

***JUDICIAL AND CRIMINOLOGY REVIEW OF THE POST-ELECTION RIOTS IN 2019
AND THE KANJURUHAN TRAGEDY IN 2022 AS SIGNS OF MASS CRIMES
FOLLOWED BY DEMONSTRATIONS.***

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Submitted: May 2, 2024; Reviewed: June 06, 2024; Accepted: June 11, 2024

Abstract:

Indonesia is a country governed by the rule of law, which makes law the foundation of governance and also a democracy. A democratic state signifies that the highest authority lies in the hands of the people. Some cases related to periods of expressing opinions in inappropriate ways and not in accordance with existing rules have occurred. The post-election riots in 2019 and the Kanjuruhan case are examples of cases that can impact society. The steps and efforts taken by the government to address these issues also raise questions about whether they are in line with applicable regulations. Therefore, by applying a normative juridical method in this research, the aim is to understand the state's response to the tragedy of the May 22, 2019 riots and the measures taken by the state to address them, as well as to understand how crime is considered commonplace and used as justification. The crimes that have occurred in these cases have had an impact and resulted in victims, so this becomes a discussion of the steps taken by the government and whether the actions taken by the masses can be justified based on the provisions in place.

Keywords: Criminology; Mass Atrocity; Demonstrations

INTRODUCTION

According to Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia (UUD NRI), Indonesia is a legal state. Everything in this country must be regulated by law as a consequence, whether it concerns the people or the government. Therefore, it is clear that everything in this country, including matters of society and governance, must be regulated by law. Discussing humanitarian values has its own appeal. Indonesia, as a legal state (*rechtsstaat*), has rules to protect human rights. However, the rules protecting these rights are often less than optimal in their implementation.¹ Yet, the State should be the pillar of protection for its citizens. It is necessary to understand that the legal state referred to is a state that upholds the supremacy of law to uphold truth, justice, and no unaccountable power.² Law enforcement in Indonesia aims to maintain comfort, order, and provide justice for the society. However, the justice that is supposed to be upheld often turns into a dominance of power. This not only applies within society but also among law enforcement officials who should play a role in upholding justice.³

Mass crime cases followed by demonstrations have occurred in Indonesia, such as the post-Presidential election tragedy in 2019 and the Kanjuruhan tragedy in 2022. The crimes in both tragedies were forms of immoral incidents. The state should fully implement the law enforcement system and human rights. According to UUD NRI The government is obliged to effectively follow

up on the results of investigations that have been, are being, or will be conducted.⁴ That's the saying that describes the Kanjuruhan tragedy in 2022. The riot began when a supporter entered the field, resulting in the stadium becoming conducive due to clashes among supporters. This led to law enforcement taking action, resulting in violence against the masses and riots occurring. This research will include a comprehensive description of the timeline of mass crime incidents.

METHOD

The research method used in this study is normative juridical research. This research is based on primary and secondary legal materials, which refer to norms found within the laws.⁵ According to Soerjono Soekanto, the normative juridical approach is a legal research method conducted by examining literature or secondary data as the basis of investigation, allowing for the exploration of various regulations and literature related to previously researched issues.⁶ In this study, the normative juridical method is used because it is suitable for addressing the research questions mentioned earlier.

ANALYSIS AND DISCUSSION

Brief Concept of the Rule of Law

Article 1 paragraph (3) UUD NRI states: "Sovereignty is vested in the hands of the people and is exercised according to the Basic Law." Thus, it can be said that in the 1945 UUD NRI of the Republic of Indonesia, there is a fundamental emphasis on democratic governance because such

¹ Khadafi Muhammad, Erwinsyahbana Tengku, and Eddy Triono, "Tinjauan Kriminologi Pelanggaran Hak Asasi Manusia Yang Diduga Dilakukan Oleh Oknum Kepolisian Dalam Proses Penyidikan" 24, no. 02 (2023): 135–146.

² *Ibid*

³ Khairul Ikham, *Penegakan Hukum: Dilema Penegak Hukum dalam Menciptakan Ketertiban*, (Humas Law:2023)

⁴ *Situs Resmi BPKP 2024*. Available at: <https://www.bpkp.go.id/sumut/konten/876/Koordinator-Pengawasan-Investigasi-I-dan-II.bpkp> (Accessed: 01 May 2024).

⁵ Soeryono Soekarto, pengantar penelitian hukum. (jakarta: UI Press, 1984), hal 20.

