



## Illegal Investment Crimes in the Perspective of Anomie Theory

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**Abstract:** This study aims to analyze criminological reviews based on the theory of anomie criminal acts of fraud (Illegal Investment) and law enforcement of criminal acts of fraud in the Gorontalo Regional Police. This study uses the Normative - Empirical method. By using primary data and secondary data, data collection techniques through interviews, observation, and literature studies. The results of this study indicate the causes of people becoming perpetrators of illegal investment fraud, namely wanting to enrich themselves, and taking advantage of opportunities for the lack of public knowledge about the mechanisms and ways of working investment products and the general public. Factors that lead to criminal acts of illegal investment: Economic, environmental, and social factors Investing in Indonesia is regulated in Law no. 25 of 2007 concerning Investment. Law enforcement by the Gorontalo Regional Police general criminal investigation cyber investigation process through complaints of victims of illegal investments. To obtain the identity of the perpetrator, and the role of the perpetrator in the implementation of investment fraud crimped es, an investigation process is carried out up to the final stage of the legal process.

**Keywords:** Crime, Anomie Theory, Illegal Investment;

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## 1. Introduction

Indonesia is the highest agreement of the state's farmers, even though it has experienced a constitutional test when the 1945 Constitution was amended into the Constitution of the United Republic of Indonesia in 1949, even so the recognition of the regions under the auspices of the State of Indonesia is still recognized.<sup>1</sup> An absolute requirement for state sovereignty is the existence of a society that obeys the constitution and its government.<sup>2</sup> Because the essence of the constitution is the conception of the state which is the basis and limitation of the constellation of the state administration system.<sup>3</sup> Therefore, in legal politics, a legal discovery and new law-making that is in accordance with the goals of the State is a value that must be implemented in order to achieve legal supremacy and justice.<sup>4</sup>

In our daily lives, even in society, in order to make ends meet, there are often crimes and violations committed by certain people and people who threaten some members of society, which in law is known as criminal acts.<sup>5</sup> At present, not only the crime rate or quantity of crime is increasing but also the type of crime or quality has developed rapidly in Indonesia. Criminal sanctions are seen as an effective solution in tackling this problem. Criminal sanctions are a manifestation of the state's responsibility to maintain security and order as well as efforts to protect the law for its citizens. This is a logical consequence of the concept of forming a state which, according to JJ Rousseau, is based on community agreements. Furthermore, the people agreed to enter into a noble agreement (*modus vivendi*) which was set forth in a basic law in the form of the state constitution.<sup>6</sup> Legal protection is needed because of efforts to integrate various needs in associations so that there are no conflicts between needs and can enjoy all the rights granted by law.<sup>7</sup> The state is firmly obliged to try to fulfill the rights of every citizen.<sup>8</sup>

Talking about crime, the notion of crime can be interpreted criminologically and juridically. Crime in the sense of criminology is a human act that has violated the rules or norms and rules that apply in people's lives. Meanwhile, crime in a juridical sense is a human act that has violated criminal provisions. Soedjono Dirjosiswoyo said that

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<sup>1</sup> Novendri M. Nggilu, "Tinjauan Yuridis Pengaturan Sanksi Pidana Dalam Peraturan Daerah Provinsi Gorontalo," *Lambung Mangkurat Law Journal*. 5, No. 2 (2020): 109-121., 110

<sup>2</sup> Mellisa Towadi and Nur Mohamad Kasim, "An Indication of China ' s Policy towards Uighurs and Its Implications by International Law Aspects." *Jambura Law Review*. 3, No. 01 (2021): 55-71., 69

<sup>3</sup> Ahmad dan Novendri M. Nggilu Fakultas, "Denyut Nadi Amandemen Kelima UUD 1945 Melalui Pelibatan Mahkamah Konstitusi Sebagai Prinsip the Guardian." *Jurnal Konstitusi*. 16, No. 4 (2019): 785-808., 791

<sup>4</sup> Mohamad Hidayat Muhtar, "Model Politik Hukum Pemberantasan Korupsi Di Indonesia Dalam Rangka Harmonisasi Lembaga Penegak Hukum." *Jambura Law Review*. 1, No. 1 (2019): 68-93., 73

<sup>5</sup> Dian Ekawaty Ismail and Mohamad Taufiq Zulfikar Sarson, "Criminology Analysis of Women's as Perpetrators of Domestic Violence Crimes," *Jambura Law Review* 3, no. 1 (2021): 57-76., 58

