Instead, the vigilante has a grudge against their victim for some other personal reason. Unlike defensive or persecution vigilantism, this form of vigilantism involves a specifically personal connection. These are often one-off cases of vigilantism, in which the vigilante does not continue to act as a police authority within a larger community. In theory, this form of vigilantism can be strongly morally justified. The vigilante could maintain their impartiality,

overlook their personal connection to the situation and follow through the five conditions with perfect rationality. In practice, it is highly unlikely for the vigilante to act with impartiality, because the nature of this type of vigilantism involves targeting someone whom the vigilante already has reason to dislike. As such, it is more likely that this form of vigilantism will be morally optimal or morally unjustified, rather than being fully justified.

### **Conclusion**

Vigilantism is a very broad term, and it can be subdivided into different categories, according to a number of factors from the number of vigilantes to the vigilante's pattern of behaviour. It encompasses morally justified, morally optimal, and morally unjustified courses of action, but strongly morally justified cases like the Gulabi Gang are exception rather than the norm. Therefore, we should be doubly cautious when distinguishing justified and unjustified cases of vigilantism. Six conditions that are important for determining strong moral justification include: impartiality and due process, extraordinary legal circumstances, protection of vulnerable groups, proportional or minimal punishment, rebuilding a legitimate legal system, and advancing some conception of justice. Collectively, these six factors strongly justify vigilantism, and the

absence of any one of these factors is morally problematic.

Within this chapter, I have divided the broader term *vigilantism* into different categories, based on the vigilante's motivations. These categories are: defensive vigilantism, persecution vigilantism, internal vigilantism, grudge vigilantism, and spontaneous vigilantism. On their own, none of these categories will ensure that the vigilante is morally justified. Additionally, categories like persecution vigilantism and grudge vigilantism are never strongly morally justified. However, provided that the vigilante follows the conditions outlined in this chapter, they should be morally justified. It is important to note that this is not an exhaustive list of the different kinds of vigilantism. For instance, the recent rise of cyber-vigilantism is an interesting case which tends to fall under some of these other categories. Moreover, there is more information to gather, and more to learn from dividing vigilantism in other ways. As such, further studies are needed on the moral implications of the different kinds of vigilantism, and how they occur in real life. Within the constraints of this particular project, this can only be a cursory study of vigilantism.

### **Concluding Remarks**

*"Justice will not come to Athens until those who are not injured are as indignant as those who are injured." – Thucydides*

In my introductory remarks, I stated three goals for this thesis: defining vigilantism in a philosophical context, establishing that vigilantism can be morally justified, and contributing to the scholarly discourse on vigilantism. Through the past three chapters, I covered each of these goals, though only at a very basic level. Vigilantism is still an underdeveloped concept, and there is still so much more to explore on the subject. Given the current global climate of radicalization and violent retaliation, this thesis is extremely topical and relevant. Under these circumstances, we must fully consider the negative consequences of breaking the law. It is also important to understand what responsibility the state has towards its citizens, and what enables citizens to take the law into their own hands.

My definition of vigilantism, from Chapter One of these thesis, remains: (a) private citizens who (b) use coercive extra-legal measures (c) against alleged transgressors of some normative code, (d) to fulfill their conception of justice (e) in place of state-sanctioned police or judicial authorities. This definition distinguishes vigilantism from activities like police brutality, terrorism, and domestic abuse. I ended Chapter One by discussing previous scholarly attempts to

define vigilantism, and my concerns with each.

Chapter Two discussed both deontological and consequentialist arguments against the practice of vigilantism as a whole. I also addressed some objections that do not fall into either category. Ultimately, I argue that all of these objections can be overcome, using the real-world example of the Gulabi Gang as a morally justified case of vigilantism. This primary case study involves a group of mainly female activists in rural northern India. The women use vigilantism as a means to correct severe gender imbalances in the exercise of law, given that many communities and police officers of this region are reluctant to take action against domestic abusers and rapists. This chapter established that vigilantism can be weakly morally justified, and offered some potential requirements for moral justification.

Chapter Three rounded out the argument from Chapter Two by discussing the conditions under which vigilantism can be strongly justified. I identified six necessary and sufficient conditions: extraordinary breakdown of a legal system, impartial and publicly known procedures, protection of the most vulnerable members of society, proportional response for a wrongdoing, attempts to rebuild proper social structures, and advancement of justice. I also considered some other criteria, such as consent, accountability, and rationality. Chapter Three also

considers the different ways that vigilantism can be subdivided, and some of the insights that can be thus gained. This chapter discussed defensive, persecution, internal, grudge and spontaneous forms of vigilantism, each of which had different moral implications.

My thesis can also extend beyond these particular topics, as it has important implications for many subjects. Within these three chapters, I have argued that vigilantism may be justified when there is no reliable legal system, including conditions of civil warfare, systematic discrimination, and foreign invasion. This raises questions about the positive force of law, and the extent to which the state's authority can or should be challenged. There are questions about each of my arguments, whether they hold up to closer scrutiny, how they relate to other forms of citizen-state activity, and whether there are additional factors that need to be addressed.

Outside of philosophy, these ideas can also be expanded upon in political science, sociology, gender and cultural studies, and many other academic fields. Even if my arguments prove to be problematic or inconclusive, recent political events in Canada and the United States indicate that we need to develop a more robust understanding of vigilantism. This result can only be brought about through further discussion and research.

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