⁶ Soerjono Soekanto & Sri Mamudja, 2001, *Penelitian Hukum Normatif (Suatu Tinjauan Singkat)*, Rajawali Pers, Jakarta, Hal 13-14.

governance is based on popular sovereignty. Historically, the rule of law (Rechtsstaat) is an idealized state envisioned by the founding fathers⁷⁸

Soepomo argues that the concept of an integralistic "state" as a well-ordered nation, as a united and organized people, fundamentally eliminates any dualism between the "state" and the individual. There will be no conflict between the structure of the state and the legal structure of the individual, and there will be no dualism (the state and society free from state interference). According to Soepomo, the state is an integral social structure, where its members and parts form an organized societal unity, a unity that prioritizes the collective over the individual and transcends all social groups, a unity based on familial bonds.⁹

The role of the state in maintaining the rechtstaats, as associated with the post-Presidential election 2019 tragedy and the Kanjuruhan 2022 tragedy

One element of rechtstaats, according to Seheltema, is a government that serves the public.¹⁰ The concept of a rule of law state is a global idea embraced by almost all nations. Generally, there are two categories of rule of law states: Rechtsstaat and Rule of Law states. Although each type of rule of law state has its own characteristics, they both share a similarity in focusing on the protection of human rights.¹¹ What is used and recognized by the rule of law state is the existence of human rights that must be protected and guaranteed by the authorities.

Fauzi Iswari, "Aplikasi Konsep Negara Hukum Dan Demokrasi Dalam Pembentukan Undang-Undang Di Indonesia," *JCH (Jurnal Cendekia Hukum)* 6, no. 1 (2020): 127.

⁹ *Ibid*

¹⁰ Rokilah Rokilah, "Dinamika Negara Hukum Indonesia: Antara Rechtsstaat Dan Rule Of Law," *Nurani Hukum* 2, no. 1 (2020): 12.

¹¹ Fikri Hadi, "NEGARA HUKUM DAN HAK ASASI MANUSIA DI INDONESIA The State of Law and Human Rights in Indonesia," *Wijaya Putra Law Review* 1, no. 2 (2022): 170–188.

In its development, the rule of law state has four elements or characteristics, namely:¹²

1. Human rights
2. Division of powers
3. Existence of laws for government actions
4. Separate administrative justice

However, Azhari's opinion suggests that the concept of a rule of law state in Indonesia should be based on Pancasila, where its goal is to realize the aspirations of law or to master the basic laws of the state, whether written or unwritten. Therefore, the 1945 UUD NRI, as the highest legal basis of the Indonesian state, must not contradict Pancasila but must be based on Pancasila. Second, the concept of the basic constitution for the organization of the Indonesian state government, formally regulated in the 1945 UUD NRI of the Republic of Indonesia (UUD NRI). Third, popular sovereignty, where the people are the holders of the highest state sovereignty. Fourth, equality in the law, independent judiciary power, and fifth, the formation of laws. Azhari also annotates the concept of rechtsstaat in Indonesia as a state based on law. The concept of the state embraced by Indonesia includes four elements in the concept of rechtsstaat and three elements in the concept of rule of law.¹³ Below are two examples of mass crimes followed by demonstrations in Indonesia:

1. In 2019, a tragic event occurred that tarnished the democracy of the Indonesian nation. A protest carried out by supporters of presidential candidate pair 02, Prabowo-Sandiaga Uno, took place in front of the building of the Indonesian Election Supervisory Agency (BAWASLU RI). This protest was in response to the announcement made by the Indonesian General Election

¹² Moh Kosnadi and Bintan R Saragih, *Ilmu Negara* (Jakarta: Gaya Media Pratama, n.d.).

¹³ Bagio Kadaryanto, "Konsep Rechtsstaat Dalam Negara Hukum Indonesia (Kajian Terhadap Pendapat M.T Azhari)," *Al-Risalah: Forum Kajian Hukum dan Sosial Kemasyarakatan* 12, no. 02 (n.d.): 1–24.

Commission (KPU) regarding the presidential election results. Initially, the peaceful protest organized by the National Movement for People's Sovereignty proceeded peacefully but ended in chaos. The chaos during the protest was incited by a mysterious group that provoked law enforcement officers. The peaceful protest coincided with the month of Ramadan, during which the protesters held an iftar (breaking of fast) in front of the BAWASLU building and promised to disperse after the Tarawih prayers. However, around 300-400 individuals from the direction of Tanah Abang suddenly began hurling stones, firecrackers, and Molotov cocktails at the officers.

2. In 2022, a humanitarian tragedy occurred resulting in the loss of hundreds of lives. The riots that took place at Kanjuruhan Stadium in Malang, known as the Kanjuruhan 2022 tragedy, were a humanitarian disaster that claimed hundreds of lives due to the disappointment of spectators witnessing their beloved team losing for the first time in 23 years at their home ground. The initial cause was when one of the Aremania supporters entered the field, provoking other supporters to follow suit. This led to the police being provoked and immediately disciplining the supporters who entered the field by deploying tear gas. The tear gas caused the supporters to suffocate, and the limited stadium exits caused some supporters to collapse. The atmosphere inside the stadium became chaotic between the authorities and the supporters. The anarchic behavior of the authorities and the collapse of civilians intensified the situation inside the stadium. As a result of the disappointment, Aremania initiated a demonstration to demand a thorough investigation into the Kanjuruhan 2022 tragedy and justice. However, the demonstration organized by the masses turned into chaos, resulting in the

destruction of Arema FC's office and acts of anarchy as they rejected the arrival of law enforcement officers and urged them not to interfere. Consequently, the police apprehended 107 individuals.¹⁴