<sup>6</sup> Ramdan Kasim, "Dehumanisasi Pada Penerapan Hukum Pidana Secara Berlebihan (Overspanning van Het Strafrecht)," *Jambura Law Review*. 2, No. 1 (2020): 1-29., 3

<sup>7</sup> Jufryanto Puluholawa, Mellisa Towadi, and Vifi Swarianata, "Perlindungan Hukum Situs Bawah Air Leato / Japanese Cargo Wreck The Legal Protection of The Leato Underwater Site" *Jurnal Reformasi Hukum* 24. No. 2 (2020): 189-208., 197

<sup>8</sup> Julius Mandjo, "The Right to Obtain Free Assistance and Legal Protection for The Indigent People Through Legal Assistance Organizations." *Jambura Law Review*. 3, No. 02 (2021): 365-77., 375

"Crime is an act that is prohibited by law and whoever commits an act that violates the law will be punished."<sup>9</sup>

Investment or often referred to as Investment, the term has now become a familiar thing among the public. Investments describe the agreement of investing a certain amount of money in one or more assets accumulating value over time. Many people try to invest in stock investments, bank savings, forex trading, property, and other types of investments because of the benefits they get from doing so.<sup>10</sup>

The purpose of investment or investment in this case Because it strongly opposes fraudulent investment operations, it has the potential to undermine or destroy investment laws, banking laws and national economic activities. In general, investment fraud has negative consequences, namely the growth of violations in Article 46 of Law Number 7 of 1992 in conjunction with Law Number 10 of 1998 which regulates banking, as well as Article 378 of the Criminal Code.<sup>11</sup>

Awareness and understanding of existing laws is the most important part. As a result, there is law enforcement and protection for all parties, and investment law in this case is closely related to regulations such as those based on banking laws, which are explicitly defined and threaten perpetrators. fraudulent investment (fraudulent) with imprisonment and fines. This kind of illegal investment continues to occur even though there are currently legal mechanisms that strictly limit this action, but this unlawful investment activity continues to grow and develop, attracting a lot of public attention. attitudes and legal culture of the people themselves,<sup>12</sup>

Based on criminal provisions against fraudulent investment activities that are closely related to corporate crime or the scope of criminal liability, legal arrangements, and criminal threats against illegal investment activities

where this crime has a clear link with fraud. subject to criminal sanctions based on the provisions in Article 378 of the Criminal Code. There is a criminal article in this article, according to Moeljatno, namely regarding fraudulent acts (bedrog).<sup>13</sup>

Based on criminal provisions against fraudulent investment activities that are closely related to corporate crime or the scope of criminal liability, legal arrangements, and criminal threats against illegal investment activities where this crime has a clear link with fraud. subject to criminal sanctions based on the provisions in Article 378 of the Criminal Code. There is a criminal article in this article, according to Moeljatno, namely regarding fraudulent acts (bedrog).<sup>14</sup>

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<sup>9</sup>Soedjono Dirjosiswoyo, *Ruang Lingkup Kriminologi Revisi Ke 3* (Bandung: Remaja Karya).

<sup>10</sup>A. A. Angga Primantari and Kadek Sarna, "Upaya Menanggulangi 'Investasi Bodong' Di Internet," *Kertha Semaya* 2, no. 3 (2014): 1-5.

<sup>11</sup>Nando Mantulangi, "Kajian Hukum Investasi Dan Perlindungan Terhadap Korban Investasi Bodong," *Lex Administratum* V, no. 1 (2017): 108-15.

<sup>12</sup>*Ibid.*

<sup>13</sup>Moeljatno, *KUHP Kitab Undang-Undang Hukum Pidana* (Jakarta: Bumi Aksara, 2007).

<sup>14</sup> Pasal 378 KUHP.