Each country strives to fulfill its vision and mission to improve the welfare of its people and uphold their rights. The role of the state in maintaining justice and the tranquility of the people necessitates responsibility in realizing the respect, recognition, protection, and enforcement of human rights. Assurance regarding the protection and enforcement of human rights will only exist in a democratic rule of law state, as in such a concept of a rule of law state, human rights can thrive. A democratic rule of law state can produce laws that are responsive and even progressive.¹⁵ Indonesia is a rule of law state, not a power state, as stated in Article 1 paragraph (3) of the UUD NRI, which reads, "The State of Indonesia is a rule of law state." To maintain the sovereignty of the state as a rule of law, the role of the government needs to protect the rights of its citizens securely, as human rights violations are a serious crime, and the recognition of human rights is a classical element used in the concept of a rule of law state. Indonesia's rule of law state has its unique characteristics compared to other rule of law concepts, whether it's the concept of Rechtsstaat or the concept of rule of law. Indonesia's rule of law state modifies the elements of rule of law in both Rechtsstaat and rule of law concepts, in accordance with the legal principles of the Republic of Indonesia based on Pancasila. As a rule of law state (Rechtsstaat), the role of law occupies a primary/high position (supremacy

¹⁴ https://r.search.yahoo.com/_ylt=Awr9z1671f51cTcEPHIXNyoA: ylu=Y29sbwNncTEEcG9zAzEEdnRpZAMEc2VjA3Ny/RV=2/RE=1712409276/RO=10/RU=https%3a%2f%2fnews.detik.com%2fberita%2fd-6324274%2ftragedi-kanjuruhan-kronologi-penyebab-dan-jumlah-korban/RK=2/RS=51.CBA61.QnOk5AZOtoVZbgt4M- diakses pada tanggal 22 Maret 2024, Pada Pukul 20:16

¹⁵ Qamar Nurul, *HAK ASASI MANUSIA DALAM NEGARA HUKUM DEMOKRASI* (Sinar Grafika, 2022).

of law) when the law can fulfill its primary function, which to:¹⁶

1. Protection. The purpose of law is to protect the population from injury and danger that may arise from others and from societal organizations.
2. Justice. Another function of law is to uphold, defend, and ensure justice for all individuals. On the other hand, there may be arguments stating that the relevant laws are deemed to be in conflict with principles and rights that we all believe everyone is entitled to.
3. Development. The third function and role of law is development, to promote development so that all Indonesian citizens can live prosperously.

Justice and the prosperity of the people are the responsibilities of the state to achieve. From the cases of the Post-Presidential Election 2019 tragedy and the Kanjuruhan 2022 tragedy, which resulted in the deaths of hundreds of people, the mastermind behind these riots remains unknown, once again, the state is accountable. The role of the state should fully implement the law enforcement system and human rights. The government is obliged to effectively follow up on the results of investigations that have been, are currently being, or will be conducted - primarily by the National Commission on Human Rights (Komnas HAM).¹⁷ The government must ascertain the motives and objectives of the anarchists among the demonstrators because those who provoke and behave anarchically are not representative of the entire mass group.

In 2019 post-election riot, which claimed many casualties, both injured and killed several people. Demonstrations or protests should ideally be conducted

peacefully, with a focus on safety, order, and national unity. The government's role and responsibility in 2019 riot involved taking decisive action against the perpetrators and imposing appropriate punishments. In the concept of a rule of law state, the government must take decisive action against individuals who violate existing laws. As citizens, we are obliged to obey and comply with legal regulations. In such mass demonstrations, in accordance with Law Number 9 of 1988 concerning Freedom of Speech in Public, protesters should have rights and obligations while maintaining ethics. The ethics in question involve maintaining behavior and ensuring that protesters adhere to human rights without deviating in a manner that could harm themselves or the state.

From the Kanjuruhan 2022 tragedy case, which resulted in the loss of hundreds of lives, there were no severe human rights violations. It's explained that actions constitute severe human rights violations if they involve the state, are carried out deliberately, in a structured and systematic manner.¹⁸ While the Kanjuruhan 2022 tragedy may not have been carried out in a structured and systematic manner, we often witness disparities in upholding justice and human rights in various aspects of national life. Sometimes, the law is enforced, but at other times, human rights are disregarded, and vice versa, human rights are respected but the law is ignored. Nevertheless, it is still argued that the Kanjuruhan 2022 tragedy constitutes a violation of human rights, with several pieces of evidence to be outlined.¹⁹

a. Human Rights Violations

Based on the declaration of the National Commission on Human Rights (Komnas HAM), it can be concluded that the management of football was not structured

¹⁶ Saleh Muliadi, "Aspek Kriminologis Dalam Penanggulangan Kejahatan," *FIAT JUSTISIA: Jurnal Ilmu Hukum* 6, no. 1 (2015): 1–11.