Investor development during a pandemic has become an opportunity for the Illegal Investment Mafia (Fraud). Task Force In the last ten years, Investment Alert has reported losses as a result of fraudulent investment activities, breaking through the staggeringly high Rp. 117 Trillion, reported by CNBC Indonesia, 2021. Illegal investment is of course very contrary to the main objective of investment to facilitate the country's economic activities. In 2019 there were 442 fraudulent investment cases. There were 349 cases in 2020, and 43 cases as of March 2021. (CNBC Indonesia, 2021). Lack of legal understanding and knowledge among ordinary people gives opportunity to investment mobsters to collect illegal cash who do not understand the difference between illegal and legitimate investments.<sup>15</sup>

Investment, according to Henry Simamora, is an activity carried out by the company to expand the wealth created through the distribution of results. investment such as royalties, interest rent, dividends or so forth. This is to appreciate the value of the investment and is also useful for a company that participates in investment activities, for example strengthening relationships, in this case, namely trade.<sup>16</sup>

What has been described by one of the experts above, it can be concluded that investing activities are activities that are good for oneself and for the company as long as they do not violate the laws or legal regulations that have been set.

In the Gorontalo Region itself there are investment activities that are the same as other investment activities in this case, namely the capital market, but related to these investment activities, there are serious problems in the investment activities that are participated in by the community, it turns out that they are not legal entities and result in many people experiencing serious losses. very big in illegal investment activities, investments that are promised with multiples of capital are ultimately not returned by those who carry out fraudulent investment activities.

## **2. Method**

The research method used in this paper is the Normative-Empirical method. By using primary data and secondary data, data collection techniques through interviews, observation and literature studies.

## **3. Analysis and Discussion**

### **3.1. Criminological Studies and Anomie Theory Views of Fraud (Illegal Investment)**

In contemporary criminology, the proposed link between anomie and crime is usually traced to the work of Emile Durkheim. However, despite the prominence of anomie theory in this field, Durkheim's theory of anomie and crime has not been carefully

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<sup>15</sup>Lie Natanael et al., "Pengaturan Hukum Positif Indonesia Tentang Investasi Bodong (Forex Ilegal)," *Prosiding Senapenmas*, 2021, 1119, <https://doi.org/10.24912/psenapenmas.v0i0.15147>.

<sup>16</sup><https://prospeku.com/artikel/investasi-menurut-para-ahli---3252.html>.

described and elaborated. Durkheim does not provide an extensive discussion of how anomie affects crime rates, and he certainly does not present anomie as the sole cause of crime. Nonetheless, a careful examination of the somewhat elusive concept of anomie, along with a few minor conclusions, yields a relatively coherent theory of crime that differs from popular interpretations of his work. The analysis begins with an investigation of five different conceptions of anomie that can be abstracted from Durkheim's writings. This is followed by an examination of what he meant by anomie as a cause of property crime, violent crime, and "juvenile crime." The final section explores the effect of anomie on criminal law – that is, on decisions to define and treat various acts as criminal. Unlike most contemporary anomie theories, Durkheim's theory, as described in this journal, integrates the theory of anomie put forward by the French sociologists, Emille Durkheim (1858-1917), and Robert Merton. Durkheim's opinion was put forward before Merton's. Durkheim used the term anomie to refer to a deregulated condition. According to him, rapid and gripping social changes in society have a major influence on all groups in society. The main values and values that have been accepted by society become blurred and even disappear. This situation encourages the uncertainty of norms and even the absence of norms. Durkheim describes the concept of anomie as a condition in society where there is hopelessness or a lack of norms. Anomie is also a result of rapid social change. Anomie exists in every society and manifests itself not only in crimes but also in suicides. All of this happens because of the absence of social norms, and the absence of social controls that can control deviant behavior. Durkheim describes the concept of anomie as a condition in society where there is hopelessness or a lack of norms. Anomie is also a result of rapid social change. Anomie exists in every society and manifests itself not only in crimes but also in suicides. All of this happens because of the absence of social norms, and the absence of social controls that can control deviant behavior.<sup>17</sup>

causes and effects of crime with explanations of various theories and perspectives.<sup>18</sup>

The following is data on investment cases handled by the Gorontalo Police Ditreskrim from 2020 to 2022:

In 2020 there was 1 case (Lp/53/II/2020/Siaga-SPKT, 10 February 2020 concerning the alleged Umrah Quota Investment mode), in 2021 there was a decrease in cases and in 2022 the same cases occurred again with a total of 4 cases of Lp/B/114/V/2022/SPKT/Polda Gorontalo, May 19, 2022 Concerning Alleged Fraud in Forex Investment Trader Mode, Lp/B/146/VI/2022/SPKT/Polda Gorontalo, June 30,

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<sup>17</sup> Hardianto Djangih dan Nurul Qamar, Penerapan Teori-Teori Kriminologi dalam Penanggulangan Kejahatan Siber (Cyber Crime), *Pandecta*, 13, No 1, (2018), 13.

<sup>18</sup> Amelia Indahni, Ramadhani Cassanti, Ranti Miranda Uliarta Manalu, Memperdagangkan Alibi dalam Perkara Keterlibatan Korupsi Menggunakan Teori Anomie dari Emile Durkheim, *Jurnal Hukum, Humaniora, Masyarakat Dan Budaya*, 2, No 1, (2022), 25



2022 concerning Alleged Fraud in Forex Investment Mode , Lp/B/193/VIII/2022/Siaga-SPKT/Polda Gorontalo, 25 August 2022 Concerning Alleged Fraud of Investment Mode Fx FamilyLp/B/213/IX/2022/SPKT/Polda Gorontalo, 13 September 2022 Concerning Alleged Fraud Forex Investment Mode

Data on investment fraud cases handled by DITRESKRIMUM POLDA GORONTALO for the 2020-2022 period

According to the authors of the table above, many people commit crimes, in this case, namely criminal acts of fraud (Illegal Investment) where the perpetrators carry out these activities in the midst of society with an investment mode. The number of members in investment activities in Gorontalo is 1,292 people with the total funds collected as much as Rp. 32 billion, and the amount of loss to the community is Rp. 18 M. Fraud is an act of crime that can be subject to criminal sanctions, with the development of the era the modes of fraud have also varied, one of which is by using the investment mode in the form of an amount of money that can be multiplied. Various types of illegal investment modes released by OJK, namely unlicensed money investing, online trading without permission with a multi-level marketing scheme, unlicensed investment offers with multi-level marketing or money game schemes with promises of large profits, investment offers or investment training without permission, unlicensed money investments with crypto asset modes and unfair returns, futures trading or crypto exchangers without permission, and futures trading commodity or forex without permission. At present the criminal act of fraud (Illegal Investment) is a crime that has received sufficient attention among the public.

The main goal is that the perpetrators want to make a profit or at least maintain their wealth for business people, both in the form of individuals and companies, but not all of them can achieve this goal, many of them do not get profits but instead become victims of fraud by irresponsible parties. This is due to the globalization factor which is increasingly sophisticated in information technology so that it has had an influence on the emergence of various forms of crime that are modern in nature and have a bigger impact than conventional crime.

### **3.2 Illegal Investment According to The Anomie Theory From Emile Durkheim**

The Anomie theory put forward by Emile Durkheim explains that anomie occurs as a form of loss of standards and values due to the collapse of the social order. Moral decadence makes fraud (Illegal Investment) feel normal, as has been done by many people who have been exposed to fraudulent actions in this case illegal investment. In contemporary criminology, the proposed link between anomie and crime is usually traced to the work of Emile Durkheim. However, despite the prominence of anomie theory in this field, Durkheim's theory of anomie and crime has not been carefully described and elaborated. Durkheim did not provide an extensive discussion of how

anomie affects crime rates. Sociologists see anomie as a major driver of crime and this has been for decades.<sup>19</sup>

The theory of anomie is a state where there are no norms. The people in that place do not comply with the rules or laws that have been enforced in that place. This theory is divided into three perspectives, namely:<sup>20</sup>

#### **a. Humans are Social Beings**

At this point of perspective, according to the author, the most perfect and highest-ranking creature created by God Almighty is human. In this world no one is the same and no one can live alone. So that it is ensured that every human being is always attached to his status which cannot be separated, namely individual beings and social beings. Humans as social beings means humans as citizens. In everyday life humans cannot live alone or meet their own needs. Even though he has position and wealth, he always needs other humans. Every human being tends to communicate, interact, and socialize with other humans. It can be said that since birth, he has been called a social being. Human awareness as a social being, will give a sense of responsibility to protect individuals who are much "weaker" than social beings who are "big" and "strong". Social life, togetherness, both non-formal (society) and in formal forms (institutions, the state) with their authority are obliged to protect individuals.

From an economic perspective, there are more and more needs that must be met and the higher the prices of necessities, the more a person has to work hard to earn an income. Therefore, with an investment whose income is greater than what is invested, people want to invest.

There are many advantages in investing, namely to expand economic activity, job prospects, as well as national income and people's welfare. Investment in this era has also become an opportunity for business activities to grow rapidly because it is supported by the increasing number of people who are more interested in investing, people's understanding of future needs or budgets, in addition to saving, people choose to invest.