¹⁷ Mukhlis Mukhlis and Abdul Manan, "Peran Pemerintah Terhadap Masyarakat Korban Konflik Dan Kondisi Kehidupan Sosial Paska Damai," *Al-Ijtima'i: International Journal of Government and Social Science* 6, no. 2 (2021): 115–126.

¹⁸ Jurnal Hukum et al., "Keadilan Dan Perlindungan HAM: Refleksi Tragedi Kanjuruhan" 03, no. 01 (2024): 121–132.

¹⁹ Ardhito Ramadhan, Icha Rastika, *Pelanggaran HAM dan Tragedi Kanjuruhan*, (Kompas, 2022)

according to the appropriate process, leading to the Kanjuruhan disaster. It should have been the responsibility of the organizers to ensure the safety and security of the fans according to applicable standards.

b. Expired tear gas

According to the statement of Komnas HAM, the use of tear gas was the main cause of casualties in the Kanjuruhan disaster. Tear gas sometimes results in casualties even though it is not harmful.

c. Prohibition of tear gas use by FIFA (Federation Internationale de Football Association) Referring to Article 19 of FIFA Stadium Safety and Security Regulation, the use of tear gas and firearms is prohibited to secure the crowd inside the stadium: "No firearms or 'crowd control gas' shall be carried or used." This is stated in Article 19, point b, of the International Football Federation's regulations.

d. Violence committed by law enforcement

Violence committed by police and military personnel, both inside and outside the stadium, was also found and reported by Komnas HAM. The anarchic behavior and abuse by law enforcement officials resulted in deviant behavior and violations of legal regulations.

The high number of casualties in the Kanjuruhan 2022 tragedy does not reflect the principles of Indonesia as a rule of law state, known for its ability to protect the human rights of every individual. As the saying goes, "If there is no fuse, the fire will not ignite," depicting the tragedy of Kanjuruhan 2022. It was known that a supporter entering the field sparked the unrest, leading to the stadium becoming unstable. This prompted law enforcement to take repressive actions to restore order. As a rule of law state, all actions by the police must be based on the law. However, the dilemma lies in the fact that even though there are legal provisions granting the police the authority to use force to confront demonstrators, the police are still expected to prioritize persuasive methods in handling

such situations, especially when the demonstrators are fighting for truth and justice.²⁰

And it is imperative for the state to reverse the situation in accordance with the applicable laws and regulations. The strategy that the state needs to employ in addressing a crime involves using.²¹ Preventive and repressive measures are expected to mitigate crime even though street crime rates may not disappear entirely. Repressive efforts involve investigation, arrest, prosecution, and ultimately, adjudication by a judge. The implementation of repressive measures aims to impose sanctions on perpetrators of criminal acts.

Freedom and independence are among the rights of citizens, as mentioned earlier. Article 1 Paragraph (1) of Law No. 9 of 1998 concerning Freedom of Expression in Public states that everyone has the right to freely and responsibly express their opinions orally, in writing, and in any other manner in accordance with the provisions of applicable laws and regulations. With the mandate of the regarding the protection of human rights, there is no guarantee that fundamental rights will be directly protected and enforced, but the participation and intervention of the state, especially the government, are required. Because Indonesia is a democratic country, the role of the state extends beyond protecting human rights to also appreciating the rights of the people when they express their opinions. Freedom of expression and opinion in Indonesia is regulated and protected by law. There are two articles that regulate the freedom of expression, namely Article 28E of the 1945 UUD NRI of the

²⁰ Qurania Fifi, Hafidz Ma'ruf, and Sutiawati, "PERLINDUNGAN HUKUM TERHADAP MASSA AKSI SEBAGAI KORBAN TINDAKAN REPRESIF YANG DILAKUKAN OLEH OKNUM KEPOLISIAN," *Qawanin Jurnal Ilmu Hukum* 1, no. 1 (2020): 1–13.

²¹ Sasi Wahyuningrum, Agus Irawan, and Ridha Kurniawan, "Tantangan Dan Strategi Polri Dalam Penanggulangan Kejahatan Di Masa Pandemi Kajian Perspektif Politik Kriminal" 15, no. 2 (2023): 296–305.

Republic of Indonesia (UUD NRI) which states:²²

"Everyone has the right to freedom of association, assembly, and expression."

Indonesia's ideology aims to create security, order, justice, and prosperity in the lives of its citizens and requires that the law be obeyed, meaning that the law must be respected and obeyed by everyone without exception. As a unitary state, Indonesia has a strong foundation of the rule of law, where all activities must be based on the law and the state must participate in guaranteeing respect, protection, and fulfillment of civil rights, including a sense of security for all citizens. The state is responsible for protecting and upholding the human rights of every individual in all areas of community life, including legal, social, cultural, and economic aspects.

A Brief Description of People Power

People power in English is defined as the power of the people. The term people power can indeed mean polysemy or multiple interpretations. The history of the birth of people's power also has a link to collective memory which is focused on the decline of the ruling regime through massive popular demonstrations. For example, in the Philippines where the people are against the president who has been in power for 20 years. People power is remembered as peaceful resistance marked by daily street demonstrations.²³ People power, refers to the movement of people united to defend justice and freedom as a common goal. This includes social movements and political movements that subvert the established order of domination and have a common goal of overthrowing the government.