#### **b. Human existence as a social being**

According to the author, in this perspective, the development of people's needs is increasing from day to day, which is one of the impacts of globalization. The community already has a outlook on life in facing the increasing and unexpected needs of life in the future. Particularly for the upper middle class people who are actively investing their wealth in the hope of being able to meet the needs of a better life and get abundant profits in the future. In addition, investment for some people is a new style.

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<sup>19</sup>Jón Gunnar Bernburg, "Anomie, Social Change and Crime. A Theoretical Examination of Institutional-Anomie Theory," *The British Journal of Criminology* 42, no. 4 (2002): 729-42.

<sup>20</sup>J. Mitchell Miller and Holly Ventura Miller, "Sociological Criminology and Drug Use: A Review of Leading Theories," *The Nurture Versus Biosocial Debate in Criminology: On the Origins of Criminal Behavior and Criminality*, no. January (2014): 315-32, <https://doi.org/10.4135/9781483349114.n19>.

They are competing to follow the investment trend which is being intensively carried out by several companies with the lure of profitable returns.

Based on the case approach using criminological theory in this case the theory of anomie which is divided into the 3 perspectives above, according to the authors it is known that the environment can affect a person's chances of committing a crime. In fact, crime or criminality is more common in the midst of people who are unfamiliar with the law, so someone deliberately takes advantage of the situation. Social factors greatly influence the development of crime in this case criminal acts of fraud (Illegal Investment). In addition to environmental factors, the authors realize that the level of a person's unsatisfied needs and desires reveals the assumptions that underlie the theory of anomie about human nature and the nature of crime, namely where humans are forced to seek satisfaction and are never fulfilled unless limited or regulated by social control.

### **3.3 Law Enforcement Against Fraud (Illegal Investment)**

The scope of criminology includes three things. The first is the target of what is known as a crime, the second is about the perpetrators of crimes or criminals and the third is how society reacts to both the act and the perpetrator.<sup>21</sup>

In law enforcement activities in the field there is usually a conflict between legal certainty and justice, this is because the conception of justice is an abstract problem formulation, meanwhile legal certainty is a procedure that has been determined by the rules. Therefore, a policy or activity that is not entirely based on law is something that can be justified as long as the policy or action is not against the law.<sup>22</sup> In order for a rule to work, the role of law enforcement officials is needed and it is also followed by legal awareness from the community itself. This interaction will greatly affect the operation of rules and law enforcement.

Legal norms are provisions or guidelines about what should be done in people's lives. Society and order are things that are very closely related, it can even be said as two sides of a coin. Order in society is created together. Therefore, society will be faced with various kinds of guidelines, foundations and rules, each of which contributes to creating this order. As a guide the rule of law is general and passive.<sup>23</sup>

In Article 13 of Law No. 2 of 2002 where the main duties of the Police as law enforcement officers are to Maintain Security, Public Order, and Uphold the law and provide protection, protection and service to the community.<sup>24</sup>

Law enforcement against criminal acts of fraud as stipulated in the Act on criminal acts of fraud in article 378 of the Criminal Code in this case in the case of Illegal Investments.

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<sup>21</sup> Topo Santoso & Eva Achjani Zulfa, *Kriminologi*, 12

<sup>22</sup> Laurensius Arliman, *Penegakkan Hukum Dan Kesadaran Masyarakat*, Ed. 1. Cet (Yogyakarta: CV. Budi Utama, 2015).

<sup>23</sup> Fifit Suharto ; Efend, Jonaedi ; Fitri Lutfianingsih, *Panduan Praktis Bila Anda Menghadapi Perkara Pidana : Mulai Proses Penyelidikan Hingga Persidangan*, Cet.1 ; Cet 1 (Jakarta: Kencana, n.d.).

<sup>24</sup> Pasal 13, "Indonesia, Undang-Undang Nomor 2 Tahun 2002 Tentang Kepolisian Negara Republik".



Article 378 of the Criminal Act of Fraud explains that: "Whoever with the aim of benefiting himself or others by fighting for rights, either by using a false name or fictitious circumstances, either by fraud or making false statements, persuades people to donate something, incurs debt or writes off debts, and punished for fraud"

Thus the elements contained in Article 378 of the Criminal Code include:<sup>25</sup>

1. The element of "whoever". Whoever is anyone who is a legal subject who can be held accountable for a criminal event, so the legal subject in this dispute is the perpetrator of investment fraud.
2. The element "with the intent to unlawfully benefit oneself or others". In this dispute, the perpetrators of investment fraud have circulated all of their users' money, then the perpetrators deliberately asked their users to invest their money, but the perpetrators suddenly disappeared with billions of victims' money.
3. The element of "using a false name or false prestige, with deception or a series of lies". In this dispute, the perpetrator deliberately carried out a series of lies to deceive the public and persuade users to invest as much money as possible in order to get abundant profits.
4. The element of "moving other people to hand over something to him or to give debt or write off receivables". In this dispute, the perpetrator deliberately moved all users to invite other people to join in investing, with persuasion they will get additional benefits. However, in reality this was done in order to maintain its business activities, because if there are no more people joining, then the illegal investments made by the perpetrators will collapse.

Cases of criminal acts of fraud that have become hot news and are currently rife in 2022 are investment fraud cases whose cases are being handled by Bareskrim Polda Gorontalo with a large number of victims and large losses by victims of illegal investments. The role of the Police as the front guard in every law enforcement that occurs in society is very vital, because that's where the law enforcement process begins, namely through the investigation process.

Law Enforcement based on the formulation of the problem studied by the author sees how the efforts made by law enforcement officials, namely the police in applying the legal norms of Article 378 and how the police uncover criminal acts of fraud in this case illegal investment and also how to anticipate problems that occur in Public.

Based on the results of interviews that the author has conducted with the Regional Police (Polda) Prov. Gorontalo, namely the investigation team on behalf of Mr. Brigpol Devi Roeroe regarding the Illegal Investment case, the answers obtained were:<sup>26</sup>

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<sup>25</sup> Pasal 378 KUHP

<sup>26</sup> Hasil wawancara yang telah peneliti lakukan dengan pihak Kepolisian Daerah ( Polda ) Prov. Gorontalo yaitu Tim penyidik atas nama Bapak Brigpol Devi Roeroe

## 1. Investigation Process

The investigation conducted by the Gorontalo Regional Police into cases of criminal fraud, in this case Illegal Investments, was carried out by the Police Crime Unit, namely Bareskrim Polda Gorontalo. The Investigation Stage is the initial stage carried out by investigators in conducting criminal investigations and the most difficult stage in the investigation process.

## 2. Investigation Process

Carrying out investigations of perpetrators and making reports on the results of case files. According to Brigadier Devi Roeroe, SH, the investigation conducted by the police knows no boundaries. Therefore it is necessary to cooperate with other law enforcement agencies. Because it is very important to collect evidence.

In the investigation process, evidence is required which is contained in Article 184 of the Criminal Procedure Code (Criminal Procedure Code). Valid evidence is:<sup>27</sup>

- a) Witness testimony;
- b) Expert testimony;
- c) Letters;
- d) Instructions;
- e) Statement of the accused

## 3. Proof Process in Criminal Cases

The evidentiary system is the regulation of the types of evidence that may be used, the breakdown of evidence and the ways in which the evidence is used and the way in which judges must form their convictions.<sup>28</sup>The sources of evidentiary law are:

- a. Constitution;
- b. doctrine or teachings;
- c. Jurisprudence

Proving whether or not the accused committed the act charged is the most important part of the criminal procedure. In this case, human rights are also at stake. What are the consequences if someone who is charged is declared proven to have committed the act charged based on the available evidence accompanied by the judge's conviction, even though it is not true. For this reason, criminal procedural law aims to seek material truth, in contrast to civil procedural law which is quite satisfied with formal truth.

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<sup>27</sup>Andi Hamzah, *Kuhp & Kuhap*, Cet. 17 (Jakarta: Rineka Cipta, 2011) hal 30.

<sup>28</sup>Lily ; Hari Sasangka Rosita, *Hukum Pembuktian Dalam Perkara Pidana* (Bandung: Mandar Maju, 2003) hal 11.

The history of the development of criminal procedural law shows that there are several systems or theories to prove the actions of the accused. This system or theory of proof varies according to time and place (country).

In the following, the author will describe the four systems or theories of proof mentioned above as follows:

a. System or theory of evidence based on positive law (Positief Wettelijke Bewijs Theorie)

Said positively, because it is only based on the law alone. This means that if an act has been proven in accordance with the evidence referred to by law, then the judge's conviction is not needed at all. This system is also called the theory of formal proof (formal bewijstheorie).