People power is sought to carry out political pressure movements, by carrying

out demonstrations that build public opinion. Up to that level, in fact nothing is too excessive, because democratic rights uphold the issue of freedom of expression and opinion.²⁴ This means that the people power movement is a movement for the actualization of the people to express their aspirations, but it must still be under rules that do not violate the law. This movement places people's power as the main point in political change in a country. The voice of the people which is part of people power has a big contribution to changing and stopping any political power that is not in accordance with the common interest. There are five conditions for the people power movement to be realized and gain widespread support in society. First, there must be a common enemy. Second, there must be friction within the military. Third, the issue is massive in almost all regions, not just an elitist issue in Jakarta or a few areas. Fourth, a crisis that damages basic economic principles can be a factor in the mental decline of the rulers. Fifth, the opposition forces have a unifying figure who has the potential to become a symbol of cross-sectoral leadership.

Justification of crime (people power) from a sociological and juridical perspective

People power is always identified with the massive spread of propaganda via social media in the form of taking to the streets aimed at uniting the power of the people. A crime is not only caused by biological constructions that exist within the individual, but is also influenced by external factors or influences, namely a combination of individual conditions and social conditions and at times one element is more influential than the other elements.

Compared to the justification of a crime from a sociological perspective, many modern societies are very complex and heterogeneous regarding this matter. They assess that justification for a crime creates a

²² Badan Kepegawaian Negara (BKN), "Undang-Undang Dasar Negara Republik Indonesia Tahun 1945," *Warga dan Negara* (1945): 1–166.

²³ Gun Heryanto Gun, *Realitas Komunikasi Politik Indonesia Kontemporer*, 1st ed. (IRCiSoD, 2020).

²⁴ Zuhdi Moh., *Komunikasi Politik Di Era Virtual (Dinamika Komunikasi Dan Media Pasca Pilpres 2019)*, ed. Misterfo, pertama. (Yogyakarta: Buku Litera, 2020).

feeling of insecurity, anxiety, fear and panic in society and also the crime that appears has a demoralizing/damaging effect on the social order. All of this is called the social dysfunction of crime. However, some people also assess the positive effects of people power, namely clarifying useful socio-social goals, fostering a sense of solidarity in groups that are being terrorized by criminals, making moral norms better and making it easier for people who try to increase the power of the law. and increase other physical strengths.

Apart from the justice system, social techniques are also used to fight crime. Legal strategies call for the use of punishment for criminals as a deterrent, while other social strategies try to achieve societal balance. It is very important to seek rehabilitation of victims. There are three methods of community control over criminal behavior, namely restitution, treatment, and conciliation. Criminology is based on sociology, which is hereinafter referred to as practical sociology. By basing itself as a sociological discipline, criminology views crime as a social phenomenon that is studied sociologically.

Sociologically, crime is a human behavior created by society. Even though society has a variety of different behaviors, there are certain parts of it that have the same patterns. This situation is possible because of the existence of a system of rules in society. Humans in this view develop conceptions about what they consider to be evil within the framework of reality. A social phenomenon that is usually called crime. In fact, it is behavior that is considered deviant or even dangerous to society. However, it cannot be denied that crime is a reality that humans experience in the process of social interaction which is at the core of social life.²⁵

From a sociological perspective on people power, the 2019 post-presidential election tragedy resulted in negative and

positive statements from the public. People who are against the people power movement argue that it cannot be used to cancel the recapitulation results of democratic elections by forcing other candidates to become leaders of the country in an unconstitutional way, besides this desire is only limited to the ambitions of a few groups.²⁶ However, public opinion that is pro towards the people power movement considers that the existence of this movement makes the government system more open and transparent and can be used as evaluation material. If you look at it from a societal perspective, people power is an alternative way to voice thoughts and desires to support a prosperous society, as well as a way to voice complaints about authoritarian political structures. Nevertheless, rulers use people power to eliminate evidence of their dishonesty and/or to overthrow opponents by identifying scapegoats who will suffer harm.²⁷

People power can be said to be a crime or vice versa. Many philosophers say that the existence of a people power movement could damage the constitutional order that has been established by the state and would result in the leader of the revolutionary coup and its figures being arrested and tried as perpetrators of treason against the state. And according to some experts, having people power can help people's welfare. And this is the state's aim to ward off personal and group ambitions that could harm the representation of the majority of the people in carrying out state policies. This is different from "mass brutality" which is often seen as a way to vent "social revenge" as a result of social frustration caused, among other things, by socio-economic problems and a feeling of being treated unfairly in society. Society will vent it in acts of violence in an irresponsible and

²⁵ Ali Zaidan M, *Kebijakan Kriminal*, ed. Tarmizi, pertama. (Jakarta Timur: Sinar Grafika, 2021).

²⁶ Zulfa Laili, "Analisis Wacana Kritis Pemberitaan *People Power* Pada Media Jawa Pos Dan Republik Edisi Mei 2019" 15, no. 1 (2019): 1–154.

²⁷ Bambang Sutikno Raja, *The Power Of 4Q* (Gramedia Pustaka Utama, n.d.).

anonymous way, namely a "mass movement" without identity.²⁸

People power can overthrow governments that are considered authoritarian or commit crimes and show a spirit of solidarity in fighting for democracy and overthrowing rulers who are full of irregularities.²⁹ In short, people power unites steps to stem the flow of crime. The term People Power itself continues to be discussed in demonstration news. The political constellation after the 2019 presidential election has become increasingly heated with the emergence of this discourse. It is motivated by the demands of the people who want changes in the political system, government, social and economic policies that are pro-people.³⁰ In the 2019 Post-Presidential Election tragedy, people expressed their disappointment with a government or regime because they were deemed to have committed irregularities or violated the constitution. So the public asked the president, head of government, to resign his position. In a democratic country that places supreme sovereignty in the hands of the people, the People Power movement is the actualization of the people's movement to express their aspirations. The right to express an opinion, freedom of expression is not a crime but rather the rights of every individual which must be heard and appreciated.

In the case of the 2022 Kanjuruhan tragedy, the unification of the people's voice with the transfer of people's power during demonstrations carried out by the masses to exercise their rights as people. They gathered a crowd to hold the government accountable which was deemed to have not

resolved the problem of human rights violations, the anarchic treatment of police officers. With this demonstration, the masses also regretted the president's poor performance in terms of the attitude of police officers who were seen as using violence and abuse. The masses took to the streets to protest against the abuses committed by the authorities.

If we evaluate from the 2019 Post-Presidential Election tragedy, the action carried out by the masses supporting Prabowo-Sandiaga Uno initially proceeded in an orderly manner, the masses held a demonstration by conveying their aspirations in front of the Bawaslu building because they felt disappointed and thought that there was fraud in the 2019 presidential election. The masses want state openness/transparency to explain in an open way. And the masses feel disappointed because the country they live in is called a democracy. Government openness in administering the state is a principle of democracy. The people also have an important role in democratization. The public does not just elect their presidents but has the right to have a say in law enforcement in Indonesia. This is because the aim of the law is to provide security, prosperity and justice for society, so that the people have the right to participate in it. From the two tragedies above, there is a crime that is justified in the exercise of people power by taking to the streets. There are crimes that may be justified such as:

1. The conflict over the *hastag* hashtag, in the 2019 Post-Presidential Election tragedy, the *hastag* hashtags #2019ChangePresident and #2019TetapJokowi were brought from the virtual world to the real world via t-shirts. This can be contrary to the law, especially since there is the ITE law, there is the law on freedom of expression in public. Meanwhile, in the 2022 Kanjuruhan tragedy, there was a hashtag #UsutCompletelyUsutKanjuruhanTraged

²⁸ Yulianis Safrinadiya Rahman, "Kejahatan Kekerasan Dan Brutalisme Massa (Perspektif Kriminologi)," *Al-Adl : Jurnal Hukum* 14, no. 2 (2022): 269.

²⁹ J Herin Jacob, *The UN Is Responsible for Human Rights Abuses in East Timor an Insider Story*, ed. Satoto Kurniaji, 1st ed. (Yogyakarta: Jejak Pustaka, 2023).

³⁰ Muhamad Iqbal Susanto, "Kedudukan Hukum People Power Dan Relevansinya Dengan Hak Kebebasan Berpendapat Di Indonesia," *Volkgeist: Jurnal Ilmu Hukum dan Konstitusi* 2, no. 2 (2019): 225–237.

- y that was excited in cyberspace. However, the 2022 Kanjuruhan tragedy has had pros and cons for netizens. People who were against said that the tragedy started with supporters who had no ethics, which caused riots to occur
2. Digital world public space. In these two tragedies there were many pros and cons that caused slander, defamation and intimidation from various points of view. However, crime in cyberspace is considered normal and is instead used as a joke and even used as an opinion template.

Still discussing people power, people power is actually used by the people to unite forces who believe that the government system is authoritarian, does not listen to the voice of the people and the decisions taken by the government are considered unilateral. If a crime is justified by demonstrations to demand accountability³¹, offers individual freedom and equality in access and social interaction. One of the crimes after the presidential election was the spread of hashtags between candidate pairs which could be used as an opening to bring down the presidential candidate pair. And this can become a negative issue and has the impact and consistency of delegitimization efforts, namely the occurrence of social segregation in society. One of the initial objectives of implementing changes to the electoral mechanism which was previously partial and then carried out simultaneously was to prevent horizontal conflict at the grassroots level. However, horizontal conflicts continued to occur even after the election

³¹ FH, H. (2019) People power atau daulat rakyat? Oleh Allan Fatchan Gani Wardhana, S.H., M.H., Fakultas Hukum - Universitas Islam Indonesia. Available at: <https://law.uii.ac.id/blog/2019/05/22/people-power-atau-daulat-rakyat-oleh-allan-fatchan-gani-wardhana-s-h-m-h/> (Accessed: 01 May 2024).

was over.³² With the existence of people power, it is possible to overthrow a government structure that is considered unfair, not open/transparent, does not trust the people, does not work properly and the aim is for justice for all people, and we need to remember that people power is not a crime.