This system focuses on the existence of valid evidence according to law. Even though the judge is not sure of the guilt of the defendant, if there is valid evidence according to law, then he can sentence the defendant. So for example there are two witnesses who have been sworn in specifically and say the defendant's guilt, the judge must sentence the defendant to a criminal sentence even though the judge may believe that the defendant is innocent. And vice versa if the conditions in the form of two witnesses are not met, then the judge must acquit the defendant from charges even though the judge believes that the defendant is the one who is guilty.

b. The system or theory of proof is based on the conviction of the judge

This system or theory gives too much freedom to judges so it is difficult to supervise. So that with this it is difficult for the defendant or his legal adviser to defend himself.

c. System or theory of proof based on the conviction of judges for logical reasons (La Conviction Rais onnee)

According to this theory, a judge can decide someone is guilty based on his conviction, which conviction is based on the grounds of evidence accompanied by a conclusion based on certain evidentiary rules.

This system or theory of proof is also called independent proof because the judge is free to mention the reasons for his conviction. This system gives judges too much freedom, making it difficult to supervise. In addition, it is difficult for the defendant or his legal counsel to defend himself. In this case the judge can convict the defendant based on his belief that he has done what he is charged with.

The existence of Article 378 of the Criminal Code regarding the crime of fraud is very important so that fraud cases do not increase in this case illegal investments and it is necessary for law enforcers to be able to apply the norms or rules of Article 378 of the Criminal Code so that the goal of the State of Indonesia as a rule of law is achieved.

According to Mr. Brigpol Devi Reoreo as the assistant investigator for the Bareskrim Polda Gorontalo, in disclosing a criminal act it is carried out formally and according to procedures regulated by law, after the police receive reports or information and have examined the report, the police do so as soon as possible. fast, careful and thorough.

The obstacles in the process of enforcing the law on criminal acts of fraud (Illegal Investment) which have been explained by Mr. Brigpol Devi Reoreo as an assistant investigator for Bareskrim Polda Gorontalo, namely in enforcing the law on criminal acts of fraud in this case illegal investments assume that the community who is the admin of illegal and victims of criminal acts of fraud under the guise of investment are still not cooperative enough to be invited to cooperate with police investigators due to a lack of public awareness (Admin and Victims) to become witnesses. However, the police investigators are making efforts to overcome obstacles to the lack of public awareness to become witnesses in criminal cases of fraud under the guise of investment, namely by making good communication with the admin, victims and other communities so that cooperation can be established.

Apart from making repressive efforts, the police also carry out preventive efforts. Based on the results of the interview with the author, Mr. Brigpol Devi Reoreo as the assistant investigator for the Gorontalo Police Bareskrim that in preventive law enforcement efforts carried out by the Gorontalo Police, the Gorontalo Police focus more on prevention by appealing to all people, especially in the Gorontalo area, not to directly trust people. in doing business or investing in any form, the police also conduct socialization on how to make or differentiate good investments, and encourage the public to first learn about what investments they will be involved in.<sup>29</sup>

#### **4. Conclusion**

Criminological review of criminal acts of fraud (illegal investment) in the theory approach of anomie is caused by a situation without norms in society that occurred during a period of social crisis, Anomi Theory assumes that deviation is the result of various tensions in the social structure so that there are individuals who experience pressure and eventually become deviate. By using the anomie theory approach in this study, it can be concluded that the deviant attitude of the perpetrators that is contrary to existing rules and laws can cause unrest in society and can impoverish the community. Law enforcement by the Gorontalo Police's General Cyber Criminal Investigation Unit is by sending a summons to the victim to obtain more in-depth information regarding the case. To obtain the identity of the perpetrator, the role of the perpetrator in carrying out the crime of investment fraud, and later to examine witnesses for investment fraud cases. The General Criminal Investigation Cyber Unit (Reskrim) has created a strategy that will later be carried out to handle the case so that it can find a bright spot, the strategy is in the form of collecting complaints (data collection is carried out) then the files are made into one file and arrive later at the case

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<sup>29</sup>"Hasil Wawancara Hari Rabu 28 September 2022 Bersama Bapak Brigpol Devi Reoreo, SH Selaku Penyidik Pembantu Bareskrim Polda Gorontalo." (n.d.).

title to find out whether the incident that has been described above can be increased to the investigation.

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### **Interview**

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