Criminological interpretation of the justification of people power

The terms *crimen* and *logos* are Latin roots for the word criminology. If *logos* refers to science, then *crimen* refers to crime. Criminology is literally the scientific study of the causes of crime and strategies to prevent it. Sociology is the basis of the field of criminology. Furthermore, criminology is a scientific discipline that looks at the phenomena of crime broadly, in Bongers' view.³³ However, crime in the criminological sense, according to Roeslan Saleh, is any act that is detrimental and immoral, causes disturbance in a society, and is then rejected by society in the sense of intentional suffering caused as a result of this treatment. In general, the aim of criminology is to develop a unity of general and detailed foundations and other types of knowledge about legal processes, crime and reactions to crime.³⁴ In detail, the aim of criminology is to study crime from various aspects so that it is hoped that we can gain a better understanding of the phenomenon of crime. This means that the aim of criminology is to investigate the symptoms of crime broadly.

A crime is considered normal and becomes a justification

³² Wegik Prasetyo, "Isu Negatif Dalam Pemilu 2019: Dampak Terhadap Legitimasi Dan Segregasi Sosial," *Journal KPU* (2019): 1–18.

³³ Rinaldi Kasmanto, *Sistem Peradilan Pidana Dalam Kriminologi*, ed. Hawa Nadana Aurora, Pertama. (Malang: Ahlimedia Press, 2022).

³⁴ Difa Aisyafa Imany, Septia Annisa Ray, and Sonya Rahmawati, "Analisis Kejahatan Terhadap Nyawa Dalam Perspektif Kriminologi," *ULIL ALBAB: Jurnal Ilmiah Multidisiplin* 2, no. 8 (2023): 3251–3264.

Crime is a social phenomenon that cannot be separated from political, economic, social and cultural problems faced by society. Its existence and growth cannot be separated from these issues. Studying criminology is the same as talking about crime. Talking about crime, it's the same as studying criminology. Criminology is closely related to crime. Criminology studies crime more with empirical facts and not just studying criminal law normatively but studying foreign criminal law. Crime is an act that violates ethics and morals so that if a crime is committed by someone, the act will of course have a very detrimental impact on other people as legal subjects. Violence is not an easy thing, because violence is basically an aggressive action that can be carried out by anyone.

Even though cultural development has developed rapidly, social problems such as crime remain an inherent problem in human life. so that crime is considered a normal thing because the problem of crime will always exist and will remain until the end of the world.³⁵ From several references in the form of journals, books and articles that the author found, things or influences can be found that cause crime to be considered normal and use it as justification:

1. Culture is in the form of customs. Indonesia still adheres to customs that emerged earlier than positive Indonesian law. In criminological studies, culture is seen as a form of crime and culture (crime is culture). Where in this case, there are two dimensions that are interconnected between the individual (perpetrator of crime/deviant) and the behavior displayed by the individual, thus forming a deviant culture. A traditional act that exemplifies this is the tradition of hand cutting among the Papuan people in the Central Mountains. Closest family members, such as mother, father, wife or husband, must cut off one of their fingers to symbolize the family's grief when one of its members dies. Sadness will stop if the

injured finger has healed. There is no malicious intent because residents do this voluntarily and knowingly.

2. Religion. A crime is considered an act of justification when it involves religious matters. Crime can be said to not violate the law but can be said to be a human action and a social phenomenon. Every human being has a tendency to do evil, but there are those who do it and those who don't. This is limited by the presence of religious factors and for someone who commits a crime it is usually stated that there is a lack of faith and devotion factors so that he justifies the crime.³⁶

3. Morality. Morality and crime are closely linked where the consequences of a lack of implementation of morality will greatly influence people's behavior which can lead to crime. Crime itself occurs because of violations of morality or social deviations, which can harm an individual or society. According to Kant, morality is something related to good and bad, where what is good in itself is without limitation. This means that good is based on good will. Humans live in an environment and interact with each other, one change in an individual's behavior can be seen from their environment. If a neighborhood normalizes crime then neighborhood circles will do the same. The lack of morality results in deviant behavior carried out by someone being considered normal and even considered right. The morality of every human being certainly greatly influences whether or not there is a crime, as a result of a lack of moral values will give rise to crime. The multifaceted factor of globalization supported by advances in contemporary information, transportation and communication technologies also explains the evolution of crime. The structure of local to global society has been changed by technological advances. Information technology is the reason for this development. Technology has benefits such

³⁵ Sambas Nandang and Andrisari Dian, *Kriminologi Perspektif Hukum Pidana* (Bandung: Sinar Grafika, 2021).

³⁶ Cristison Gregorius et al., *Hukum Kriminologi*, ed. Jamba Padrisan, 1st ed. (Padang: CV. Gita Lentara, 2024).

as making life easier for people, but it also has disadvantages such as making it easier for criminals to commit their crimes. Technology has also had a major impact on how crime is understood, especially in criminology programs that emphasize the psychological and physical aspects of human dynamics.³⁷

In studying criminology, it is known as neutralization theory (drift theory). Neutralization theory in criminology is a theory that explains how perpetrators of deviant behavior can develop ways to neutralize their feelings of guilt when committing crimes.³⁸ The idea of neutralization emphasizes the process by which adolescents learn to justify abnormal behavior, with the ultimate goal of perverting the social norms and values that govern society. A crime is said to be justified if the perpetrator of the crime is of the view that the act committed does not cause major harm to society or in criminological discussions it is known as "Denial of Injury". Apart from that, there is the term "Denial of Victim", namely that the perpetrator understands himself as the "avenger", while the victims of his actions are considered the guilty people.³⁹ According to this explanation of neutralization theory, deviant or evil behavior is carried out by an individual because it is motivated by various external conditions and based on his own thoughts. As a result, perpetrators continually seek justification for their actions through a process of rationalization.

³⁷ Raodia Raodia, "Pengaruh Perkembangan Teknologi Terhadap Terjadinya Kejahatan Mayantara (Cybercrime)," *Jurisprudentie : Jurusan Ilmu Hukum Fakultas Syariah dan Hukum* 6, no. 2 (2019): 39.

³⁸ Julyati Hisyam et al., "Teori Netralisasi Dalam Kriminologi: Membenarkan Kekerasan Melalui Solidaritas" 2, no. 1 (2024): 91–98, <https://doi.org/10.61132/pragmatik.v2i1.165>.

³⁹ Hardianto Djanggih and Nurul Qamar, "Penerapan Teori-Teori Kriminologi Dalam Penanggulangan Kejahatan Siber (Cyber Crime)," *Pandecta: Research Law Journal* 13, no. 1 (2018): 10–23.

When evaluating the security measures implemented during the 2022 Kanjuruhan tragedy, it was found that police officers violated several types of regulations. First, the mass security measures implemented do not comply with Police Regulation no. 16 of 2006, which regulates Crowd Control Guidelines. Regarding the use of force in police operations, the second mentions National Police Chief Regulation no. 1 of 2009 concerning the use of force in police actions. The third refers to National Police Chief Regulation no. 8 of 2009, which regulates the application of human rights standards and principles when carrying out national police duties.

At the International Criminology Congress in Paris 1950, it was stated repeatedly that criminologists are kings without countries, they are known as sociologists, psychiatrists, jurists who have degrees in criminology. Nowadays, international criminology has a status that is more inclined towards "complete independence". International criminology has a broader scope and is not bound by the restrictions of national legislation such as criminal law, and can tackle problems with an international spirit.⁴⁰ International criminology is based on multilateral conventions because it has responsibility for peace and security in more than one region/country.⁴¹

CONCLUSION

The 2019 Post-Presidential Election tragedy and the 2022 Kanjuruhan tragedy could be a sign of mass crime followed by demonstrations because looking at what happened in the two cases above, it was an action that was triggered by a crime, resulting in further action in the form of a

⁴⁰ Alwan Hadiyanto and Yasmirah Mandasari, *PENGANTAR TEORI KRIMINOLOGI DAN TEORI DALAM HUKUM PIDANA*, ed. Pandi Barita, 1st ed. (Medan: CV. CATTLEYA DARMAYA FORTUNA, 2021).

⁴¹ Dr. Mulardi Prof. and Diah Sulistyani Dr., *Kompleksitas Perkembangan Tindak Pidana Dan Kebijakan Kriminal* (Bandung: Penerbit Alumni, 2021).

demonstration. The 2019 Post-Presidential Election tragedy began with a hashtag war to remove one of the candidate pairs which was then followed by mass riots, and the 2022 Kanjuruhan tragedy began with one of the supporters taking to the field and provoking the opposing supporters which resulted in violent action by the authorities and the crowd responded. demonstrations arose. So, if you look at the scheme that occurs, there are signs of crime followed by demonstrations started by the conflicting masses, giving rise to crime, then demonstrations can be followed. This is also related to the role of the Indonesian state as a rule of law in implementing and enforcing the law which should be more firm on this problem so that the two examples of cases described previously can be a lesson, especially in demonstrations carried out by each party so that it does not happen again. in the future.

ACKNOWLEDGMENT

With this, we, the writing team, would like to thank Prof. Dr. Agus Budianto, S.H., M.Hum. as a lecturer in the Criminology course who has provided, accompanied and supported the implementation of our community service journal with the title "**JUDICIAL AND CRIMINOLOGI REVIEW OF THE POST-ELECTRION RIOTS IN 2019 AND THE KANJURUHAN TRAGEDY IN 2022 AS SIGNS OF MASS CRIMES FOLLOWED BY DEMONSTRATIONS.**" Our Writing Team hopes that the journal we have created can educate and beneficial to the wider community.

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